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# PUBLIC PROSECUTORS AND DISCRETION: A COMPARATIVE STUDY



JULIA FIONDA



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# Public Prosecutors And Discretion A Comparative Study

**Asher Flynn, Arie Freiberg**



## **Public Prosecutors And Discretion A Comparative Study:**

**Public Prosecutors and Discretion** Julia Fionda,1995 The role of the public prosecutor in sentencing has become the subject of intense debate in recent years Experts recognize that their influence on sentencing practice is profound and that the implications of their influence is far reaching In this original study the author assesses the influence of the public prosecutor in Scotland the Netherlands England and Wales and Germany over the process of sentencing offenders in the criminal justice system This study offers a detailed analysis of prosecutorial power to issue sanctions such as fines warnings and referrals to rehabilitation at the pre trial stage and develops three new models of justice seeking to analyse and explain the increasing use of prosecutorial power The overlap between the role of prosecutor and judges is also discussed This book is an original enquiry into an aspect of the role of the prosecutor which is increasingly important in major criminal justice systems and will be of great interest to all those interested in the criminal justice system and the sentencing of offenders and in comparative criminal justice policy and practice *Public Prosecutors in the United States and Europe* Gwladys

Gilliéron,2014-04-14 This research examines the role of prosecutors within the United States and in Switzerland and is completed by an overview of the prosecution institutions in France and Germany The research recognizes that despite seemingly very different legal traditions and structures prosecutors in these systems are similar enough that each system might learn from the others Drawing upon the experiences of other nations this research proposes solutions to the problems identified in connection with the position and powers of public prosecutors in the United States Furthermore it outlines the problems related to the increase of prosecutorial power and the lessons the European criminal justice systems surveyed can draw from the experience in the US In terms of methodology this research not only considers formal legal provisions but also systematic structural factors academic literature and statistics revealing how the law and governing principles actually work in practice *Prosecutorial Discretion at the International Criminal Court* Anni Pies,2020-07-09 This timely book provides a

comprehensive guide to and rigorous analysis of prosecutorial discretion at the International Criminal Court This is the first ever study that takes the reader through all the key stages of the Prosecutor's decision making process Starting from preliminary examinations and the decision to investigate the book also explores case selection processes plea agreements culminating in the question of how to end engagement in specific country situations The book serves as a guide to the Rome Statute through the lens of the Prosecutor's activities With its unique combination of legal theory and specific policy analysis it addresses broader questions that will be relevant to other international and hybrid criminal courts and tribunals The book will be of interest to students practitioners of law academics and the wider public concerned with international law criminal justice and international relations , **Research Handbook on the Economics of Criminal Law** Alon Harel,Keith N.

Hylton,2012-01-01 Jeremy Bentham and Gary Becker established the tradition of analyzing criminal law in utilitarian and economic terms This seminal book continues that tradition with specially commissioned original papers that span the

philosophical foundations of the use of economics in criminal law both traditional economic perspectives and behavioral and experimental approaches to the discipline The contributors examine and evaluate the optimal design of criminal law norms as well as the ideal structure of law enforcement institutions They delineate what wrongs ought to be criminalized identify the boundaries between criminal law and tort and determine the optimal size of sanctions given the differential vulnerability of victims They also analyze the special considerations that apply to the regulation of corporate crime the effects of technology on crime and the effects of the distribution of wealth on sentencing This essential Handbook provides students and scholars of criminal law and law and economics the opportunity to explore the diversity of contemporary approaches to the economics of crime Criminologists sociologists and policymakers will also find it a valuable addition to their collections **The Oxford Handbook of Prosecutors and Prosecution** Ronald F. Wright, Kay L. Levine, Russell M. Gold, 2021-04-30 The power of the modern prosecutor arises from several features of the criminal justice landscape widespread use of law and order political rhetoric and heightened fear of crime among voters legislatures embrace of extreme sentencing ranges to respond to such concerns and the uncertain or limited accountability of prosecutors to the electorate the bar or other political and professional constituencies The convergence of these trends has transformed prosecution into an indispensable field of study This volume brings together the work of leading international scholars across criminology sociology political science and law along with contributions from reform minded practitioners to examine a variety of issues in prosecutorial behaviour and the institutional structures that frame their behavior The Handbook connects the dots among existing theoretical and empirical research related to prosecutors Major sections of the volume cover 1 prosecutor performance during distinct phases of a criminal case 2 the features of the prosecutor's environment both inside the office and external to the office that influence the choices of individual prosecutors and office leaders and 3 prosecutorial strategies and priorities when dealing with specialized types of crimes victims and defendants Taken together the chapters in this volume identify the founding texts discuss leading theoretical and methodological approaches explain the scope of unresolved issues and preview where this field is headed The volume provides a bottom up view of an important new scholarly field *Powers of the Prosecutor in Criminal Investigation* Karolina Kremens, 2021-03-26 This comparative analysis examines the scope of prosecutorial powers at different phases of criminal investigation in four countries the United States Italy Poland and Germany Since in all four the number of criminal cases decided without trial is constantly increasing criminal investigation has become central in the criminal process The work asks who should be in charge of this stage of the process Prosecutors have gained tremendous powers to influence the outcome of the criminal cases including powers once reserved for judges In a system in which the role of the trial is diminishing and the significance of criminal investigation is growing this book questions whether the prosecutor's powers at the early stage of the process should be enhanced Using a problem oriented approach the book provides a parallel analysis of each country along five possible spheres of prosecutorial engagement commencing criminal

