

INDEX

- absurd prosecutions, 144n20
 accused. *See* defendant
 act element, 211n43
 “Action, Intention and Responsibility”
 (Duff), 82n34
 “Action and Agency in the Criminal
 Law” (Chiao), 107n2
 actions, 1, 49n28, 82n34, 107n1. *See*
also actus reus; basic actions;
 complete actions; complex actions;
 human action; inner states;
 intentional action; *mens rea*;
 non-basic actions; reasons;
 successful actions; unintentional
 actions; voluntariness
 in attempts, 59–65
 basic movements as, 120–1
 calculative views of, 10n4
 capacities giving life to, 119, 130–3
 consequences’ relationship with,
 120–2
 descriptions of, 78–9
 as discrete, 113–16, 114n12
 incompleteness of, 83
 intentions and, 10–25, 29–31, 31n66,
 30n64, 34–7
 knowledge attributed to, 49
 mental processes as, 46–8
 mental states constituting, 199n19
 omissions as, 118–19
 overview of, 38–9
 physical movements as belonging to,
 112
 planning as, 46–8
 primitive actions as, 14n24
 pure intention preceding, 29–32
 reasoning as, 46–8
 reasons and, 10–21, 20n41, 42–4,
 107, 122, 178n4, 196n9
 recklessness as part of, 178–83, 193,
 182n10
 reductive analysis of, 117n18
 risk taking as, 29n61
 thinking as, 46n24, 46–8
 as trying, 25n52, 116n17
 which could have happened, 147–8
Actions and Events (Davidson), 27n58
 ‘Acts, Intentions and the Objects of
 Intentions’ (Wilson), 16n28
actus reus. *See also* voluntariness
 blame and, 123–33
 intending and, 196–7
 intention fixing, 111–12
mens rea and, 38, 58–9, 107–33
 recklessness as element of, 178n3
 theft example, 111–12
 adultery, 152–3
 aeroplane, 214–15
 “Agency” (Davidson), 14n24
Agency and Self-Awareness (Roessler
 and Eilan), 40n7
 agent relative subjectivity, 68–78
 agents, 1–2. *See also* punishment
 human beings as, 26n57
 I as, 119n23
 intentions of, 23n48
 role of, 13n19
 Alexander, Larry, 9n1, 34, 36n73,
 124n29, 124–6, 127n34, 152n29,
 177n2, 181n9, 209n37
 Alvares, Maria, 86
Anderton v. Ryan, 72–8, 74n16, 75n22,
 77n26, 77n24, 99n22, 134n1,
 134n3, 134, 138–40, 143n18

- Andre, Judith, 158n8, 162n18
 animals, human beings as, 26n57
 Anscombe, Elizabeth, 3, 6, 10n5, 10, 13n18, 14n24, 15n27, 19–29, 21n43, 21n44, 24n50, 29n61, 35–6, 39, 53n38, 53–5, 76n23, 83–4, 187, 43n15, 45n23, 51
 appetites, reason controlling, 84n42
 application. *See* multiple application
 appropriations
 attempted theft and, 197–204
 definition of, 197n12, 200n20
 as description, 198–200
 dishonest, 198–9
 as mind-dependent, 198n17
 proprietary subjectivity as necessary for, 199n19
 as wrongful, 202
 apt attempts, 141–3
 Aquinas, Thomas, 43n15, 84n40
 “Are Attempts Like Treason?” (Garvey), 204n24
 Aristotle, 43n15, 83–5, 92n8
 arm-raising, 40n9, 40–5, 43n18, 116n17
 arson, 179n5, 182
 Ashworth, Andrew, 145n5, 145n21, 156, 160, 160n13, 161n14, 162n16, 162–4, 166, 171n36, 172n37, 174, 203n23
 attempted murder, murder distinguished from, 170–1
 attempted rape, 5, 183n12. *See also* *R v. Khan*
 circumstances, 204–9
 definition of, 195
 recklessness in, 205–6
 attempted theft, 5, 98n20, 112
 appropriation and, 197–204
 definition of, 195
 attempters, harmfulness deriving from, 149–52
 attempting. *See also* possibility;
 recklessness
 beginning of, 1
 distinguishing between, 91–2
 epistemic perspective in, 56–7, 57f
 intending needed by, 18n36, 97n18
 as intentional action species, 39–59
 overview of, 1–6
 attempting the impossible, 3–4
 “Attempting the Impossible” (White), 89n2
 attempting to attempt, 65n56, 95–7, 96n17
 attempt-liability, 217n53
 attempts, 62n54, 88–90, 90n4, 213n45.
 See also apt attempts; attempted rape; attempted theft;
 extraordinary attempts;
 impossible attempts; inapt attempts; possible attempts;
 reckless attempts; successful attempts; unsuccessful attempts
 action in, 59–65
 complete offences as equivalent to, 126–33
 end brought about by, 185–8
 ex post analysis in, 135–43
 as externalised, 80
 failure’s role in, 122
 impossible attempts as, 151–2
 interruption model of, 137n6
 liability basis of, 126
 moral luck and, 154–75
 objects of, 195–7
 successful actions as, 64–5
 Attempts (Yaffe), 185n17, 217n53
 “Attempts” (Fletcher), 110n7
 “Attempts and the Problem of Missing Circumstance” (Duff), 194n1
 basic actions, 40n5, 41n11
 complex act identified with, 114
 as intentional actions, 40–5
 as knowing how exercises, 41n12
 physical movements as, 40n7, 116n17
 unintentional actions’ distinction with, 42
 “Basic Actions” (Danto), 41n11
 “Basic Actions and Basic Concepts” (Danto), 40n5
 basic acts, 110–17
 basic movements, as actions, 120–1
 Becker, Lawrence, 146n24

