# Punishment And Purpose ~ From Moral Theory To Punishment In Action



#### **Contents**

List of tables and figures Foreword – John Braithwaite

#### 1. Introduction

# 2. The theoretical debate

- 2.1 Introduction
- 2.2 The need for philosophies and theories of punishment
- 2.3 Categorisation of philosophical theories
- 2.4 Retributivism
- 2.4.1 Negative and positive retributivism
- 2.4.2 The intuitionist approach
- 2.4.3 Restoring a balance
- 2.5 Utilitarianism
- 2.5.1 Bentham and Beccaria
- 2.5.2 Individual or general prevention? Muller's utilitarianism pur sang
- 2.6 Mixed theories
- 2.7 Restorative Justice

#### 3. Penal attitudes

- 3.1 Introduction
- 3.2 What is a penal attitude?

- 3.3 Why measure penal attitudes?
- 3.4 Approaches to the measurement of penal attitudes
- 3.4.1 Quantitative research
- 3.4.2 Qualitative research
- 3.4.3 Some final remarks

## 4. Development of a measurement instrument

- 4.1 Introduction
- 4.2 Measurement approach
- 4.3 Selection and formulation of attitude statements
- 4.4 Study I
- 4.4.1 Data collection and sample
- 4.4.2 Analysis and results
- 4.5 Revision
- 4.6 Study II
- 4.6.1 Data collection and sample

# 5. Intermezzo: legal context of the study

- 5.1 Introduction
- 5.2 Organisation of Dutch criminal courts2
- 5.3 The Dutch sentencing system
- 5.4 The discretionary powers of Dutch judges

# 6. Penal attitudes among Dutch magistrates

- 6.1 Introduction
- 6.2 Data collection
- 6.3 Response
- 6.4 Sample
- 6.5 Testing the structural equation model of penal attitudes
- 6.5.2 Interpretation
- 6.6 Rating scales for penal attitudes
- 6.7 Penal attitudes and background characteristics
- 6.8 Salience and assessment of colleagues' attitudes

# 7. Punishment in action: development of a scenario study

- 7.1 Introduction
- 7.2 Goals of the scenario study
- 7.3 Method

- 7.4 Design
- 7.5 Measures
- 7.6 Selection of vignettes

## 8. Punishment in action: the scenario study

- 8.1 Introduction
- 8.2 Data collection and sample
- 8.3 Examining framing effects
- 8.4 Preferences for the goals of punishment
- 8.5 Sanctions
- 8.6 Goals of punishment and sanctions: consistency and relevance
- 8.7 Penal attitudes and goals of punishment: consistency and relevance
- 8.8 Concise review of findings

## 9. Summary and conclusions

### 10. References

# Appendix 1 ~ 4

Appendix 1 Vignettes

Appendix 2 Coding of sentences

Appendix 3 Rank orderings of goals of punishment

Appendix 4 Canonical correlation analysis in the scenario study

# Acknowledgements

This book is based on my dissertation. I worked on it at the Netherlands Institute for the Study of Criminality and Law Enforcement (NSCR) in Leiden. The Institute provided me with an interesting and instructive working environment and graciously extended its hospitality to me when the dissertation was overdue. The work would have been further overdue without the support I received from colleagues, including the technical and administrative staff. Furthermore, I doubt that in the future I will ever be able to combine work and fun as in the early years at the institute with the 'Jackson Five' (Danielle Otten, Janet Herbrink, Nathalie Vriezelaar, Francis Pakes and myself). I thank NSCR, the 'Dr. Hendrik Muller's Vaderlandsch Fonds' and the 'Meertens Bianchi Fonds' for providing financial support in publishing this work.

Many people contributed to making this book possible. I would like to mention

some to whom I feel especially indebted. I thank John Michon, Janet Jackson and Jan Fiselier who were closely involved in the project as supervisors. Their comments, suggestions and encouragement during our regular discussions were essential in making difficult choices and in keeping the research on the right track. I would further like to thank Joop Vruggink, Rien van der Leeden, Peter van Koppen, Hans Nijboer and Huib Pellikaan for their advice and help in various stages of the project and for being invaluable sparring partners. I thank John Braithwaite for his critical reading of the manuscript and valuable suggestions. The support and encouragement which I received from my parents and Jacky were absolutely vital for completing this work. I would like to stress that any credit for this book is, to a substantial degree, due to everyone mentioned. I would further like to point out that this would have been a very different book without the kind cooperation of many students as well as many judges and justices working in the district courts and the courts of appeal in the Netherlands. Their time and effort are greatly appreciated.