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PUNISHMENT  
RESPONSIBILITY  
AND JUSTICE  
A RELATIONAL CRITIQUE

*Alan Norrie*

OXFORD MONOGRAPHS ON  
CRIMINAL LAW AND JUSTICE

# Punishment Responsibility And Justice A Relational Critique

**Alan Reed, Michael Bohlander, Nicola Wake, Emma Smith**



## **Punishment Responsibility And Justice A Relational Critique:**

**Punishment, Responsibility, and Justice** Alan William Norrie, 2000 *Punishment Responsibility and Justice* builds on Alan Norrie's previous work in the philosophy of punishment and criminal law to develop a challenging and ground breaking critique of Kantian justice thinking. It casts a bold new light on recent debates about punishment and the criminal law in a period when traditional thinking has undergone opposition crisis and change. The retributive and orthodox subjectivist approaches which have driven the textbook tradition and law reform for forty years have been doubly challenged. A revisionist critique opposes their Kantian insistence on formal individual autonomy from both a communitarian position on punishment and a morally substantive view of responsibility. A postmodern critique opposes orthodoxy for its failure to see how the Kantian subject is constructed in relations of power and domination. Against both orthodox subjectivist and revisionist views Norrie develops a relational or dialectical critique to argue that they in fact both work in the same Kantian problematic. He establishes the concept of a blaming relation as the basis for a critique of both and to challenge the standard analytical account of criminal justice thinking. Moving from the legal theory of Ashworth, Duff, Fletcher, Moore, Smith and Williams to the jurisprudence of the courts, Norrie analyses the seemingly irresolvable problems of punishment responsibility and justice in the criminal law from a relational point of view. Against the postmodern approach he argues for the need to retain what remains of moral value in Kantianism by seeking a non-Kantian answer to the Kantian question of individual justice. The result is a relational critique of punishment responsibility and justice which recognises the ambiguity and ambivalence that accompany judgment of wrongdoing and which asserts both the real moral value and the fundamental limits of Kantian justice thinking.

**Punishment, Responsibility, and Justice** Alan W. Norrie, 2000 *Punishment, Responsibility, and Justice* is about crime and punishment and the meaning of criminal justice and responsibility. It examines the work of modern criminal justice theorists like George Fletcher, Michael Moore and Anthony Duff. *Definition in the Criminal Law* Andrew Halpin, 2004-10 This book investigates the role and scope of definition in criminal law, the nature of legal materials and the diversity of perspectives on law.

**Self, Others and the State** Arlie Loughnan, 2019-12-12 Criminal responsibility is now central to criminal law but it is in need of re-examination. In the context of Australian criminal laws *Self, Others and the State* reassesses the general assumptions made about the rise to prominence of criminal responsibility in the period since around the turn of the twentieth century. It reconsiders the role of criminal responsibility in criminal law, arguing that criminal responsibility is significant because it organises key sets of relations between self, others and the state as relations of responsibility. Detailed studies of decisive moments and developments since the turn of the twentieth century and original explorations of relations of responsibility expose the complexity and dynamism of criminal responsibility and reveal that it is the means by which matters of subjectivity, relationality and power make themselves felt in the criminal law.

**Shame, Blame, and Culpability**

Judith Rowbotham, Marianna Muravyeva, David Nash, 2013-06-03 This ground breaking collection of research based chapters addresses the themes of shame blame and culpability in their historical perspective in the broad area of crime violence and the modern state drawing on less familiar territories such as Russia and Greece not just on material from familiar locations in western Europe Ranging from the early modern to the late twentieth century the collection has implications for how we understand punishments imposed by states or the community today Shame blame and culpability is divided into three sections with a crucial case study part complementing two theoretical parts on shame and on blame and culpability exploring the continuance of shaming strategies and examining their interaction with and challenge to modern state sponsored blaming mechanisms including allocations of culpability The collection includes chapters on the deviant body capital punishment and of particular interest Russian case studies which demonstrate the extent to which the Russian like the Greek experience need to be seen as part of a wider European whole when examining ideas and themes The volume challenges ideas that shame strategies were largely eradicated in post Enlightenment western states and societies showing their survival into the twentieth century as a challenge to state dominance over identification of what constituted crime and also over punishment practices Shame blame and culpability will be a key text for students and academics in the fields of criminology and crime gender or European history

*Intimacy and Responsibility* Matthew Weait, 2007-12-14 In what circumstances and on what basis should those who transmit serious diseases to their sexual partners be criminalised In this new book Matthew Weait uses English case law as the basis of a more general and critical analysis of the response of the criminal courts to those who have been convicted of transmitting HIV during sex Examining cases and engaging with the socio cultural dimensions of HIV AIDS and sexuality he provides readers with an important insight into the way in which the criminal courts construct the concepts of harm risk causation blame and responsibility Taking into account the socio cultural issues surrounding HIV AIDS and their interaction with the law Weait has written an excellent book for postgraduate and undergraduate law and criminology students studying criminal law theory the trial process offences against the person and the politics of criminalisation The book will also be of interest to health professionals working in the field of HIV AIDS genito urinary medicine who want to understand the issues that may face their clients and patients

