

Punishment & Sentencing: A Rational Approach

MARKO BLACKBURN



Punishment And Sentencing A Rational Approach

Richard S. Frase, Julian V. Roberts



Punishment And Sentencing A Rational Approach:

Punishment & Sentencing Mirko Bagaric, 2001-07-01 First published in 2001 Routledge is an imprint of Taylor Francis an informa company *Punishment & Sentencing* Mirko Bagaric, 2001-07 Sentencing is the most important area of law yet ironically it is also arguably the least coherent This book suggests a way of introducing principle into sentencing by bridging the gap between the philosophical justification for punishment and sentencing law and practice International Handbook of Penology and Criminal Justice Shlomo Giora Shoham, Ori Beck, Martin Kett, 2007-10-08 At the outset of the twenty first century more than 9 million people are held in custody in over 200 countries around the world from the essay Prisons and Jails by Ron King The first comparative study of this increasingly integral social subject International Handbook of Penology and Criminal Justice provides a comprehensive and balanced review *The Ethics of Proportionate Punishment* Jesper Ryberg, 2007-11-10 The philosophical discussion of state punishment is well on in years In contrast with a large number of ethical problems which are concerned with right and wrong in relation to a narrowly specified area of human life and practice and which have at least since the early 70 s been regarded as a legitimate part of philosophical thinking constituting the area of applied ethics reflections on punishment can be traced much further back in the history of western philosophy This is not surprising That the statelily mandated infliction of death suffering or deprivation on citizens should be met with hesitation from which ethical reflections may depart seems obvious Such a practice certainly calls for some persuasive justification It is therefore natural that reflective minds have for a long time devoted attention to punishment and that the question of how a penal system can be justified has constituted the central question in philosophical discussion Though it would certainly be an exaggeration to claim that the justification question is the only aspect of punishment with which philosophers have been concerned there has in most periods been a clear tendency to regard this as the cardinal issue Comparatively much less attention has been devoted to the more precise questions of how and how much criminals should be punished for their respective wrong doings This may of course be due to several reasons *AI Approaches to the Complexity of Legal Systems - Models and Ethical Challenges for Legal Systems, Legal Language and Legal Ontologies, Argumentation and Software Agents* Monica Palmirani, Ugo Pagallo, Pompeu Casanovas, Giovanni Sartor, 2012-11-28 The inspiring idea of this workshop series Artificial Intelligence Approaches to the Complexity of Legal Systems AICOL is to develop models of legal knowledge concerning organization structure and content in order to promote mutual understanding and communication between different systems and cultures Complexity and complex systems describe recent developments in AI and law legal theory argumentation the Semantic Web and multi agent systems Multisystem and multilingual ontologies provide an important opportunity to integrate different trends of research in AI and law including comparative legal studies Complexity theory graph theory game theory and any other contributions from the mathematical disciplines can help both to formalize the dynamics of legal systems and to capture relations among norms Cognitive science can help the modeling of

legal ontology by taking into account not only the formal features of law but also social behaviour psychology and cultural factors This book is thus meant to support scholars in different areas of science in sharing knowledge and methodological approaches This volume collects the contributions to the workshop s third edition which took place as part of the 25th IVR congress of Philosophy of Law and Social Philosophy held in Frankfurt Germany in August 2011 This volume comprises six main parts devoted to the each of the six topics addressed in the workshop namely models for the legal system ethics and the regulation of ICT legal knowledge management legal information for open access software agent systems in the legal domain as well as legal language and legal ontology

Popular Punishment Jesper Ryberg, Julian V. Roberts, 2014-05-15 Should public opinion determine or even influence sentencing policy and practice Should the punishment of criminal offenders reflect what the public regards as appropriate These deceptively simple questions conceal complex theoretical and methodological challenges to the administration of punishment In the West politicians have often answered these questions in the affirmative penal reforms have been justified with direct reference to the attitudes of the public This is why the contention that politicians should bridge the gap between the public and criminal justice practice has widespread resonance Criminal law scholars for their part have often been more reluctant to accept public input in penal practice and some have even held that the idea of consulting public opinion constitutes a populist approach to punishment The purpose of this book is to examine the moral significance of public opinion for penal theory and practice For the first time in a single volume the editors Jesper Ryberg and Julian V Roberts have assembled a number of respected criminologists philosophers and legal theorists to address the various aspects of why and how public opinion should be reflected in the way the criminal justice system deals with criminals The chapters address the myriad complexities surrounding this issue by first weighing the justifications for incorporating public views into punishment practices and then considering the various ways this might be achieved through juries prosecutors restorative justice programs and other means

