

Thomas Vormbaum
Michael Bohlander *Editor*

A Modern History of German Criminal Law

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A Modern History Of German Criminal Law

Anna Ross



A Modern History Of German Criminal Law:

A Modern History of German Criminal Law Thomas Vormbaum, 2013-10-01 Increasingly international governmental networks and organisations make it necessary to master the legal principles of other jurisdictions Since the advent of international criminal tribunals this need has fully reached criminal law A large part of their work is based on comparative research The legal systems which contribute most to this systemic discussion are common law and civil law sometimes called continental law So far this dialogue appears to have been dominated by the former While there are many reasons for this one stands out very clearly Language English has become the lingua franca of international legal research The present book addresses this issue Thomas Vormbaum is one of the foremost German legal historians and the book's original has become a cornerstone of research into the history of German criminal law beyond doctrinal expositions it allows a look at the system's genesis its ideological political and cultural roots In the field of comparative research it is of the utmost importance to have an understanding of the law's provenance in other words its historical DNA

Forensic Psychology in Germany Heather Wolfram, 2018-03-07 This book examines the emergence and early development of forensic psychology in Germany from the late nineteenth century until the outbreak of the Second World War highlighting the field's interdisciplinary beginnings and contested evolution Initially envisaged as a psychology of all those involved in criminal proceedings this new discipline promised to move away from an exclusive focus on the criminal to provide a holistic view of how human fallibility impacted upon criminal justice As this book argues however by the inter war period forensic psychology had largely become a psychology of the witness its focus narrowed by the exigencies of the courtroom Utilising detailed studies of the 1896 Berchtold trial and the 1930 Frenzel trial the book asks whether the tensions between psychiatry psychology forensic medicine pedagogy and law over psychological expertise were present in courtroom practice and considers why a clear winner in the battle for forensic psychology had yet to emerge by 1939

Ideology and Criminal Law Stephen Skinner, 2019-09-05 With populist nationalist and repressive governments on the rise around the world questioning the impact of politics on the nature and role of law and the state is a pressing concern If we are to understand the effects of extreme ideologies on the state's legal dimensions and powers especially the power to punish and to determine the boundaries of permissible conduct through criminal law it is essential to consider the lessons of history This timely collection explores how political ideas and beliefs influenced the nature content and application of criminal law and justice under Fascism National Socialism and other authoritarian regimes in the twentieth century Bringing together expert legal historians from four continents the collection's 16 chapters examine aspects of criminal law and related jurisprudential and criminological questions in the context of Fascist Italy Nazi Germany Nazi occupied Norway apartheid South Africa Francoist Spain and the authoritarian regimes of Brazil Romania and Japan Based on original archival doctrinal and theoretical research the collection offers new critical perspectives on issues of systemic identity self perception and the foundational role

of criminal law processes of state repression and the activities of criminal courts and lawyers and ideological aspects of and tensions in substantive criminal law *Fascism and Criminal Law* Stephen Skinner, 2015-02-26 Fascism was one of the twentieth century's principal political forces and one of the most violent and problematic. Brutal repressive and in some cases totalitarian the fascist and authoritarian regimes of the early twentieth century in Europe and beyond sought to create revolutionary new orders that crushed their opponents. A central component of such regimes' exertion of control was criminal law a focal point and key instrument of State punitive and repressive power. This collection brings together a range of original essays by international experts in the field to explore questions of criminal law under Italian Fascism and other similar regimes including Franco's Spain Vargas's Brazil and interwar Romania and Japan. Addressing issues of substantive criminal law criminology and ideology the form and function of criminal justice institutions and the role and perception of criminal law in processes of transition the collection casts new light on fascism's criminal legal history and related questions of theoretical interpretation and historiography. At the heart of the collection is the problematic issue of continuity and similarity among fascist systems and preceding contemporaneous and subsequent legal orders an issue that goes to the heart of fascist regimes' historical identity and the complex relationship between them and the legal orders constructed in their aftermath. The collection thus makes an innovative contribution both to the comparative understanding of fascism and to critical engagement with the foundations and modalities of criminal law across systems.

The Limits of Criminological Positivism Michele Pifferi, 2021-10-30 *The Limits of Criminological Positivism: The Movement for Criminal Law Reform in the West 1870-1940* presents the first major study of the limits of criminological positivism in the West and establishes the subject as a field of interest. The volume will explore those limits and bring to life the resulting doctrinal procedural and institutional compromises of the early twentieth century that might be said to have defined modern criminal justice administration. The book examines the topic not only in North America and western Europe with essays on Italy Germany France Spain the United Kingdom Belgium and Finland but also the reception and implementation of positivist ideas in Brazil. In doing so it explores three comparative elements: 1 the differing national experiences within the civil law world 2 differences and similarities between civil law and common law regimes and 3 some differences between the two leading common law countries. It interrogates many key aspects of current penal systems such as the impact of extra-legal scientific knowledge on criminal law preventive detention the dual track system with both traditional punishment and novel measures of security the assessment of offenders' dangerousness juvenile justice and the indeterminate sentence. As a result this study contributes to a critical understanding of some inherent contradictions characterizing criminal justice in contemporary western societies. Written in a straight forward and direct manner this volume will be of great interest to academics and students researching historical criminology philosophy political science and legal history. Chapter 2 of this book is available for free in PDF format as Open Access from the individual product page at www.routledge.com. It has been made available

