

Thomas Vormbaum
Michael Bohlander *Editor*

A Modern History of German Criminal Law

*Translated by
Margaret Hiley*



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A Modern History Of German Criminal Law

Gerhard Werle



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

Crime and Criminal Justice in Modern Germany Richard F. Wetzell, 2014-05-01 The history of criminal justice in modern Germany has become a vibrant field of research as demonstrated in this volume Following an introductory survey the twelve chapters examine major topics in the history of crime and criminal justice from Imperial Germany through the Weimar and Nazi eras to the early postwar years These topics include case studies of criminal trials the development of juvenile justice and the efforts to reform the penal code criminal procedure and the prison system The collection also reveals that the history of criminal justice has much to contribute to other areas of historical inquiry it explores the changing relationship of criminal justice to psychiatry and social welfare analyzes representations of crime and criminal justice in the media and literature and uses the lens of criminal justice to illuminate German social history gender history and the history of sexuality

Foundational Texts in Modern Criminal Law Markus Dirk Dubber, 2014 This volume contributes to the emergence of a transnational canon of criminal law by critically engaging with formative texts in criminal legal thought since Hobbes

Money and the Governance of Punishment

Patricia Faraldo Cabana, 2017-06-26 Money is the most frequently means used in the legal system to punish and regulate Monetary penalties outnumber all other sanctions delivered by criminal justice in many jurisdictions imprisonment included More people pay fines than go to prison and in some jurisdictions many of those in prison are there because of failure to pay their fines Therefore it is surprising how little has been written in the Anglophone academic world about the nature of money sanctions and their specific characteristics as legal sanctions In many ways legal innovations related to money sanctions have been poorly understood This book argues that they are a direct consequence of the changing meaning of money Considering the meaninglessness of modern money the book aims to examine the history of changing conceptions in how fines have been conceived and used Using a set of interpretative techniques sensitive to how money and freedom are perceived the genealogy of the penal fine is presented as a story of constant reformulation in response to shifting political pressures and changes in intellectual developments that influenced ideological commitments of legislators and practitioners This book is multi disciplinary and will appeal to those engaged with criminology sociology and philosophy of punishment socio legal studies and criminal law

Encyclopedia of Historians and Historical Writing Kelly Boyd, 2019-10-09 The Encyclopedia of Historians and Historical Writing contains over 800 entries ranging from Lord Acton and Anna Comnena to Howard Zinn and from Herodotus to Simon Schama Over 300 contributors from around the world have composed critical assessments of historians from the beginning of historical writing to the present day including individuals from related disciplines like Jürgen Habermas and Clifford Geertz whose theoretical contributions have informed historical debate Additionally the Encyclopedia includes some 200 essays treating the development of national regional and topical historiographies from the Ancient Near East to the history of sexuality In addition to the Western tradition it includes substantial assessments of African Asian and Latin American historians and debates on gender and subaltern studies

Translating Guilt Cassandra Steer, 2017-02-26 This book seeks to understand how and why we should hold leaders responsible for the collective mass atrocities that are committed in times of conflict It attempts to untangle the debates on modes of liability in international criminal law ICL that have become truly complex over the last twenty years and to provide a way to identify the most appropriate model for leadership liability A unique comparative theory of ICL is offered which clarifies the way in which ICL develops as a patchwork of different domestic criminal law notions This theory forms the basis for the comparison of some influential domestic criminal law systems with a view to understanding the policy and cultural reasons for their differences There is a particular focus on the background of the German law which has influenced the International Criminal Court so much recently This helps to understand and seek a solution to the current impasses in the debates on which model of liability should be applied An entire chapter of the book is devoted to considering why leaders should be held responsible for crimes committed by their subordinates from legal moral and pragmatic perspectives The moral responsibility of leaders is translated into criminal liability and the different domestic models of liability are translated to the international context in

such a way as to appeal to advanced students of ICL academics and practitioners who want to understand the complexities of leadership liability in international criminal law today and identify the best way to approach it Cassandra Steer is Executive Director of Women in International Security Canada and Junior Wainwright Fellow at McGill University Canada She holds a Ph D in Law from the University of Amsterdam The Netherlands

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

Learning Law and Travelling Europe: Study Journeys and the Developing Swedish Legal Profession, c. 1630-1800 Marianne Vasara-Aaltonen, 2020-05-18 In *Learning Law and Travelling Europe* Marianne Vasara Aaltonen offers an exciting account of the study journeys of Swedish lawyers in the early modern period Based on archival sources and biographical information the study delves into the backgrounds of the law students their travels through Europe and their future careers In seventeenth century Sweden the state building process was at its height and trained officials were desperately needed for the administration and judiciary The book shows convincingly that the studies abroad of future lawyers were intimately linked to this process whereas in the eighteenth century study journeys became less important By examining the development of the Swedish early modern legal profession the book also represents an important contribution to comparative legal history

Justice in Transition - Prosecution and Amnesty in Germany and South Africa Gerhard Werle, 2006-01-01 The project on Criminal Justice and the East German Past held an international symposium from 6 to 9 April 2005 at the Humboldt University in Berlin Page v

