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Appraising Strict Liability Oxford Monographs on Criminal ...

Edited by A. P. Simester Oxford Monographs on Criminal Law and Justice The first full-length consideration of the controversial problem of strict liability in the criminal law European coverage examines implications of the ECHR on strict liability

Appraising Strict Liability - A. P. Simester - Oxford ...

Abstract Strict liability is a controversial phenomenon in the criminal law because of its potential to convict blameless persons. Offences are said to impose strict liability when, in relation to one or more elements of the actus reus, there is no need for the prosecution to prove a corresponding mens rea or fault element.

Appraising Strict Liability - Oxford Scholarship

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Appraising Strict Liability is a collection of original contributions offering the first full-length consideration of the problem of strict liability in the criminal law. The chapters, including European and Anglo-American perspectives, provide a sustained and wide-ranging examination of the fundamental issues. ... Series: Oxford Monographs on ...

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The imposition of strict liability in the criminal law is widely thought by scholars to be unjustified. This chapter argues that it is wrong to convict the blameless of stigmatic crimes. We would be right to object to the enactment of a strict liability homicide offence of, say, causing death by one's action.

Is Strict Liability Always Wrong? - Oxford Scholarship

Decisions regarding the constitutionality of strict liability in the United States fit with a principle of 'constitutional innocence'. Under that principle, strict liability crimes are constitutional when, but only when, the other elements of the offence, with the strict liability element excluded, would themselves be constitutional.

Imposing Constitutional Limits on Strict Liability ...

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Appraising strict liability (Book, 2007) [WorldCat.org]

Published Oxford: Oxford University Press, 2012 This text analyses the anti-social behaviour order and demonstrates that orders impose a liability on those who fail to reassure others about their future...

Strict liability is a controversial phenomenon in the criminal law because of its potential to convict blameless persons. Offences are said to impose strict liability when, in relation to one or more elements of the actus reus, there is no need for the prosecution to prove a corresponding mens rea or fault element. For example, in the 1986 case of Storkwain, the defendant chemists were convicted of selling controlled medicines without prescription simply upon proof that they had in fact done so. It was irrelevant that they neither knew nor had reason to suspect that the 'prescriptions' they fulfilled were forgeries. Thus strict liability offences have the potential to generate criminal convictions of persons who are morally innocent. Appraising Strict Liability is a collection of original contributions offering the first full-length consideration of the problem of strict liability in the criminal law. The chapters, including European and Anglo-American perspectives, provide a sustained and wide-ranging examination of the fundamental issues. They explore the definition of strict liability; the relationship between strict liability and blame, and its implications for the requirement for culpability in criminal law; the relevance of European and human rights jurisprudence; and the interaction between substantive rules of strict liability and evidential presumptions. The breadth and depth of the contributions combine to present readers with a sophisticated analysis of the place and legitimacy of strict liability in the criminal law.

This book of essays, including Anglo-American and European perspectives, considers strict liability in criminal law: that is, the problem of criminal offences that allow a defendant to be convicted without proof of fault.

Law's Judgement elucidates and defends a feature of contemporary law that is currently either overlooked or too glibly dismissed as morally troublesome or historically anachronistic. That feature is the abstract nature of law's judgement and its three components show that, when law judges us, it often does so in ignorance of our particular characters and abilities, on the one hand, and in ignorance of our context and circumstances, on the other. Law's judgement is thus insensitive to all or much that makes us the particular people we are. The book explores various connections between this mode of judgement and some of our most important legal and political values. It shows that law's abstract judgement is closely related to important juristic conceptions of personhood, responsibility and impartiality, and that these notions are not without moral significance. The book also examines the connections between modern law's judgement and three of our most important political values, namely, dignity, equality and community. It argues that, if we value particular conceptions of dignity, equality and community, then we must also value law's judgement. Illuminating these connections therefore serves a double purpose: first, it makes a case against those who counsel liberation from law's abstract judgement and, second, it redirects attention to the task of morally evaluating law's abstract judgement in its own terms.

Concentrating upon those doctrines that make up the general part of the criminal law this collection of essays by leading American and British legal experts sheds theoretical light on key issues of contemporary relevance.

A History of Civil Litigation: Political and Economic Perspectives, by Frank J. Vandall, studies the expansion of civil liability from 1466 to 1980, and the cessation of that growth in 1980. It evaluates the creation of tort causes of action during the period of 1400-1980. Re-evaluation and limitation of those developments from 1980, to the present, are specifically considered. The unique focus of the book is first, to argue that civil justice no longer rests on historic foundations, such as, precedent, fairness and impartiality, but has shifted to power and influence. Reform in the law (legislative, judicial, and regulatory) is today driven by financial interests, not precedent, not a neutral desire for fairness, and not to "make it better." It uses products, cases and policies for much of its argument. These policies can be summarized as a shift from a balanced playing field, negligence, to one that favors injured consumers. The strict liability foreshadowed by Judge Traynor, in *Escola v. Coca Cola* (1944), was not adopted until 1962, when Traynor wrote the majority opinion in *Greenman v. Yuba Power Products* for the California Supreme Court. Second, the book examines the role of persuasive non-governmental agencies, such as the American Law Institute, in reforming and shaping civil justice. Never has it been less true that we live under the rule of law. Congress, agencies and the courts make the law, but they are driven by those who have a large financial stake in the outcome. Today, those with power shape the character of products liability law, at every turn.

