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This text is fully updated to included abolition of the martial rape exemption, changes in the law on anonymity, sexual history evidence, procedural developments contained in the Youth Justice and Criminal Evidence Act 1999, and male rape. The criminal courts have the power to stop a prosecution from proceeding altogether where it would be inappropriate for it to continue. This power to stay proceedings which constitute an abuse of the process of the court has assumed great practical significance and is potentially applicable in many situations. There is at least one consideration of the abuse of process doctrine in virtually every major criminal trial today. This fully updated second edition of Abuse of Process and Judicial Stays of Criminal Proceedings blends doctrinal discussion with a thorough consideration of the underlying theory to provide a searching analysis of the theory and practice of abuse of process in England and Wales, with comparative examinations of many other jurisdictions including The USA, Canada, Australia, and New Zealand. This edition focuses in particular upon the profound impact of the European Convention on Human Rights in this area. The practice of plea bargaining plays a hugely significant role in the adjudication of criminal charges and has provoked intense debate about its legitimacy. This book offers the first full-length philosophical analysis of the ethics of plea bargaining. It develops a sustained argument forrestrained forms of the practice and against the free-wheeling versions that predominate in the United States.In countries that have endorsed plea bargains, such as the United States, upwards of ninety percent of criminal defendants plead guilty rather than go to trial. Yet trials, which grant a presumption of innocence to defendants and place a substantial burden of proof on the state to establish guilt,are widely regarded as the most appropriate mechanisms for fairly and accurately assigning criminal sanctions. How is it that many countries have abandoned the formal rules and rigorous standards of public trials in favor of informal and veiled negotiations between state officials and criminaldefendants concerning the punishment to which the latter will be subjected? More importantly, how persuasive are the myriad justifications that have been provided for plea bargaining? These are the questions addressed in this book.Examining the legal processes by which individuals are moved through the criminal justice system, the fairness of those processes, and the ways in which they reproduce social inequality, this book offers an ethical argument for restrained forms of plea bargaining. It also provides a comparisonbetween the different plea bargaining regimes that exist within the US, where it is well-established, England and Wales, where the practice is coming under considerable critique, and the European Union, where debate continues on whether it coheres with inquisitorial legal regimes. It suggests thatrewards for admitting guilt are distinguished from penalties for exercising the right to trial, and argues for modest, fixed sentence reductions for defendants who admit their guilt. These suggestions for reform include discouraging the current practice of deliberate over-charging by prosecutors andcharge bargaining, and require judges to scrutinize more closely the evidence against those accused of crimes before any guilty pleas are entered by them. Arguing that the negotiation of charges and sentences should remain the exception, not the rule, it nevertheless puts forward a normative defensefor the reform and retention of the plea bargaining system. This book examines the legal and moral theory behind the law of evidence and proof, arguing that only by exploring the nature of responsibility in fact-finding can the role and purpose of much of the law be fully understood. Ho argues that the court must not only find the truth to do justice, it must do justice in finding the truth. Based on a large study of legal professional practice, involving nearly 50 solicitors' firms, this book offers a critical examination of the practices and organization of defence lawyers in Britain - from the moment of initial contact through to the preparation and presentation of defendants. Discusses the nature of child abuse and the psychologies of the abusive parent and the abused child and describes the procedures for prediction, prevention, and treatment What makes someone responsible for a crime and therefore liable to punishment under the criminal law? Modern lawyers will quickly and easily point to the criminal law's requirement of concurrent actus reus and mens rea, doctrines of the criminal law which ensure that someone will only be found criminally responsible if they have committed criminal conduct while possessing capacities of understanding, awareness, and self-control at the time of offense. Any notion of criminal responsibility based on the character of the offender, meaning an implication of criminality based on reputation or the assumed disposition of the person, would seem to today's criminal lawyer a relic of the 18th Century. In this volume, Nicola Lacey demonstrates that the practice of character-based patterns of attribution was not laid to rest in 18th Century criminal law, but is alive and well in contemporary English criminal responsibility-attribution. Building upon the analysis of criminal responsibility in her previous book, Women, Crime, and Character, Lacey investigates the changing nature of criminal responsibility in English law from the mid-18th Century to the early 21st Century. Through a combined philosophical, historical, and socio-legal approach, this volume evidences how the theory behind criminal responsibility has shifted over time. The character and outcome responsibility which dominated criminal law in the 18th Century diminished in ideological importance in the following two centuries, when the idea of responsibility as founded in capacity was gradually established as the core of criminal law. Lacey traces the historical trajectory of responsibility into the 21st