- beginnings, 1
 behavior
 acts as items of, 16n28
 intention and, 13–16, 33n68
 as intentional action, 43n17
 intentionality displayed by, 39n3
 kinds of, 13–16
 reasons existing in respect of, 15n27,
 16
 recklessness as of, 193n23
 beings on way, 60–4
 beliefs, 24n50, 145n23
 Bingham (Lord), 179n5, 182–3
 bird, 64–5, 82, 160, 166–7
 Birkett (judge), 87n1
 blame, 108–9, 123–33, 146n24, 156–7,
 158n8. *See also* equivalence theory;
 moral luck
 blameworthiness
 blaming distinguished, 157n7
 consequences influencing, 154–5
 for extraordinary attempts, 143–52
 punishment tracking, 174–5
 states of mind reflected by, 154–5
 bodily movement. *See* physical
 movements
 bomb, 214
 Bratman, Michael, 16–21, 17n31,
 17n33, 18n36, 19n38, 21n43, 46,
 58, 60–1, 115n16
 Bribery Act, 203n23
 Bridge (Lord), 74n16, 134n1, 140,
 143n18, 143, 196n6
 Bridge Cases, 189–92
 bringing about, of prohibited ends,
 128–33, 144–5
 Browne-Wilkinson (Lord), 198–200,
 200n20
 bullet, 64–5, 75n22, 82, 102–3, 158n11,
 160, 166–7, 212
 burglar, 138n7
 burglary, 132n41
 Buss, Sarah, 41n10

*The Cambridge Edition of the Works of
 Immanuel Kant: Practical
 Philosophy* (Gregor), 84n40
 cannabis, 140, 196n6

 capacities
 action given life by, 119, 130–3
 consequences brought about by,
 165–6
 drive of, 165n22
 physical movements distinguished
 from, 119–20
 recklessness as associated with,
 177–8
 carbon copies, 24–5
 CAs. *See* culpable aggressors
 “The Case Against Moral Luck” (Enoch
 and Marmor), 157n7, 162n17
 cause, 12n14
 chess, 66–7, 69–70, 80
 Chiao, Vincent, 107n2, 183–4
 Chryssipus, 26n56
 circumstances, 194n1, 204–9
 circumstantial impossibility, 142n16,
 142
 Cockburn (chief justice), 137n6
 coherence, 17–18
The Collected Essays of John Finnis
 (Finnis), 29n61
Comer v Bloomfield, 132n41
 commission, guilt distinguished from,
 60n48
 commitment, 57n41, 129n38, 161n14
 communicative response, non-
 equivalence theory argument
 from, 168–9
 complete actions, 82–5, 96–7
 complete attempter, 62n54, 62–4,
 145n21
 complete attempts, 62n54, 67n4,
 124n29
 complete failed attempts, 161n14
 complete offences, 126–33, 146n24,
 208n36
 complete recklessness, 192–3
 complex actions, 110–17
 computer games, 17n32, 18n36
 computer science, 58
 “The Concept of Appropriation and the
 Offence of Theft” (Melissaris),
 198n17, 199n19
The Concept of Law (Hart), 25n54
 conditional intention, 98n20

