

PUNISHMENT  
AND  
RESTITUTION

A Restitutionary Approach  
to Crime and the Criminal

Charles F. Abel and Frank H. Marsh

# Punishment And Restitution A Restitutionary Approach To Crime And The Criminal

**Randy E. Barnett**



## **Punishment And Restitution A Restitutionary Approach To Crime And The Criminal:**

**Punishment and Restitution** Charles F. Abel, 1984      Rethinking Punishment in the Era of Mass Incarceration Chris Surprenant, 2017-07-06 One of the most important problems faced by the United States is addressing its broken criminal justice system This collection of essays offers a thorough examination of incarceration as a form of punishment In addition to focusing on the philosophical aspects related to punishment the volume s diverse group of contributors provides additional background in criminology economics law and sociology to help contextualize the philosophical issues The first group of essays addresses whether or not our current institutions connected with punishment and incarceration are justified in a liberal society The next set of chapters explores the negative effects of incarceration as a form of punishment including its impact on children and families The volume then describes how we arrived at our current situation in the United States focusing on questions related to how we view prisons and prisoners policing for profit and the motivations of prosecutors in trying to secure convictions Finally Rethinking Punishment in the Era of Mass Incarceration examines specific policy alternatives that might offer solutions to our current approach to punishment and incarceration      **The Right to Be Punished** Gabriel Hallevy, 2012-10-12 Does an offender have the right to be punished The right to be punished may sound like an oxymoron but it is not necessarily so With the emergence of modern criminal law the offender gained the right to be punished by rational criminal law rather than being lynched by an angry mob The present day offender may have the right to be punished by doctrinal sentencing rather than being subjected to verdicts based on vague unclear and uncertain principles In modern criminal law the imposition of criminal liability follows accurate and strict rules whereas there are no similar rules for the imposition of punishment The process of sentencing is vague and obscure as are the considerations used for the imposition of punishments The objective of the present book is to propose a comprehensive general and legally sophisticated theory of modern doctrinal sentencing The challenges of such a legal theory are plenty and complex In addition to increasing clarity and certainty modern doctrinal sentencing must deal with modern types of delinquency e g organized crime recidivism corporate offenders high tech offenses etc and modern principles of criminal law Modern doctrinal sentencing must serve to ensure optimal sentencing      *Reparations and Victim Support in the International Criminal Court* Conor McCarthy, 2012-04-12 Alongside existing regimes for victim redress at the national and international levels in the coming years international criminal law and in particular the International Criminal Court will potentially provide a significant legal framework through which the harm caused by egregious conduct can be addressed Drawing on a wealth of comparative experience Conor McCarthy s study of the Rome Statute s regime of victim redress provides a comprehensive exploration of this framework examining both its reparations regime and its scheme for the provision of victim support through the ICC Trust Fund The study explores in particular whether the creation of a regime of victim redress has a role to play as part of a system for the administration of international criminal justice and more generally whether it has such a role alongside other

regimes at the national and international levels by which the harm suffered by victims of egregious conduct may be redressed

**Punishment And Culture** María José Falcón y Tella, Fernando Falcón y Tella, 2006 This volume critically explores the basis and the goal of punishment from the standpoint of the right to punish The work reviews the main doctrines that have dealt with the theme of punishment from Antiquity to the present not limiting itself to the legal philosophical sphere but also analyzing the contributions from other social sciences It then explores how these are reflected in the sphere of Positive Law

**Reward, Punishment, and Forgiveness** Joze Krasovec, 2014-09-03 This book deals with central and universal issues of reward punishment and forgiveness for the first time in a compact and comprehensive way Until now these themes have received far too little attention in scholarly research both in their own right and in their interrelationship The scope of this study is to present them in relation to the foundations of our culture These and related issues are treated primarily within the Hebrew Bible using the methods of literary analysis The centrality of these themes in all religions and all cultures has resulted however in a comparative investigation drawing attention to the problem of terminology the importance of Greek culture for the European tradition and the fusion of Greek and Jewish Christian cultures in our modern philosophical and theological systems This broad perspective shows that the biblical personalist understanding of divine authority and of human righteousness or guilt provides the personalist key to the search for reconciliation in a divided world

