

The Philosophy of Criminal Law

An Introduction

Christopher Cowley and Nicola Padfield



Philosophy Of Criminal Law

R.A. Duff, Stuart Green



Philosophy Of Criminal Law:

Philosophy and the Criminal Law Antony Duff, 1998-02-13 Five legal theorists discuss a range of questions on the nature of the philosophy of criminal law **The Philosophy of Criminal Law** Christopher Cowley, Nicola Padfield, 2024 The Philosophy of Criminal Law An Introduction explores the central concepts of criminal law such as intention complicity duress and how they work both within criminal law practice and in our everyday lives from legal and philosophical perspectives

The Oxford Handbook of Philosophy of Criminal Law John Deigh, David Dolinko, 2011-09-22 This title contains 17 original essays by leading thinkers in the field and covers the field's major topics including limits to criminalization obscenity and hate speech blackmail the law of rape attempts accomplice liability causation responsibility justification and excuse duress and more *The New Philosophy of Criminal Law* Chad Flanders, Zachary Hoskins, 2015-12-16 There is no more vivid example of a state's power over its citizens than the criminal law By criminalizing various behaviours the state sets boundaries on what we can and cannot do And the criminal law is in many ways unique in the harshness of its sanctions But traditional criminal law theory has for too long focussed on the questions what is a crime and what is the justification of punishment The significance of the criminal law extends beyond these questions indeed critical philosophical questions underlie all aspects of the criminal justice system The criminal law engages us not just as offenders or potential offenders but also as victims suspects judges and jurors prosecutors and defenders and as citizens The authors in this volume go beyond traditional questions to challenge our conventional understandings of the criminal law In doing so they draw from a number of disciplines including philosophy history and social science *On Criminalization* Jonathan Schonsheck, 1994-01-31 When thinking about justified criminalization whether some action may morally be made a criminal offense philosophers tend to rely upon balancing Arguments favoring and opposing criminalization are weighed on a simple beam balance the weightier reasons prevail Jonathan Schonsheck argues that this methodology is deeply flawed among other infirmities it fosters the neglect of items essential to a defensible decision He urges the adoption of filtering a multi step procedure which directs one to discuss the moral authority of the state to consider measures less coercive than a criminal statute and to investigate the pragmatic consequences of criminalization This procedure he argues imposes a structure on disputes which facilitates philosophical progress Filtering is then applied to an array of public policy issues including laws which require the use of automobile seat belts and motorcycle helmets and laws which prohibit the use of certain psychoactive substances drugs Additionally the book addresses a number of more theoretical issues in the philosophy of the criminal law Throughout it engages the work of leading philosophers Derek Parfit Cass R Sunstein Richard J Arneson and especially Joel Feinberg

Philosophy of Criminal Law Francis Wharton, 1880 **Philosophy of Criminal Law**, 2022 Philosophy of Criminal Law Douglas N. Husak, 1987-01-01 This text provides an analysis of the theories and principles of contemporary Anglo American substantive criminal law It is the author's view that the interpretation and application of the general principles of

criminal liability presupposes a moral and political philosophy He argues that most of the leading criminal theorists have supposed that criminal theory can be empirical scientific and objective emphasizing such issues as action harm and causation

Rethinking Criminal Law Theory Francois Tanguay-Renaud, James Stribopoulos, 2012-01-10 In the last two decades the philosophy of criminal law has undergone a vibrant revival in Canada The adoption of the Charter of Rights and Freedoms has given the Supreme Court of Canada unprecedented latitude to engage with principles of legal moral and political philosophy when elaborating its criminal law jurisprudence Canadian scholars have followed suit by paying increased attention to the philosophical foundations of domestic criminal law Because of Canada's leadership in international criminal law both at the level of the International Criminal Court and of specific war crimes tribunals they have also begun to turn their attention to international criminal law per se This collection seeks to bring all these Canadian voices together for the first time and evidence the fact that criminal law theory is no longer to be associated exclusively with the older British German and American traditions The topics covered include questions of philosophical methodology the legitimate scope of domestic and international criminalization rationales for criminal law defences in both domestic and international law the philosophical underpinnings of specific crimes and forms of joint responsibility as well as the theorization of criminal procedure and evidence law

ENDORSEMENTS In continental Europe academic commentary on the criminal law has long manifested large philosophical ambitions Less so in common law countries where the dominance of jury trial and the piecemeal development of case law together with the famously robust attitudes of common lawyers have militated against detailed philosophical engagement with doctrine Over the last 20 years or so however new generations of philosophically literate lawyers and legally informed philosophers have overcome the historic resistance Nowhere more so it seems than in Canada where the common law and civilian traditions meet In *Rethinking Criminal Law Theory* Francois Tanguay-Renaud and James Stribopoulos have joined with 14 talented Canadian colleagues to showcase the tremendous breadth and depth of their contemporary national contribution to the subject Ranging across topics as diverse as emergency obscenity and insanity these essays without exception insightful and penetrating set a high standard for the rest of us to aspire to John Gardner University of Oxford *Rethinking Criminal Law Theory* is an excellent collection of essays demonstrating the vigour creativity and range of Canadian criminal justice scholarship It covers a wide range of problems and issues both in the domestic and the international context Core questions are examined in depth and new questions are brought to the fore I recommend it very highly to criminal lawyers and philosophers of the criminal law Professor Victor Tadros University of Warwick