Century, arguing that ideas of character responsibility and the discourse of responsibility as founded in risk are enjoying a renaissance in the modern criminal law. These ideas of criminal responsibility are explored through an examination of the institutions through which they are produced, interpreted and executed; the interests which have shaped both doctrines and institutions; and the substantive social functions which criminal law and punishment have been expected to perform at different points in history. This book takes a procedural approach to human rights guarantees in international criminal proceedings and covers both the systems of the ad hoc Tribunals for the former Yugoslavia and Rwanda and the International Criminal Court. It analyses the rights conferred on individuals involved in international criminal trials from the commencement of investigations to the sentencing stage, as well as the procedural rights of victims and witnesses. The study focuses on problems which have emerged in three main areas: (i) length of proceedings; (ii) absence of specific sanctions and other remedies for violation of procedural rules; (iii) the need to strengthen the protection of the accused from undue interference with his rights (likely to be caused by a variety of factors, such as conflicting governmental interests, the presence of malicious witnesses, or inadequate legal assistance). Three general suggestions are made to reduce the impact of these weaknesses. First, it could be helpful to adopt specific sanctions for violation of procedural rules (such as, the exclusion of evidence as a remedy for violations of rules on discovery). Secondly, (as has already been provided for in the ICC Statute,) the Prosecutor of the ad hoc Tribunals should play a proactive role in the search for the truth by, among other things, gathering evidence that might exonerate the accused. Thirdly, the right of compensation for unlawful arrest (or detention) and unjust conviction, provided forin the ICC Statute, should be extended to other serious violations of fundamental rights and, in addition, should be laid down in the Statutes of the ICTY and ICTR. As the first in-depth empirical study of decision-making within the Criminal Cases Review Commission, this monograph reveals what happens to applications for post-conviction review when those in England and Wales who consider themselves to have been wrongfully convicted, and have exhausted direct appeal processes, take their case to the CCRC. David Nelken is the 2013 laureate of the Association for Law and Society International Prize The increasingly important topic of comparative criminal justice is examined from an original and insightful perspective by David Nelken, one of the top scholars in the field. The author looks at why we should study crime and criminal justice in a comparative and international context, and the difficulties we encounter when we do. Drawing on experience of teaching and research in a variety of countries, the author offers multiple illustrations of striking differences in the roles of criminal justice actors and ways of handling crime problems. The book includes in-depth discussions of such key issues as how we can learn from other jurisdictions, compare ?like with like?, and balance explanation with understanding – for example, in making sense of national differences in prison rates. Careful attention is given to the question of how far globalisation challenges traditional ways of comparing units. The book also offers a number of helpful tips on methodology, showing why method and substance cannot and should not be separated when it comes to understanding other people?s systems of justice. Students and academics in criminology and criminal justice will find this book an invaluable resource. Compact Criminology is an exciting series that invigorates and challenges the international field of criminology. Books in the series are short, authoritative, innovative assessments of emerging issues in criminology and criminal justice – offering critical, accessible introductions to important topics. They take a global rather than a narrowly national approach. Eminently readable and first-rate in quality, each book is written by a leading specialist. Compact Criminology provides a new type of tool for teaching, learning and research, one that is flexible and light on its feet. The series addresses fundamental needs in the growing and increasingly differentiated field of criminology. The dominant approach to evaluating the law on evidence and proof focuses on how the trial system should be structured to guard against error. This book argues instead that complex and intertwining moral and epistemic considerations come into view when departing from the standpoint of a detached observer and taking the perspective of the person responsible for making findings of fact. Ho contends that it is only by exploring the nature and content of deliberative responsibility that the role and purpose of much of the law can be fully understood. In many cases, values other than truth have to be respected, not simply as side-constraints, but as values which are internal to the nature and purpose of the trial. A party does not merely have a right that the substantive law be correctly applied to objectively true findings of fact, and a right to have the case tried under rationally structured rules. The party has, more broadly, a right to a just verdict, where justice must be understood to incorporate a moral evaluation of the process which led to the outcome. Ho argues that there is an important sense in which truth and justice are not opposing considerations; rather, principles of one kind reinforce demands of the other. This book argues that the court must not only find the truth to do justice, it must do justice in finding the truth. Bringing together previously disparate discussions on criminal responsibility from law, psychology, and philosophy, this book provides a close study of mental incapacity defences, tracing their development through historical cases to the modern era. This open access book is the culmination of many years of research on what