Contents

	List of contributors	X
1	Emerging technologies and the criminal law DENNIS J. BAKER AND PAUL H. ROBINSON	1
	 Introduction 1 Artificial intelligence and criminal justice 1 (a) Artificial intelligence 1 Privacy, surveillance and biometrics 7 Censoring the Internet at large to prevent online harms 21 Overview of the chapters herein 27 	
2	Financial technology: opportunities and challenges to law and regulation THE RIGHT HON. LORD HODGE	31
	 Introduction 31 Fintech 34 DLT 34 	
	 4. Contract law 40 5. Tort/delict 42 6. Property law 43 7. Separate legal personality 44 (a) How the law should be adapted 45 	
	(b) International conventions and model laws 46 (c) Regulation and regulatory sandboxes 46 8. Conclusion 48	
3	Between prevention and enforcement: the role of "disruption" in confronting cybercrime JONATHAN CLOUGH	49
	 Introduction 49 The nature of disruption 49 	

	3. The role of intelligence 51	
	4. The role of disruption in cybercrime 52	
	(a) Enforcement 54	
	(b) Technical means 57	
	(c) Intelligence gathering 59	
	5. Legislative frameworks and oversight 60	
	6. Criminal offences 61	
	7. Investigation powers 62	
	8. International cooperation 66	
	9. Conclusion 72	
	Preventive cybercrime and cybercrime by omission in China	
	HE RONGGONG AND JING LIJIA	
	1. Introduction 74	
	2. Pre-inchoate criminalisation and early harm prevention 76	
	(a) Background of the latest amendments to PRC	
10	criminal law 76	
	(b) The harm justification for criminalising pre-inchoate	
	cyberharm 78	
	3. Omissions liability for internet service providers 84	
	(a) Effective governance of cybercrime and the addition	
	of citizens' positive duties 86	
	4. The constitutional dilemma: the deviation from marketplace norms 90	
	(a) The principle of personal responsibility 92	
	5. The normativity of private censorship and pre-inchoate	
	criminalisation 94	
	6. Conclusion 95	
	Criminal law protection of virtual property in China	
	ZHANG MINGKAI AND WANG WENJING	
	1. Introduction 97	
	2. Conceptualising virtual property 98	
	(a) General concept of a virtual asset 98	
	3. Categorising virtual property 99	
	(a) The problem with virtual property in China 100	
	(b) Virtual property articles 102	
	(c) Virtual currency as property 104	
	(d) Questions raised 106	
	4. Virtual property as property 106	
	5. The principle of legality 110	

	6. China's current practice concerning virtual property 118	
	7. The value of virtual property 121	
G.	8. Conclusion 125	
	Criminalising cybercrime facilitation by omission	
	and its remote harm form in China	126
	LIANG GENLIN AND DENNIS J. BAKER	
	1. Introduction 126	
	2. Cybercrime: extending the reach of the current law 128	
	3. Liability for indirect remote harm and direct pre-inchoate harm 132	
	4. Internet service provider offences 139	
- 1	(a) Criminalisation and the duty of the ISP to act 139	
	(b) Allowing others to cause harm through failures to prevent 141 (c) Responsibility for allowing others to leak data 143 (d) Allowing the loss of missing lands and 144	
	(d) Allowing the loss of criminal evidence 144 (a) The crime of fabricating and discominating false	
	(e) The crime of fabricating and disseminating false information 146	
	5. Obstacles to applying complicity liability to cybercrimes 147	
	6. The limits of national jurisdiction 151	
	7. Conclusion 152	
,	Rethinking personal data protection in the criminal law	154
	of China	156
,	DONGYAN LAO AND DENNIS J. BAKER	
,	1. Introduction 156	
1 10 10	2. The legal status of personal data 158	
	(a) Is privacy a public good? 160	
	(b) The current law in China 165	
	3. Difference from GDPR 170	
10	4. Related criminal offences in China 173	
	5. Fair labelling and applying the right crime 175	
	6. Conclusion 177	
3	Using conspiracy and complicity for criminalising	
	cyberfraud in China: lessons from the common law	180
	LI LIFENG, TIANHONG ZHAO AND DENNIS J. BAKER	
	1. Introduction 180	
	2. Cyberfraud in China 183	
45.0	3. Remote harm offences vs. inchoate and pre-inchoate offences 190	
	4 Complicity 103	

	5.	Successive complicity in Japanese law 19/	
	6.	Conclusion 199	
9	Th	ne threat from AI	20
		DIE CREESE	
	7	Introduction of risk 201	
	14		
		The nature of the threat 202	
	3.	Definition and scope of AI 203	
		(a) Machine learning methods 204	
		(b) Learning from incomplete data 206	
		(c) Predicting behaviours and outcomes 207	
		(d) Incomprehension of decisions 208	
		Four apertures of cyberharm 208	
	5.	AI as a weapon 210	
		(a) Targeting and control enhancements due to AI 211	
		(b) Attacker persistence, covertness and effects enhancement due to AI 212	
		(c) Attack (un) mitigatability enhancements due to AI 213	
		(d) Threat to individuals 213	
		(e) Threat to businesses or organisations 214	
		(f) Threat to nations or societies 215	
		(g) Global threats 217	
	6.	AI as an environmental threat 217	
47 _		(a) The question of dual-use 218	
		(b) Vulnerability introduction 218	
		(c) Growth of threat environment 219	1-3-4
		(d) Polarisation of wealth 220	
		(e) Outliers and oversimplification 220	
		(f) Rule of law and responsibility for harm 221	
	7.	Reflection 221	
10	Al	I vs. IP: criminal liability for intellectual property	
	of	fences of artificial intelligence entities	22
	GA	ABRIEL HALLEVY	
		Introduction: the legal problem 222	
		AI entities 225	
	3.	Three models of criminal liability of artificial intelligence	
		entities for commission of IP offences 226	
		(a) Perpetration-by-Another liability 228	
		(b) Natural-Probable-Consequence liability 231	

	(c) Direct liability 234	
	(d) Combination liability 240	
4.	. Punishing AI 241	
5.	. Conclusion 244	
D	on't panic: artificial intelligence and Criminal Law 101	247
M	ARK DSOUZA	
1.	Introduction 247	
	(a) The defendant 248	
2.	. The actus reus 249	
	(a) Specific conduct offences 249	
	(b) Specific consequence offences 251	
+	(c) State of affairs offences 253	
3.	The mens rea 254	
	(a) Preliminaries 254	
	(b) Intention 255	
	(c) Knowledge/belief 256	
	(d) Recklessness and negligence 257	
	(e) Consent 259	
	(f) Contemporaneity 259	
5 0	(g) Rationale-based defences 260	
	(b) Application 261	
4.	Complicity liability 262	
W 50	Inchoate offences 263	
6.	Conclusion 264	
In	idex	265
		200