- consent, 204.. *See also* *R v. Khan*
- consequences, 83n36, 194n1. *See also*
 bringing about
 action's relationship with, 120–2
 blameworthiness influenced by,
 154–5
 capacities bringing about, 165–6
 circumstances' distinction with, 209
 control over, 160n13
 as cost, 173n40
 physical movement having priority
 in, 120–2
 punishment influenced by, 162n17,
 170–5
 recklessness as of, 193n23
- consistency, 17–18, 29n61
- “Conspiracy and Attempts” (Law
 Commission), 196n7
- “Consultation Paper on Conspiracy
 and Attempts” (Law
 Commission), 81n33
- content, of intentions, 75–8
- contexts, and acting, 211n44, 213n46
 descriptions including, 101–2
 importance of, 86
 in setting out to do, 73–5
- Contours of Agency: Essays on Themes
 from Harry Frankfurt* (Buss and
 Overton), 41n10
- contradictories, 92n8
- control, 162n18
 of consequences, 160n13
 in equalism, 163–4
 lack of, 159–64
 level of, 161–2
 of outcomes, 159–64, 161n15,
 164n19
 will and, 158–9
- convictions, 127–8, 143n18
- corned beef, 134n2, 136–9
- counterexample, 96–7
- Court of Appeal, 85n43, 98n20, 196–7,
 205–7
- Crime, Punishment, and Responsibility:
 The Jurisprudence of Antony Duff*
 (Cruft, Kramer, and Reif), 203n23
- Crime and Culpability* (Alexander and
 Ferzan), 36n73, 124n29
- “Crime: In Proportion and In
 Perspective” (Gardner), 162n16,
 173n39
- crimes, event as act element of,
 211n43
- crimes of negligence, 185n17,
 217n53
- criminal attempts. *See* attempts
- Criminal Attempts* (Duff), 35n72, 71n9,
 82n34, 145n23
- Criminal Attempts Act, 81n33,
 99n22, 123, 134–5, 138n8, 138–9,
 139n10, 195n5, 195–6, 207n33,
 210
- “Criminal Attempts and the Role of
 Resulting Harm” (Ashworth),
 160n13
- “Criminal Attempts and the Theory
 of Law of Crimes” (Becker),
 146n24
- criminal blame. *See* blame
- Criminal Damage Act 1971, 182n10,
 182, 192
- “The Criminal Law’s Ambivalence
 about Outcomes” (Ashworth),
 203n23
- criminal property, 199, 208
- Criminal Responsibility* (Tadros),
 199n19
- Critical Legal Studies movement,
 180n7
- Critique of Practical Reason* (Kant),
 84n40
- Cruft, R., 203n23
- culpability, 4, 39, 144–5. *See also* moral
 luck
 intention basis of, 9n1, 34
 location of, 208n35
 non-observational knowledge in,
 133–215
 offence aspect, 215–18
 for stolen goods, 136–9
 substantial-step test for, 125
 for thoughts, 128n36, 128
 unified conception of, 181n9
- culpable aggressors (CAs), 127n34
- currency, 152n30
- cylinder, 26

- “Danger: the Ethics of Preemptive Action” (Alexander and Ferzan), 127n34
- Danto, Arthur C., 40n5, 41n11, 41
- Davidson, Donald, 10n5, 11–16, 12n14, 12n12, 13n19, 13n18, 14n24, 16n28, 17n32, 20–1, 21n44, 24–5, 31n66, 35–6, 41n11, 114, 115n16, 120–1, 187n18
- deception, theft by, 142n16
- defendants, 4, 166, 172n38, 173.
See also sentencing
- Dempsey, Michelle Madden, 218n55
- Dennis, Ian, 124n29
- Descombes, Vincent, 52n35
- descriptions, 98n21. *See also* multiple accounts; multiple application of actions, 78–9
- appropriation as, 198–200
- context included in, 101–2
- of human action, 22–5
- of intentional actions, 14n25, 48–52
- reasons and, 50n29, 52
- as viewer-relative, 78–9
- descriptive accuracy, 98–103
- desires, 12n12
- determinism, 159n12
- deterrence, 174n42
- dinner, 61–2, 64–5
- Diplock (Lord), 123n26
- direct intention, 75n20. *See also* failure test
- dishonest appropriation, 198–9
- doctrine of double effect, 49n28, 189
- doings, 3, 54–5. *See also* consequences non-observational knowledge of, 115
- observing of, 25n53
- physical movements as tied to, 119–20
- Donnelly, Bebhinn, 43n15
- doodling, 45n23
- door slamming, 187n18
- DPP v. Stonehouse*, 123n26
- drive, of capacities, 165n22
- drowning man, 158n11
- dualism, 40n8, 40–5, 97n18
- Duff, R. A., 12–13, 35n72, 50n29, 53n38, 60–2, 65n56, 70n8, 71n9, 72n11, 74n16, 78–9, 81n32, 82n34, 83, 91n6, 110n7, 116n17, 117n18, 118n21, 124n29, 127–8, 128n36, 129n38, 139n9, 140, 144n20, 145n23, 146, 148n25, 148n15, 168–9, 187, 194, 194n1, 210–13, 211n44, 70–8
- Eilan, N., 40n7
- endangerments, 184
- ends, 43n15, 83–5. *See also* prohibited end
- attempts bringing about, 185–8
- proximity to, 148–9
- why question and, 76n23
- Enoch, David, 157n7, 162n17, 173n40
- entities, intentions as, 27n59
- epistemic objection, 111–12
- equal blame thesis, alternative basis for, 164–6
- equivalence, 165–6
- equivalence theory, 156–64
- equivocalism, 4, 154–5, 163–4
- Essays in Jurisprudence and Philosophy* (Hart), 134n3
- Essays on Actions and Events* (Davidson), 14n24, 32n66, 41n11
- ethical intuitionism, 167–8, 168n26
- eudaimonism, 83–5, 84n40
- event, 211n43
- evidence, beliefs influenced by, 24n50
- exculpation, 129–30, 132n41
- experiences, intention identified through, 29–31
- extraordinary attempters, harmfulness distinguishing, 146–52
- extraordinary attempts, blameworthiness for, 143–52
- extrinsic possibility, 91n6
- “Facts, Law, Exculpation, and Inculcation: Comment on Simons” (Alexander), 152n29
- failed attempts. *See* unsuccessful attempts