Punishment and Sentencing Mirko Bagaric, 2025-02-03 First published in 2001 Punishment and Sentencing provides a way of introducing principle into sentencing This is done by bridging the gap between the philosophical justification for punishment and sentencing law and practice In terms of the interests it deals with sentencing is the most important area of law Ironically it is also arguably the least coherent Nearly three decades ago sentencing was described as a wasteland in the law Unfortunately little has changed in that time Sentencing decisions are often made in accordance with the idiosyncratic sentiments of sentencers rather than on the basis of binding rules and principles Part A of the book provides an overview of current sentencing law and practice Part B critically examines the main contemporary theories of punishment Part C discusses the implications that this has for the sentencing process It is a useful text for students of criminology law and philosophy courses as well as a valuable resource for criminal law practitioners

Liability for Crimes Involving Artificial Intelligence Systems Gabriel Hallevy, 2014-11-06 The book develops a general legal theory concerning the liability for offenses involving artificial

intelligence systems The involvement of the artificial intelligence systems in these offenses may be as perpetrators accomplices or mere instruments The general legal theory proposed in this book is based on the current criminal law in most modern legal systems In most modern countries unmanned vehicles sophisticated surgical systems industrial computing systems trading algorithms and other artificial intelligence systems are commonly used for both industrial and personal purposes The question of legal liability arises when something goes wrong e g the unmanned vehicle is involved in a car accident the surgical system is involved in a surgical error or the trading algorithm is involved in fraud etc Who is to be held liable for these offenses the manufacturer the programmer the user or perhaps the artificial intelligence system itself The concept of liability for crimes involving artificial intelligence systems has not yet been widely researched Advanced technologies are forcing society to face new challenges both technical and legal The idea of liability in the specific context of artificial intelligence systems is one such challenge that should be thoroughly explored

Civilising Criminal Justice David J. Cornwell, John Blad, Martin Wright, 2013 Probably the best collection there is *Civilizing Criminal Justice* is an inescapable resource for anyone interested in restorative justice truly international and packed with experience while combining history theory developments and practical advice This volume of specially commissioned contributions by widely respected commentators on crime and punishment from various countries is a break through in bringing together some of the best arguments for long overdue penal reform An increasingly urgent need to change outmoded criminal processes even in advanced democracies demands an end to those penal excesses driven by political expediency and damaging notions of retribution deterrence and punishment for its own sake *Civilising criminal justice* will make it fairer more consistent understandable and considerate towards victims of crime currently largely excluded from participation Principles of reparative and restorative justice have become increasingly influential in the quest to provide justice which tackles harm compensates victims repairs relationships resolves debilitating conflicts and calls offenders to account And in any case what real justification is there for subjecting more and more people to the expensive but hollow experience of prison especially at a time of economic stringency Civil justice in its various forms can be swifter cheaper and more effective in court or through mediated processes focusing on the harmful consequences of offences rather than inflicting punishment that may satisfy a baying media but come home to haunt the community This brave and generous book 600 pages illustrates the many different ways in which criminal justice can be civilised and how lessons can be learned from practical experience across the world and shared expertise It is a volume that every politician should read every criminal justice professional should possess and that every student of criminology and penology will find invaluable David Cornwell John Blad and Martin Wright are three of the leading international experts on this topic with many publications to their names individually Contributors Serge Gutwirth and Paul De Hert Belgium Federico Reggio Italy Bas van Stokkom The Netherlands Lode Walgrave Belgium Susan Easton and Christine Piper UK Louis Blom Cooper QC UK Tapio Lappi Seppä Finland Thomas Trenczek Germany Jean Pierre

Bonaf Schmitt France Per Andersen Norway Claire Spivakovsky Australia Ann Skelton Republic of South Africa Borb la Fellegi Hungary Judge Fred McElrea New Zealand and the editors John Braithwaite is a Distinguished Professor at the Australian National University author of ground breaking works on restorative justice and recipient of various awards

Transforming International Criminal Justice Mark Findlay, Ralph Henham, 2005-06-01 This book sets out an agenda to transform international criminal trials and the delivery of international criminal justice to victim communities through collaboration of currently competing paradigms It reflects a transformation of thinking about the comparative analysis of the trial process and seeks to advance the boundaries of international criminal justice through wider access and inclusivity in an environment of rights protection Collaborative justice is advanced as providing the future context of international criminal trials The book s radical dimension is its argument for the harmonization of restorative and retributive justice within the international criminal trial The focus is initially on the trial process a key symbol of developing international styles of justice It examines theoretical models and political applications of criminal justice through detailed empirical analysis in order to explore the underlying relationship of theory and empirical study applying the outcome in theory testing and policy evaluation in several different jurisdictions The book injects a significant comparative dimension into the study of international criminal justice This is achieved through searching the traditional foundations of internationalism in justice by employing an original methodology to enable a multi dimensional exploration of contexts local regional and global so recognising the importance of difference within an agenda suggesting synthesis The book argues for a concept of international trial within a rights paradigm understood against different procedural traditions and practices and provides a detailed description of trials and trial decision making in various jurisdictions Transforming International Criminal Justice also sets out to develop effective research strategies as part of its interrogation of specific trial narratives and meanings in contemporary legal cultures Key themes are those of internationalisation fair trial and the exercise of discretion in justice resolutions sentencing in particular and the lay professional relationship and its dynamics Finally the book provides a searching critique of the relevance of existing criminology and legal sociology in relation to international criminal justice and speculates on trial transformation and the merger of retributive and restorative international criminal justice comparative analysis of the criminal trial process internationally argues for harmonization of retributive and restorative justice within the international criminal trial sets out an agenda to transform international criminal trials and the delivery of international criminal justice to victim communities

