



CRIMINALIZATION OF POLITICS

On Criminalization On Criminalization

**R A Duff, Lindsay Farmer, S E
Marshall, Massimo Renzo, Victor Tadros**

On Criminalization On Criminalization:

On Criminalization J. Schonsheck, 2013-06-29 I begin by introducing the main issues of the work and inviting their consideration as enticement I offer a sketch of their practical importance and of the philosophical challenge they present And I provide a preview of the work s organization and central argument There is something so obvious that it is easily and often overlooked the enforcing of criminal statutes is the most intrusive and coercive exercise of domestic power by a state Forcibly preventing people from doing that which they wish to do forcibly compelling people to do that which they do not wish to do and wielding force merely attempting to compel or prevent these state activities have extraordinarily serious ramifications Indeed no state institutions are likely to have more profound an impact on the lives of individual citizens than those of the criminal justice system I endorse Herbert Packer s assessment The criminal sanction is the law s ultimate threat Being punished for a crime is different from being regulated in the public interest or being forced to compensate another who has been injured by one s conduct or being treated for a disease The sanction is at once l uniquely coercive and in the broadest sense uniquely expensive As a consequence these state activities are in special need of moral warrant Given the great potential for doing grave injustice the power of the state embodied in the criminal justice system ought not be exercised in the absence of a complete and compelling moral justification

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

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

Criminalization and Prisoners in Japan Elmer Hubert Johnson, 1997 In his second book to deal with Japanese corrections Elmer H Johnson explores the cultural heritage and structure of the criminal justice administration that underlies Japan's reluctance to use imprisonment which he first examined in *Japanese Corrections Managing Convicted Offenders in an Orderly Society* Here Johnson introduces the concept of criminalization its implications and its two versions that differentiate four of the six cohorts who have entered prison in increasing numbers in recent decades yakuza Japanese mafia adult traffic offenders women drug offenders and juvenile drug and traffic offenders Foreigners and elderly inmates the other two cohorts elude criminalization as groups but also have become prisoners in greater numbers for other reasons

Ending Overcriminalization and Mass Incarceration Anthony B. Bradley, 2018-08-16 Mass incarceration is an overwhelming problem and reforms are often difficult leading to confusion about what to do and where to start *Ending Overcriminalization and Mass Incarceration* Hope from Civil Society introduces the key issues that need immediate attention and provides concrete direction about effective solutions systemically and relationally In this work Anthony B Bradley recognizes that offenders are persons with inherent dignity Mass incarceration results from the systemic breakdown of criminal law procedure and broken communities Using the principle of personalism attention is drawn to those areas that directly contact the lives of offenders and determine their fate Bradley explains how reform must be built from the person up and once these areas are reformed our law enforcement culture will change for the better Taking an innovative approach Anthony B Bradley explores what civic institutions need to do to prevent people from falling into the criminal justice system and recidivism for those released from prison

Criminalizing Atrocity Mark S. Berlin, 2020-03-25 Why do countries adopt criminal legislation making it possible to prosecute government and military officials for human rights violations Over the past thirty years dozens of countries have prosecuted their own or other states officials for past atrocities In *Criminalizing Atrocity* Mark Berlin tells the story of the global spread of national criminal laws against atrocity crimes genocide war crimes and crimes against humanity laws that have helped pave the way for this remarkable trend toward greater accountability He traces the early 20th century origins of national atrocity laws to a group of influential European criminal law scholars and explains the global patterns by which these laws have since spread Berlin

shows that understanding why countries criminalize atrocities requires understanding how they do so In many cases criminalization has not been the result of concerted government initiative but of inconspicuous choices made by technocratic legal experts who have been delegated authority to draft large scale reforms to countries national criminal codes Drawing on research in comparative law and norm diffusion Berlin explains how such reform projects prompt technocratic drafters to select legal ideas like atrocity laws that have been endorsed by their professional communities and deemed by drafters to be important features of a modern criminal code To test this argument Berlin draws on original quantitative and qualitative data including in depth case studies of Guatemala Poland Colombia and the Maldives and a new comprehensive dataset tracking the global spread of atrocity laws since Word War II The book s findings highlight the importance of professional communities in the modern renaissance of atrocity justice and the domestication of international legal norms

