Evidence Proof And Probability Law In Context

This extensively revised second edition is a rigorous introduction to the construction and criticism of arguments about questions of fact, and to the marshalling and evaluation of evidence at all stages of litigation. It covers the principles underlying the logic of proof; the uses and dangers of story-telling; standards for decision and the relationship between probabilities and proof; the chart method and other methods of analyzing and ordering evidence in fact-investigation, in preparing for trial, and in connection with other important decisions in legal processes and in criminal investigation and intelligence analysis. Most of the chapters in this new edition have been rewritten; the treatment of fact investigation, probabilities and narrative has been extended; and new examples and exercises have been added. Designed as a flexible tool for undergraduate and postgraduate courses on evidence and proof, students, practitioners and teachers alike will find this book challenging but rewarding.

The essays in this volume offer a reassessment of Jeremy Bentham's strikingly original legal philosophy. Early on, Bentham discovered his 'genius for legislation' - 'legislation' included not only lawmaking and code writing, but also political and social institution building and engineering of public spaces for effective control of the exercise of political power. In his general philosophical work, Bentham sought to articulate a public philosophy to guide and direct all of his 'legislative' efforts. Part I explores the philosophical foundations of his public philosophy: his theory of meaning and framework for analysis and definition of key concepts, his theory of human affections and motivations, and his utilitarian theory of value. It is argued that, while concepts of pleasure and happiness play nominal roles in his theory of value, concepts of publicity, equality, and interests emerge as the dominant concepts of his public philosophy. Part II explores several dimensions of Bentham's jurisprudence, including his radically revised command model of law, his early reflections on justice and law in adjudication, his theories of judicial evidence, constitutional rights, the rule of law, and international law. The concluding essay demonstrates the centrality of the notion of publicity in his moral, legal and political thought. Emerging from this study is a positivist legal theory and a utilitarian moral-political philosophy that challenge in fundamental ways contemporary understandings of those doctrines.

"A magisterial acount of matters as diverse as the Talmud, Justinian's Digest, torture, witch hunts, Tudor treason trials, ancient and medieval astronomy and physics, humanist historiography, scholastic philosophy, speculations in public debt, and 17th century mathematics." -- International Journal of Evidence and Proof

Susan Haack brings her distinctive work in theory of knowledge and philosophy of science to bear on real-life legal issues.

A Book of Sources

Theory of Legal Evidence - Evidence in Legal Theory

Roberts & Zuckerman's Criminal Evidence

Juridical Proof and the Best Explanation

A Study of Intermediate Criminal Verdicts

Justice In-Between

Fernando Castillo de la Torre and Eric Gippini Fournier, two of the most experienced competition litigators at the European Commission, undertake an in-depth analysis of the case law of the EU Courts on the rules of evidence, proof and judicial review, as they are applied in EU competition law. These topics often engage with fundamental rights, and the book takes stock of the most frequent criticisms that are made of the EU enforcement system and review by EU Courts. The result is an extremely thorough and well-structured review of the relevant rules of law and of the precedents. The authors combine valuable insights and critical analysis to construct a definitive yet balanced portrayal of the state of EU competition law.

In a world awash in "fake news," where public figures make unfounded assertions as a matter of course, a preeminent legal theorist ranges across the courtroom, the scientific laboratory, and the insights of philosophers to explore the nature of evidence and show how it is credibly established. In the age of fake news, trust and truth are hard to come by. Blatantly and shamelessly, public figures deceive us by abusing what sounds like evidence. Preeminent legal theorist Frederick Schauer proposes correctives, drawing on centuries of inquiry into the nature of evidence. Evidence is the basis of how we know what we think we know, but evidence is no simple thing. Evidence that counts in, say, the policymaking context is different from evidence that stands up in court. Law, science, historical scholarship, public and private decisionmaking—all rely on different standards of evidence. Exploring diverse terrain including vaccine and food safety, election-fraud claims, the January 2021 events at the US Capitol, the reliability of experts and eyewitnesses, climate science, art authentication, and even astrology, The Proof develops fresh insights into the challenge of reaching the truth. Schauer combines perspectives from law, statistics, psychology, and the philosophy of science to evaluate how evidence should function in and out of court. He argues that evidence comes in degrees. Weak evidence is still some evidence. The absence of evidence is not evidence of absence, but prolonged, fruitless efforts to substantiate a claim can go some distance in proving a negative. And evidence insufficient to lock someone up for a crime may be good enough to keep them out of jail. This book explains how to reason more effectively in everyday life, shows why people often reason poorly, and takes evidence as a pervasive problem, not just a matter of legal rules.