under a Creative Commons Attribution Non Commercial No Derivatives 4.0 license Foundational Texts in Modern Criminal Law Markus D. Dubber, 2014-08-21 *Foundational Texts in Modern Criminal Law* presents essays in which scholars from various countries and legal systems engage critically with formative texts in criminal legal thought since Hobbes. It examines the emergence of a transnational canon of criminal law by documenting its intellectual and disciplinary history and provides a snapshot of contemporary work on criminal law within that historical and comparative context. Criminal law discourse has become and will continue to become more international and comparative and in this sense global; the long-standing parochialism of criminal law scholarship and doctrine is giving way to a broad exploration of the foundations of modern criminal law. The present book advances this promising scholarly and doctrinal project by making available key texts including several not previously available in English translation from the common law and civil law traditions accompanied by contributions from leading representatives of both systems.

The Western Codification of Criminal Law Aniceto Masferrer, 2018-03-09 This volume addresses an important historiographical gap by assessing the respective contributions of tradition and foreign influences to the 19th century codification of criminal law. More specifically, it focuses on the extent of French influence among others in European and American civil law jurisdictions. In this regard, the book seeks to dispel a number of myths concerning the French model's actual influence on European and Latin American criminal codes. The impact of the Napoleonic criminal code on other jurisdictions was real, but the scope and extent of its influence were significantly less than has sometimes been claimed. The overemphasis on French influence on other civil law jurisdictions is partly due to a fundamental assumption that modern criminal codes constituted a break with the past. The question as to whether they truly broke with the past or were merely a degree of reform touches on a difficult issue, namely the dichotomy between tradition and foreign influences in the codification of criminal law. Scholarship has unfairly ignored this important subject, an oversight that this book remedies.

The Dual Penal State Markus D. Dubber, 2018-08-23 In *The Dual Penal State* Markus Dubber addresses the rampant use of penal power in Western liberal democracies. The interference with the autonomy of the very persons upon whose autonomy the legitimacy of state power is supposed to rest is systemically normalized rather than continuously scrutinized. The fundamental challenge of the penal paradox, the prima facie illegitimacy of modern punishment, remains unaddressed and unresolved. Focusing on the United States and Germany and drawing on his influential account of the patriarchal origins of police power, Dubber exposes the persistence of a two-sided criminal justice regime, the dual penal state. The dual penal state combines principled punishment of equals under the rule of law on one side with punitive discipline of others under the rule of police on the other. Slavery has long played a central role in drawing the line between the two sides of the dual penal state. In Europe, the slave appears in the classic and still foundational accounts of liberal punishment from Beccaria to Kant as the paradigmatic other beyond the protection of law, not a legal subject but a mere object of the master's or the state's discretionary discipline. In America, the patriarchal power to police portrays the

continuum from the antebellum slaveholder's whipping of his slaves in private and the racial terror perpetrated by slave patrols in public to the apartheid regime of Jim Crow and the treatment of prisoners as slaves of the state and eventually to the late 20th century's systemic racial violence of the war on crime and the widespread killing of Black suspects by an increasingly militarized and armed police force that triggered the global Black Lives Matter movement

Beyond the Barricades Anna Ross, 2018-12-20 *Beyond the Barricades* is an original study of government after the 1848 revolutions. It focuses on the state of Prussia where a number of conservative ministers sought to learn lessons from their experiences of upheaval and introduce a wave of reform in the 1850s. Using extensive archival research, the work explores Prussia's entry into the constitutional age, charting initiatives to transform criminal justice, agriculture, industry, communications, urban life, and the press. Reform strengthened contact with the Prussian population, making this a classic episode of state building. But *Beyond the Barricades* seeks to go further. It makes a case for taking notice of government activity at this particular juncture because the measures endorsed by conservative statesmen in the 1850s sought to remove the feudal intermediaries that had lingered long into the nineteenth century and replace them with an array of government institutions, legal regimes, and official practices. In sum, this book recasts the post-revolutionary decade as a period which saw the transition from an old to a new world, pivotal to the making of modern Prussia and ultimately modern Germany

National Socialist Criminal Law Kai Ambos, 2019-09-27 Diese innovative Studie versteht das nationalsozialistische Strafrecht in bereinstimmung mit Kontinuitäts- und Radikalisierungsthese als rassistisch antisemitisch völkisch germanisch und totalitär ausgerichtete Fortschreibung der autoritären und antiliberalen Tendenzen des deutschen Strafrechts der Jahrhundertwende und der Weimarer Republik. Dies wird durch die systematisch analytische Aufbereitung der Texte relevanter Autoren belegt, wobei es primär um die für sich selbst sprechenden Texte nicht die moralische Beurteilung ihrer Verfasser geht. Dabei werden auch Erkenntnisse zur Rezeption des deutschen NS Strafrechts in Lateinamerika mitgeteilt. Die besagte Kontinuität existierte nicht nur rückwärts gewandt post Weimar sondern auch zukunftsgerichtet Bonner Republik. Kurzum: das NS Strafrecht kam weder aus dem Nichts noch ist es nach 1945 völlig verschwunden. Der zeitgenössische Versuch der identitären Rekonstruktion des germanischen Mythos durch die sog. neue Rechte schließt daran nahtlos an.

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