Overcriminalization Douglas Husak,2008-01-08 Husak s primary goal is to defend a set of constraints to limit the authority of states to enact and enforce criminal offenses In addition Husak situates this endeavor in criminal theory as traditionally construed This book urges the importance of this topic in the real world while most Anglo American legal philosophers have neglected it **Criminalizing Dissent** Rob Watts,2019-06-25 While liberal democratic states like America Britain and Australia claim to value freedom of expression and the right to dissent they have always actually criminalized dissent This disposition has worsened since 9 11 and the 2008 Great Recession This ground breaking study shows that just as dissent involves far more than protest marches so too liberal democratic states have expanded the criminalization of dissent Drawing on political and social theorists like Arendt Bourdieu and Isin the book offers a new way of thinking about politics dissent and its criminalization relationally Using case studies like the Occupy movement selective refusal by Israeli soldiers urban squatters democratic education and violence by anti Apartheid activists the book highlights the many forms dissent takes along with the many ways liberal democratic states criminalize it The book highlights the mix of fear and delusion in play when states privilege security to protect an imagined political order from difference and disagreement The book makes a major contribution to political theory legal studies and sociology Linking legal political and normative studies in new ways Watts shows that ultimately liberal democracies rely more on sovereignty and the capacity for coercion and declarations of legal states of exception than on liberal democratic principles In a time marked by a deepening crisis of democracy the book argues dissent is increasingly valuable Criminalization R A Duff,Lindsay Farmer,S E Marshall,Massimo Renzo,Victor Tadros,2014-12-04 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 The fourth book in the series examines the political morality of the criminal law exploring general principles and theories of criminalization Chapters provide accounts of the criminal law in the light of ambitious theories about moral and political philosophy republicanism and contractarianism or reflect upon the success of important theories of criminalization by viewing them in a novel light Ideas that are fundamental to any complete theory of the criminal law liberty harm and the effect on victims are investigated in depth Sociological investigation of the criminal law grounds a critical investigation into the principles of criminalization both as a legislative matter and with respect to criminalization practices in contemporary and historical contexts The volume broadens our conceptions of the theory of criminalization and clarifies the role of the series in the development of this theory It is essential reading for all interested in legal political and social theories of criminalization

Criminalization, 2024-12-02 Criminalization Politics and Policies provides a thorough analysis of the relationship between politics policies and criminalization Through diverse perspectives and scholarly essays it explores the multifaceted issues in criminal justice law and governance The book scrutinizes the impact of law society politics and penal populism on criminalization across legal systems advocating for a reassessment of criminal law's scope It delves into the prevalence of resorting to criminalization for social issues urging for a critical review Additionally it examines the normative foundations of criminalization addressing over criminalization and exploring its empirical and normative aspects The anthology also considers the roles of prosecutorial and judicial discretion as well as State preventive powers in over criminalization Whether a scholar policymaker or citizen readers gain insights into the expansion of criminal laws and their consequences making it a valuable resource for understanding the dynamics of law politics and power in criminal justice Contributors are Naveed Mehmood Chirag Balyan Shruti Bedi Shubhangni Jain Charles Khamala S bastien Lafrance Sidharth Luthra David McCallum Garima Pal Daria Ponomareva Alok Prasanna Yogesh Pratap Singh and Ekkehard Strauss

Criminalized Lives Alexander McClelland, 2024-06-14 Criminalized Lives profiles people charged in Canada with the crime of not disclosing their HIV positive status to sex partners Examining how criminalization disproportionately punishes poor Black and Indigenous people gay men and women in Canada Alexander McClelland investigates the consequences of criminalizing illness which results in people being subjected to state violence rather than treated with care On

Criminalization J Schonsheck, 2014-01-15 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 *The Right Not to be Criminalized* Dennis J. Baker, 2016-02-24 This book presents arguments and proposals for constraining criminalization with a focus on the legal limits of the criminal law The book approaches the issue by showing how the moral criteria for constraining unjust criminalization can and has been incorporated into constitutional human rights and thus provides a legal right not to be unfairly criminalized The book sets out the constitutional limits of the substantive criminal law As far as specific constitutional rights operate to protect specific freedoms for example free speech freedom of religion privacy etc the right not to be criminalized has proved to be a rather powerful justice constraint in the U S Yet the general right not to be criminalized has not been fully embraced in either the U S or Europe although it does exist This volume lays out the legal foundations of that right and the criteria for determining when the state might override it The book will be of interest to researchers in the areas of legal philosophy criminal law constitutional law and criminology *Criminalization Vol. II*, 2024-12-02 In this second of two volumes *Criminalization Where Do We Go from Here* embarks on an exploration of the historical roots of over criminalization It traces its origins back to ancient legal systems and societal norms elucidating the evolution of the legal framework alongside shifting attitudes and policy decisions The chapters shed light on the socio cultural forces that have contributed to the proliferation of criminal laws resulting in a state of over criminalization in contemporary society supported by empirical analysis **Criminalized Mothers, Criminalizing Mothering** Joanne Minaker, 2015-02-01 As the fastest growing prison population worldwide more and more women are living in cages and most of them are mothers This alarming trend has huge ramifications for women children and communities across the globe Empathy for mothers behind bars and concern for criminalized mothers in the community is in short supply Mothers are criminalized for their vulnerabilities and for making unpopular but difficult choices under material and ideological conditions not of their own choosing *Criminalized Mothers Criminalizing Mothering* shines a spotlight on mothers who are by law or social regulation criminalized and examines their troubles and triumphs This book offers a critical and compassionate lens on social injustice mass incarceration and collective miseries women experience i e economic inequality gendered violence devalued care work lone parenting etc This book is also about mothers encounters with systems of control confinement and criminalization but also their experiences of care *The Realm of Criminal Law* R A Duff, 2018-06-14 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

