Cambridge University Press 978-0-521-73961-0 - Crime and Culpability: A Theory of Criminal Law Larry Alexander and Kimberly Kessler Ferzan Table of Contents More information

Contents

Acknowledgments

page xiii

## PART ONE Introduction: Retributivism and the Criminal Law

3
4
7
17

## PART TWO The Culpable Choice

2 The Essence of Culpability: Acts Manifesting Insufficient	nt
Concern for the Legally Protected Interests of Others	23
I Unpacking Recklessness	25
II Folding Knowledge and Purpose into Recklessness	31
III A Unified Conception of Criminal Culpability	41
IV Proxy Crimes	66

Cambridge University Press	
978-0-521-73961-0 - Crime and Culpability: A Theory of Criminal Law	
Larry Alexander and Kimberly Kessler Ferzan	
Table of Contents	
More information	

x	CONT	ENTS
3	Negligence	69
	I Why Negligence Is Not Culpable II Attempts at Narrowing the Reach of Negligence Liability III The Strongest Counterexample to Our Position IV The Arbitrariness of the Reasonable-Person Test	70 71 77 81
4	Defeaters of Culpability	86
	I Justifications and Excuses: Reorienting the Debate II Socially Justifying Reasons III Excuses IV Mitigating Culpability	88 93 134 162

## PART THREE The Culpable Act

5	Only Culpability, Not Resulting Harm, Affects Desert	171
	I The Irrelevance of Results	172
	II The Intuitive Appeal of the "Results Matter" Claim	175
	III "Results Matter" Quandaries	178
	IV Free Will and Determinism Reprised	188
	V The Immateriality of Results and Ancestral	
	Culpable Acts	191
	VI The Immateriality of Results and Inchoate Crimes	192
	VII Inculpatory Mistakes and the Puzzle of Legally	
	Impossible Attempts	194
6	When Are Inchoate Crimes Culpable and Why?	197
	I Our Theory of Culpable Action	198
	II Some Qualifications and Further Applications	216
7	The Locus of Culpability	226
	I The Unit of Culpable Action	228
	II Culpability for Omissions	234
	III Acts, Omission, and Duration	241
	IV Individuating Crimes	244
	-	

CONTENTS	xi
PART FOUR A Proposed Code	
8 What a Culpability-Based Criminal Code Might Look Like	263
I An Idealized Culpability-Based Criminal Code II From an Idealized Code to a Practical One: Implementing Our Theory in "the Real World"	264 288
Epilogue	325
Appendix	327
Bibliography	331
Index	349