

Contents

Introduction: A Theory of Criminalization?	1
1. Criminal Law	11
1. Analytical Theory and Rational Reconstruction	11
2. Crime, Process, and Punishment	13
3. Crime	16
4. The Criminal Process	24
5. The Criminal Trial	30
6. Criminal Punishment	36
7. Criminalization	39
8. Conclusion: A Conception of Criminal Law	50
2. Legal Moralism and Public Wrongs	52
1. Principles of Criminalization?	52
2. Legal Moralism (1): Critical v Positivist	53
3. Legal Moralism (2): Positive v Negative	55
4. In Defence of Negative Legal Moralism	58
5. Towards a Positive Legal Moralism: Initial Attractions and Puzzles	71
6. 'Public' and 'Private' Wrongs	75
7. Starting with the Public: Professional Ethics	80
8. Professional Ethics and the Criminal Law	87
9. Criminal Law and Practice-Relative Reasons	91
3. Citizenship and the Criminal Law	102
1. Ambit, Jurisdiction, and Territory	103
2. The Law's Voice	109
3. Citizens, Non-citizens, and the Criminal Law	117
4. Dissenters and Recusants	127
5. Citizens and Enemies?	137
6. From Citizens to the Civic Realm	143
4. Civil Order and the Public Realm	146
1. Public Wrongs and the Public Realm	146
2. Criminal Law as Public Law	148
3. Constituting a Polity's Civil Order	152
4. The Public and the Private	161
5. Differences and Disagreements	167
6. The Possibility of Civil Order?	177
7. Civil Order, Criminal Law, and Public Wrongs	182
5. A Liberal Republic and its Criminal Law	185
1. Political Theory and Civil Order	185
2. Political Community	189

3. A Liberal Republic	192
4. A Liberal Republic's Criminal Law: (1) Norm Declarations and Calling to Account	201
5. A Liberal Republic's Criminal Law: (2) Criminal Law, Criminal Wrongs, and Civil Order	214
6. A Liberal Republic's Criminal Law: (3) Criminal Punishment and Civil Order	220
7. Recusants Revisited: Reciprocal Accountability	225
8. From Civil Order towards Criminalization	230
 6. Master Principles of Criminalization?	 232
1. The Search for Master Principles	232
2. Types of Master Principle (1): Positive v Negative	235
3. Types of Master Principle (2): Responsive v Preventive	237
4. Types of Master Principle (3): <i>Pro Tanto</i> v Categorical	249
5. Types of Master Principle (4): Thick v Thin	253
6. Master Principles and the 'Cheapness' of Reasons?	255
7. What Kind of Master Principle?	258
8. Thick or Thin Master Principles?	262
 7. Criminalization and Civil Order	 277
1. A Thin Theory of Criminalization	277
2. Responding to Public Wrongs	280
3. Criminalization 'in the Public Interest'	292
4. Varieties of Public Wrong (a): <i>Mala in Se</i> and the Construction of Public Wrongs	299
5. Varieties of Public Wrong (b): <i>Mala Prohibita</i> , Pure and Impure	313
6. Varieties of Public Wrong (c): Pre-emptive Offences	322
7. In Brief Conclusion	332
 <i>Bibliography</i>	 335
<i>Index</i>	355