Contents

Table of Cases ix
Acknowledgements xvii
Series Preface xix
Preface xx1

1 Introduction: Perspectives on Criminal Law 1

Doctrine 1
Setting Limits to Criminal Law: The 'Harm' Thesis 5
Attacks upon the Doctrinal View from Inside and Outside 8
Comparative Criminal Law and Criminal Justice and their Histories 9
Sociolegal Approaches 11
Economics of Criminal Law 13
Critical Legal Studies 15
Broadening the Discipline 18
Conclusions 23

2 Arguing Criminal Law 29

The Nature and Significance of the Appellate Judicial Process in Criminal Cases 29
Readings of Doctrinal Decision Making 38
Systemic Bias in Construing Prostitution Statutes 41
Pairing Arguments 43
Concluding: What can a Liberal Judge do in Criminal Law? 54
Appendix 58

3 Personhood and Responsibility 69

Introduction 69
The Borderland of Juridical Personhood (I): Being, Becoming, Remaining and Ceasing to be a Person 70
The Borderland of Juridical Personhood (II): Social Science Evidence and the Legal Vocabulary  82
Battered Women who Kill  90
Conclusion  99

4 Privacy  105
Introduction  105
The Core Idea  105
Historical Development: Honour  106
Historical Development: Privacy  107
Why Privacy Now?  109
Discriminating Privacies  114
The Significance of Privacy in Substantive English Criminal Law  116
The Significance of Privacy in Procedural Criminal Law  117
The Intrusiveness and Duration of a Violation of Privacy  119
Sexual Privacy and 'Sexual McCarthyism'  122
Conclusion  130

5 Internationalisation of Criminal Law  137
Globalisation, Boundaries and Offences  137
Changing the Political Unit: The Nation State and its Successors  138
Jurisdiction  140
The Sexual Offences (Conspiracy and Incitement) Act 1996  143
Reacting to Sexual Tourism  143
Generalising from the Sexual Tourism Legislation  150
Extradition  154
Conclusion  160

6 The Market and the Criminal Law  165
The Market  166
How a Criminal Law of Markets Might Look  167
Guaranteeing the Unit of Exchange  168
Manipulation and Exploitation of Markets  172
Geographical Boundaries upon a Market  176
Unacceptable Markets  177
The Limits of Commodification  185
Conclusions  190
7 Drugs

History 198
Unlawful Dealing in Drugs as a Form of Exploitation 204
Responsibility of the Various Participants 208
Decriminalisation 211
Conclusions 213

Bibliography 217
Index 245