**Unjust Enrichment** James Edelman, Elise Bant, 2016-08-25 Unjust enrichment is one of the least understood of the major branches of private law This book builds on the 2006 work by the same authors which examined the developing law of unjust enrichment in Australia The refinement of the authors thinking responding to novel issues and circumstances that have arisen in the maturing case law has required many chapters of the book to be completely rewritten The scope of the book is also much broader It concerns the principles of the law of unjust enrichment in Australia New Zealand England and Canada Major decisions of the highest courts of these jurisdictions in the last decade provide a fertile basis for examining the underlying principles and foundations of this subject The book uses the leading cases particularly in England and Australia to distil and explain the fundamental principles of this branch of private law The cases discussed are current as of 1 May 2016 although the most recent could only be included in footnotes

**The Structure of Liberty : Justice and the Rule of Law** Randy E. Barnett, 1998-04-02 In this provocative and engaging new book Randy Barnett outlines a powerful and original theory of liberty structured by the liberal conception of justice and the rule of law Drawing on insights from philosophy political theory economics and law he shows how this new conception of liberty can confront and solve the central societal problems of knowledge interest and power What is liberty as opposed to license and why is it so important When people pursue happiness peace and prosperity whilst living in society they confront pervasive problems of knowledge interest and power These problems are dealt with by ensuring the liberty of the people to pursue their own ends but addressing these problems also requires that liberty be structured by certain rights and procedures associated with the classical liberal

conception of justice and the rule of law In this controversial new work Barnett examines the serious social problems that are addressed by liberty and the background or natural rights and rule of law procedures that distinguish liberty from license He goes on to outline the constitutional framework that is needed to protect this structure of liberty This is the only discussion of the liberal conception of justice and the rule of law to draw upon insights from philosophy economics political theory and law to describe comprehensively the vital social functions performed by adherence to these concepts And although the book is intended to challenge specialists its clear and accessible prose ensure that it will be of immense value to both scholars and students working in a range of academic disciplines      *Restoring Justice* Daniel W. Van Ness, Karen Heetderks

Strong, 2014-02-01 Restoring Justice An Introduction to Restorative Justice offers a clear and convincing explanation of restorative justice a movement within criminal justice with growing worldwide influence It explores the broad appeal of this new vision and offers a brief history of its development The book presents a theoretical foundation for the principles and values of restorative justice and develops its four cornerpost ideas of encounter amends inclusion and reintegration After exploring how restorative justice ideas and values may be integrated into policy and practice it presents a series of key issues commonly raised about restorative justice summarizing various perspectives on each      **Law and Justice in a Globalized**

**World** Harkristuti Harkrisnowo, Hikmahanto Juwana, Yu Un Oppusunggu, 2017-11-14 The book consists of a selection of papers presented at the Asia Pacific Research Conference on Social Sciences and Humanities It contains essays on current legal issues in law and justice and their role and transformation in a globalizing world Topics covered include human rights criminal law good governance democracy foreign investment and regional integration The conference focused on Asia and the Pacific two regions where law has taken an important position in creating and shaping the regional integrations new legal institutions and norms This reconfirms the idea that the legal system is extremely important in the global world This book provides new insights and new horizons on how law and justice took part in globalizing human interaction especially in the Asia Pacific region      *The Structure of Liberty* Randy E. Barnett, 2014 This provocative book outlines a powerful and original theory of liberty structured by the liberal conception of justice and the rule of law Drawing on insights from philosophy political theory economics and law he shows how this new conception of liberty can confront and solve the central societal problems of knowledge interest and power      **The Burdens of Proof** Dale A. Nance, 2016-03-11 Adjudicative

tribunals in both criminal and non criminal cases rely on the concept of the burden of proof to resolve uncertainty about facts Perhaps surprisingly this concept remains clouded and deeply controversial Written by an internationally renowned scholar this book explores contemporary thinking on the evidential requirements that are critical for all practical decision making including adjudication Although the idea that evidence must favor one side over the other to a specified degree such as beyond reasonable doubt is familiar less well understood is an idea associated with the work of John Maynard Keynes namely that there are requirements on the total amount of evidence considered to decide the case The author expertly explores this

distinct Keynesian concept and its implications Hypothetical examples and litigated cases are included to assist understanding of the ideas developed Implications include an expanded conception of the burden of producing evidence and how it should be administered

*Contemporary Challenges to Criminal Justice* Paul Behrens, 2023-12-28 This study provides a critical examination of seminal issues within the main areas of criminal justice its theoretical framework domestic and comparative criminal justice transnational and international criminal law Exploring some of the most interesting challenges arising in these fields it examines the impact of public morality on sentencing policy murder and the mandatory life sentence genocide and the notion of magnitude and incitement to terrorism Taking an approach that is fully integrated in contemporary criminal justice scholarship it offers a diverse and expert perspective With a comprehensive introduction and conclusion drawing the various strands together it offers a rigorous coherent overview of the key issues in play in contemporary international criminal justice This diversity and expertise ensures its appeal to a large audience of students scholars and practitioners of criminal justice around the world

