

Fourth Edition

Simester and Sullivan's Criminal Law

Theory and Doctrine



A P Simester, J R Spencer, G R Sullivan
and G J Virgo

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SIMESTER AND SULLIVAN'S CRIMINAL LAW

This is the fourth edition of the leading textbook on criminal law by Professors Simester and Sullivan. Established as an outstanding modern account of English criminal law, it combines detailed, authoritative exposition of the law with careful exploration of its theoretical underpinnings. It is designed for use in undergraduate teaching, and previous editions have proved very popular with recent cohorts of students. The book has also established itself as a major point of reference in academic writing, here and abroad, and has been cited in appellate courts throughout the world, including the House of Lords, the High Court of Australia, the Supreme Court of Canada, and the Special Tribunal for the former Yugoslavia.

This edition features coverage of major new developments, notably the Serious Crime Act 2007; the Criminal Justice and Immigration Act 2008 provisions on self-defence and sentencing; the Corporate Manslaughter and Homicide Act 2007; and The Coroners and Criminal Justice Act 2009, including full treatment of the new law on provocation and diminished responsibility brought in by this Act. There is also a discussion of recent homicide law reform initiatives and of reform proposals in conspiracy, attempts, and complicity law.

PREFACE

There have been many changes in the substantive criminal law of England and Wales since the publication of the third edition of this work. But one thing seems set to stay. In the Annual Report of the Law Commission for England and Wales for 2010, it was formally announced that what was once one of its core aspirations was to be dropped, namely the preparation of a criminal code. The announcement itself was no surprise; the writing had been on the wall for some time. But it did bring home the fact that we must reconcile ourselves for the indefinite future to the current jumble of statutes, delegated legislation, and case law that constitutes English substantive criminal law. It is likely that some parts of this sprawling body of law will be codified on a piecemeal basis. It is certain that it will be supplemented by statutes already in gestation and, if the past is any guide to the future, by further legislation, often widely and ill-drafted, prompted by threats real and imagined. What will not happen is any attempt to structure and systematise this body of law on a holistic basis. That can only be done by creating a criminal code.

The lack of coherence and system is a major negative feature of English criminal law. We experience situations where, even as the House of Lords endorsed subjective recklessness as the minimum form of culpability for serious criminal liability, Parliament was creating new, serious offences where the culpability requirement is satisfied by proof of negligence. It has even created very serious offences with strict liability imposed as to crucial elements. In this edition we examine the recently enacted statutory crimes of encouraging and assisting crime. They overlap in inchoate form extensively with the law of complicity. Should the crime assisted or encouraged be committed, therefore, it will usually be possible to charge complicity in the offence assisted or encouraged as well as the new inchoate offences. The unreformed common law of complicity remains by the prosecutor's hand. This new edition also witnesses radical changes introduced by statute to the partial defences of provocation and diminished responsibility, changes wrenched out of the proper context of proposals for an overall reform of the law of homicide.

We could go on for some time in this gloomy vein, but that might be to counsel despair. And although frequently exasperating, the study of the criminal law remains fascinating and above all important. For criminal defendants, victims, and their families the stakes are often very high. Therefore the applicable law continues to require the closest attention. The aim of this edition is, as ever, to subject the detail of the law chosen for study to careful scrutiny, but also to address theoretical issues by way of critique of the existing law and to point ways for its improvement. We are delighted to be assisted in this task by Professor John Spencer and Professor Graham Virgo, eminent scholars who need no introduction. They join us as co-authors of the book. This new edition has benefited enormously from their involvement.

APS

GRS

Easter 2010

ABBREVIATIONS

The following abbreviations for standard textbooks and statutory materials are used in the text and footnotes.

Ashworth, <i>Principles</i>	Andrew Ashworth, <i>Principles of Criminal Law</i> (Oxford: Oxford University Press, 5th ed., 2006)
ECHR	European Convention on Human Rights
<i>Hart and Honoré</i>	H.L.A. Hart and A.M. Honoré, <i>Causation in the Law</i> (Oxford: Oxford University Press, 2nd ed., 1985)
HRA 1998	Human Rights Act 1998
Model Penal Code	American Law Institute, <i>Model Penal Code</i> (Philadelphia: American Law Institute, Revised ed., 1985).
OAPA 1861	Offences Against the Person Act 1861
<i>Smith and Hogan</i>	D. Ormerod, <i>Smith and Hogan's Criminal Law</i> (Oxford: Oxford University Press, 11th ed., 2005)
SOA	Sexual Offences Act 2003
Williams, <i>CLGP</i>	Glanville Williams, <i>Criminal Law: The General Part</i> (London: Stevens, 2nd ed., 1961)
Williams, <i>TBCL</i>	Glanville Williams, <i>Textbook of Criminal Law</i> (London: Stevens, 2nd ed., 1983)

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