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# PROPORTIONATE SENTENCING

EXPLORING THE PRINCIPLES

ANDREW VON HIRSCH  
ANDREW ASHWORTH

OXFORD MONOGRAPHS ON  
CRIMINAL LAW AND JUSTICE

# Proportionate Sentencing Exploring The Principles

**Alejandro Chehtman**



## **Proportionate Sentencing Exploring The Principles:**

**Proportionate Sentencing** Andrew Von Hirsch, Andrew Ashworth, 2005 This book is about the principle of proportionality the principle that a sentence should be proportionate to the seriousness of the offense committed Although the principle has often been discussed this book breaks new ground by examining more fully the detailed arguments for the theory and for applying it to a range of situations including young offenders dangerous offenders and socially deprived offenders The authors are well known for their previous writings on proportionality theory and this book broadens the theory to deal with important contemporary issues in crime and punishment     Mitigation and Aggravation at Sentencing Julian V. Roberts, 2011-08-25 This innovative volume explores a fundamental issue in the field of sentencing the factors which make a sentence more or less severe All sentencing systems allow courts discretion to consider mitigating and aggravating factors and many legislatures have placed a number of such factors on a statutory footing Yet many questions remain regarding the theory and practice of mitigation and aggravation Drawing on legal and sociological perspectives and examining mitigation and aggravation in various jurisdictions the essays provide practical illustrations of specific factors as well as theoretical justifications After the foreword by Andrew von Hirsch a number of contributors address broad conceptual issues raised at sentencing These contributions are followed by several empirical chapters including an exploration of personal mitigation in English courts The authors are leading scholars from a range of common law jurisdictions including England and Wales the United States Canada Australia New Zealand and South Africa     *Principles and Values in Criminal Law and Criminal Justice* Lucia Zedner, Julian V. Roberts, 2012-08-16 Celebrating the scholarship of one of the leading lawyers of the common law Andrew Ashworth the essays in this volume address fundamental questions of principle and value in criminal law criminal process human rights sentencing and punishment This is a major contribution to contemporary debates about criminalization and punishment     *The Oxford Handbook of Criminal Process* Darryl K. Brown, Jenia Iontcheva Turner, Bettina Weissner, 2019-02-22 The criminal process begins with arrests or investigations and concludes with adjudication and appeal Across more than 40 chapters this Handbook provides a comprehensive introduction to both common law and civil law approaches to the criminal process including history procedure investigation prosecution evidence adjudication and appeal     *Proportionate Sentencing* Andrew Von Hirsch, 2005 This book is about the principle of proportionality the principle that a sentence should be proportionate to the seriousness of the offence committed It examines the detailed arguments for the theory and for applying it to a range of situations including young offenders dangerous offenders and socially deprived offenders     The Oxford Handbook of the Philosophy of Punishment Jesper Ryberg, 2024-11

**Proportionality in Crime Control and Criminal Justice** Emmanouil Billis, Nandor Knust, Jon Petter Rui, 2021-04-22 This edited volume seeks to reassess the old and to analyse and develop novel approaches to the notion of proportionality in criminal matters and the new security architecture The discourse is not limited to conventional constitutional constellations

and standard problems of sentencing in traditional criminal proceedings Rather the book offers an interdisciplinary and cross jurisdictional exploration of highly topical proportionality related issues pertinent to penal theory and legal philosophy criminalisation policies security and anti terrorism strategies alternative types of justice delivery and supranational enforcement as well as human rights and international criminal and humanitarian law In today s global risk society with its numerous visible and invisible enemies of the state and the individual balancing freedom and security has become nothing less than an attempt at untying a Gordian knot Against this background the proportionality of measures of crime prevention and repression is unquestionably an issue of utmost importance which basic research and legal policy in rule of law based systems are urgently called to address The timely and fascinating contributions in this book covering jurisdictions from both the common law and the civil law as well as hybrid and international jurisdictions will appeal to academics researchers policy advisers and practitioners working in the areas of national and international criminal law comparative criminal justice criminology and legal philosophy as well as constitutional and security law

*Ashworth's Principles of Criminal Law* Jeremy Horder, 2016 Ashworth s Principles of Criminal Law now in its eight edition takes a distinctly different approach to the study of criminal law whilst still covering all of the vital topics found on criminal law courses Uniquely theoretical it seeks to elucidate the underlying principles and theoretical foundations of the criminal law and aims to critically engage readers by contextualizing and analysing the law This is essential reading for students seeking a sophisticated and critically engaging exploration of the subject The text is accompanied by an Online Resource Centre housing a full bibliography as well as a selection of useful web links