Philosophy has a strong presence in evidence law and the nature of evidence is a highly debated topic in both general and social epistemology; legal theorists working in the evidence law area draw on different underlying philosophical theories of knowledge, inference and probability. Core evidentiary concepts and principles, such as the presumption of innocence, standards of proof, and others, reply on moral and political philosophy for their understanding and interpretation. Written by leading scholars across the globe, this volume brings together philosophical debates on the nature and function of evidence, proof, and law of evidence. It presents a cross-disciplinary overview of central issues in the theory and methodology of legal evidence and covers a wide range of contemporary debates on topics such as truth, proof, economics, gender, and race. The volume covers different theoretical approaches to legal evidence, including the Bayesian approach, scenario theory and inference to the best explanation. Divided in to five parts, Philosophical Foundations of Evidence Law, covers different theoretical approaches to legal evidence, including the Bayesian approach, scenario theory and inference to the best explanation.

You find yourself in a court of law, accused of having hit someone. What can you do to avoid conviction? You could simply deny the accusation: 'No, I didn't do it'. But suppose you did do it. You may then give a different answer. 'Yes, I hit him', you grant, 'but it was self-defence'; or 'Yes, but I was acting under duress'. To answer in this way-to offer a 'Yes, but. . .' reply-is to hold that your particular wrong was committed in exceptional circumstances. Perhaps it is true that, as a rule, wrongdoers ought to be convicted. But in your case the court should set the rule aside. You should be acquitted. Within limits, the law allows for exceptions. Or so we tend to think. In fact, the line between rules and exceptions is harder to draw than it seems. How are we to determine what counts as an exception and what as part of the relevant rule? The distinction has important practical implications. But legal theorists have found the notion of an exception surprisingly difficult to explain. This is the longstanding jurisprudential problem that this book

seeks to solve. The book is divided into three parts. Part I, Defeasibility in Question, introduces the topic and articulates the core puzzle of defeasibility in law. Part II, Defeasibility in Theory, develops a comprehensive proof-based account of legal exceptions. Part III, Defeasibility in Action, looks more closely into the workings of exceptions in accusatory contexts, including the criminal trial.

Law, Interpretation and Reality

The Proof

The Nature of Judicial Proof

The Science of Conjecture

Justice in the Search for Truth

The Evaluation of Forensic DNA Evidence

In 1992 the National Research Council issued DNA Technology in Forensic Science, a book that documented the state of the art in this emerging field. Recently, this volume was brought to worldwide attention in the murder trial of celebrity O. J. Simpson. The Evaluation of Forensic DNA Evidence reports on developments in population genetics and statistics since the original volume was published. The committee comments on statements in the original book that proved controversial or that have been misapplied in the courts. This volume offers recommendations for handling DNA samples, performing calculations, and other aspects of using DNA as a forensic toolâ€"modifying some recommendations presented in the 1992 volume. The update addresses two major areas: Determination of DNA profiles. The committee considers how laboratory errors (particularly false matches) can arise, how errors might be reduced, and how to take into account the fact that the error rate can never be reduced to zero. Interpretation of a finding that the DNA profile of a suspect or victim matches the evidence DNA. The committee addresses controversies in population genetics, exploring the problems that arise from the mixture of groups and subgroups in the American population and how this substructure can be accounted for in calculating frequencies. This volume examines statistical issues in interpreting frequencies as probabilities, including adjustments when a suspect is found through a database search. The committee includes a detailed discussion of what its recommendations would mean in the courtroom, with numerous case citations. By resolving several remaining issues in the evaluation of this increasingly important area of forensic evidence, this technical update will be important to forensic scientists and population geneticistsâ€"and helpful to attorneys, judges, and others who need to understand DNA and the law. Anyone working in laboratories and in the courts or anyone studying this issue should own this book.

