This book is the first comprehensive study of the meaning and measure of enforceability. While we have long debated what restraints should govern the conduct of our social life, we have paid relatively little attention to the question of what it means to make a restraint enforceable. Focusing on the enforceability of legal rights but also addressing the enforceability of moral rights and social conventions, Mark Reiff explains how we use punishment and compensation to make restraints operative in the world. After describing the various means by which restraints may be enforced, Reiff explains how the sufficiency of enforcement can be measured, and he presents a new, unified theory of deterrence, retribution, and compensation that shows how these aspects of enforceability are interconnected. Reiff then applies his theory of enforceability to illuminate a variety of real-world problem situations.

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For Della
Punishment, Compensation, and Law

A Theory of Enforceability

Mark R. Reiff

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Acknowledgments

The ideas that form the backbone of this work have a long history. They began as an effort to reconcile some received notions of the role law plays in maintaining social order with my experience of the law as I encountered it in practice. When I ultimately decided to leave practice and return to academia to do a Ph.D. at the University of Cambridge, I planned to develop these ideas into a dissertation that included a theory of enforceability, a theory of adjudication, and a theory of litigation. But I quickly realized that it would be impossible to deal adequately with all three topics in a single work, and so focused first on developing a theory of enforceability, which I viewed as more fundamental and in any event necessary before the further work I had envisioned could be undertaken. This book represents the culmination of that effort. It has gone through a great many revisions since its original incarnation, and it includes much new material, but I can still see the seeds of the ideas it contains in my experience of practice.

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