**Corporate Criminal Liability and Prevention** Richard S. Gruner, 2004 The book instructs corporate counsel on how to adopt forward looking compliance policies that can prevent criminal liability and how to mitigate the severity of penalties when they are unavoidable

**Fair Labelling and the Dilemma of Prosecuting Gender-Based Crimes at the International Criminal Tribunals** Hilmi M. Zawati, Hilmi Zawati, 2015-11 This scholarly legal work focuses on the dilemma of prosecuting gender based crimes under the statutes of the international criminal tribunals with reference to the principle of fair labelling In this book Hilmi M Zawati explains how the abstractness and lack of accurate description of gender based crimes in the statutory laws of the international criminal tribunals and courts infringe the principle of fair labelling lead to inconsistent verdicts and punishments and cause inadequate prosecution of these crimes This inquiry deals with gender based crimes as a case study and with fair labelling as a legal principle and a theoretical framework Critical and timely this study contributes to existing scholarship in many different ways It is the first legal analysis to focus on the dilemma of prosecuting and punishing wartime gender based crimes in the statutory laws of the international criminal tribunals and the ICC in the context of fair labelling Moreover it emphasizes that applying fair labelling to wartime gender based crimes would enable the tribunals and the ICC to deliver fair judgments eliminate inconsistent prosecution overcome shortcomings in addressing gender based crimes within their jurisprudence while breaking the cycle of impunity for these crimes Consisting of two parts this work begins by outlining the central focus and theoretical legal framework of the study It concentrates on fair labelling as an imperative legal principle and a legal framework examines its intellectual development scope and justification and illustrates its applicability to gender based crimes The second part addresses the dilemma of prosecuting gender based crimes in the international criminal tribunals

**Through the Black Mirror** Terence McSweeney, Stuart Joy, 2019-07-26 This edited collection charts the first four seasons of Black Mirror and beyond providing a rich social historical and political context for the show Across the

diverse tapestry of its episodes Black Mirror has both dramatized and deconstructed the shifting cultural and technological coordinates of the era like no other With each of the nineteen chapters focussing on a single episode of the series this book provides an in depth analysis into how the show interrogates our contemporary desires and anxieties while simultaneously encouraging audiences to contemplate the moral issues raised by each episode What if we could record and replay our most intimate memories How far should we go to protect our children Would we choose to live forever What does it mean to be human These are just some of the questions posed by Black Mirror and in turn by this volume Written by some of the foremost scholars in the field of contemporary film and television studies Through the Black Mirror explores how Black Mirror has become a cultural barometer of the new millennial decades and questions what its embedded anxieties might tell us

**No Regrets** Laurel Fulkerson,2013-06-20 No Regrets Remorse in Classical Antiquity is the first sustained study examining the circumstances under which the emotions of remorse and regret were manifested in Greek and Roman public life Despite a still common notion that remorse is a modern monotheistic emotion it argues that remorse did in fact exist in pre Christian antiquity By discussing the standard lexical denotations of remorse Fulkerson shows how its parameters were rather different from its modern counterpart Remorse in the ancient world was normally not expressed by high status individuals but by their inferiors notably women the young and subjects of tyrants nor was it redemptive but often served to show defect of character Through a series of examples especially poetic historical and philosophical texts this book demonstrates this was so because of the very high value placed on consistency of character in the ancient world High status men in particular faced constant challenges to their position and maintaining at least the appearance of uniformity was essential to their successful functioning The redemptive aspects of remorse of learning from one s mistakes were thus nearly absent in the ancient world

**Vindictory Justice** Raúl Márquez Porras,Riccardo Mazzola,Ignasi Terradas Saborit,2021-11-16 This volume offers a new theoretical approach to the analysis of the law revenge binary and attempts to dismantle the common idea of revenge as lacking any legal moral or rational dimension In contrast the book puts forward a model of a complex system of justice which it terms vindictory wherein vendetta constitutes an authorized action the core of which does not just lie in vengeance but also in settlement procedures for peace or composition The first part of the book Vindictory Justice Conceptual Analyses and Forerunners seeks to identify the nature of vindictory justice and to shed light on the structure of so called vindictory systems In turn the second part Mapping Vindictory Justice illustrates using examples gathered from a range of sociolegal contexts the dynamic relationship between composition and authorized revenge in vindictory systems Taken as a whole the volume shows that applying a longue dur e historical perspective to the study of revenge systems allows us to clearly recognize composition and authorized revenge as features of the same legal system even though one of them may seem predominant or more eye catching than the other in certain cultural settings