- failure
 actus reus accounting for, 122
 attempts role in, 122
 mens rea accounting for, 122
 in trying, 83
 failure test, 75n22, 75–8, 77n26
 fairness, 171–2
 Falvey, Kevin, 23n48
 Farmer, Lindsay, 180n7
 fault, 127
 Ferzan, Kimberly, 9n1, 34, 36n73,
 124n29, 124–6, 127n34, 177n2,
 181n9, 209n37
 finger, 113, 116, 163–5
 fingertips, 44–5
 Finnis, John, 29n61
 first principle of practical reason,
 43n15
 Fletcher, George P., 110n7, 118n19,
 141–2
 Foot, Philippa, 189n19, 189–92
 foresight, recklessness as species of,
 177n2, 177n1, 177–9
 forming intentions, 12–13, 19n38
 Fraud Act, 41n24, 203n23, 203–4
 Frege, Gottlob, 41n11
 fulfilment, 83–5
Fundamentals of Sentencing Theory
 (Ashworth and Wasik), 162n16
 future intention, 125–6

 gambling, 167, 193
 gamer, 17n32, 18n36
 Gardner, John, 161n16, 173n39,
 217n54
 Garvey, Stephen P., 204n24
 GCV. *See* Guiding Commitment View
 genocide, 90–1
 gift, 197n16
 girls, 202–3
 goals. *See* impossible goals; possible
 goals
 good will, 158
 Gregor, Mary J., 84n40
 Guiding Commitment View (GCV),
 60–1
 guilt, commission distinguished from,
 60n48

 Hacker, Peter, 20n41, 26n57
 Hailsham (Lord), 136–8
 Halpin, A., 93n10
 handling, 136–9
 hand-raising, 40–5
 “Harm and Punishment: A Critique
 of Emphasis on the Results
 of Conduct in the Criminal Law”
 (Schulhofer), 161n15
 harmfulness, 146–52
 harms, 146n24, 157n5, 168–9,
 185n15
 Hart, H. L. A., 25n54, 62–3, 93n9,
 94n12, 98n21, 134n3, 138n7,
 141n12, 143, 145n21, 151–2, 158,
 174
 Hasnas, John, 88–9, 89n3
Haughton v. Smith, 90n4, 98n21,
 103n23, 134n3, 134,
 136–40
 Heaney, Seamus, 1
The Hellenistic Philosophers, Volume 1
 (Long and Sedley), 26n56
 heroin, 99–103, 134n1, 140, 145n22,
 196n6
 Herring, Jonathan, 218n55
 heteronomy of will, 84n40
 hijacking, 15
 Hope (Lord), 207n34
 House of Lords, 90n4, 134, 137, 179n5,
 198–9
 “How We Know What We’re Doing”
 (Paul), 58n41
 human ability, 3, 215n51
 human action, 22–5, 34n69, 85n43
 human beings, 26n57, 26–37
Human Nature: the Categorical
 Framework (Hacker), 20n41,
 26n57
 Hursthouse, Rosalind, 21n44

 I, as agent, 119n23
 importing, 152n30
 impossibility, 3–4, 67, 70n8, 91n5,
 134n3. *See also* circumstantial
 impossibility; inherent
 impossibility
 descriptive accuracy and, 98–103

- impossibility, (cont.)
 implications of need for descriptive
 accuracy for, 98–103
 irrelevance of, 134–5
 legal, 152–3
 luck and, 145n22
 overview of, 87–8, 134–5
 sorts of, 142–3
 impossible attempts, 4, 88–90, 134–5.
 See also extraordinary attempts
 as attempts, 151–2
 corned beef example, 136–8
 finding, 94
 kinds of, 138–43
 known, 95–7
 objections to, 90–4
 overview of, 87–8
 umbrella example, 87
 impossible goals, of unsuccessful
 attempts, 140–1
 “In Defense of Criminal Possession”
 (Yaffe), 118n22
 inapt attempts, 142
 inchoate liability, 127n34, 217n53
 inchoate offences, 63n54, 78, 124n29,
 210–18
Inchoate Offences (Law Reform
 Commission of Ireland), 208n36
 inchoate rape, 194–5, 216–17
 inchoate recklessness, 188–93
 inchoate theft, 194–5, 216–17
 incomplete attempter, punishment of,
 145n21
 “Inculpatory and Exculpatory
 Mistakes” (Alexander), 152n29
 “The Independent Moral Significance
 of Wrongdoing” (Moore), 158n11,
 162n17, 164n20
 indirect intent, 14n22, 196n8, 214
 “Individuating Actions” (Thomson),
 164n21
 inherent impossibility, 142n16, 142
 inner states, 109–10
*The Institutions of Meaning: A Defence
 of Anthropological Holism*
 (Descombes), 52n35
 insurance, 132n41, 142n16, 142
 intangibility, 79–80
 intending, 191n21
 attempting needing, 18n36, 97n18
 as epistemic perspective, 97
 setting out to do as synonymous
 with, 95n16
 “Intending” (Davidson), 27n58
 intent-excluding offences, 185–8
Intention (Anscombe), 14n24, 16n27,
 21n44, 29n61, 43n15, 53n38
*Intention, Agency and Criminal
 Liability* (Duff), 50n29, 53n38,
 110n7
 “Intention” (Hursthouse), 21n44
 “Intention in Criminal Law”
 (Thornton), 10n5
 “Intentional Action and ‘in Order To’”
 (Wiland), 33n68
 “Intentional Action in Folk Psychology:
 An Experimental Investigation”
 (Knobe), 34n68
 intentional actions, 1, 3, 10. *See also*
 trying
 attempting as species of, 39–59
 basic actions as, 40–5
 behavior as, 43n17
 descriptions of, 14n25, 48–52
 intention as being on way to, 21n43,
 21–31, 57, 123n26, 126
 as intention’s sole category, 26–34
 internal actions as, 45–8
 non-observational knowledge of,
 187
 offending example, 185–8, 188n18
 prior intentions causing, 30n64,
 30–1
 pro-attitude required by, 11–12
 reasons and, 12n14, 12–15, 28–9
 recklessness and, 176–84, 193
 responsibility and, 126–7, 52–6
 simple view of, 17n31, 17n32
 intentional state, intention as, 19n39
 intentionality, behavior displaying,
 39n3
The Intentionality of Human Action
 (Wilson), 16n28, 39n3
 “The Intentionality of Intention
 and Action” (Searle), 19n39,
 30n64