**Freedom and Criminal Responsibility in American Legal Thought** Thomas Andrew Green, 2014-10-27 This book deals with the most fundamental problem in criminal law the way in which free will and determinism relate to criminal responsibility

*Criminal Law Theory* Stephen Shute, A. P. Simester, 2002 Concentrating upon those doctrines that make up the general part of the criminal law this collection of essays by leading American and British legal experts sheds theoretical light on key issues of contemporary relevance

The Criminal Law's Person Claes Lernestedt, Matt Matravers, 2022-02-10 The state's use of the threat and imposition of punishments to regulate conduct is thought or at least said by many to be legitimised by the idea that the criminal law's burdens only fall on those who are blameworthy for their conduct However the formal concept of

blameworthiness needs to be made substantive This puts various ideas regarding the criminal law s person at the heart of debates about blame guilt and responsibility How is the criminal law s person constructed by whom and with what disciplinary norms How is it threatened by new knowledge and how do those threats play out amongst the various stakeholders who claim the criminal law s person as theirs To address these and cognate questions this volume brings together an international group of academics to engage with the criminal law s person from a range of disciplinary perspectives      *Readings in Law and Popular Culture* Steven Greenfield,Guy Osborn,2007-05-07 *Readings in Law and Popular Culture* is the first book to bring together high quality research with an emphasis on context from key researchers working at the cutting edge of both law and cultural disciplines Fascinating and varied the volume crosses many boundaries dealing with areas as diverse as football based computer games Buffy the Vampire Slayer digital sampling in the music industry the films of Sidney Lumet football hooliganism and Enid Blyton These topics are linked together through the key thread of the role of or the absence of law therefore providing a snapshot of significant work in the burgeoning field of law and popular culture Including important theoretical and truly innovative relevant material this contemporary text will enliven and inform a legal audience and will also appeal to a much broader readership of people interested in this highly topical area

A New Homicide Act for England and Wales? Great Britain: Law Commission,2006-04-04 This consultation paper reviews the law relating to homicide in England and Wales and sets out a number of provisional proposals in order to establish a more rational and coherent framework of legislation Issues discussed include the existing law and problems with it the definition of murder and manslaughter partial defences including provocation diminished responsibility and duress the fault element in murder and the concept of intention and the doctrine of double effect The paper proposes the creation of a new Homicide Act to replace the Homicide Act 1957 to establish clear definitions of murder and the partial defences to it as well as defining manslaughter within a graduated system of offences the ladder principle to reflect seriousness of offence and degrees of mitigation For example the offence of murder should be divided into two categories of first degree murder with a mandatory life sentence and second degree with a discretionary life sentence maximum Responses to the consultation paper proposals should be received by 13 04 2006      *Fundamentals of Criminal Law* Andrew Simester,2021-02-04 Written by a noted expert in criminal law this book explores the philosophical underpinnings of the law s major doctrines concerning *actus reus mens rea* and defences showing that they are not always driven by culpability They are grounded also in principles of moral responsibility ascriptive responsibility and wrongdoing As such they engage wider debates about wrongdoing and about the boundaries between liability and freedom This multi textured analysis allows this book to take more nuanced positions about many important controversies in criminal law It argues for example that liability for omissions and for negligence and even some strict liability elements can sometimes be legitimate yet at the same time should be relatively rare It also explains why principles of causation can differ in the criminal law from other contexts what is wrong with the

