

Criminal law and the defence of the moral values of society

- - 5.1 Criminal Defenses



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Theories of Criminal Law (Stanford Encyclopedia of Philosophy)

On this account of control, 1 and 2 do not support 3 : they give us no reason to accept that we are never criminally responsible for outcomes Moore 2009, 24—26.

The Moral Argument for the Death Penalty, The Atlas Society

An affirmative defense is based on excuse when it claims that the criminal defendant should be excused for his or her conduct. It was necessary to break these searches down by each state and in some cases by time period so that the 400-result cap that Westlaw applies to each search would not interfere with an accurate count. This is called general deterrence.

THE FUNCTION OF THE CRIMINAL LAW

Many defendants receive poor advice from overburdened appointed counsel of varying quality whose caseloads and incentives lead them to press clients to plead guilty. The searches returned 2717 state cases and 757 federal cases.

14 Different Types of Legal Defenses in Criminal Law

But admitting wrongdoing to oneself and to others is not easy. Silberman, Criminal Violence, Criminal Justice 1978 expressing concern that plea bargains sometimes lead to unwarranted leniency and commodify justice ; Easterbrook, Plea Bargaining as Compromise, supra note , at 1975 claiming that plea bargaining frees prosecutors to pursue more defendants, leading to more deterrence ; Easterbrook, Criminal Justice Discretion as a Market System, supra note , at 309 same ; Gifford, supra note , at 70, 73 noting that guilty pleas keep victims and the public from seeing retribution meted out and may undermine rehabilitation.

Criminal Law and morality

One challenge is to identify the relevant baseline. Alschuler, supra, at 1280, 1287-88, 1304 psychological barriers ; Shipley, supra, at 1073, 1086

efficiency and increased trials ; Wallburn, *supra*, at 141, 143.

THE FUNCTION OF THE CRIMINAL LAW

Even if legal conformity generally improves our moral conformity, there may be exceptional cases in which it does not—in which we can violate the rules of the road without putting anyone in danger, or in which violation helps keep everyone safe. Emile Durkheim, *The Division of Labor in Society* 108 George Simpson trans. Thus, the deterrent role of the criminal process is a limited one; those who are set on committing crime may not be deterred by the criminal law.

Moral Permissibility of Punishment

. In addition, *nolo contendere* pleas led 27% of respondents to have less faith in the criminal justice system. Nonetheless, Easterbrook, Alschuler, and others favor Alford and *nolo* pleas in part because they enable innocent defendants to plead guilty without lying.

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