investigation conducting criminal investigation undertaking initial charging decisions imposing coercive measures and discontinuing criminal investigation Using the competing adversarial inquisitorial models as a framework the focus is on the prosecutor as a crucial figure in the criminal process and investigation The insights of this book will be of interest and relevance to students and academics in criminal justice criminology law and public policy as well as policymakers government officials and others interested in legal reform

**The Evolving Role of the Public Prosecutor** Victoria Colvin, Philip Stenning, 2018-09-24 The modern public prosecutor is a figure both powerful and enigmatic Legal scholars and criminologists often identify three essential components of criminal justice systems police courts and corrections Yet increasingly the public prosecutor occupies a distinct role independent from any of these branches Acting outside of the court and therefore largely out of the public eye the prosecutor's control over whether and what charges proceed to court can limit judicial discretion on sentencing open pathways to alternative measures and even deny entry into the criminal justice system entirely In this sense the prosecutor serves as a true gatekeeper to the criminal process This book addresses key aspects of the evolving role of domestic and international prosecutors in common law and civil law systems in the twenty first century and the challenges posed by this evolution This collection of chapters from respected scholars takes an international comparative approach and explores how these different legal systems have borrowed theorisations and articulations of the prosecutorial role from each other in adapting the office to changing conditions and expectations The volume is structured around four main themes relating to the role of the modern prosecutor the nature of the prosecutor's office the role of the prosecutor in investigations prosecutorial discretion and how it is exercised and politicisation and accountability of prosecutors This book is essential for scholars and students in criminal justice pre law legal studies criminology justice studies and political science and is useful as a resource for those interested in legal change around the world

*Encyclopedia of Law and Society* David S. Clark, 2007-07-10 Introduction to and survey of the field of law and society Includes interdisciplinary perspectives on law from sociology criminology cultural anthropology political science social psychology and economics

[The Oxford Handbook of Criminology](#) Mike Maguire, Rodney Morgan, Robert Reiner, 2007 teachers and students of criminology and is a sourcebook for professionals

[Policing Sexual Assault](#) Jeanne Gregory, Sue Lees, 2012-12-06 Policing Sexual Assault provides a detailed account of current police practice in the UK in response to sexual assault The authors use case studies and interviews to find out why when the number of rape cases has almost trebled since 1985 the proportion of cases resulting in a conviction has dropped from 24% to 8.6% Chapters cover an overview of existing research police culture police recording practices the role of the Crime Prosecution Service male rape analysis of the judicial process interviews with complainants and first hand accounts of their experiences proposals for reform The authors place their findings within the context of theoretical debates about domestic and sexual violence and examine the gap between official condemnations of male violence as enshrined in law and the realities of the victims male

