

THE  
LIMITS  
OF THE  
CRIMINAL  
SANCTION



HERBERT L. PACKER

# The Limits Of The Criminal Sanction

**Joan Petersilia, Kevin R. Reitz**



## **The Limits Of The Criminal Sanction:**

**The Limits of the Criminal Sanction** Herbert Packer, 1968-06-01 The argument of this book begins with the proposition that there are certain things we must understand about the criminal sanction before we can begin to talk sensibly about its limits First we need to ask some questions about the rationale of the criminal sanction What are we trying to do by defining conduct as criminal and punishing people who commit crimes To what extent are we justified in thinking that we can or ought to do what we are trying to do Is it possible to construct an acceptable rationale for the criminal sanction enabling us to deal with the argument that it is itself an unethical use of social power And if it is possible what implications does that rationale have for the kind of conceptual creature that the criminal law is Questions of this order make up Part I of the book which is essentially an extended essay on the nature and justification of the criminal sanction We also need to understand so the argument continues the characteristic processes through which the criminal sanction operates What do the rules of the game tell us about what the state may and may not do to apprehend charge convict and dispose of persons suspected of committing crimes Here too there is great controversy between two groups who have quite different views or models of what the criminal process is all about There are people who see the criminal process as essentially devoted to values of efficiency in the suppression of crime There are others who see those values as subordinate to the protection of the individual in his confrontation with the state A severe struggle over these conflicting values has been going on in the courts of this country for the last decade or more How that struggle is to be resolved is a second major consideration that we need to take into account before tackling the question of the limits of the criminal sanction These problems of process are examined in Part II Part III deals directly with the central problem of defining criteria for limiting the reach of the criminal sanction Given the constraints of rationale and process examined in Parts I and II it argues that we have over relied on the criminal sanction and that we had better start thinking in a systematic way about how to adjust our commitments to our capacities both moral and operational *The limits of the criminal sanction* Herbert L. Packer, *Criminal Procedure* James R. Acker, David C. Brody, 2004 This essential resource provides students with an introduction to the rules and principles of criminal procedure law This text uses a case study approach to help students develop the analytical skills necessary to understand the origins context and evolutions of the law concentrates on US Supreme Court decisions interpreting both state and federal constitutions and introduces students to the reference materials and strategies used for basic legal research *The Exclusionary Rule of Evidence* Kuo-hsing Hsieh, 2016-03-16 This groundbreaking monograph asserts the need for the establishment of an exclusionary rule of evidence in China as a means of protecting the people from police wrongdoing The author skilfully explores the foundations and developments of the exclusionary rule in the UK and USA assessing the rule from a comparative perspective and illuminating some issues that may arise in transferring the rule from one legal system to another Divided into two parts the first part discusses lessons from the past and provides an in depth examination of the

development of the exclusionary rule in the UK and USA covering rationales debates and the theoretical foundation of the exclusionary rule in the constitutional context The second part looks to the future and the establishment of a Chinese exclusionary rule Specifically it analyses the effects of police torture the passive attitude of judges and the need to establish such a rule in practice for future protection of human rights The author s experience in criminal law and procedure allow him to adroitly analyse crucial issues on both theoretical and practical level that is understandable to those working in the areas of human rights comparative criminal procedure and the Chinese legal system The Bill of Rights in Modern America

David J. Bodenhamer,James W. Ely (Jr.),2008 An expert guide to current debates on individual rights in America

Miscarriages of Justice Clive Walker,Keir Starmer,1999 The authors examine the various steps within the criminal justice system which have resulted in the conviction of the innocent and suggest remedies as to how miscarriages might be avoided in the future The contributors comprise academics campaigners and practitioners *Modern Control Theory and the Limits of Criminal Justice* Michael R. Gottfredson,Travis Hirschi,2020 Modern Control Theory and the Limits of the Criminal Justice

develops and extends the theory of self control advanced in Gottfredson and Hirschi s classic work A General Theory of Crime Since it was first published their general theory has been among the most discussed and researched perspectives in criminology This book critically reviews the evidence about the theory contrasting it with alternative perspectives and argues in favor of prevention efforts during early childhood to deal with the many problems facing the criminal justice system in America

**The Rule of Law** Cheryl Saunders,Katherine Le Roy,2003 This book brings together the views of an extraordinary range of well known authors It contains essays by Chief Justice Murray Gleeson High Court of Australia Justice Louise Arbour Supreme Court of Canada Justice Ruth Bader Ginsburg Supreme Court of USA Dr Radhika Coomaraswamy the UN Special Rapporteur on Violence against Women and Professors Saunders Australia Dyzenhaus Canada and Troper France The essays cover issues such as the debate about the meaning and application of the rule of law the gaps between the theory and practice of the rule of law relations between governments and people the tensions between the judiciary and the elected branches of government international criminal justice and the position of women in situations of conflict and insurrection The analyses in the book draw on topical events ranging from the Florida appeal in the election of President Bush to the

