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FUNDAMENTALS OF SENTENCING THEORY



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Fundamentals Of Sentencing Theory Essays In Honour Of Andrew Von Hirsch

Thalia Anthony



Fundamentals Of Sentencing Theory Essays In Honour Of Andrew Von Hirsch:

Fundamentals of Sentencing Theory Andrew Ashworth, Martin Wasik, 1998 The Oxford Monographs On Criminal Law And Justice series aims to cover all aspects of criminal law and procedure including criminal evidence the scope of the series is wide encompassing both practical and theoretical works Series Editor Professor Andrew Ashworth Vinerian Professor of English Law All Souls College Oxford This volume is a thematic collection of essays on sentencing theory by leading writers The essays fall into three groups Part I considers the underlying justifications for the imposition of punishment by the State and examines the relationship between victims offenders and the State Part II addresses a number of areas of sentencing policy that have given rise to particular difficulty such as the sentencing of drug offenders the rationale for discounting sentences for multiple offenders the existence of special sentencing for young offenders and cases where the injury done to the victim is of a different magnitude from what might have been expected Part III raises various questions about the unequal impact on offenders of different sentencing measures and examines the extent to which sentences should be adjusted to take account of these different impacts and of broader social inequalities This volume is dedicated to Professor Andrew von Hirsch whose continuing work on sentencing theory provided the stimulus for the collection Achieving Consistency in Sentencing Lyndon Harris, 2022 Consistency in sentencing is regarded as essential for a fair system Achieving Consistency in Sentencing brings together theoretical and practical considerations of the concept of consistency to examine how these can be realised The book provides readers with an analysis of the various shapes that guidance takes and examines their efficacy The ^AOxford Handbook of Criminal Process Darryl K. Brown, Jenia Iontcheva Turner, Bettina Weisser, 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

Sentencing Multiple Crimes Jesper Ryberg, Julian V. Roberts, Jan Willem de Keijser, 2018 Sentencing Multiple Crimes confronts the practical and theoretical challenges for the criminal justice system when punishing multiple crime offenders including the proportionality of the crimes committed the temporal span between the crimes and the relationship between theories about the punitive treatment of recidivists and multiple offenders It provides a comprehensive examination of the dynamics involved with sentencing multiple offenders from the perspective of several legal theories Just Sentencing Richard S. Frase, 2012-11-19 For most of the 20th Century sentencing purposes and procedures were virtually the same in all American jurisdictions The primary sentencing goal was rehabilitation to be accomplished mostly in prison To achieve this goal judges and parole boards were given broad discretionary powers In the 1970s legal scholars and critics began to question such unfettered discretion and to advocate for a system of prison as punishment not as moral reeducation Lawmakers began to experiment with mandatory penalties and other limits on sentencing discretion These changes broke

the previously uniform standard of sentencing in America Today sentencing purposes and procedures vary wildly between different state and federal jurisdictions Our fragmented sentencing system has contributed to unprecedented increases in prison and jail inmate populations disproportionately affecting racial minorities and creating a staggering drain on state budgets The systems in most jurisdictions are disorganized expensive and unfair We need a new vision and a new way forward In *Just Sentencing* Richard S Frase offers a hybrid sentencing model that combines clearly stated normative principles with procedures that have proven successful in practice Frase advocates an expanded version of the theory of limiting retributivism recognizing desert based and other limits on sentence severity while accommodating crime control and other non retributive punishment purposes These principles are implemented with procedures based on the best state sentencing guidelines systems including mandatory resource and demographic impact assessments appellate review that preserves substantial trial court discretion and abolition of parole release discretion This book also shows how the core principles and procedures of the proposed model have been successfully implemented in several states and endorsed in model sentencing codes and standards America currently lacks a comprehensive understanding of the purposes and limits of punishment *Just Sentencing* offers us a cogent and urgently needed solution for the incoherent and unsustainable American sentencing system

Exploring Sentencing Practice in England and Wales J. Roberts, 2015-02-27 This volume explores the theory and practice of sentencing in England and Wales exploring issues such as the role of previous convictions offender remorse and sentencing female offenders as well as drawing upon a new and unique source of data from the Crown courts