and female experiences whereby the violence is too often condoned      **Incivilities** A P Simester, Andreas von Hirsch, 2006-10-13 Prohibitions against offensive conduct have existed for many years but their extent and use was on the decline Recently however several jurisdictions including England and Wales have moved to broaden the reach and severity of measures against incivilities New measures include expanded targeting of unpopular forms of public conduct such as begging and legislation authorising magistrates to issue prohibitory orders against anti social behaviour Because these quality of life prohibitions can be so restrictive of personal liberties it is essential to develop adequate guiding and limiting principles concerning State intervention in this area This book addresses the legal regulation of offensive behaviour Topics include the nature of offensiveness the grounds and permissible scope of criminal prohibitions against offensive behaviour the legitimacy of civil orders against incivilities and identifying the social trends that have generated current political interest in preventing incivilities through intervention of law These questions are addressed by eleven distinguished philosophers criminal law theorists criminologists and sociologists In an area that has attracted much public comment but little theoretical analysis to date these essays develop a fuller conceptual framework for debating questions about the legal regulation of offensive behaviour      Plea Negotiations Asher Flynn, Arie Freiberg, 2018-07-24 Despite a popular view that trials are the focal point of the criminal justice process in reality the most frequent way a criminal matter resolves is not through a fiercely fought battle between state and defendant but instead through a process of negotiation between the prosecution and defence resulting in a defendant pleading guilty in exchange for agreed concessions from the prosecution This book presents an original empirical case study of plea negotiations drawing upon interviews with legal actors and an analysis of defence practitioner case files to shine light on the processes and ways in which an agreed outcome is reached in criminal prosecutions within the setting of a jurisdiction like many others world wide which is suffering major shifts in state resources Plea negotiations also referred to as plea bargaining negotiated guilty pleas and negotiated resolutions are neither an alloyed benefit nor a detriment for defendants victims or the criminal justice system generally and like all compromises this book shows how the perfect justice outcome gives way to the good or just the reasonably acceptable justice outcome      Free Market Criminal Justice Darryl K. Brown, 2016 Free Market Criminal Justice explains how faith in democratic politics and free markets has undermined the rule of law in US criminal process It argues that to strengthen the rule of law US criminal justice needs less democracy fewer market mechanisms and more law      *Driving Offences* Sally Cunningham, 2017-03-02 This volume examines general driving offences concentrating on those which punish risk taking whilst driving with the primary goal of increasing road safety The focus is particularly on careless driving dangerous driving drink driving and speeding with a comparative approach incorporated into the discussion Drawing on legal and psychological research the book explains the legal definition of offences discussing the policy behind the offences and examines how the law is applied in practice It concludes with consideration of how the law in this area might be reformed informed by the preceding

discussion This title will be a valuable resource tool for students academics and practitioners working in the area of road safety

*Making Law Matter* Lesley McAllister,2008-05-30 Making Law Matter presents the first book length treatment of an innovative prosecutorial institution the Brazilian Ministrio Publico which refashioned itself in the 1980s into a powerful defender of citizen rights in environmental protection as well as in other areas of public interest such as disability rights consumer protection and anti corruption

**Children and Young People's Worlds** Montgomery, Heather,Kellett, Mary,2009-07-08 This reader promotes critical engagement with a range of international perspectives about children s and young people s worlds One of the defining features is the focus on both global and local issues and their impact on children s lives This reader emp

**Geographies of Children, Youth and Families** Louise Holt,2010-12-21 This edited collection brings together international experts from the vibrant and growing field of geographies of children youth and families Designed as an introduction to the topic this book provides an overview of current conceptual and theoretical debates surrounding geographies of children youth and families and gives a wide range of examples of cutting edge research from a variety of national contexts across the globe The theme of disentangling the socio spatial contexts of young people and or their families advances debates in the field by emphasising the context of young people s social agency Geographies of Children Youth and Families is an invaluable course text for undergraduate and postgraduate students of geography and the social sciences as well as being of interest to students and practitioners of education youth work social policy and social work

Plea Bargaining in National and International Law Regina Rauxloh,2012 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 discusses 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

**Criminal Sentencing in Bangladesh** Muhammad Mahbubur Rahman,2017-03-20 In Criminal Sentencing in Bangladesh Muhammad Mahbubur Rahman critically examines the sentencing policies of Bangladesh and demonstrates that the country s sentencing policies are not only yet to be developed in a coherent manner and shaped with an appropriate and contextual balance but also remain part of the problem rather than part of the solution The author forcefully argues that the conception of sentencing policies cannot and should not always be confined exclusively to institutional understandings The typical realities of post colonial societies call for rethinking the traditional judiciary centred understanding of what is meant by criminal sentences This book thus raises the question for theoretical sentencing scholarship whether the prevailing judiciary centred understanding of sentencing should be rethought

The book delves into Public Prosecutors And Discretion A Comparative Study. Public Prosecutors And Discretion A Comparative Study is an essential topic that needs to be grasped by everyone, from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into Public Prosecutors And Discretion A Comparative Study, encompassing both the fundamentals and more intricate discussions.

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    - Chapter 3: Public Prosecutors And Discretion A Comparative Study in Everyday Life
    - Chapter 4: Public Prosecutors And Discretion A Comparative Study in Specific Contexts
    - Chapter 5: Conclusion
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- The book is crafted in an easy-to-understand language and is complemented by engaging illustrations. This book is highly recommended for anyone seeking to gain a comprehensive understanding of Public Prosecutors And Discretion A Comparative Study.



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