**A System of Rights** Rex Martin,1993-01-28 The justification of political authority is one of the long standing issues of

political philosophy and one which persistently defies satisfactory solution In this paperback edition of a highly successful study Professor Martin sets out to provide an original justification by establishing a background framework for dealing with the problem He begins by identifying the main elements of political authority arguing that they need to be linked in order to create a political authority that can be described as justified He then sketches a framework a sample system of political institutions and conceptions which is internally coherent to link these elements The rest of the book fills in this outline Professor Martin argues that rights are established patterns of acting or of being treated and are hence essentially institutional in character The institutions that tend to be the most supportive and productive of individual rights are he believes democratic and the central section of the book is devoted to the connection of rights with majority rule democratic political institutions and conceptions From this nexus secondary lines are traced to political obligation or allegiance and to an eligible justification for using punishment to enforce the rights of individuals Thus Professor Martin's analysis forms a distinctive and systematic approach to one particular style of government This rethinking of some of the main topics in political theory is long overdue it yields some striking conclusions about both the nature of rights and the nature of political authority itself Reviews for the hardback edition analytical political theory at its best thoroughly worked through illuminating and persuasive Political Studies he discusses knowledgeably yet imaginatively one sort of political and legal system I unreservedly assert that his institutional conception of rights deserves to be taken seriously as a very plausible alternative to the more familiar theories of Hart Feinberg Dworkin and Raz Equally important are his discussions of the nature of democracy and the internal justification of punishment Most impressive of all is his detailed demonstration of the internal coherence of the system of rights sketched in this book Ethics his book is valuable for presenting a distinctively political view of rights the book is impressively scholarly with references when relevant to most of the voluminous literature on rights In this respect A System of Rights is a model work of philosophy at once thoroughly steeped in the literature on its topic and rising above that literature to propose a novel distinctive view Mind a rewarding and impressive book which deals with a wide range of issues central to political philosophy in an interesting and original way In this carefully argued examination and justification of a particular political system Rex Martin offers an original account of rights and links these rights with other political conceptions and institutions to form what he calls a system of rights his discussion is rich and nuanced and provides the philosophical groundwork for clearer thinking about the difficult and elusive relationship between rights and democracy Canadian Journal of Political Science What makes Martin's book so trenchant is that it can be read with great profit from different points of view The broad scope and provocative arguments of Martin's work assure that it will be a focal point in philosophically orientated debate on rights Ratio Juris Rex Martin has written the most important analysis and justification of political authority and obligation since T H Green's Lectures on the Principles of Political Obligation A System of Rights is rich in argument and unorthodox conclusions Gerald F Gaus Philosophy and Phenomenological Research



*Fiduciary Law* Tamar Frankel, 2011 In *Fiduciary Law* Tamar Frankel examines the structure principles themes and objectives of fiduciary law Fiduciaries which include corporate managers money managers lawyers and physicians among others are entrusted with money or power Frankel explains how fiduciary law is designed to offer protection from abuse of this method of safekeeping She deals with fiduciaries in general and identifies situations in which fiduciary law falls short of offering protection Frankel analyzes fiduciary debates and argues that greater preventive measures are required She offers guidelines for determining the boundaries and substance of fiduciary law and discusses how failure to enforce fiduciary law can contribute to failing financial and economic systems Frankel offers ideas and explanations for the courts regulators and legislatures as well as the fiduciaries and entrustors She argues for strong legal protection against abuse of entrustment as a means of encouraging fiduciary services in society *Fiduciary Law* can help lawyers and policy makers designing the future law and the systems that it protects

## Whispering the Secrets of Language: An Emotional Quest through **Punishment And Restitution A Restitutionary Approach To Crime And The Criminal**

In a digitally-driven world where monitors reign great and quick transmission drowns out the subtleties of language, the profound secrets and psychological nuances concealed within phrases often move unheard. Yet, nestled within the pages of **Punishment And Restitution A Restitutionary Approach To Crime And The Criminal** a interesting fictional value sporting with natural emotions, lies an exceptional quest waiting to be undertaken. Composed by a talented wordsmith, this enchanting opus attracts visitors on an introspective trip, softly unraveling the veiled truths and profound impact resonating within the material of each and every word. Within the psychological depths with this touching evaluation, we shall embark upon a heartfelt exploration of the book is primary subjects, dissect their captivating publishing model, and fail to the strong resonance it evokes heavy within the recesses of readers hearts.

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