*180 Day Rental Ashworth's Principles of Criminal Law* Jeremy Horder, 2022

**The Limits of Asset Confiscation** Johan Boucht, 2017-06-01 This book provides a normative analysis of the justifications and limits of asset confiscation as a crime control measure in a comparative perspective More specifically it deals with what in this context is referred to as extended appropriation that is confiscation in cases where the causal link between the property the proceeds of crime in question and the predicate offence s is less obvious Particular focus is placed on extended criminal confiscation and civil recovery These forms of confiscation give rise to a number of complex legal issues The overarching purpose of the book is to provide an analysis of the nature of extended appropriation within the criminal justice system and to discuss a normative framework that may assist in assessing the legitimacy of such confiscation schemes It also seeks to explore what a fair and reasonable balance between the interests of the state and those of the individual in this field might look like The analysis starts from an acknowledgement not only of the need for having effective confiscation regimes in place but also of the need for protecting the interests of the individual It is hoped that the book will stimulate further discussion on the legitimacy of asset recovery as a crime control measure

**Proportionality of Criminal Penalties in EU Law** Lorenzo Grossio, Stefano Montaldo, Valsamis Mitsilegas, 2025-02-06 This book develops a systematic analysis of the principle of proportionality of penalties in EU law Until now the principle has been mainly assessed from a criminological point of view

By departing from existing literature the book advances an original EU law perspective on proportionality of penalties which underlies the analysis of its theorisation place and influence on domestic criminal systems Building upon this approach scholarly contributions in the book systematically delve into the various implications of the principle in EU law while paying particular attention to its profound interaction with criminal law concepts **The Presumption of Innocence** Andrew Stumer,2010-06-14 The presumption of innocence is universally recognized as a fundamental human right and a core principle in the administration of criminal justice Nonetheless statutes creating criminal offences regularly depart from the presumption of innocence by requiring defendants to prove specific matters in order to avoid conviction Legislatures and courts seek to justify this departure by asserting that the reversal of the burden of proof is necessary to meet the community interest in prosecuting serious crime and maintaining workable criminal sanctions This book investigates the supposed justifications for limitation of the presumption of innocence It does so through a comprehensive analysis of the history rationale and scope of the presumption of innocence It is argued that the values underlying the presumption of innocence are of such fundamental importance to individual liberty that they cannot be sacrificed on the altar of community interest In particular it is argued that a test of proportionality which seeks to weigh individual rights against the community interest is inappropriate in the context of the presumption of innocence and that courts ought instead to focus on whether an impugned measure threatens the values which the presumption is designed to protect The book undertakes a complete and systematic review of the United Kingdom and Strasbourg authority on the presumption of innocence It also draws upon extensive references to comparative material both judicial and academic from the United States Canada and South Africa

**Reducing Genocide to Law** Payam Akhavan,2012-01-26 Why is genocide the ultimate crime and does this distinction make any difference in confronting evil **Crime and Justice, Volume 45** Michael Tonry,2017-02-22 Sentencing Policies and Practices in Western Countries Comparative and Cross national Perspectives is the forty fifth addition to the Crime and Justice series Contributors include Thomas Weigend on criminal sentencing in Germany since 2000 Julian V Roberts and Andrew Ashworth on the evolution of sentencing policy and practice in England and Wales from 2003 to 2015 Jacqueline Hodgson and Laur ne Soubise on understanding the sentencing process in France Anthony N Doob and Cheryl Marie Webster on Canadian sentencing policy in the twenty first century Arie Freiberg on Australian sentencing policies and practices Krzysztof Krajewski on sentencing in Poland Alessandro Corda on Italian policies Michael Tonry on American sentencing and Tapio Lappi Sepp l on penal policy and sentencing in the Nordic countries **The Philosophical Foundations of Extraterritorial Punishment** Alejandro Chehtman,2010-12-09 1 Rights Individuals and States 2 An Interest based Justification for the Right to Punish 3 Extraterritorial Jurisdiction over Municipal Crimes 4 A Theory of International Crimes 5 Extraterritorial Jurisdiction over International Crimes 6 Legitimate Authority and Extraterritorial Punishment 7 Conclusion **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 **Criminal Law Without Punishment** Valerij Zisman, 2023-09-05 How can criminal punishment be morally justified Zisman addresses this classical question in legal philosophy He provides two maybe surprising answers to the question First as for a methodological claim it argues that this question cannot be answered by philosophers and legal scholars alone Rather we need to take into account research from social psychology economy anthropology and so on in order to properly analyze the arguments in defense of criminal punishment Second the book argues that when such research is properly accounted for none of the current attempts to justify criminal punishment succeed But that does not imply that the state should do nothing about criminal wrongdoing Rather the arguments that were supposed to justify criminal punishment actually speak in favor of an alternative approach to criminal law restitution to the victim and restorative justice That is to say the state should coerce offenders to provide restitution for the harm inflicted on victims and whenever possible restorative approaches should be taken to address criminal wrongdoing