- intentions, 3, 35n72, 207n33, 209n37.
See also agent relative subjectivity;
 direct intention; future intention;
 one step; pure intentions; states of
 mind
- actions and, 10–25, 29–31, 30n64,
 31n66, 34–7
- acts requiring, 114–17
- actus reus* fixed by, 111–12
- of agents, 23n48
- behavior and, 13–16, 33n68
- circular analysis of, 13n18
- coherence influencing, 17–18
- as conditional, 126
- consistency influencing, 17–18
- constructing, 32–4
- content of, 75–8
- culpability based on, 9n1, 34
- as distinctive, 19n39
- as entities, 19n59
- experiences enabling identification
 of, 29–31
- forming of, 12, 19n38
- having of, 29–31
- holism in, 52n35
- human action's relation with, 34n69
- human beings, as of, 26–37
- intentional action, as being on way
 to, 21n43, 21–31, 56, 123n26, 126
- intentional action as sole category of,
 26–34
- as intentional state, 19n39
- knowledge species as belonging to,
 179n5
- limitations on, 36
- as *mens rea*, 111–12
- overview of, 9–25, 34–7
- planning and, 16–21, 17n33
- in private mind, 110n7
- reason and, 12n14, 15–16
- understandings of, 10–25
- “Intentions and Side-Effects” (Finnis),
 29n61
- internal actions, as intentional actions,
 45–8
- internal decision, 47n25
- interruption model, of attempts, 137n6
- intimidation, 178–81
- intrinsic possibility, 91n6
- “Introduction” (Buss and Overton),
 41n10
- intuition, 158n8
- invisibility, 80–1
- “Jocasta,” 48–9
- judge, 46–7
- Judge (Lord), 85n43
- jury, 14n22
- Kant, Immanuel, 84n40, 158–9
- Katmandu, 12–13
- Kenny, Courtney Stanhope, 177n1
- The King v Robinson*, 132n41
- Knobe, Joshua, 34n68
- knowing, 181n8, 185n15, 191n21, 191
- knowing how, basic actions as exercises
 of, 41n12
- knowledge, 31–2. *See also* non-
 observational knowledge
- knowledge-based tests, 215–18
- Kramer, M., 203n23
- Lane (chief justice), 14n22
- laughter, 15n27
- Law Commission, 63n54, 81n33,
 132n41, 144n19, 196n7, 196n8,
 205, 213–14
- Law Commission for England and
 Wales, 194n1
- Law Commission Report, 182
- Law Reform Commission of Ireland,
 208n36
- Lawrence v. Metropolitan Police
 Commissioner*, 197–8, 200n21,
 200–1
- lazy, 113–14
- legal impossibility, 152–3
- level of control, argument, 161–2
- Levy, Ken, 166–8, 173n40
- liability, 87n1, 210n38.. *See also*
 culpability
- attempts basis of, 126–33
- complete offences basis of, 126–33,
 208n36
- determining, 210–18
- gun example, 130