Legal Judgment and the Motivation for Justice Richard L. Wiener, David J. Hansen, 2025-09-26 This volume takes as its point of departure that those who work in the area of law and psychology currently possess a great deal of knowledge about the psychology of the legal system including the way in which the behavior of legislators judges jurors attorneys litigants and defendants shapes the outcome of justice It has also become very clear that the main obstacles to beneficial modifications to the legal system stem from the lack of motivation to seek justice motivation to change legal process and motivation to make use of evidence based decision making The purpose of this volume is to examine the antecedents of the motivation for justice describe how that motivation activates and manifests in various legal institutions i e elections legislatures courts and executive offices and trace the failure of that motivation to influence legal decision making This will include research and commentary about a where the motivation for justice comes from when people make legal judgments and decisions b how the motivation for justice influences legal judgments and decisions and c how legal judgments and decisions influence the motivation for justice in positive and negative ways This topic is paramount at the current time in our history in view of the apparent breakdown of society's beliefs in our institutions and trust in the democratic process which has contributed to a system that has increasingly operated from tribalistic impulse rather than from a richer motivation for authentic justice

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 Responding to the Culpable State Leo Zaibert, Julian V Roberts, Jesper Ryberg, 2025-02-06 This volume explores ethical aspects relating to claims for mitigation arising from culpable state action or inaction It answers the important and controversial question to what extent should the state mitigate sentencing for defendants who have been victims of state misconduct The volume explores the normative justifications for mitigation and answers many intriguing questions For example in terms of the procedural challenges should the offender have to prove a causal link between state wrongdoing or neglect and the offending Can a court take judicial notice of state induced social adversity and apply this consideration to all affected offenders Other questions relate to the implications for courts and sentencing commissions which issue guidance to courts regarding mitigation at sentencing To what extent is the offender less culpable as a result of state misconduct and what are the limits of any resulting sentence reductions Do sentence reductions for state misconduct undermine proportionality or deprecate the seriousness of the impact on the victim of crime Should this factor be included in any sentencing guidelines or possibly even as a statutory mitigating factor Each contribution explores a distinct cross jurisdictional claim for mitigation on the basis of State negligence or misconduct towards the offender The chapters all address the appropriate response of courts at sentencing *Restorative Justice* Declan Roche, 2017-11-30 The legitimacy and performance of the traditional criminal justice system is the subject of intense scrutiny as the world economic crisis continues to put pressure on governments to cut the costs of the criminal justice system This volume brings together the leading work on restorative justice to achieve two objectives to construct a comprehensive and up to date conceptual framework for restorative justice suitable even for newcomers and to challenge the barriers of restorative justice in the hope of taking its theory and practice a step further The selected articles start by answering some fundamental questions about restorative justice regarding its historical and philosophical origins and challenge the concept by bringing into the debate the human rights and equality discourses Also included is material based on empirical testing of restorative justice claims especially those impacting on reoffending rates victim satisfaction and reintegration The volume concludes with a critique of restorative justice as well as with analytical thinking that aims to push its barriers It is hoped that the investigations offered by this volume not only offer hope for a better system for abolitionists and reformists but also new and convincing evidence to persuade the sceptics in the debate over restorative justice **Transitioning to Adulthood with Autism: Ethical, Legal and Social Issues** Nanette Elster, Kayhan Parsi, 2022-03-29 This book offers the first ever book length treatment of the topic of transitioning from adolescence to adulthood with autism and the attendant ethical legal and social issues for the individual as well as caregivers and professionals It features experts in a variety of areas law bioethics philosophy pediatrics neurology medicine psychology special education social work employment civic

participation social media who provide commentary on these areas and the relevant ethical legal social challenges young autistic adults face in these different areas This is an indispensable read for educators therapists and other professionals who work in transition with young autistic adults Chapter Autism the Criminal Justice System and Transition to Adulthood is available open access under a Creative Commons Attribution 4.0 International License via link [springer.com](https://www.springer.com)

Punishment Thom Brooks, 2012 Punishment is an area of increasing importance and concern to both citizens and politicians How do we decide what should be crimes How do we decide when someone is responsible for a crime What should we do with criminals These are the main questions raised in this book **The Oxford Handbook of the Philosophy of Punishment** Jesper Ryberg, 2024-11 Sentencing Ralph Henham, 2013-10-01 Sentencing is the process through which the legitimacy of punishment is declared and justified However it is increasingly portrayed as a social activity which should be more responsive to the pluralistic needs and values of individuals and communities in contemporary society It will therefore have to adapt to an array of different perceptions of what justice is and how it should be delivered as well as different sensitivities and emotional responses to sentencing processes and outcomes At a time when fundamental questions are being asked about the relevance of existing forms of punishment in contemporary society Sentencing argues for a profound normative understanding of the relationship between sentencing and its perception by citizens vital if we are to fully comprehend the nature and significance of punishment and the particular challenges it faces as a force for social cohesion Henham explores this theme by focusing on key areas of debate within the field the treatment of gender and race in sentencing the future role of sentencing in criminal justice governance the development of new criteria for evaluating sentencing within a more socially inclusive framework Henham suggests that a greater focus on the relationship between penal ideology and the impact of sentencing in the wider community is essential for effective future policy making in this area Sentencing will be useful for both undergraduate and postgraduate students of law criminology criminal justice and sociology as well as for academics and criminal justice policymakers Restorative Justice Eugene McLaughlin, Open University, 2003-06-02 Restorative Justice brings together key international writings that trace the development of restorative justice from its diverse beginnings to current global policies and practices **Predictive Sentencing** Jan W de Keijser, Julian V Roberts, Jesper Ryberg, 2019-05-16 Predictive Sentencing addresses the role of risk assessment in contemporary sentencing practices Predictive sentencing has become so deeply ingrained in Western criminal justice decision making that despite early ethical discussions about selective incapacitation it currently attracts little critique Nor has it been subjected to a thorough normative and empirical scrutiny This is problematic since much current policy and practice concerning risk predictions is inconsistent with mainstream theories of punishment Moreover predictive sentencing exacerbates discrimination and disparity in sentencing Although structured risk assessments may have replaced gut feelings and have now been systematically implemented in Western justice systems the fundamental issues and questions that