Critical Issues in Social Work Law Alison Brammer, Jane Boylan, 2016-07-13 Written by a team of leading authorities in the field this collection provides a critique of the law as it applies to social work practice and identifies key contemporary issues for social work Tackling topics such as trafficking youth justice and child protection the book is a valuable contribution to the debates in social work law

Roberts & Zuckerman's Criminal Evidence Paul Roberts, Adrian Zuckerman, 2022-08-04 Roberts and Zuckerman's Criminal Evidence is the eagerly anticipated third of edition of the market leading text on criminal evidence fully revised to take account of developments in legislation case law policy debates and academic commentary during the decade since the previous edition was published With an explicit focus on the rules and principles of criminal trial procedure Roberts and Zuckerman's Criminal Evidence develops a coherent account of evidence law which is doctrinally detailed securely grounded in a normative theoretical framework and sensitive to the institutional and socio legal factors shaping criminal litigation in practice The book is designed to be accessible to the beginner informative to the criminal court judge or legal practitioner and thought provoking to the advanced student and scholar a textbook and monograph rolled into one The book also provides an ideal disciplinary map and work of reference to introduce non lawyers including forensic scientists and other expert witnesses to the foundational assumptions and technical intricacies of criminal trial procedure in England and Wales and will be an invaluable resource for courts lawyers and scholars in other jurisdictions seeking comparative insight and understanding of evidentiary regulation in the common law tradition

**Character in the Criminal Trial** Mike Redmayne, 2015-03-19 If a defendant is on trial for a crime such as burglary to what extent should the fact that he has a previous conviction for burglary feature in his trial Should the prosecution be allowed to tell the jury about the previous conviction as evidence that the defendant is more likely to have committed burglary Should the judge give the defendant a longer sentence because he has a previous conviction These are the fundamental questions examined in Character in the

Criminal Trial Including an in depth analysis of the character evidence provisions of the Criminal Justice Act 2003 this book assesses the arguments for and against using character evidence to prove a defendant s guilt It explores the sentencing provisions in the same Act as well as the general use of criminal record and other character evidence to aggravate and mitigate sentence Issues examined in the course of the book include psychological and philosophical debates about the stability of character criminological research on recidivism and the nature of criminal careers ethical debates about the use of prior behaviour to prove current or future offending the process of reasoning underlying the use of bad character evidence whether bad character evidence is prejudicial and the use of risk assessment instruments to classify offenders as dangerous By combining insights from law psychology criminology and philosophy Redmayne reassesses the use of character in the criminal trial and reflects on the significance of the law s increasing emphasis on character

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## **Table of Contents Proportionate Sentencing Exploring The Principles**

1. Understanding the eBook Proportionate Sentencing Exploring The Principles
  - The Rise of Digital Reading Proportionate Sentencing Exploring The Principles
  - Advantages of eBooks Over Traditional Books
2. Identifying Proportionate Sentencing Exploring The Principles
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Proportionate Sentencing Exploring The Principles
  - User-Friendly Interface
4. Exploring eBook Recommendations from Proportionate Sentencing Exploring The Principles
  - Personalized Recommendations
  - Proportionate Sentencing Exploring The Principles User Reviews and Ratings
  - Proportionate Sentencing Exploring The Principles and Bestseller Lists
5. Accessing Proportionate Sentencing Exploring The Principles Free and Paid eBooks
  - Proportionate Sentencing Exploring The Principles Public Domain eBooks
  - Proportionate Sentencing Exploring The Principles eBook Subscription Services
  - Proportionate Sentencing Exploring The Principles Budget-Friendly Options



6. Navigating Proportionate Sentencing Exploring The Principles eBook Formats
  - ePub, PDF, MOBI, and More
  - Proportionate Sentencing Exploring The Principles Compatibility with Devices
  - Proportionate Sentencing Exploring The Principles Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Proportionate Sentencing Exploring The Principles
  - Highlighting and Note-Taking Proportionate Sentencing Exploring The Principles
  - Interactive Elements Proportionate Sentencing Exploring The Principles
8. Staying Engaged with Proportionate Sentencing Exploring The Principles
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Proportionate Sentencing Exploring The Principles
9. Balancing eBooks and Physical Books Proportionate Sentencing Exploring The Principles
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Proportionate Sentencing Exploring The Principles
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Proportionate Sentencing Exploring The Principles
  - Setting Reading Goals Proportionate Sentencing Exploring The Principles
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Proportionate Sentencing Exploring The Principles
  - Fact-Checking eBook Content of Proportionate Sentencing Exploring The Principles
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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