indictment of Slobodan Milosevic at the War Crimes Tribunal **The Impact of Publicity on Corporate Offenders** Brent Fisse,John Braithwaite,1984-06-30 Uncertainty surrounds the use of publicity as a means of controlling corporate crime On the one hand some agree with Justice Brandeis s dictum that light is the best of disinfectants the most efficient policeman On the other hand many believe that corporations internal affairs are effectively shrouded with a thick fog that prevents the light of public scrutiny from reaching them The Impact of Publicity on Corporate Offenders is the first study to go beyond the rhetoric through an examination of corporate experience Fisse and Braithwaite have carried out a qualitative inquiry concerning 17 large corporations involved in publicity crises Based mainly on interviews the inquiry includes company

employees and former employees union officials officers of government regulatory agencies competitors independent accountants government prosecutors public interest activists judicial officers stockbrokers and other experts     **Hearings, Reports and Prints of the House Committee on the Judiciary** United States. Congress. House. Committee on the Judiciary,1971     Recommendations and Reports of the Administrative Conference of the United States Administrative Conference of the United States,1970     **The Exclusionary Rule of Evidence** Asst Prof Kuo-hsing Hsieh,2014-12-28 This groundbreaking monograph asserts the need for the establishment of an exclusionary rule of evidence in China as a means of protecting the people from police wrongdoing The author skilfully explores the foundations and developments of the exclusionary rule in the UK and USA assessing the rule from a comparative perspective and illuminating some issues that may arise in transferring the rule from one legal system to another Divided into two parts the first part discusses lessons from the past and provides an in depth examination of the development of the exclusionary rule in the UK and USA covering rationales debates and the theoretical foundation of the exclusionary rule in the constitutional context The second part looks to the future and the establishment of a Chinese exclusionary rule Specifically it analyses the effects of police torture the passive attitude of judges and the need to establish such a rule in practice for future protection of human rights The author's experience in criminal law and procedure allow him to adroitly analyse crucial issues on both theoretical and practical level that is understandable to those working in the areas of human rights comparative criminal procedure and the Chinese legal system     **The Social History of Crime and Punishment in America** Wilbur R. Miller,2012-07-20 Several encyclopedias overview the contemporary system of criminal justice in America but full understanding of current social problems and contemporary strategies to deal with them can come only with clear appreciation of the historical underpinnings of those problems Thus this five volume work surveys the history and philosophy of crime punishment and criminal justice institutions in America from colonial times to the present It covers the whole of the criminal justice system from crimes law enforcement and policing to courts corrections and human services Among other things this encyclopedia explicates philosophical foundations underpinning our system of justice charts changing patterns in criminal activity and subsequent effects on legal responses identifies major periods in the development of our system of criminal justice and explores in the first four volumes supplemented by a fifth volume containing annotated primary documents evolving debates and conflicts on how best to address issues of crime and punishment Its signed entries in the first four volumes supplemented by a fifth volume containing annotated primary documents provide the historical context for students to better understand contemporary criminological debates and the contemporary shape of the U S system of law and justice     **Organised Crime and the Law** Liz Campbell,2013-02-01 Organised Crime and the Law presents an overview of the laws and policies adopted to address the phenomenon of organised crime in the United Kingdom and Ireland assessing the changes to these justice systems in terms of the prevention investigation prosecution and punishment of such criminality While the notion of organised crime is a

contested one States legal responses treat it and its constituent offences as unproblematic in a definitional sense This book advances a systematic doctrinal critique of these domestic criminal laws laws of evidence and civil processes Organised Crime and the Law focuses on the tension between due process and crime control the demands of public protection and risk aversion and other adaptations In particular it identifies parallels and points of divergence between the different jurisdictions in the UK and Ireland bearing in mind the shared history of subversive threats and counter terrorism policies It also examines the extent to which policy transfer is evident in the UK and Ireland in terms of emulating the United States in reacting to organised crime **Smith, Hogan, and Ormerod's Criminal Law** David|Laird Ormerod (Karl|Gibson, Matthew),2024

**The Supreme Court Review, 2015** Dennis J. Hutchinson,David A. Strauss,Geoffrey R. Stone,2016-06-22 For more than fifty years The Supreme Court Review has won acclaim for providing a sustained and authoritative survey of the implications of the Court s most significant decisions The Supreme Court Review is an in depth annual critique of the Supreme Court and its work keeping up on the forefront of the origins reforms and interpretations of American law It is written by and for legal academics judges political scientists journalists historians economists policy planners and sociologists **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 **The Oxford Handbook of Sentencing and Corrections** Joan

Petersilia,Kevin R. Reitz,2015 This handbook surveys American sentencing and corrections from global and historical views from theoretical and policy perspectives and with attention to a number of problem specific issues **People v. Oliver;**

**People v. Taylor, 464 MICH 184 (2001)** ,2001 112341 *Smith, Hogan, and Ormerod's Criminal Law* David

Ormerod,Karl Laird,2018 Smith Hogan Ormerod s Criminal Law is rightly regarded as the leading doctrinal textbook on

criminal law in England and Wales Published in its first edition over fifty years ago it continues to be a key text for undergraduates and an essential reference source for practitioners

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