Criminality at Work Alan Bogg, Jennifer Collins, Mark Freedland, Jonathan Herring, 2020-03-12 From the Master and Servant legislation to the Factories Acts of the 19th century the criminal law has always had a vital yet normatively complex role in the regulation of work relations Even in its earliest forms it operated both as a tool to repress collective organizations and enforce labour discipline while policing the worst excesses of industrial capitalism Recently governments have begun to rediscover criminal law as a regulatory tool in a diverse set of areas related to labour law modern slavery penalizing irregular migrants licensing regimes for labour market intermediaries wage theft supporting the enforcement of general labour standards new forms of hybrid preventive orders harassment at work and industrial protest This volume explores the political and regulatory dimensions of the new criminality at work from a wide range of disciplinary perspectives including labour law immigration law and health and safety regulations The volume provides an overview of the regulatory terrain of criminality at work exploring whether these different regulatory interventions represent politically legitimate uses of the criminal law The book also examines whether these recent interventions constitute a new pattern of criminalization that operates in preventive mode and is based upon character and risk based forms of culpability The volume concludes by reflecting upon the general themes of criminality at work comparatively from Australian Canadian and US perspectives **Criminality at Work** is a timely rich and ambitious piece of scholarship that examines the many intersections between criminal law and work relations from a historical and contemporary vantage point

Criminalization of Activism Valeria Weis, 2021-12-22 Criminalization of Activism draws on a multiplicity of perspectives and case studies from the Global South and the Global North to show how protest has been subject to processes of criminalization over time Contributors include scholars and activists from different disciplinary backgrounds with a balance between authors from the Global North and the Global South An introduction frames the topic within critical criminology while also highlighting the possible disciplinary approaches and definitions of criminalization of resistance activism The editor also investigates the particularities of the current times in comparison to dynamics of criminalization in prior stages of capitalism Bringing together a range of criminalization themes into a single volume

compromising historical criminology Indigenous studies gender studies critical criminology southern criminology and green criminology it will be of great interest to scholars and students of criminology social movement theory and social sciences as well as those involved in activism and with a stand against criminalization *Criminological Perspectives* Eugene McLaughlin, John Muncie, Gordon Hughes, 2003-02-24 This book presents in accessible form the most relevant readings from the diverse criminology literature and provides students with direct access to the main theories and perspectives which underpin and shape the discipline of criminology Criminal Copyright Eldar Haber, 2018-08-16 In this book Eldar Haber analyzes the circumstances justifications and ramifications of the criminalization process and tells the story of how a legal right in the private enforcement realm has become over criminalized This work should be read by anyone concerned with the future of copyright and intellectual property

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Table of Contents On Criminalization On Criminalization

1. Understanding the eBook On Criminalization On Criminalization
 - The Rise of Digital Reading On Criminalization On Criminalization
 - Advantages of eBooks Over Traditional Books
2. Identifying On Criminalization On Criminalization
 - 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 On Criminalization On Criminalization
 - User-Friendly Interface
4. Exploring eBook Recommendations from On Criminalization On Criminalization
 - Personalized Recommendations
 - On Criminalization On Criminalization User Reviews and Ratings
 - On Criminalization On Criminalization and Bestseller Lists
5. Accessing On Criminalization On Criminalization Free and Paid eBooks
 - On Criminalization On Criminalization Public Domain eBooks
 - On Criminalization On Criminalization eBook Subscription Services
 - On Criminalization On Criminalization Budget-Friendly Options
6. Navigating On Criminalization On Criminalization eBook Formats

- ePub, PDF, MOBI, and More
- On Criminalization On Criminalization Compatibility with Devices
- On Criminalization On Criminalization Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of On Criminalization On Criminalization
 - Highlighting and Note-Taking On Criminalization On Criminalization
 - Interactive Elements On Criminalization On Criminalization
- 8. Staying Engaged with On Criminalization On Criminalization
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers On Criminalization On Criminalization
- 9. Balancing eBooks and Physical Books On Criminalization On Criminalization
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection On Criminalization On Criminalization
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine On Criminalization On Criminalization
 - Setting Reading Goals On Criminalization On Criminalization
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of On Criminalization On Criminalization
 - Fact-Checking eBook Content of On Criminalization On Criminalization
 - 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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