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Harsh Justice: Criminal Punishment and the Widening Divide ...

Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe James Q. Whitman Abstract.

Criminal punishment in America is harsh and degrading—more so

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than anywhere else in the liberal west. Executions and long prison terms are commonplace in America.

Harsh Justice: Criminal Punishment and the Widening Divide ...
Harsh Justice: Criminal Punishment and the Widening Divide
between America and Europe (Paperback) James Q. Whitman
(author)

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In the book Harsh Justice: Criminal Punishment and the Widening
Gap between America and Europe (2003), law scholar James Q.
Whitman examines the relative severity of punishment in the United
States and Continental Europe. Whitman takes it as a starting point
that the contemporary US system is harsher than its counterpart—the

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points to American mass incarceration, the death penalty, long sentences for juveniles, and a litany of other evidence.

Harsh Justice? - Made in China Journal

Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe: Author: James Q. Whitman: Edition: reprint: Publisher: Oxford University Press, 2005: ISBN: 0198035314,...

Harsh Justice: Criminal Punishment and the Widening Divide ...
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Executions and long prison terms are commonplace in America. Countries like France and Germany, by contrast, are systematically mild.

Harsh Justice - James Q. Whitman - Oxford University Press
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Harsh Justice: Criminal Punishment and the Widening Divide

Between America and Europe OUP E-Books: Authors: James Q.

Whitman, Ford Foundation Professor of Comparative and Foreign Law James Q...

Harsh Justice: Criminal Punishment and the Widening Divide ...

harsh justice criminal punishment and the widening divide between america and europe james q whitman oxford university press 2003 abstract why is american punishment so cruel while in continental europe great efforts are made to guarantee that prisoners are treated humanely in america sentences have gotten longer and

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James Q. Whitman. Publisher: Oxford University Press.

DOI:10.1093/acprof:oso/9780195182606.003.0002. Despite degradation being the most apparent feature of punishment, it is also the most neglected. When people are punished, it is often

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assumed that they experience degradation, that the relationship of the punisher with the one being punished changes, and that the urge to degrade offenders affects the harshness of the justice system that may consequently affect mass politics.

Degradation, Harshness, and Mercy - Oxford Scholarship

James Q. Whitman is the Ford Foundation Professor of Comparative and Foreign Law at Yale Law School. His books include Harsh Justice , The Origins of Reasonable Doubt , and The Verdict of Battle . He lives in New York City.

Hitler's American Model | Princeton University Press

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Criminal punishment in America is harsh and degrading--more so than anywhere else in the liberal west. Executions and long prison terms are commonplace in America. Countries like France and Germany, by contrast, are systematically mild. European offenders are rarely sent to prison, and when they are, they serve far shorter terms than their American counterparts. Why is America so comparatively harsh? In this novel work of comparative legal history, James Whitman argues that the answer lies in America's triumphant embrace of a non-hierarchical social system and distrust

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of state power which have contributed to a law of punishment that is more willing to degrade offenders.

How American race law provided a blueprint for Nazi Germany Nazism triumphed in Germany during the high era of Jim Crow laws in the United States. Did the American regime of racial oppression in any way inspire the Nazis? The unsettling answer is yes. In Hitler's American Model, James Whitman presents a detailed investigation of the American impact on the notorious Nuremberg Laws, the centerpiece anti-Jewish legislation of the Nazi regime. Contrary to those who have insisted that there was no meaningful connection between American and German racial repression, Whitman demonstrates that the Nazis took a real, sustained, significant, and revealing interest in American race

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policies. As Whitman shows, the Nuremberg Laws were crafted in an atmosphere of considerable attention to the precedents American race laws had to offer. German praise for American practices, already found in Hitler's *Mein Kampf*, was continuous throughout the early 1930s, and the most radical Nazi lawyers were eager advocates of the use of American models. But while Jim Crow segregation was one aspect of American law that appealed to Nazi radicals, it was not the most consequential one. Rather, both American citizenship and antimiscegenation laws proved directly relevant to the two principal Nuremberg Laws—the Citizenship Law and the Blood Law. Whitman looks at the ultimate, ugly irony that when Nazis rejected American practices, it was sometimes not because they found them too enlightened, but too harsh. Indelibly linking American race laws to the shaping of Nazi policies in

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Germany, Hitler's American Model upends understandings of America's influence on racist practices in the wider world.

To be convicted of a crime in the United States, a person must be proven guilty "beyond a reasonable doubt." But what is reasonable doubt? Even sophisticated legal experts find this fundamental doctrine difficult to explain. In this accessible book, James Q. Whitman digs deep into the history of the law and discovers that we have lost sight of the original purpose of "reasonable doubt." It was not originally a legal rule at all, he shows, but a theological one. The rule as we understand it today is intended to protect the accused. But Whitman traces its history back through centuries of Christian theology and common-law history to reveal that the original concern was to protect the souls of jurors. In Christian

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tradition, a person who experienced doubt yet convicted an innocent defendant was guilty of a mortal sin. Jurors fearful for their own souls were reassured that they were safe, as long as their doubts were not "reasonable." Today, the old rule of reasonable doubt survives, but it has been turned to different purposes. The result is confusion for jurors, and a serious moral challenge for our system of justice.

