Abstract

The principle that a sentence should be proportionate to the seriousness of the offence remains at the centre of penal practice and scholarly debate. This volume explores highly topical aspects of proportionality theory that require examination and further analysis. von Hirsch and Ashworth explore the relevance of the principle of proportionality to the sentencing of young offenders, the possible reasons for departing from the principle when sentencing dangerous offenders, and the application of the principle to socially deprived offenders. They examine the claim that the principle tends to be associated with greater severity in sentencing, and explore the relevance of penance and of restorative justice to proportionality theory. Their examination of arguments and counter-arguments culminates in a re-statement of the main criteria for proportionate sentencing. The authors are well known for their previous writings on proportionality theory, and this volume broadens the theory to deal with important contemporary issues in crime and punishment.

Keywords

No keywords specified

Categories
Proportionality in the Criminal Law: The Differing American Versus Canadian Approaches to Punishment.
Roozbeh Baker - unknown

An Eye for an Eye: Proportionality as a Moral Principle of Punishment.

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C. Proportionate prosecution, sentencing and alternatives. 19. Prior to the adoption of the 1988 Convention, some States were considered safe havens for traffickers or their criminally derived wealth. Mandatory drug sentences are determined on the basis of three factors: the type of drug, the weight of the drug mixture (or the alleged weight in conspiracy cases) and the number of prior convictions. Judges are unable to consider other important factors such as the offender’s role, motivation and the likelihood of recidivism. The fundamental principle of sentencing is s. 718.1: A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. Other sentencing principles include s. 718.2: A court that imposes a sentence shall also take into consideration the following principles: A sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing; evidence that the offence was motivated by bias, prejudice or hate based on race, national Ashworth and Andrew von Hirsch, Proportionate Sentencing: Exploring the Principles (Oxford University Press 2005). read more. An exploration and refinement of the application of the proportionality principle in the theory of punishment and sentencing. ISBN: 0-19-927260-3. A Ashworth, Sentencing and Criminal Justice (Cambridge University Press 2005).