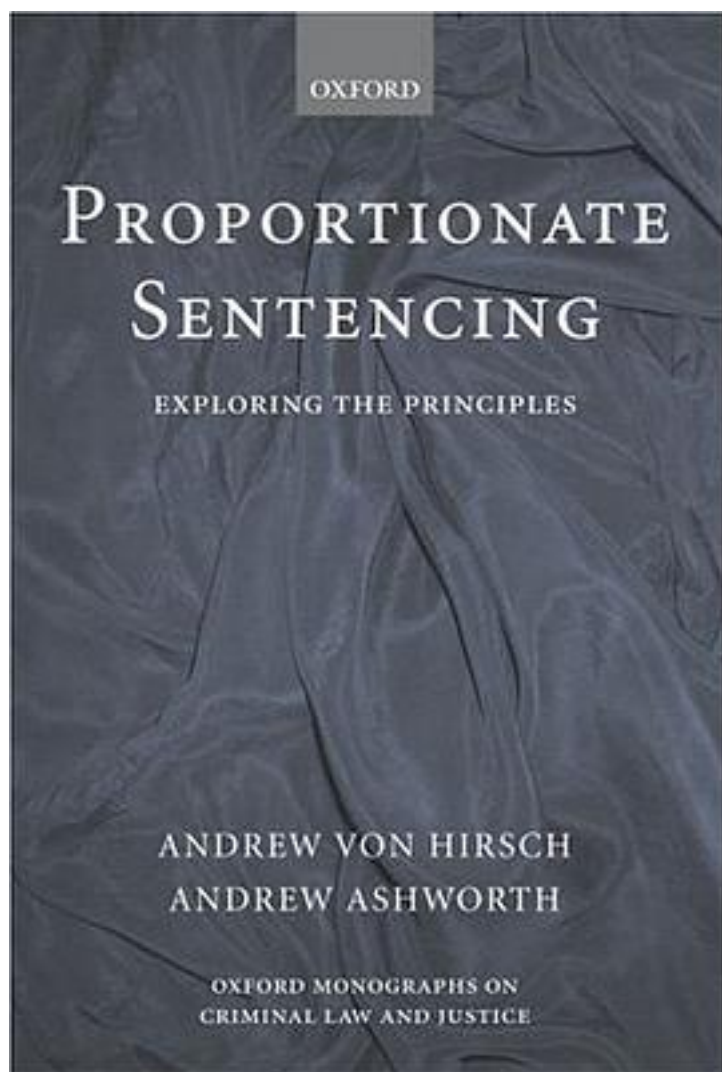


Proportionate Sentencing



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著者:Andrew von Hirsch

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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.

作者介绍:

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标签

赫希

论文集

刑罚理论

刑法哲学

刑哲

评论

chap.5触及自由意志论与决定论之争，chap.6回应应得刑罚将导向严厉性的观点，app. 3探讨了损害的测量

赫尔希在第二章进一步修正了混合立场（hybrid position）的刑罚正当化理论

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书评

犯罪的严重性包涵两个维度，一是造成的损害，二是应受谴责性（p.186; von Hirsch 1976, chap.9; 赫希2001[1987], 69-70），后者教义学已有一些贡献，本文处理的是损害如何测量的问题。正式开始之前，von Hirsch & Jareborg限定了本文讨论的范围：（1）限于有具体被害的犯...

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