Rethinking Criminal Law Theory is packed with outstanding contributions from criminal law theorists who are among the best not only in Canada but in the whole English speaking world Broad and deep in its coverage the collection offers fresh approaches to a wide range of cutting edge issues in the field It provides a resource readers will come back to repeatedly Stuart Green Professor of Law and Justice Nathan L Jacobs Scholar Rutgers University Philosophical Foundations of

Criminal Law R.A. Duff, Stuart Green, 2011-03-10 Philosophical Foundations of Criminal Law gathers leading theorists to present original work on a range of foundational questions in criminal law theory The volume provides an overview of current philosophical work on the criminal law setting an agenda for further research and debate **The Philosophy of Criminal Law** Douglas N. Husak, 2010 This volume collects 17 of Douglas Husak s influential essays in criminal law theory The essays span Husak s original and provocative contributions to the major topics in the field including the grounds of criminal liability the significance of culpability the role of defences and the justification of punishment The volume includes an extended introduction by the author drawing together the themes of his work and exploring the goals of criminal theory Together the essays present a desert based analysis of issues in criminal theory that rejects the consequentialist approach more familiar among legal scholars The foremost concern of these essays is to ensure that the principles and doctrines of the criminal law preserve justice and do not sacrifice individuals for the common welfare Engagingly written the essays are accessible to non specialists and represent an excellent introduction to current issues and debates in the theory of criminal law *Offences and Defences* John Gardner, 2007-11-08 A selection of some of the author s best known and most provocative writings on criminal law Although it discusses the legitimacy of criminal punishment it proceeds on the footing that the criminal law does many important things apart from punishing people **Philosophical Foundations of International Criminal Law** Morten Bergsmo, Emiliano J. Buis, 2018-11-30 This first edition of Philosophical Foundations of International Criminal Law Correlating Thinkers contains 20 chapters about renowned thinkers from Plato to Foucault As the first volume in the series Philosophical Foundations of International Criminal Law the book identifies leading philosophers and thinkers in the history of philosophy or ideas whose writings bear on the foundations of the discipline of international criminal law and then correlates their writings with international criminal law **Attempts** Gideon Yaffe, 2012-11-29 Gideon Yaffe presents a ground breaking work which demonstrates the importance of philosophy of action for the law Many people are serving sentences not for completing crimes but for trying to So the law governing attempted crimes is of practical as well as theoretical importance Questions arising in the adjudication of attempts intersect with questions in the philosophy of action such as what intention a person must have if any and what a person must do if anything to be trying to act Yaffe offers solutions to the difficult problems courts face in the adjudication of attempted crimes He argues that the problems courts face admit of principled solution through reflection either on what it is to try to do something or on what evidence is required for someone to be shown to have tried to do something or on what sentence for an attempt is fair given the close relation between attempts and completions The book argues that to try to do something is to be committed by one s intention to each of the components of success and to be guided by those commitments Recognizing the implications of this simple and plausible position helps us to identify principled grounds on which the courts ought to distinguish between defendants charged with attempted crimes **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

Placing Blame Michael S. Moore, 2010 This is a collection of essays written by Moore which form a thorough examination of the theory of criminal responsibility The author covers a wide range of topics giving the book a coherence and unity which is rare in assembled essays Perhaps the most significant feature of this book is Moore's espousal of a retributivist theory of punishment This anti utilitarian standpoint is a common thread throughout the book It is also a trend which is currently manifesting itself in all areas of moral political and legal philosophy but Moore is one of the first to apply such attitudes so systematically to criminal law theory As such this innovative new book will be of great interest to all scholars in this field

Making the Modern Criminal Law Lindsay Farmer, 2016-01-21 The Criminalization series arose from an interdisciplinary investigation into criminalization focussing on the principles that might guide decisions about what kinds of conduct should be criminalized and the forms that criminalization should take Developing a normative theory of criminalization the series tackles the key questions at the heart of the issue what principles and goals should guide legislators in deciding what to criminalize How should criminal wrongs be classified and differentiated How should law enforcement officials apply the law's specifications of offences This the fifth book in the series offers a historical and conceptual account of the development of the modern criminal law in England and as it has spread to common law jurisdictions around the world The book offers a historical perspective on the development of theories of criminalization It shows how the emergence of theories of criminalization is inextricably linked to modern understandings of the criminal law as a conceptually distinct body of rules and how this in turn has been shaped by the changing functions of criminal law as an instrument of government in the modern state The book is structured in two main parts The first traces the development of the modern law as a distinct and conceptually distinct body of rules looking in particular at ideas of jurisdiction codification and responsibility The second part then engages in detailed analysis

of specific areas of criminal law focusing on patterns of criminalization in relation to property the person and sexual conduct

Intention, Agency and Criminal Liability Antony Duff, 1990-01-01 **A Philosophy of Criminal Attempts** Bebhinn Donnelly-Lazarov, 2015-04-30 Extends and adapts G E M Anscombe's philosophy to reveal attempting as a subjective species of intentional action Locates criminal attempts therein *The Theoretical and Philosophical Foundations of Criminal Law* David Dolinko, 2014 This volume offers a selection of significant and influential research articles from the contemporary philosophical debate over the fundamental concepts and structures of Anglo American criminal law The articles consider the moral legitimacy of punishment excuse and justification defenses and the conundrums of attempt liability the bases of culpability and criminal responsibility and the appropriate limits of the criminal law The introduction clarifies the contexts in which these subjects are discussed and the volume includes an extensive bibliography

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