New Scientist magazine was launched in 1956 "for all those men and women who are interested in scientific discovery, and in its industrial, commercial and social consequences". The brand's mission is no different today - for its consumers, New Scientist reports, explores and interprets the results of human endeavour set in the context of society and culture.

Most contemporary criminal justice systems adopt a 'binary' system of verdicts with 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.

A self-contained examination of all aspects of statistical evidence evaluation in forensic science, from theory to concrete applications.

Probability and Forensic Evidence

Essays in Epistemology, Hermeneutics and Jurisprudence

Evidence, Proof, and Fact-Finding in WTO Dispute Settlement

Essays on Bentham's Moral and Legal Philosophy

Probability and the Weighing of Evidence

Evidence Matters

PATRICKNERHOT Since the two operations overlap each other so much, speaking about fact and interpretation in legal science separately would undoubtedly be highly artificial. To speak about fact in law already brings in the operation we call interpretation. EquaHy, to speak about interpretation is to deal with the method of identifying reality and therefore, in large part, to enter the area of the question of fact. By way of example, Bemard Jackson's text, which we have placed in section 11 of the first part of this volume, could no doubt just as weH have found a horne in section I. This work is aimed at analyzing this interpretation of the operation of identifying fact on the one hand and identifying the meaning of a text on the other. All philosophies of law recognize themselves in the analysis they propose for this interpretation, and we too shall seek in this volume to fumish a few elements of use for this analysis. We wish however to make it clear that our endeavour is addressed not only to legal philosophers: the nature of the interpretive act in legal science is a matter of interest to the legal practitioner too. He will find in these pages, we believe, elements that will serve hirn in rcflcction on his daily work.

A systematic yet lighthearted exposition of the central role played by probability in the legal process. This classic text applies probability theories to real-life cases to illustrate the importance of mathematical reasoning in search of truth.

This book addresses theoretical problems concerning legal evidence. The concept of evidence is expected to fulfill a number of distinct roles in science and philosophy, but also in legal theory and law, some of which are complementary, while others are conflicting. In their profession, lawyers have to deal with evidence and proof. Yet the legal concept of evidence is constantly changing, and the debate concerning the distinction between a legal concept of evidence, the ordinary concept of evidence and the concept of evidence in science is far from being settled. What is more, the problem of evidence is central to both epistemology and the philosophy of science, and by extension to our academic thinking on law. In short, legal theorists interest in evidence may include such diverse objects as a bloody knife, sensory data, linguistic entities or psychologically recognized beliefs. The book surveys selected theoretical roles that the concept of evidence plays and explores their relations and interconnections. The content is divided into three parts, investigating: (1) evidence in epistemology and the philosophy of science, which focuses on evidence methodologies and the problem of proof in legal scholarship; (2) evidence in legal theory and legal philosophy, where particular attention is paid to the interplay between evidence, legal reasoning and the binding force of such reasoning; and (3) evidence in law, where theoretical problems pertaining to witnesses, expert opinions, explanations of the accused, statistical evidence and neuroscientific evidence are examined.

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.

The Modern Law of Evidence

Evidence and Probability Before Pascal

Math on Trial

Arguments, Stories and Criminal Evidence

How Numbers Get Used and Abused in the Courtroom

Exploratory Essays

The Science of Conjecture provides a history of rational methods of dealing with uncertainty and explores the coming to consciousness of the human understanding of risk.