- liability, (cont.)
 harmfulness for, 150–1
 for inapt attempts, 141–2
 inchoate, 127n34, 217n53
 for murder, 130
 for omissions, 81n33, 118–19
 for recklessness, 192–3
Life and Action: Elementary Structures of Practice and Practical Thought (Thompson), 10n4, 43n17
 living creatures, 196n10
 Long, A. A., 26n56
 luck. *See* moral luck
- Marmor, Andrei, 157n7, 162n17, 173n40
 McCann, Hugh J., 40n9, 192
 McEwan, Jenny, 192n22
 Mele, Alfred R., 46n24, 185n17, 185–8, 187n18
 Melissaris, Emmanuel, 198n17, 199n19
mens rea. *See also* voluntariness
actus reus and, 38, 58–9, 107–33
 blame and, 123–33
 definition of, 124n27
 failure and, 122
 intention as, 111–12
 recklessness as element of, 178n3
 voluntary act requirement
 influencing, 107n2
 mental effort, act requiring, 114–15
 mental processes, 46–8
 mental states, 164n20, 199n19
The Metaphysics of Morals (Kant), 84n40
 mind, 33–4, 40n8
Minds, Brains, and Law: The Conceptual Foundations of Law and Neuroscience (Pardo and Patterson), 27n57, 40n8, 47n25, 53n36
Misleading Cases (White), 89n2
 mistakes of fact, 152n29
 mistakes of law, 152n29
 mitigation, 161n16
 modal logic, 94n13
 Model Penal Code, 203n23
 moon, 91–2, 91n6
- Moore, Michael, 115n16, 158n11, 158, 161–2, 162n17, 164n20, 199n19, 110–17
 “Moral Certainty and the Boundaries of Intention” (Simester), 179n5
Moral Dimensions: Permissibility, Meaning, Blame (Scanlon), 36n73
 moral equivalence, and moral luck, 162
 moral luck, 4, 145n22, 145–7, 154n1, 155n3. *See also* equivalence theory
 criminal attempts and, 154–75
 moral equivalence and, 162
 overview of, 154–6
 punishment determined by, 173n40
 “Moral Luck” (Nagel), 164n19
 Moral Penal Code, 125
 moral status, 192n22
 moral substance, 36
 morality, 191
 motivations, 12n12
 multiple accounts, 85–6
 multiple application, 81–5
 Mustill (Lord), 205
- Nagel, Thomas, 155n3, 164n19
 “Nagel, Williams and Moral Luck” (Andre), 162n18
 natural law theory, 43n15
 negligence, crimes of, 185n17
 neuroscience, 53n36
 non-basic actions, 41n11
 non-consensual sexual intercourse, 209
 non-equivalence theory, 155–6, 166–9
 non-observational knowledge, 21–5, 24n50, 29n61, 31–2
 and culpability, 132–3
 of doing, 115
 of intentional action, 187
 as recognition, 218
 norms, self-governance and, 18–19.
 See also coherence; consistency
- objective innocence, 134n1, 140
 objectively wrongful appropriations, 202
 objectivists, 66
 objectivity, 70–8. *See also* third-party subjectivity

- objects, of attempts, 195–7
 O'Brien, Lucy, 40n7
 observational knowledge, seeing
 enabling, 32
 observing, of doings, 25n53
 "Oedipus," 48–9
 offences, 184–8, 215–18
*Offences and Defences: Selected Essays
 on the Philosophy of Criminal Law*
 (Gardner), 217n54
 omissions, 81n33, 118–19, 118n22
 "On Attempting the Impossible"
 (Hart), 94n12, 134n3, 138n7
 "On Knowing One's Own Actions"
 (O'Brien), 40n7
 "Once More unto the Breach:
 The Inherent Liberalism of the
 Criminal Law and Liability for
 Attempting the Impossible"
 (Hasnas), 89n3
 O'Shaughnessy, B., 58, 65n55
 outcomes, control over, 159–64,
 161n15, 164n19
Outlines of Criminal Law (Kenney),
 177n1
 over-criminalisation, 60
 Overton, Lee, 41n10

 pancakes, 3, 9, 11–12, 17–18, 21–2, 29,
 31–2, 46, 56, 57f
 Pardo, Michael S., 26n57, 40n8, 47n25,
 53n36
 parsimony justification, 172n38
 Patterson, Dennis, 26n57, 40n8, 47n25,
 53n36
 Paul, Sarah, 24n50, 57n41
 Penfield, W., 42
Philosophical Investigations
 (Wittgenstein), 26n54, 43n18
The Philosophy of Elizabeth Anscombe
 (Teichman), 30n63
 physical movements, 44–6, 82n34,
 107n1.. *See also* arm-raising;
 finger; hand-raising
 acts as, 109–22, 118n19
 as basic actions, 40n7, 116n17
 capacities distinguished from,
 119–20
 consequences giving priority to, 120–2
 doing as tied to, 119–20
 as intentional, 45n23
 physical processes, mental processes'
 distinction from, 47–8
 pickpocket. *See* pocket
 plank, 54–5
 planning, 16–21, 17n33, 46–8
 pocket, 91n6, 92n7, 94n12, 141n12,
 141–2
 possession, as omission, 118n22
 possibilities, 4. *See also* extrinsic
 possibility; intrinsic possibility
 contradictory' relationship with,
 92n8
 distortion of, 92–3
 in killing, 90–1
 modal logic and, 94n12
 overview of, 87–8
The Possibility of Practical Reason
 (Velleman), 45n23
 possible attempts, 4, 94–5
 possible goals, of unsuccessful attempts,
 140–1
 potentialities, 93n10
 practical commitment, 57n41
 preparation, 60–2, 77n24, 129n38
 preparatory type offences, 204n25
 preventive restrictions of liberty
 (PRLs), 127n34
 Prime Minister, 73–5, 79, 102–3
 primitive actions, actions as, 14n24
*Principled Sentencing: Readings on
 Theory and Policy* (von Hirsch,
 Ashworth, and Roberts), 171n36
Principles of Criminal Law (Ashworth),
 145n21, 157n5
 prior intentions, 30n64, 30–1
 private mind, intentions in, 110n7
 PRLs. *See* preventive restrictions of
 liberty
 pro-attitudes, 11n10, 11–12, 12n12
 Proceeds of Crime Act 2002, 206n32,
 206
 prohibited ends, 4, 128–33, 144–5
 proportionality principle, 173n39
 "Proportionate Sentences: A Desert
 Perspective" (von Hirsch), 171n36