The Law Quarterly Review, 1889

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

Crime, Law and Popular Culture in Europe, 1500-1900 Richard McMahon, 2013-06-17 This book explores the relationship between crime law and popular culture in Europe from the sixteenth century onwards How was crime understood and dealt with by ordinary people and to what degree did they resort to or reject the official law and criminal justice system as a means of dealing with different forms of criminal activity Overall the volume will serve to illuminate how experiences of and attitudes to crime and the law may have corresponded or differed in different locations and contexts as well as contributing to a wider understanding of popular culture and consciousness in early modern and modern Europe

Historical Origins of International Criminal Law Morten Bergsmo, CHEAH Wui Ling, YI Ping, 2014-12-12 The historical origins of international criminal law go beyond the key trials of Nuremberg and Tokyo but remain a topic that has not received comprehensive and systematic treatment This anthology aims to address this lacuna by examining trials proceedings legal instruments and publications that may be said to be the building blocks of contemporary international criminal law It aspires to generate new knowledge broaden the common hinterland to international criminal law and further develop this relatively young discipline of international law The anthology and research project also seek to question our fundamental assumptions of international criminal law by going beyond the geographical cultural and temporal limits set by the traditional narratives of its history and by questioning the roots of its substance process and institutions Ultimately we hope to raise awareness and generate further discussion about the historical and intellectual origins of international criminal law and its social function The contributions to the three volumes of this study bring together experts with different professional and disciplinary expertise from diverse continents and legal traditions Volume 2 comprises contributions by prominent international lawyers and researchers including Professor LING Yan Professor Neil Boister Professor Nina H B J rgensen Professor Ditlev Tamm and Professor Mark Drumbl

Treatise on International Criminal Law Kai Ambos, 2021 This is the first volume of an authoritative three volume treatise on international criminal law The text provides comprehensive treatment of issues relevant to the

foundations general part of international criminal law and general principles of international criminal justice *Making Aggression a Crime Under Domestic Law* Annegret Hartig, 2023-03-13 This book offers a comprehensive analysis of the legal questions that arise for the legislative branch when implementing the crime of aggression into domestic law Despite being the supreme international crime that gave birth to international criminal law in Nuremberg its ICC Statute definition has been incorporated into domestic law by fewer than 20 States The crime of aggression was also omitted in the rich debate held among German scholars in the early 2000s regarding the legislative implementation of other ICC Statute crimes The current inability of the International Criminal Court to respond to the Russian aggression towards Ukraine invites the continuation of these academic debates without neglecting the particularities of the crime of aggression The fundamental issues discussed in this volume include the obligation to criminalize aggression the core wrong of the crime the normative gaps under domestic law and the jurisdictional gaps under the ICC Statute To facilitate the operationalization of domestic implementation the book explores the technical options for incorporating the definition into domestic law the geographical ambit of domestic jurisdiction most notably universal jurisdiction as well as legal challenges such as immunities The book is aimed primarily at researchers and States with an interest in the domestic implementation of international criminal law but those already working in the field should also find much of interest contained within it Dr Annegret Hartig is Program Director of the Global Institute for the Prevention of Aggression and worked as a researcher at the University of Hamburg where she obtained her doctoral degree in international criminal law

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

Urbanization and Crime Eric A. Johnson, 2002-07-18 This 1995 book contributes to both modern German history and to the sociological understanding of crime in modern industrial and urban societies Its central argument is that cities in themselves do not cause crime It focuses on the problems of crime and criminal justice

during Germany's period of most rapid urban and industrial growth a period when Germany also rose to world power status. From 1871 to 1914 German cities despite massive growth socialist agitation and non ethnic German immigration were not particularly infested with crime. Yet the conservative political and religious elites constantly railed against the immoral nature of the city and the German governmental authorities police and court officials often overreacted against city populations. In so doing they helped to set Germany on a dangerous authoritarian course.

Principles of German Criminal Procedure
Michael Bohlander, 2021-06-17 The new edition of this seminal text outlines the fundamental aspects of the German approach to criminal procedure. It explores a wide range of issues from setting out the basic procedural principles to presenting the main players in the criminal justice system pre trial investigations the path from indictment to trial judgment rules of evidence sentencing and appeals and post conviction review. As far as it is useful for an introductory text the differences between proceedings against adults and juveniles are highlighted. The theoretical discussion of decision making and style of judgment writing is supported by practical insights through specimen translations of an indictment a trial judgment and an appellate judgment by the Federal Court of Justice.

The Right to Be Present at Trial in International Criminal Law Caleb H. Wheeler, 2018-10-08 In *The Right to Be Present at Trial in International Criminal Law* Caleb H. Wheeler analyses what it means for the accused to be present during international criminal trials and how that meaning has changed. This book also examines the impact that absence from trial can have on the fair trial rights of the accused and whether those rights can be upheld outside of the accused's presence. Using primary and secondary sources Caleb Wheeler has identified four different categories of absence and how each affects the right to be present. This permits a more nuanced understanding of how the right to be present is understood in international criminal law and how it may develop in the future.

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Table of Contents A Modern History Of German Criminal Law

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

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