The Realm of Criminal Law R A Duff, 2018-06-27 We are said to face a crisis of over criminalization our criminal law has become chaotic unprincipled and over expansive This book proposes a normative theory of criminal law and of criminalization that shows how criminal law could be ordered principled and restrained The theory is based on an account of criminal law as a distinctive legal practice that functions to declare and define a set of public wrongs and to call to formal public account those who commit such wrongs an account of the role that such practice can play in a

democratic republic of free and equal citizens and an account of the central features of such a political community and of the way in which it constitutes its public realm its civil order Criminal law plays an important but limited role in such a political community in protecting but also partly constituting its civil order On the basis of this account we can see how such a political community will decide what kinds of conduct should be criminalized not by applying one or more of the substantive master principles that theorists have offered but by considering which kinds of conduct fall within its public realm as distinct from the private realms that are not the polity's business and which kinds of wrong within that realm require this distinctive kind of response rather than one of the other kinds of available response The outcome of such a deliberative process will probably be a more limited and a more rational and principled criminal law **Alcohol and Crime** Gavin

Dingwall, 2013-07-23 Alcohol is massively associated with crime Evidence from the British Medical Association found that alcohol use is associated with 60-70 per cent of murders 70 per cent of stabbings 50 per cent of fights or assaults in the home For non-violent offences the association is very strong as well 88 per cent of those arrested for criminal damage 83 per cent for breach of the peace 41 per cent for theft and 26 per cent for burglary had drunk in the four hours prior to their arrest At the same time there has been intense concern about public drunkenness in town and city centres especially on the part of young people and the cost and damage this causes This book seeks to understand the nature of the connection between alcohol and crime and the way the criminal justice system responds to the problem providing a clear and accessible account and analysis of the subject It draws upon a wide range of sources and research findings and also sets the subject within a broader comparative context It takes an interdisciplinary approach and includes a sociological account of the role of alcohol in British society a criminological analysis of the link between alcohol and crime and a philosophical consideration of individual responsibility for harm caused whilst intoxicated and a legal analysis of different approaches that can be adopted as a response to alcohol-related offending **Discretion, Discrimination and the Rule of Law** Mrinal Satish, 2017 Aims

to analyse whether unwarranted disparity existed in rape sentencing in India which anecdotal work of other scholars had pointed to Provided by publisher Crime, Punishment, and Restorative Justice Ross London, 2014-12-03 Can restorative justice be applied to a full range of offenses Ross London answers with an unequivocal Yes London proposes that by focusing on the restoration of personal and social trust restoration may become acknowledged as the overarching goal of all criminal justice policies and practices While supporting the use of restorative justice as a non-punitive alternative for appropriate cases London argues that deserved punishment for serious offenses far from contradicting the goal of restoration may be instrumental for the emotional recovery of crime victims the security of communities and for the successful reintegration of offenders Moreover this approach responsibly minimizes resort to punishment by maximizing all of the many other means of restoring trust Drawing on his experience as a judge prosecutor and public defender London offers a pragmatic vision of restorative justice that integrates its core values with real-world applications for even the most serious violent crimes

Critically Impaired Infants and End of Life Decision Making Neera Bhatia, 2015-06-05 Decisions to withdraw or withhold life sustaining treatment are contentious and offer difficult moral dilemmas to both medical practitioners and the judiciary This issue is exacerbated when the patient is unable to exercise autonomy and is entirely dependent on the will of others This book focuses on the legal and ethical complexities surrounding end of life decisions for critically impaired and extremely premature infants Neera Bhatia explores decisions to withdraw or withhold life sustaining treatment from critically impaired infants and addresses the controversial question which lives are too expensive to treat Bringing to bear such key issues as clinical guidance public awareness and resource allocation the book provides a rational approach to end of life decision making where decisions to withdraw or withhold treatment may trump other competing interests The book will be of great interest and use to scholars and students of bioethics medical law and medical practitioners