happened to the bodies of executed criminals in the past. Focusing on the eighteenth and nineteenth centuries, it looks at the consequences of the 1752 Murder Act. These criminal bodies had a crucial role in the history of medicine, and the history of crime, and great symbolic resonance in literature and popular culture. Starting with a consideration of the criminal corpse in the medieval and early modern periods, chapters go on to review the histories of criminal justice, of medical history and of gibbeting under the Murder Act, and ends with some discussion of the afterlives of the corpse, in literature, folklore and in contemporary medical ethics. Using sophisticated insights from cultural history, archaeology, literature, philosophy and ethics as well as medical and crime history, this book is a uniquely interdisciplinary take on a fascinating historical phenomenon. The book systematically analyses the relationship and interaction between rules of engagement (ROE) and the legal framework regulating armed conflicts, both at the international and national levels. At the international level, the relationship between ROE and human rights law and international humanitarian law is explored. At the national level, the book relates ROE to (comparative) criminal law. A separate chapter analyses the complex relationship between self-defence law and rules of engagement. It is the first monograph to comprehensively examine these issues and to analyse how ROE interact with the various sources of the (international) law of military operations, both in terms of the law as a source for these rules and how the law is reflected and implemented through them. In doing so, and based on the author's own experience, the book provides examples of how complicated, often controversial issues of law can be resolved while keeping the rules understandable at all levels of military operations. Aimed at both scholars and practitioners, the book provides a bridge between the academic world and the operational world. It provides new insights for both of those audiences in terms of understanding how the law applies to - and through - the rules on the use of force for military operations. This book is about the principle of proportionality - the principle that a sentence should be proportionate to the seriousness of the offence committed. It examines the detailed arguments for the theory and for applying it to a range of situations including young offenders, dangerous offenders and socially deprived offenders. In the modern world, it is increasingly difficult for criminal law to be applied on a narrow territorial basis. This is especially apparent in the context of international fraud, drug smuggling, internet crime, and international terrorism. Against that background, this important new workexamines some fundamental, but hitherto neglected, issues of domestic criminal law. Where, and to whom, does that law apply? When, in particular, can criminal law properly concern itself with conduct that takes place wholly or partly abroad? Should it primarily be concerned with delinquent conduct,or with the consequences of that conduct, which may take effect in a different part of the world? On what basis can a person who is not a UK national be regarded as offending against the law if he is not within the territories governed by that law? What is the position under international law? Andhow are the precise boundaries (especially the adjacent maritime boundaries) of a nation's criminal law defined? The author examines the territorial and extraterritorial application of the criminal law, identifying many defects, lacunae and historical accidents; and considers possible ways in which some at least of the problems that beset these areas of law might be alleviated. Contemporary concern about technological hazards posed by business enterprises has intensified interest in the criminality of corporations. Incorporating ideas from a wide range of literature, the book argues that there is no magic answer to corporate power, to issues of personal safety andtheir inter-relationship with criminal law and justice. The attention paid to corporate criminal liability by courts, legislatures, law reform bodies and international organizations has increased markedly in the past decade. As in the first edition, the book takes what might be called a panopticapproach to the subject. Corporations and their susceptibility to criminal law are examined from sociological, psychological, philosophical and organizational perspectives as the book progresses. This edition has been revised and updated to take account of the burgeoning scholarly literature.Detailed analysis of judicial and legislative movements in England and Wales, in other national jurisdictions and at the level of international organizations follows. Two new chapters, on corporate manslaughter and on comparative and international responses to corporate crime, accommodate thesechanges. The book is distinctive in combining legal analysis and discussion of law reform debates with a theoretical account of the relationship between legal institutions and the role of risk and blame in shaping criminal law and the practices of the criminal justice system. Atrocities such as genocide or crimes against humanity are usually committed by a large number of perpetrators. Moreover, those who masterminded the crimes may not have actively participated. This book sets out how these people can be held responsible for their crimes by international criminal tribunals. In the globalized world an extensive process of international migration has developed. The resulting conundrum of issues when examining crime and migration makes for a bitterly complex and intriguing set of debates. In this compelling account, Dario Melossi provides an authoritative take on the theory and research examining the connection of crime, migration and punishment. Through a socio-historical and criminological approach, he shows that the core questions of migrants? criminal behaviour are tightly related to the rules and practices of migrants' reception within the various countries' social and normative structures. Written for