surround the use of risk assessment instruments at sentencing remain unresolved This volume critically evaluates these issues and will be of great interest to scholars of criminal justice and criminology Confronting Penal Excess David Hayes, 2019-11-14 This monograph considers the correlation between the relative success of retributive penal policies in English speaking liberal democracies since the 1970s and the practical evidence of increasingly excessive reliance on the penal State in those jurisdictions It sets out three key arguments First that increasingly excessive conditions in England and Wales over the last three decades represent a failure of retributive theory Second that the penal minimalist cause cannot do without retributive proportionality at least in comparison to the limiting principles espoused by rehabilitation restorative justice and penal abolitionism Third that another retributivism is therefore necessary if we are to confront penal excess The monograph offers a sketch of this new approach late retributivism as both a theory of punishment and of minimalist political action within a democratic society Centrally criminal punishment is approached as both a political act and a policy choice Consequently penal theorists must take account of contemporary political contexts in designing and advocating for their theories Although this inquiry focuses primarily on England and Wales its models of retributivism and of academic contribution to democratic penal policy making are relevant to other jurisdictions too *Indigenous People, Crime and Punishment* Thalia Anthony, 2013-07-24 *Indigenous People Crime and Punishment* examines criminal sentencing courts changing characterisations of Indigenous peoples identity culture and postcolonial status Focusing largely on Australian Indigenous peoples but drawing also on the Canadian experiences Thalia Anthony critically analyses how the judiciary have interpreted Indigenous difference Through an analysis of Indigenous sentencing remarks over a fifty year period in a number of jurisdictions the book demonstrates how judicial discretion is moulded to dominant white assumptions about Indigeneity More specifically *Indigenous People Crime and Punishment* shows how the increasing demonisation of Indigenous criminality and culture in sentencing has turned earlier gains in the legal recognition of Indigenous peoples on their head The recognition of Indigenous difference is thereby revealed as a pliable concept that is just as likely to remove concessions as it is to grant them *Indigenous People Crime and Punishment* suggests that Indigenous justice requires a two way recognition process where Indigenous people and legal systems are afforded greater control in sentencing dispute resolution and Indigenous healing *Of One-eyed and Toothless Miscreants* Michael H. Tonry, 2019 This volume examines scholarly and lay thinking about punishment of people convicted of crimes with particular emphasis on making the punishment fit the crime The contributors challenge the most prevalent current theories and emphasize the need for a shift away from the politicized emotionalism of recent decades They argue that theories that coincided with mass incarceration and rampant injustice to countless individuals are evolving in ways that better countenance moving toward more humane and thoughtful approaches

Reform and Punishment Sue Rex, Michael Tonry, 2012-12-06 In this book a group of leading authorities in the field address the key issues surrounding the future of sentencing in Britain in the light particularly of the highly influential

Halliday Report These proposals for reform amount to the single most ambitious and comprehensive set of proposals for reconstituting the sentencing system of a common law country and include proposals to replace existing sentencing statutes the establishment of a sentencing commission and sentencing guidelines and the creation of a sentence review function in the judiciary As well as addressing the major issues of the Halliday Report the chapters in this book go beyond this to explore the broader set of policy problems and implications which are raised drawing upon experiences of reform in other jurisdictions and contexts particularly that of the USA This book will be essential reading for anybody with an interest in the future of sentencing or the future direction of the criminal justice system as a whole

Whispering the Secrets of Language: An Emotional Quest through **Fundamentals Of Sentencing Theory Essays In Honour Of Andrew Von Hirsch**

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