On January 11, 2003, Illinois Governor George Ryan--a Republican on record as saying that "some crimes are so horrendous . . . that society has a right to demand the ultimate penalty"--commuted the capital sentences of all 167 prisoners on his state's death row. Critics demonized Ryan. For opponents of capital punishment, however, Ryan became an instant hero whose decision was seen as

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a signal moment in the "new abolitionist" politics to end killing by the state. In this compelling and timely work, Austin Sarat provides the first book-length work on executive clemency. He turns our focus from questions of guilt and innocence to the very meaning of mercy. Starting from Ryan's controversial decision, *Mercy on Trial* uses the lens of executive clemency in capital cases to discuss the fraught condition of mercy in American political life. Most pointedly, Sarat argues that mercy itself is on trial. Although it has always had a problematic position as a form of "lawful lawlessness," it has come under much more intense popular pressure and criticism in recent decades. This has yielded a radical decline in the use of the power of chief executives to stop executions. From the history of capital clemency in the twentieth century to surrounding legal controversies and philosophical debates about

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when (if ever) mercy should be extended, Sarat examines the issue comprehensively. In the end, he acknowledges the risks associated with mercy--but, he argues, those risks are worth taking.

Since the crime explosion of the 1960s, the prison population in the United States has multiplied fivefold, to one prisoner for every hundred adults--a rate unprecedented in American history and unmatched anywhere in the world. Even as the prisoner head count continues to rise, crime has stopped falling, and poor people and minorities still bear the brunt of both crime and punishment. When *Brute Force Fails* explains how we got into the current trap and how we can get out of it: to cut both crime and the prison population in half within a decade. Mark Kleiman demonstrates that simply locking up more people for lengthier terms is no longer a workable

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crime-control strategy. But, says Kleiman, there has been a revolution--largely unnoticed by the press--in controlling crime by means other than brute-force incarceration: substituting swiftness and certainty of punishment for randomized severity, concentrating enforcement resources rather than dispersing them, communicating specific threats of punishment to specific offenders, and enforcing probation and parole conditions to make community corrections a genuine alternative to incarceration. As Kleiman shows, "zero tolerance" is nonsense: there are always more offenses than there is punishment capacity. But, it is possible--and essential--to create focused zero tolerance, by clearly specifying the rules and then delivering the promised sanctions every time the rules are broken. Brute-force crime control has been a costly mistake, both socially and financially. Now that we know how to do better, it would be

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immoral not to put that knowledge to work.

Rule of law has vanished in America's criminal justice system. Prosecutors decide whom to punish; most accused never face a jury; policing is inconsistent; plea bargaining is rampant; and draconian sentencing fills prisons with mostly minority defendants. A leading criminal law scholar looks to history for the roots of these problems—and solutions.

A Discussion paper from the BJS-Princeton Project.

Slaughter in battle was once seen as a legitimate way to settle

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disputes. When pitched battles ceased to exist, the law of victory gave way to the rule of unbridled force. Whitman explains why ritualized violence was more effective in ending carnage, and why humanitarian laws that view war as evil have led to longer, more barbaric conflicts.

After decades of stability from the 1920s to the early 1970s, the rate of imprisonment in the United States has increased fivefold during the last four decades. The U.S. penal population of 2.2 million adults is by far the largest in the world. Just under one-quarter of the world's prisoners are held in American prisons. The U.S. rate of incarceration, with nearly 1 out of every 100 adults in prison or jail, is 5 to 10 times higher than the rates in Western Europe and other democracies. The U.S. prison population is largely drawn from the

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most disadvantaged part of the nation's population: mostly men under age 40, disproportionately minority, and poorly educated. Prisoners often carry additional deficits of drug and alcohol addictions, mental and physical illnesses, and lack of work preparation or experience. The growth of incarceration in the United States during four decades has prompted numerous critiques and a growing body of scientific knowledge about what prompted the rise and what its consequences have been for the people imprisoned, their families and communities, and for U.S. society. *The Growth of Incarceration in the United States* examines research and analysis of the dramatic rise of incarceration rates and its affects. This study makes the case that the United States has gone far past the point where the numbers of people in prison can be justified by social benefits and has reached a level where these high rates of

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incarceration themselves constitute a source of injustice and social harm. The Growth of Incarceration in the United States examines policy changes that created an increasingly punitive political climate and offers specific policy advice in sentencing policy, prison policy, and social policy. The report also identifies important research questions that must be answered to provide a firmer basis for policy. This report is a call for change in the way society views criminals, punishment, and prison. This landmark study assesses the evidence and its implications for public policy to inform an extensive and thoughtful public debate about and reconsideration of policies.