This is an erudite treatise on the application of probability theory to the legal process, written by a former judge and university chancellor, and still a law school professor. He is a scholar on the subject of constitutional law and the law of evidence, but for most of the audience in the American Academy of Forensic Sciences, his approach in this book has limited, but very poignant application.

The volume covers different theoretical approaches to legal evidence including the nature and function of evidence, proof, and law of evidence. It also covers a wide range of contemporary debates on topics such as truth, proof, economics, gender, and race.

Provides more than seven hundred alphabetical entries covering the interaction of law and society around the globe, including the sociology of law, law and economics, law and political science, psychology and law, and criminology.

Rethinking Evidence

Theory, Philosophy, and Applications

Philosophical Foundations of Evidence Law

A Philosophy of Evidence Law

Evidence, Proof and Probability

American and Global Perspectives

This book explores the nature of factual inference in adjudication. The book should be useful to students of law in Continental Europe as well as to students of Anglo-American law. While a good many countries do not use the sorts of rules of evidence found in the Anglo-American legal tradition, their procedural systems nevertheless frequently use a variety of rules and principles to regulate and structure the acquisition, presentation, and evalu ation of evidence. In this sense, almost all legal systems have a law of proof. This book should also be useful to scholars in fields other than law. While the papers focus on inference in adjudication, they deal with a wide variety of issues that are important in disciplines such as the philosophy of science, statistics, and psychology. For example, there is extensive discussion of the role of generalizations and hypotheses in inference and of the significance of the fact that the actors who evaluate data also in some sense constitute the data that they evaluate. Furthermore, explanations of the manner in which some legal systems structure fact-finding processes may highlight features of inferential processes that have yet to be adequately tackled by scholars in fields other than law.

In this book a theory of reasoning with evidence in the context of criminal cases is developed. The main subject of this study is not the law of evidence but rather the rational process of proof, which involves constructing, testing and justifying scenarios about what happened using evidence and commonsense knowledge. A central theme in the book is the analysis of ones reasoning, so that complex patterns are made more explicit and clear. This analysis uses stories about what happened and arguments to anchor these stories in evidence. Thus the argumentative and the narrative approaches from the research in legal philosophy and legal psychology are combined. Because the book describes its subjects in both an informal and a formal style, it is relevant for scholars in legal philosophy, AI, logic and argumentation theory. The book can also appeal to practitioners in the investigative and legal professions, who are interested in the ways in which they can and should reason with evidence.

Innovations in Evidence and Proof brings together fifteen leading scholars and experienced law teachers based in Australia, Canada, Northern Ireland, Scotland, South Africa, the USA and England and Wales to explore and debate the latest developments in Evidence and Proof scholarship. The essays comprising this volume range expansively over questions of disciplinary taxonomy, pedagogical method and computer-assisted learning, doctrinal analysis, fact-finding, techniques of adjudication, the ethics of cross-examination, the implications of behavioural science research for legal procedure, human rights, comparative law and international criminal trials. Communicating the breadth, dynamism and intensity of contemporary theoretical innovation in their diversity of subject-matter and approach, the authors nonetheless remain united by a common purpose: to indicate how the best interdisciplinary theorising and research might be integrated directly into degree-level Evidence teaching. Innovations in Evidence and Proof is published at an exciting time of theoretical renewal and increasing empirical sophistication in legal evidence, proof and procedure scholarship. This groundbreaking collection will be essential reading for Evidence teachers, and will also engage the interest and imagination of scholars, researchers and students investigating issues of evidence and proof in any legal system, municipal, transnational or global.

Roberts and Zuckerman's Criminal Evidence is the eagerly-anticipated third of edition of the market-leading text on criminal evidence, fully revised to take account of developments in legislation, case-law, policy debates, and academic commentary during the decade since the previous edition was published. With an explicit focus on the rules and principles of criminal trial procedure, Roberts and Zuckerman's Criminal Evidence develops a coherent account of evidence law which is doctrinally detailed, securely grounded in a normative theoretical framework, and sensitive to the institutional and socio-legal factors shaping criminal litigation in practice. The book is designed to be accessible to the beginner, informative to the criminal court judge or legal practitioner, and thought-provoking to the advanced student and scholar: a textbook and monograph rolled into one. The book also provides an ideal disciplinary map and work of reference to introduce non-lawyers (including forensic scientists and other expert witnesses) to the foundational assumptions and technical intricacies of criminal trial procedure in England and Wales, and will be an invaluable resource for courts, lawyers and scholars in other jurisdictions seeking comparative insight and understanding of evidentiary regulation in the common law tradition.