This book transcends current debate on government regulation by lucidly outlining how regulations can be a fruitful combination of persuasion and sanctions. The regulation of business by the United States government is often ineffective despite being more adversarial in tone than in other nations. The authors draw on both empirical studies of regulation from around the world and modern game theory to illustrate innovative solutions to this problem. Their ideas include an argument for the empowerment of private and public interest groups in the regulatory process and a provocative discussion of how the government can support and encourage industry self-regulation.

For patients and their loved ones, no care decisions are more profound than those made near the end of life. Unfortunately, the experience of dying in the United States is often characterized by fragmented care, inadequate treatment of distressing symptoms, frequent transitions among care settings, and enormous care responsibilities for families. According to this report, the current health care system of rendering more intensive services than are necessary and desired by patients, and the lack of coordination among programs increases risks to patients and creates avoidable burdens on them and their families. Dying in America is a study of the current state of health care for persons of all ages who are nearing the end of life. Death is not a strictly medical event. Ideally, health care for those nearing the end of life harmonizes with social, psychological, and spiritual support. All people with advanced illnesses who may be approaching the end of life are entitled to access to high-quality, compassionate, evidence-based care, consistent with their wishes. Dying in America evaluates strategies to integrate care into a person- and family-centered, team-based framework, and makes recommendations to create a system that coordinates care and supports and respects the choices of patients and their families. The findings and recommendations of this report will address the needs of patients and their families and assist policy makers, clinicians and their educational and credentialing bodies, leaders of health care delivery and financing organizations, researchers, public and private funders, religious and community leaders, advocates of better care, journalists, and the public to provide the best care possible for people nearing the end of life.

This Intergovernmental Panel on Climate Change Special Report (IPCC-SREX) explores the challenge of understanding and managing the risks of climate extremes to advance climate change adaptation. Extreme weather and climate events, interacting with exposed and vulnerable human and natural systems, can lead to disasters. Changes in the frequency and severity of the physical events affect disaster risk, but so do the spatially diverse and temporally dynamic patterns of exposure and vulnerability. Some types of extreme weather and climate events have increased in frequency or magnitude, but populations and assets at risk have also increased, with consequences for disaster risk. Opportunities for managing risks of weather- and climate-related disasters exist or can be developed at any scale, local to international. Prepared following strict IPCC procedures, SREX is an invaluable assessment for anyone interested in climate extremes, environmental disasters and adaptation to climate change, including policymakers, the private sector and academic researchers.

Twenty-five leading contemporary theorists of criminal law tackle a range of foundational issues about the proper aims and structure of the criminal law in a liberal democracy. The challenges facing criminal law are many. There are crises of over-criminalization and over-imprisonment; penal policy has become so politicized that it is difficult to find any clear consensus on what aims the criminal law can properly serve; governments seeking to protect their citizens in the face of a range of perceived threats have pushed the outer limits of criminal law and blurred its boundaries. To think clearly about the future of criminal law, and its role in a liberal society, foundational questions about its proper scope, structure, and operations must be re-examined. What kinds of conduct should be criminalized? What are the principles of criminal responsibility? How should offences and defences be defined? The criminal process and the criminal trial need to be studied closely, and the purposes and modes of punishment should be scrutinized. Such a re-examination must draw on the resources of various disciplines-notably law, political and moral philosophy, criminology and history; it must examine both the inner logic of criminal law and its place in a larger legal and political structure; it must attend to the growing field of international criminal law, it must consider how the criminal law can respond to the challenges of a changing world. Topics covered in this volume include the question of criminalization and the proper scope of the criminal law; the grounds of criminal responsibility; the ways in which offences and defences should be defined; the criminal process and its values; criminal punishment; the relationship between international criminal law and domestic criminal law. Together, the essays provide a picture of the exciting state of criminal law theory today, and the basis for further research and debate in the coming years.

In this consultation paper, the Law Commission sets out the case for reducing the scope for criminal law to be used in regulated fields such as farming, food safety, banking and retail sales. Criminal sanctions should only be used to tackle serious wrongdoing and it is out of proportion for regulators to rely wholly on the criminal law to punish and deter activities that are merely 'risky', unless the risk involved is a serious one. There has been a steep increase in the number of criminal offences created since the late 1980s to penalise risk-taking. The areas regulated cover a wide range of risk-posing activities, and involve millions of people and thousands of businesses. By turning to civil penalties for minor breaches, regulators could reduce costs to themselves and the criminal justice system by £11 million a year. In some cases, criminal prosecution can cost almost twice what the courts obtain in fines. The paper proposes that: (i) regulatory authorities should make more use of cost-effective, efficient and fairer civil measures to govern standards of behaviour; (ii) a set of common principles should be established to help agencies consider when and how to use the criminal law to tackle serious wrongdoing, and (iii) existing low-level criminal offences should be repealed where civil penalties could be as effective. Where criminal offences are created in regulatory contexts, they should require proof of fault elements such as intention, knowledge, or a failure to take steps to avoid harm being done or serious risks posed.