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Legal Evidence and Proof

Statistics, Stories, Logic

Edited by **Hendrik Kaptein**, Leiden University, **Henry Prakken**, University of Groningen and Utrecht University and **Bart Verheij**, University of Groningen, the Netherlands

'Those who know little about criminal evidence should read this book. Those who think they are knowledgeable about it also. And all those in between. None of them will ever again sleep the restful sleep that it is easy to prove that somebody committed a crime.' – Peter J. van Koppen, Maastricht University and Free University Amsterdam, The Netherlands

'The Netherlands has a strong tradition of exploring theoretical issues relating to argumentation, narrative, statistics, evidence, the logic of proof and their interactions in legal contexts. This challenging volume builds on and extends this tradition. It engages critically with the Anglo-American literature across the common law/civil divide.' – William Twining, University College London, UK

As a result of recent scandals concerning evidence and proof in the administration of criminal justice – ranging from innocent people on death row in the United States to misuse of statistics leading to wrongful convictions in The Netherlands and elsewhere – inquiries into the logic of evidence and proof have taken on a new urgency both in an academic and practical sense.

This study presents a broad perspective on logic by focusing on inference not just in isolation but as embedded in contexts of procedure and investigation. With special attention being paid to recent developments in Artificial Intelligence and the Law, specifically related to evidentiary reasoning, this book provides clarification of problems of logic and argumentation in relation to evidence and proof.

As the vast majority of legal conflicts relate to contested facts, rather than contested law, this volume concerning facts as prime determinants of legal decisions presents an important contribution to the field for both scholars and practitioners.

Contents: Preface; General Introduction; Burdens of evidence and proof: why bear them? A plea for principled opportunism in (leaving) legal fact-finding (alone), *Hendrik Kaptein*; The fabrication of facts: the lure of the credible coincidence, *Ton Derksen and Monica Meijnsing*; Decision-making in the forensic arena, *Ton Broeders*; Analysing stories using schemes, *Floris Bex*; The evaluation of evidence: differences between legal systems, *Marijke Malsch and Ian Freckelton*; Inference to the best legal explanation, *Amalia Amaya*; Accepting the truth of a story about the facts of a criminal case, *Bart Verheij and Floris Bex*; Rigid anarchic principles of evidence and proof: anomist panaceas against legal pathologies of proceduralism, *Hendrik Kaptein*; A logical analysis of burdens of proof, *Henry Prakken and Giovanni Sartor*; 12 angry men or one good woman? Asymmetric relations in evidentiary reasoning, *Burkhard Schafer*; Index.

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