Science, Proof, and Truth in the Law

Legal Education Review

Probability Theory and Circumstantial Evidence

A Theory of Defences and Defeasibility in Law

New Scientist

Allowing for Exceptions

This book addresses the role of statistics and probability in the evaluation of forensic evidence, including both theoretical issues and applications in legal contexts. It discusses what evidence is and how it can be quantified, how it should be understood, and how it is applied (and, sometimes, misapplied). After laying out their philosophical position, the authors begin with a detailed study of the likelihood ratio. Following this grounding, they discuss applications of the likelihood ratio to forensic questions, in the abstract and in concrete cases. The analysis of DNA evidence in particular is treated in great detail. Later chapters concern Bayesian networks, frequentist approaches to evidence, the use of belief functions, and the thorny subject of database searches and familial searching. Finally, the authors provide commentary on various recommendation reports for forensic science. Written to be accessible to a wide audience of applied mathematicians, forensic scientists, and scientifically-oriented legal scholars, this book is a must-read for all those interested in the mathematical and philosophical foundations of evidence and belief.

This book examines how a World Trade Organization (WTO) dispute settlement panel formulates its conclusions with respect to the facts of a dispute brought before it. It does so by discussing the legal concepts which shape the process of fact-finding, analysing the approach taken by panels thus far and offering suggestions for improvement.

Analytical and empirical studies of the process of legal proof have sought to explain the process through various aspects of probability theories. These probability-based explanations have neglected the extent to which explanatory considerations themselves explain juridical proof. Similar to many scientific inferences, juridical inferences turn on how well the evidence would explain certain conclusions. This inferential process, well known in the philosophy of science, is referred to as abduction or quot;inference to the best explanation.quot; In this essay, we provide a detailed account of the process in general; an explanation-based account of juridical proof in particular; a comparison with probability approaches; and the theoretical and practical consequences of the debate. We demonstrate how an explanation-based approach itself better explains juridical proof, at both the macro- and micro-levels, than the probability approaches. The macro-level issues include burdens of proof in civil and criminal cases, and related issues involving summary judgment, judgments as a matter of law, and sufficiency-of-the-evidence standards. The micro-level issues include the relevance and probative value (and thus the admissibility) of any individual item of evidence, from first-hand observations to complex scientific or statistical evidence. The explanatory considerations can provide practical guidance and constraint for decision-making on each of these issues. More generally, we demonstrate that the explanatory and probability approaches are not alternatives. The explanatory considerations are more fundamental, on which the probability accounts are parasitic. Thus to extent the probability approaches account accurately for and supplement explanatory considerations, they may improve our understanding; to the extent they do not, they risk mismodeling the process.

David Hume's argument against believing in miracles has attracted nearly continuous attention from philosophers and theologians since it was first published in 1748. Hume's many commentators, however, both pro and con, have often misunderstood key aspects of Hume's account of evidential probability and as a result have misrepresented Hume's argument and conclusions regarding miracles in fundamental ways. This book argues that Hume's account of probability descends from a long and laudable tradition that goes back to ancient Roman and medieval law. That account is entirely and deliberately non-mathematical. As a result, any analysis of Hume's argument in terms of the mathematical theory of probability is doomed to failure. Recovering the knowledge of this ancient tradition of probable reasoning leads us to a correct interpretation of Hume's argument against miracles, enables a more accurate understanding of many other episodes in the history of science and of philosophy, and may be also useful in contemporary attempts to weigh evidence in epistemically complex situations where confirmation theory and mathematical probability theory have proven to be less helpful than we would have hoped.