Prisoners' Rights Susan Easton, 2011-03-10 This book considers prisoners rights from socio legal and philosophical perspectives assessing the advantages and problems of a rights based approach to imprisonment with a focus on citizenship the treatment of women prisoners and social exclusion

Emotions and Crime Michael Hviid Jacobsen, Sandra Walklate, 2019-06-11 In spite of the fact that crime is an emotive topic the question of emotion has been largely overlooked in criminological research which has tended instead to examine criminal conduct in terms of structural background variables or rational decision making Building on research into emotions within sociology this book seeks to show how criminologists can in fact take emotions seriously and why criminology needs to begin considering emotions as a central element of its theoretical conceptual and methodological apparatus Thematically organised and presenting both empirical and theoretical studies *Emotions and Crime* pays attention to the different emotional dimensions of crime victimhood the criminal justice system the practice of criminological research and the discipline of criminology Bringing together the work of an international team of authors and discussing research into violence punishment gender imprisonment and mass atrocity this volume shows how crime and emotions are inextricably connected and illustrates both the hidden and pervasive role of emotions in criminological work

Why Punish? Rob Canton, 2017-09-16 Why do we punish Is it because only punishment can achieve justice for victims and right the wrong of a crime Or is it justified because it reduces crime by deterring potential offenders offering rehabilitative treatment to others and incapacitating the most dangerous The complex answers to this enduring question vary across time and place and are directly linked to people s personal cultural social religious and ethical commitments and even their sense of identity This unique introduction to the philosophy of punishment provides a systematic analysis of the themes of retribution deterrence rehabilitation incapacitation and restorative justice Integrating philosophical sociological political and ethical perspectives it provides a thorough and wide ranging discussion of the purposes meanings and justifications of punishment for crime and the extent to which punishment does could or should live up to what it claims to achieve *Why Punish* challenges criminology and criminal justice students as well as policy makers judges magistrates and criminal justice

practitioners to think more critically about the role of punishment and the moral principles that underpin it Bridging abstract theory with the realities of practice Rob Canton asks what better punishment would look like and how it can be achieved

Paying for the Past Richard S. Frase, Julian V. Roberts, 2019 All modern sentencing systems in the US and beyond consider the offender's prior record to be an important determinant of the form and severity of punishment for subsequent offences Repeat offenders receive harsher punishments than first offenders and offenders with longer criminal records are punished more severely than those with shorter records Yet the vast literature on sentencing policy law and practice has generally overlooked the issue of prior convictions even though this is the most important sentencing factor after the seriousness of the crime In *Paying for the Past* Richard S Frase and Julian V Roberts provide a critical and systematic examination of current prior record enhancements under sentencing guidelines across the US Drawing on empirical data and analyses of guidelines from a number of jurisdictions they illustrate different approaches to prior record enhancements and the differing outcomes of those approaches Roberts and Frase demonstrate that most prior record enhancements generate a range of adverse outcomes at sentencing Further the pervasive justifications for prior record enhancement such as the repeat offender's assumed higher risk of reoffending or greater culpability are uncertain and have rarely been subjected to critical appraisal The punitive sentencing premiums for repeat offenders prescribed by US guidelines cannot be justified on grounds of prevention or retribution Shining a light on a neglected but critically important topic *Paying for the Past* examines the costs of prior record enhancements for repeat offenders and offers model guidelines to help reduce racial disparities and reallocate criminal justice resources for jurisdictions who use sentence enhancements

Complicity in International Criminal Law Marina Aksenova, 2016-12-15 This book tackles one of the most contentious aspects of international criminal law the modes of liability At the heart of the discussion is the quest for balance between the accused's individual contribution and the collective nature of mass offending The principle of legality demands that there exists a well defined link between the crime and the person charged with it This is so even in the context of international offending which often implies several degrees of separation between the direct perpetrator and the person who authorises the atrocity The challenge is to construct that link without jeopardising the interests of justice This monograph provides the first comprehensive treatment of complicity within the discipline and beyond Extensive analysis of the pertinent statutes and jurisprudence reveals gaps in interpreting accessorial liability Simultaneously the study of complicity becomes a test for the general methods and purposes of international criminal law The book exposes problems with the sources of law and demonstrates the absence of clearly defined sentencing and policy rationales which are crucial tools in structuring judicial discretion Awarded The Paul Guggenheim Prize in International Law 2017

This book delves into Punishment And Sentencing A Rational Approach. Punishment And Sentencing A Rational Approach is a crucial topic that needs to be grasped by everyone, from students and scholars to the general public. The book will furnish comprehensive and in-depth insights into Punishment And Sentencing A Rational Approach, encompassing both the fundamentals and more intricate discussions.

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This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. It is highly recommended for anyone seeking to gain a comprehensive understanding of Punishment And Sentencing A Rational Approach.

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