

Justice in the Legal System?

Criminal Law and Criminal Procedure in Israel: Problems and Challenges

ABSTRACTS

White-Collar Crime in Israel: Is Enough Being Done?

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The discourse concerning criminal punishment tends to treat intentions which justify harsher sentencing as operating in one direction. Thus, an offence whose severity and risks are high would generally be considered an action which, from a utilitarian perspective, should be discouraged in any case, and whose dangerousness necessitates the exclusion from society of the convicted individual. At the same time, for serious offences the prospect of rehabilitation carries less weight when considering a reprieve. However, this discourse, which is valid in relation to the majority of offences, does not necessarily suit white-collar crimes. Unlike other offences, regarding which there are serious doubts as to the effectiveness of penalization as a deterrent, these offences are regarded as actions that are carried out following a rational consideration of financial gain, and as such may be discouraged through punishment. Conversely, from the deontological aspect economic offences are viewed as relatively less serious offences, at least as compared to violent offences or serious sexual offences. Deontological and utilitarian considerations could, therefore, operate in opposing directions concerning these offences. In legal systems which place retribution as the upper penalty limit, such as the system in Israel, the limitation on the maximum punishment concerning economic offences could consequently create the lack of a sufficient deterrent, which would undermine the capacity for effectively preventing offences. This is true even when the alleged increased impact which penalization has on white-collar criminals is taken into account.

In light of the conclusion that the characteristics of white-collar criminals and the characteristics of economic offences stand apart from other offences, the article examines various solutions to assist in guiding the behaviors of those who are behind this phenomenon, without abandoning the considerations of retribution. Among the other options considered is the possibility of expanding