

ROUTLEDGE REVIVALS

Sentence Discounts and the Criminal Process

Ralph J. Henham



Sentence Discounts And The Criminal Process

Abenaa Owusu- Bempah



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 *Research Handbook on Plea Bargaining and Criminal Justice* Máximo Langer, Mike McConville, Luke Marsh, 2024-04-12 Bringing together established and emerging scholars from around the world the *Research Handbook on Plea Bargaining and Criminal Justice* examines the practice of plea bargaining through which guilty pleas are secured and trials are avoided *The Timing of Guilty Pleas* Kevin Cheng, 2023-01-05 A detailed study of the importance of the timing of guilty pleas and its effects across different legal jurisdictions *The Criminal Process* Andrew Ashworth, Mike Redmayne, 2010 Andrew Ashworth and Mike Redmayne address one of the most controversial areas of the entire criminal process the pre trial stage Following the detention of suspects in police custody the authors examine key issues in the pre trial process **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, 2012-11-27 Plea bargaining is one of the most important and most discussed issues in modern criminal procedure law Based on historical and comparative legal research the author has analysed the wide spread use of plea bargaining in different criminal justice systems 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 Drawing on her research findings the author goes on to discuss the extent to which plea bargaining should be developed in the International Criminal Court in The Hague as

the question of this practise is set to be one of the seminal debates in the development of international criminal procedures in the new International Criminal Court Plea Bargaining in National and International Law will be of particular interest to academics and students of international criminal law criminal procedures and comparative law 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 The Construction of Guilt in China Yu Mou, 2020-04-02 Drawing on insights from the author's own empirical data obtained from systematic observation of the daily routines within Chinese criminal justice institutions this ground breaking book examines the functional deficiency of the criminal justice system in preventing innocent individuals from being wrongly accused and convicted Set within a broad socio legal context it outlines the strategic interrelationships between key legal actors the deep seated legal culture embedded in practice the deficiency of integrity of the system and the structural injustices that follow

The author traces criminal case files in the criminal process how they are constructed scrutinised and used to dispose of cases and convict defendants in lieu of witnesses oral testimony This book illustrates that the Chinese criminal justice system as a state apparatus of social control has been framed through performance indicators bureaucratic management and the central value of collectivism in such a way as to maintain the stability of the authoritarian power The Construction of Guilt in China will appeal to academics researchers policy advisers and practitioners working in the areas of criminal law comparative criminal justice criminology and Chinese studies Winner of the 2020 SLS Peter Birks Prize for Outstanding Legal Scholarship

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

Reforming the European Convention on Human Rights Council of Europe. Steering Committee for Human Rights, Council of Europe, 2009-01-01 The European ministerial conference on human rights meeting in Rome on the 50th anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms emphasised two crucial elements the responsibility of member

states Parties to the Convention to ensure constantly that their law and practice conform to the Convention and to execute the judgments of the European Court of Human Rights that urgent measures be taken to assist the Court in carrying out its functions given the ever increasing number of applications An in depth reflection should be started as soon as possible on the various possibilities and options with a view to ensuring the effectiveness of the Court in the light of this new situation The Rome conference has sparked intensive work Ever since January 2001 the intergovernmental co operation activities of the Steering Committee for Human Rights CDDH of the Council of Europe have concentrated on developing normative instruments of which the most important has been Protocol No 14 to the Convention This work has benefited greatly from high level debates during a series of round table discussions within working groups and at seminars organised mainly by the successive presidencies of the Committee of Ministers The present volume contains a record of this work The Criminal Law Quarterly ,2005

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

Non-Adversarial Justice Michael King,Arie Freiberg,Becky Batagol,Ross Hyams,2014-07-04 This book outlines key aspects of the use of non adversarial practices in the Australian justice system with reference to similar developments in the United States Canada New Zealand and the United Kingdom It examines in detail non adversarial theories and practices such as therapeutic jurisprudence restorative justice preventive law creative problem solving holistic law appropriate or alternative dispute resolution collaborative law problem oriented courts diversion programs indigenous courts coroners courts and managerial and administrative procedures

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 English Legal System in Context 6e Fiona Cownie,Anthony Bradney,Mandy Burton,2013-07-25 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

Criminal Justice Andrew Sanders,Richard Young,Mandy Burton,2010-07-15 This text concentrates on the apprehension investigation and trial of suspected offenders overlaying its analysis with a critical appraisal of the system and suggesting pointers to improvement

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