- proprietary subjectivity, 199n19
 prosecutions, as absurd, 144n20
 prosecutorial discretion, 144n19
 prostitute, 202–3
 proximity, 148–9
 punishment, 1–2, 145n23, 174n42.
 See also equivalence theory; ethical intuitionism
 argument from, 169–75
 blameworthiness tracked by, 174–5
 of complete attempter, 145n21
 consequences influencing, 162n17, 170–5
 in determinism, 159n12
 as fair, 171–2
 for harms, 157n5, 168–9
 of incomplete attempter, 145n21
 luck determining, 173n40
 proportionality principle of, 173n39
 sentencing influenced by, 170n34
 as social engineering, 172–3
 of unsuccessful attempts, 145n21
 pure intentions, 11, 23, 31n66
 actions preceded by, 29–31
 and the squirrel house, 27n58
 purpose blame, 156–7
 purposefulness, 117
 purposes, 83–5
- R v. Clinton*, 85n43
R v. Collins, 137n6
R v. Cunningham, 177n1, 182
R v. Easom, 98n20
R v. Faulkner, 179n5
R v. G., 182n10, 182
R v. Gibbins and Proctor, 118
R v. Gomez, 197–201, 200n21, 200n20
R v. Gullefer, 129n38
R v. Harris, 179n5
R v. Hinks, 197n16, 197–8, 201
R v. Hussey, 98n20
R v. Jones, 38n2
R v. Khan, 183n12, 196–7, 205–11, 208n36
R v. Mazo, 197n16
R v. Mohan, 124n27, 213n45
R v. Morris, 197–8, 200n20
R v. Osborn, 138n7
- R v. Pace and Another*, 72n11, 183n12, 206–10, 207n34, 210n38
R v. Pearman, 214
R v. Pigg, 205
R v. Robson, 202
R v. Saik, 207n34
R v. Shivpuri, 74n16, 134n1, 140, 143n18, 196n6
R v. Taaffe, 152n30
R v. Tosti and White, 132n41
 rape, 183n12, 195, 205n29, 216. *See also*
 attempted rape; inchoate rape
 “The Rationales of Sentencing”
 (Ashworth), 172n37
 realities, 94–5
 reasonable person, 70–1
 reasoning, 46–8, 159
Reasoning with Law (Halpin), 93n10
 reasons
 actions and, 10–25, 20n41, 44, 107, 122, 178n4, 196n9
 appetites controlled by, 84n42
 behavior, existing in respect of, 15n27, 15–16
 descriptions and, 50n29, 52
 intention and, 12n14, 15–16
 intentional actions and, 12n14, 12–15, 28–9
 for plea, 161n16
 reckless attempting, 180–1
 reckless attempts, 5, 176
 recklessness, 5, 178n3
 as action part, 178–83, 182n10, 193
 in attempted rape, 205–6
 behavior, as of, 193n23
 capacities associated with, 177–8
 as complete, 192–3
 consequences, as of, 193n23
 as foresight species, 177n2, 177n1, 177–9
 inchoate form of, 188–93
 intentional actions and, 176–84, 193
 liability for, 192
 as moral term, 181–4
 offence attempted through, 184–8
 recognition, 218
 reductivism, 117n18
 reflexivity, 41n10