voluntary act requirement and why luck can affect the wrongs we commit without changing our degree of blameworthiness for committing them The book concludes with an account of the major types of defences and of how they interact with an agent's wrong and her underlying motivations This volume presents a coherent and rich vision of the criminal law that by its sheer breadth makes a distinctive contribution to the literature of interest to lawyers and philosophers alike Philosophical Foundations of Criminal Law R. A. Duff, Stuart Green, 2013-01-24 Twenty five leading contemporary theorists of criminal law tackle a range of foundational issues about the proper aims and structure of the criminal law in a liberal democracy The challenges facing criminal law are many There are crises of over criminalization and over imprisonment penal policy has become so politicized that it is difficult to find any clear consensus on what aims the criminal law can properly serve governments seeking to protect their citizens in the face of a range of perceived threats have pushed the outer limits of criminal law and blurred its boundaries To think clearly about the future of criminal law and its role in a liberal society foundational questions about its proper scope structure and operations must be re-examined What kinds of conduct should be criminalized What are the principles of criminal responsibility How should offences and defences be defined The criminal process and the criminal trial need to be studied closely and the purposes and modes of punishment should be scrutinized Such a re-examination must draw on the resources of various disciplines notably law political and moral philosophy criminology and history it must examine both the inner logic of criminal law and its place in a larger legal and political structure it must attend to the growing field of international criminal law it must consider how the criminal law can respond to the challenges of a changing world Topics covered in this volume include the question of criminalization and the proper scope of the criminal law the grounds of criminal responsibility the ways in which offences and defences should be defined the criminal process and its values criminal punishment the relationship between international criminal law and domestic criminal law Together the essays provide a picture of the exciting state of criminal law theory today and the basis for further research and debate in the coming years **Sexuality and the Law** Vanessa Munro, Carl Stychin, 2007-05-07 Rediscovering the peculiarity of feminist perspectives rather than the range of gender oriented analyses in legal regulation and sexuality this edited collection avoids the reductionist and essentialist shortcomings of feminism unmodified Reorienting Economics Tony Lawson, 2012-08-21 Contemporary economics is characterized by a mismatch between its methods of analysis and the nature of the world it seeks to interpret Despite regular economic crises and ongoing critique of the discipline the drift from political economy into applied mathematics appears to continue unabated In this book Tony Lawson advocates a realignment of economics with social reality In analyzing mainstream economists' misplaced universality the author places ontology at the heart of a reoriented future in which economics is integrated within the wider human and social sciences Child and Youth Care Alan Pence, Jennifer White, 2011-07-01 Critical and postmodern perspectives have been largely underexplored in the field of child and youth care This book addresses the gap showcasing cutting edge approaches

to policy pedagogy and practice from diverse perspectives and professional settings The authors of *Child and Youth Care* challenge deep seated assumptions about child and youth care by reinterpreting core concepts such as ethics and outcomes and raising questions about underlying goals and premises Can the ends of practice be separated from the means For whose benefit are interventions designed By recognizing a range of social and political influences on children and youth this volume bears witness to exciting developments in child and youth care      *Consent* Alan Reed, Michael Bohlander, Nicola

Wake, Emma Smith, 2016-10-14 This volume presents a leading contribution to the substantive arena relating to consent in the criminal law In broad terms the ambit of legally valid consent in extant law is contestable and opaque and reveals significant problems in adoption of consistent approaches to doctrinal and theoretical underpinnings of consent This book seeks to provide a logical template to focus the debate The overall concept addresses three specific elements within this arena embracing an overarching synergy between them This edifice engages in an examination of UK provisions with specialist contributions on Irish and Scottish law and in contrasting these provisions against alternative domestic jurisdictions as well as comparative contributions addressing a particularised research grid for consent The comparative chapters provide a wider background of how other legal systems treat a variety of specialised issues relating to consent in the context of the criminal law The debate in relation to consent principles continues for academics practitioners and within the criminal justice system Having expert descriptions of the wider issues surrounding the particular discussion and of other legal systems approaches serves to stimulate and inform that debate This collection will be a major source of reference for future discussion      **Law and Crime** Gerry Johnstone, Tony Ward, 2009-12-09 What is the definition of crime *Law and Crime*

helps the criminologist to understand how the law constructs crime and how one might engage in critical analysis of such legal constructions It uses a thematic approach to comprehensively explore the relationship between criminal conduct criminal justice and the law The book introduces key topics in criminal law scholarship for criminologists including criminalization fault and criminal responsibility corporate liability the production of criminal guilt the nature of judicial punishment Aimed at students with no prior knowledge of law the book includes many useful features to enhance understanding from chapter overviews and key terms to study questions and suggestions for further reading The *Key Approaches to Criminology* series celebrates the removal of traditional barriers between disciplines and specifically reflects criminology's interdisciplinary nature and focus It brings together some of the leading scholars working at the intersections of criminology and related subjects Each book in the series helps readers to make intellectual connections between criminology and other discourses and to understand the importance of studying crime and criminal justice within the context of broader debates The series is intended to have appeal across the entire range of undergraduate and postgraduate studies and beyond comprising books which offer introductions to the fields as well as advancing ideas and knowledge in their subject areas      **The Routledge International Handbook of Criminal Responsibility** Thomas Crofts, Louise

Kennefick, Arlie Loughnan, 2024-12-23 Presenting cutting edge research and scholarship this extensive volume covers everything from abstract theorising about the meanings of responsibility and how we blame to analysing criminal law and justice responses and factors that impact individual responsibility Inviting exchanges across a burgeoning critical scholarship on criminal responsibility this Handbook showcases the diverse range of methodologies applied to the field including socio political approaches critical historical methods criminological and sociological perspectives and interdisciplinary studies bridging law and the mind sciences Spanning global networks of established and emerging scholars of responsibility for crime this book explores how we relate to one another as human beings under the spotlight of the criminal law In doing so it is hoped that the collection not only does justice to the vibrant landscape of criminal responsibility studies but inspires new directions and future synergies in this compelling field The Routledge International Handbook of Criminal Responsibility will appeal to scholars and students of criminal law criminal justice criminology sociology psychology neuroscience philosophy and socio legal studies as well as practitioners and policymakers working in related fields



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