students, academics, researchers and activists with an interest in the topic, the book will appeal to individuals in a range of disciplines, from criminology and sociology to politics, international relations, ethnic studies, geography, social policy and development. Compact Criminology is an exciting series that invigorates and challenges the international field of criminology. Books in the series are short, authoritative, innovative assessments of emerging issues in criminology and criminal justice – offering critical, accessible introductions to important topics. They take a global rather than a narrowly national approach. Eminently readable and first-rate in quality, each book is written by a leading specialist. Compact Criminology provides a new type of tool for teaching, learning and research, one that is flexible and light on its feet. The series addresses fundamental needs in the growing and increasingly differentiated field of criminology. The use of character in the criminal trial raises a number of controversial issues such as the nature of criminal responsibility, the link between past and future behaviour, and the way juries and judges reason about evidence of prior wrongdoing. This book reassesses and reflects on the significance of the law's increasing emphasis on character. "In the first in-depth study of its kind, Stuart Green exposes the ambiguities and uncertainties that pervade the white-collar crimes, and offers an approach to their solution. Drawing on recent cases involving such figures as Martha Stewart, Bill Clinton, Tom DeLay, Scooter Libby, Jeffrey Archer, Enron's Andrew Fastow and Kenneth Lay, HealthSouth's Richard Scrushy, Yukos Oil's Mikhail Khodorkovsky, and the Arthur Andersen accounting firm, Green weaves together what at first appear to be disparate threads in the criminal code, revealing a complex and fascinating web of moral insights about the nature of guilt and innocence, and what, fundamentally, constitutes conduct worthy of punishment by criminal sanction."--BOOK JACKET. This text provides a philosophical investigation of the criminal prosecution of domestic violence. It features a theoretical framework for understanding ongoing debates regarding the criminal justice system's response to domestic violence. Award-winning professor and author Matthew Lippman enhances teaching and learning with his newest text, Striking the Balance: Debating Criminal Justice and Law. Organizing the book around clashing points of view on contemporary issues in criminal justice and criminal law, Lippman puts each debate into context for students to help them develop a better understanding of the issue. Designed to develop the reader's critical thinking skills, the text offers students summaries of contrasting views from original sources, questions for classroom discussion, and engaging "You Decide" activities. Additionally, chapter topics are independent of one another, giving instructors the flexibility to customize the material to their individual course organization. Edited to minimize technical legal terms, the text is the perfect companion to any criminal law or introductory criminal justice textbook. This accessible text enables criminology and criminal justice students to understand and critically evaluate criminal law in the context of criminal justice and wider social issues. The book explains criminal law comprehensively, covering both general principles and specific types of criminal offences. It examines criminal law in its social context, as well as considering how it is used by the criminal justice processes and agencies which enforce it in practice. Covering all the different theoretical approaches that the student of criminology and criminal justice will need to understand, the book provides learning tools such as: -chapter objectives - making the structure of the book easy to follow for students -questions for discussion and student exercises - helping students to think critically about the ideas and concepts in each chapter, and to undertake further independent and reflective study -?definition boxes? explaining key concepts - helping students who are not familiar with specialist criminal law terminology to understand what the key basic concepts in criminal law really mean in practice -a companion Website which incorporates a range of resources for lecturers and students. The number of non-state actors, in the past not accountable for committing international crimes or violating human rights, is proliferating rapidly. Their ways of operating evolve, with some groups being increasingly fragmented and others organizing transnationally or in cyber space. As non-state armed groups are involved in the vast majority of todays armed conflicts and crisis situations, a new and increasingly important question has to be raised as to whether, and at what point, these groups are bound by international law and thereby accountable for their acts. Breaking new ground in addressing international human rights law, international criminal law, and international humanitarian law in one swoop, Rodenhäusers text will be essential to academics and practitioners alike. Most contemporary criminal justice systems adopt a 'binary' system of verdicts. In a binary system, there is a single evidential threshold, or standard of proof. If the standard is met, the verdict is 'guilty', the defendant is convicted, and punishment is permitted. If the standard is not met, the verdict is 'not guilty', the defendant is acquitted, and punishment is forbidden. There is no middle ground between the verdict of 'not guilty' and that of 'guilty'. An intermediate verdict represents such middle ground, intermediate between acquittal and conviction both in terms of the strength of the incriminating evidence that is needed to warrant the verdict and in terms of the severity of the consequences that the verdict may produce for the defendant. Justice In-Between is a study of intermediate criminal verdicts and advances a novel justification of such controversial devices, with the aim to produce a consensus amongst scholars subscribing to different theories of punishment. Indeed, the book