- rehabilitation, 171–3, 172n37
 Reid (Lord), 103n23, 141n12
 Reif, M., 203n23
 responsibility, 36, 39, 53n36
 for acts, 164n19
 intentional action and, 52–6, 126–7
 restitution, 174
 result blame, 156–7, 158n8
Rethinking Criminal Law (Fletcher), 110n7
Rex v. Percy Dalton (London) Ltd., 87n1
 risk, non-equivalence theory argument from, 166–8
 “Risk and Inchoate Crimes” (Alexander and Ferzan), 209n37
 risk taking, as action, 29n61
 “Risks Culpability and Criminal Liability” (Duff), 29n29
 risk-taker, 185n15
 robbery, 60–1
 Roberts, Julian, 171n36
 Robilliard, St John, 192n22
 Roessler, J., 40n7
 Rowlatt (judge), 138n7
 Rubicon, 129n38, 132
 rule of recognition, 25n54
- Salmond (judge), 81n32
 sawing, 54–5
 Scanlon, Tom, 36n73
 Scheer, Richard K., 27n59
 Schulhofer, Stephen J., 161n15
 sea battle, 92n8
 Searle, John, 10n5, 19n39, 30n64, 30, 42, 48
 Sedley, D. N., 26n56
 seeing, observational knowledge enabled by, 32
Seeking Security: Pre-empting the Commission of Criminal Harms (Sullivan and Dennis), 124n29
 self-governance, 18
 sentences, 154n2, 174–5
 sentencing, 172n38. *See also*
 rehabilitation
 fairness and, 171–2
 practice, 161n16
 punishment influencing, 170n34
 situations influencing, 171–2
 unpredictability in, 172n37
Sentencing and Criminal Justice (Ashworth), 172n37
 serve, 52–3
 Setiya, Kieran, 23, 24n50
 setting out to do, 1–2, 35n72, 35–6, 95–6, 215–18
 actions involving, 204
 acts diverging from, 137–8
 content explaining, 75–8
 context shoehorned into, 73–5
 intending as synonymous with, 95n16
 knowing as, 181n8
 sexual infidelity, 85n43
 sexual intercourse, 144n20, 183n12, 209
 Sexual Offences Act, 202–3, 205n29, 205
 Shachar, Yoram, 193
 shopping list, 23–4
 Simester, A. P., 177n1, 178n3, 179n5, 193n23
 simple view, 17n31, 17n32
 Smith, J. C., 151n27
 sneezing, 187n18
 social engineering, punishment as, 172–3
 social harm, 146n24
 spectator, 52–3
 states of mind, 16–20, 19n38, 154–5
 Stoic slave, 159n12
 Strategic Bomber, 58n41
 stroke, 44–5
 Strong Cognitivists, 58n41
 stupid plans, 142n16, 142
 subjectivists, 144n20, 145n23
 subjectivity, 3–4, 66–8, 199n19. *See also*
 agent relative subjectivity; third-party subjectivity
 substantial-step test, 125
 success, potential for, 149n26
 successful actions, as attempts, 64–5
 successful attempts, 92n7
 Sullivan, G. R., 124n29
Summa Theologiae (Aquinas), 84n40
 suspicion, 207n34, 207–8

- Tadros, Victor, 199n19
 targets, 91–2, 92n6, 160, 161n15
 Teichman, Roger, 30n63
 teleology, 43n15
 tennis, 49, 68–9
 theft, 98n20, 216. *See also* attempted theft; inchoate theft and *actus reus*, 111–12 and deception, 142n16 definition of, 195 as thought crime, 201–2
 Theft Act, 134n2, 195
 thinking, as action, 46n24, 46–8
 third-party subjectivity, 69, 78–86
 Thomas, Rhidian, 154n1
 Thompson, Michael, 10n4, 43n17, 52
 Thomson, Judith Jarvis, 164n21, 189n19, 189
 Thornton, Michael, 10n5
 thought crime, theft as, 201–2
 thoughts, culpability for, 128n36, 128
 “Time and Space in Criminal Law” (Farmer), 180n7
 timelines, 180n7
 transparency requirement, 49n32
 trolley problems, 49n28
 truth, 75–8
 tryings, 61–2, 188. *See also* multiple accounts actions as, 25n52, 116n17 failure in, 83 to try, 65
 “Two Faces of Intention” (Bratman), 17n31, 17n33
 ultimate ends, 83–5
 ultimate purposes, 83–5
 unintentional actions, 42, 185–8
 unsuccessful attempts, 140–1, 145n21, 161n14
 veil of ignorance, 162n16
 Velleman, J. David, 13n19, 45n23
 victimhood, 204n24
 virtual certainty test, 213–14
 “Volition and Basic Action” (McCann), 41n9
 volitions, 115–16
 voluntariness, 107
 voluntary act requirement, 107n2, 110
 voluntary acts, 47n25
 von Hirsch, Andrew, 171n36
 voodoo, killing by, 142, 145n22, 146, 150–1, 151n27
 Wade, Sarah, 177n1
 walking outside, 187n18
 Wasik, M., 162n16
 water pumper, 54n38
 “What I Will Do and What I Intend to Do” (Scheer), 27n59
 White, A. R., 88n2, 140–1
 why questions, 6, 45n23 on tennis, 51
 “Why Sexual Penetration Requires Justification” (Madden and Herring), 218n55
 Wiland, Eric, 33n68
 will, 158
 Williams, Glanville, 134n3, 144n20, 192n22
 willing, 158n11
 Wilson, G., 16n28, 39n3
 witchcraft, killing by, 70–1
 Wittgenstein, Ludwig, 25n54, 40n9, 43n18, 43
 wounding, 210–11
 wrongful appropriation, 202
 “The Wrongness of Rape” (Gardner), 217n54
 Yaffe, Gideon, 18n36, 60n48, 60–1, 97n18, 118n22, 142n16, 143, 183, 185n17, 185–8, 211n43, 217n53
 yet-ness, 93n10