
Understanding justice

An introduction to ideas,
perspectives and controversies in
modern penal theory

Second edition

Barbara A. Hudson

Open University Press
Buckingham · Philadelphia

Contents

Series editor's foreword	viii
Acknowledgements	x
1 Perspectives on punishment	1
Defining modern penology	1
The goals of punishment	3
Punishment and society: the social role and characteristics of penal systems	6
Punishing effectively: the criminological tradition	10
Transgressing crime and punishment: abolition and deconstruction	12
Summary	13
Part one: The goals of punishment: the juridical perspective	
2 Utilitarian approaches	17
Introduction	17
Deterrence	18
Evaluating the deterrent effects of punishment	21
Individual deterrence	24
Reform/rehabilitation	26
Criticisms of rehabilitative penalties	28
Prevention through incapacitation	31
Problems with prevention	33
Conclusion	36
3 Retribution	38
Introduction	38
Modern retributivism: the just-deserts movement	39
Proportionality and seriousness	43

	Retribution and the justification of punishment	46
	Deterrence and retribution in distribution	52
	Summary and conclusion	54
4	Hybrids, compromises and syntheses	56
	Introduction	56
	Desert and deterrence: crime reduction within limits	57
	Desert and rehabilitation: reform with rights	62
	Targets and restraints: syntheses of utilitarian and retributive theories	66
	Conclusion	73
5	Restorative justice: diversion, compromise or replacement discourse	75
	Introduction	75
	Definition, principles and models	77
	The range and limits of restorative justice	83
	Retribution, rights and restorative justice	88
	Conclusion	92
 Part two: Punishment and modernity: the sociological perspective		
6	Punishment and progress: the Durkheimian tradition	95
	Introduction	95
	Durkheim: punishment and solidarity	97
	Durkheim's sociology of law: critical evaluation	102
	Weber: bureaucracy and rationality	104
	Durkheimian and Weberian themes: some contemporary applications	108
	Punishment and culture: contemporary formulations	109
	Conclusion	111
7	The political economy of punishment: Marxist approaches	112
	Introduction	112
	Key concepts in Marxist sociology	113
	Punishment and the labour market	115
	Why prison?	118
	Ideology and the control of surplus populations	121
	The challenge of feminism	128
	Conclusion: the legacy of Marxism	130
8	The disciplined society: Foucault and the analysis of penality	132
	Introduction	132
	Foucault's disciplinary penality	133
	Delinquency and normalization	137
	Critique and controversy	142

Periodicity	143
Overgeneralization	144
Partiality	146
Functionalism	148
Politics	149
Summary and conclusion: Foucault's legacy	150
9 Understanding contemporary penalty	153
Introduction: punishment and contemporary culture	153
Governmentality, risk and actuarialism	157
Penal policy as problem-solving	164
The mass imprisonment society	168
Summary and conclusions: punishment in the twenty-first century	171
 Part three: Towards justice?	
10 The struggle for justice: critical criminology and critical legal studies	175
Introduction	175
Challenges to mainstream penology	177
Abolitionism	178
Feminist jurisprudence	180
Concluding comments	184
 Postscript: Beyond modernity: the fate of justice	187
Introduction	187
Human rights and the politics of public safety	188
Justice and postmodernity	190
 Glossary of key terms	193
Suggestions for further reading	195
References	197
Index	212