shows that one cannot investigate the choice of the standard of proof nor, importantly, that of the verdict system, in isolation from the question of the justification for punishing. Justice In-Between studies historical and extant examples of intermediate criminal verdicts and engages with the debates that have accompanied them, including the popular argument that intermediate criminal verdicts are incompatible with the presumption of innocence. In doing so, the book offers an original account of the meaning and of the justification of the presumption. Relying on decision theory, Justice In-Between makes a case for intermediate criminal verdicts and shows that such decision-theoretic case is viable under any of the main theories of punishment. Professor Robinson provides a new critique of the often neglected problem of classification within the criminal law. He presents a discussion of the present conceptual framework of the law, and offers explanations of how and why formal structures do not match the operation of law in practice.In this scholarly exposition of applied criminal theory, Robinson argues that the current operational structure of the criminal law fails to take account of its different functions. He goes on to suggest new sample codes of criminal conduct and criminal adjudication which mark a real departure fromthe pragmatic approach which presently dominates code-making. This rounded exploration of the structure of systems of criminal law is an important work for law teachers and policy makers world-wide. This collection of original essays, by some of the best known contemporary criminal law theorists, tackles a range of issues about the criminal law's 'special part' - the part of the criminal law that defines specific offences. One of its aims is to show the importance, for theory as well as for practice, of focusing on the special part as well as on the general part which usually receives much more theoretical attention. Some of the issues covered concern the proper scope of the criminal law, for example how far should it include offences of possession, or endangerment? If it should punish only wrongful conduct, how can it justly include so-called 'mala prohibita', which are often said to involve conduct that is not wrongful prior to its legal prohibition? Other issues concern the ways in which crimes should be classified. Can we make plausible sense, for instance, of the orthodox distinction between crimes of basic and general intent? Should domestic violence be definedas a distinct offence, distinguished from other kinds of personal violence? Also examined are the ways in which specific offences should be defined, to what extent those definitions should identify distinctive types of wrongs, and the light that such definitional questions throw on the grounds and structures of criminal liability. Such issues are discussed in relation not only to such crimes as murder, rape, theft and other property offences, but also in relation to offences such as bribery, endangerment and possession that have not traditionally been subjects for in depth theoretical analysis. ·· See Sample Chapters & Resources to download the Introduction to Criminal and Social Justice ·· `Dee Cook?s new book is important, innovative and invigorating. It brings together two spheres - criminal justice and social justice - which are usually, but as she persuades us, unjustifiably kept separate intellectually and in policy and practice. Dee Cook makes a powerful case for the inter-connectedness of penal policy and social policy, bringing together concepts from the two spheres such as social exclusion, citizenship, and human rights. Her innovative approach brings insightful theoretical analysis together with two extended case studies - differential treatment of tax fraud and benefit fraud, and the "third way" politics of New Labour. This book will make it much more difficult for students, policy-makers and criminal justice practitioners to ignore the social context in which penal policy evolves and is implemented? - Professor Barbara Hudson, University of Central Lancashire `This is an accessible and lively critical account of the inter-relationship between social and criminal justice in New Labour Britain. It should engage students on a range of programmes, particularly social policy, criminology and sociology? - Ruth Lister, Professor of Social Policy, Loughborough University `A cogent demonstration that criminal justice cannot be achieved in the absence of social justice. There is a blistering but thoroughly informed critique of New Labour?s failure to narrow this "justice gap". Let?s hope the carefully reasoned but impassioned arguments about how to get really tough on the causes of crime and injustice get the attention they deserve? - Robert Reiner, Professor of Criminology, London School of Economics and Political Science Criminal and Social Justice provides an important insight into the relationship between social inequality, crime and criminalisation. In this accessible and innovative account, Dee Cook examines the nature of the relationship between criminal and social justice - both in theory and in practice. Current social, economic, political and cultural considerations are brought to bear, and contemporary examples are used throughout to help the student to consider this relationship. The book is essential reading for students and researchers in criminology, social policy, social work and sociology. It is also relevant to practitioners in statutory, voluntary and community sector organisations. This title is a comprehensive treatment of the development of international human rights law, international criminal law and international immunities, and asks whether states and their officials can shield themselves from foreign jurisdiction by invoking international immunity rules when human rights issues are involved. Concentrating upon those doctrines that make up the general part of the criminal law this collection of essays by leading American and British legal experts sheds theoretical light on key issues of contemporary relevance.

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