Utility, Publicity, and Law

A Review of Evidence, Proof & Probability

The Philosophy of Proof in Its Relation to the English Law of Judicial Evidence
Innovations in Evidence and Proof
Analysis of Evidence
Evidence and Probability before Pascal

A superbly clear, direct, and detailed explanation of the rules that underpin the law of evidence.The Modern Law of Evidence is a lucid, engaging, and authoritative guide to a fascinating and stimulating subject. Straightforward and practical in approach, it also provides concise and focused analysis of the theory behind the law, with an emphasis on recent discussion and current debates.An ideal text for undergraduates and students studying on the Bar Professional Training Course and Legal Practice Course, The Modern Law of Evidence is also an authoritative reference point for practitioners and judges.Online ResourcesThe Modern Law of Evidence is accompanied by online resources, including:- Selected guidance on approaching the questions contained in the book- General advice on taking examinations in evidence- Regular updates on key developments- A list of web links to essential resources

Evidence, proof and probabilities, rationality, scepticism and narrative in legal discourse, and the reform of criminal evidence have all been the subject of lively debates in recent years. This book brings together seminal and new essays from a leading contributor to this new evidence scholarship.

This work has been selected by scholars as being culturally important and is part of the knowledge base of civilization as we know it. This work is in the public domain in the United States of America, and possibly other nations. Within the United States, you may freely copy and distribute this work, as no entity (individual or corporate) has a copyright on the body of the work. Scholars believe, and we concur, that this work is important enough to be preserved, reproduced, and made generally available to the public. To ensure a quality reading experience, this work has been proofread and republished using a format that seamlessly blends the original graphical elements with text in an easy-to-read typeface. We appreciate your support of the preservation process, and thank you for being an important part of keeping this knowledge alive and relevant.

In the wrong hands, math can be deadly. Even the simplest numbers can become powerful forces when manipulated by politicians or the media, but in the case of the law, your liberty -- and your life -- can depend on the right calculation. In Math on Trial, mathematicians Leila Schneps and Coralie Colmez describe ten trials spanning from the nineteenth century to today, in which mathematical arguments were used -- and disastrously misused -- as evidence. They tell the stories of Sally Clark, who was accused of murdering her children by a doctor with a faulty sense of calculation; of nineteenth-century tycoon Hetty Green, whose dispute over her aunt's will became a signal case in the forensic use of mathematics; and of the case of Amanda Knox, in which a judge's misunderstanding of probability led him to discount critical evidence -- which might have kept her in jail. Offering a fresh angle on cases from the nineteenth-century Dreyfus affair to the murder trial of Dutch nurse Lucia de Berk, Schneps and Colmez show how the improper application of mathematical concepts can mean the difference between walking free and life in prison. A colorful narrative of mathematical abuse, Math on Trial blends courtroom drama, history, and math to show that legal expertise isn't't always enough to prove a person innocent.

Probability and Inference in the Law of Evidence
The Uses and Limits of Bayesianism
Evidence, Proof, and Probability
Encyclopedia of Law and Society
Integrating Theory, Research and Teaching
Uses of Evidence in Law, Politics, and Everything Else

While the law of evidence has dominated jurisprudential treatment of the subject, evidence is in truth a multi-disciplinary subject. This book is a collection of materials concerned not only with the law of evidence, but also with the logical and rhetorical aspects of proof; the epistemology of evidence as a basis for the proof of disputed facts; and scientific aspects of the subject. The editor raises issues such as the philosophical basis for the use of evidence; whether courtroom proof is essentially mathematical or non-mathematical; and the use of different theories of probability in legal reasoning.

A Formal Hybrid Theory
An Inquiry Into the Logical, Legal, and Empirical Aspects of the Law of Evidence
David Hume on Miracles, Evidence, and Probability
Evidence, Proof and Judicial Review in EU Competition Law
Evidence, Proof, and Facts