

1. Record Nr.	UNINA9910778946603321
Autore	Jackson John D. <1955->
Titolo	The internationalisation of criminal evidence : beyond the common law and civil law traditions / / John D. Jackson, Sarah J. Summers [[electronic resource]]
Pubbl/distr/stampa	Cambridge : , : Cambridge University Press, , 2012
ISBN	1-107-23095-0 1-139-21019-X 1-280-56892-5 1-139-22320-8 9786613598523 1-139-09360-6 1-139-22492-1 1-139-21840-9 1-139-21531-0 1-139-22149-3
Descrizione fisica	1 online resource (xxxv, 405 pages) : digital, PDF file(s)
Collana	Law in context
Classificazione	LAW026000
Disciplina	345/.06
Soggetti	Evidence, Criminal
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Title from publisher's bibliographic system (viewed on 05 Oct 2015).
Nota di contenuto	Cover; The Internationalisation of Criminal Evidence; Series; Title; Copyright; Dedication; Contents; Foreword; Preface and acknowledgements; Abbreviations; Table of international cases; Part I: Evidentiary contexts; 1: Evidence across traditions; 1.1 Introduction: the convergence debate; 1.2 Comparative evidence scholarship; 1.3 The rationalist tradition and the rights tradition; 1.4 Towards shared evidentiary principles; 1.5 Beyond the common and civil law traditions; 2: The common law tradition; 2.1 Introduction: free proof and the common law 2.2 Common law conceptions of the law of evidence2.3 Evidence law adrift?; 2.4 Challenges to free proof; 2.4.1 The epistemic challenge; 2.4.2 The scientific challenge; 2.4.3 The constitutional challenge; 2.5

Conclusion; 3: Evidential traditions in continental European jurisdictions; 3.1 Introduction; 3.2 The development of criminal evidence law and the movement towards 'freedom of proof'; 3.3 The importance of the nineteenth-century procedural reforms; 3.4 Freedom of proof and restrictions on the doctrine in modern evidence law; 3.5 Excluding or prohibiting the use of evidence
3.6 Recent developments in evidence law
3.7 Conclusion; 4: The international human rights context; 4.1 Introduction; 4.2 The evolution of evidentiary human rights norms; 4.2.1 The right to a fair trial; 4.2.2 The equality of arms principle; 4.2.3 The right to an adversarial trial; 4.3 The process of proof and the regulation of the investigation/pre-trial phase; 4.3.1 Defence rights and the importance of the procedural environment; 4.3.2 Potential for pre-trial activities to impinge on defence rights; 4.4 Towards convergence or realignment?; 4.5 Conclusion
5: Evidence in the international criminal tribunals
5.1 Towards an international system of justice; 5.2 Problems of legitimacy; 5.2.1 Function and purpose of international criminal trials; 5.2.2 The evidentiary context; 5.2.3 Reaching agreed rules of procedure and evidence; 5.3 Common law foundations; 5.4 The ad hoc tribunals; 5.5 Rubbing points between the common law and the civil law; 5.6 The need for realignment; 5.6.1 The right to equality of arms; 5.6.2 The right to an adversarial trial; 5.7 Towards the future and the International Criminal Court; 5.8 Conclusion
Part II: Evidentiary rights
6: Fair trials and the use of improperly obtained evidence; 6.1 Introduction; 6.2 Theories explaining the exclusion of improperly obtained evidence; 6.3 Evidence obtained by way of torture, inhuman or degrading treatment; 6.3.1 Evidence obtained by way of torture; 6.3.2 Evidence obtained by way of inhuman or degrading treatment; 6.3.3 Fairness and evidence obtained by recourse to torture or ill-treatment; 6.4 Deception, coercion, traps and tricks; 6.4.1 Wiretapping and covert surveillance; 6.4.2 De facto 'interrogation' of suspects in custody
6.4.3 De facto 'questioning' of suspects not in custody

Sommario/riassunto

Although there are many texts on the law of evidence, surprisingly few are devoted specifically to the comparative and international aspects of the subject. The traditional view that the law of evidence belongs within the common law tradition has obscured the reality that a genuinely cosmopolitan law of evidence is being developed in criminal cases across the common law and civil law traditions. By considering the extent to which a coherent body of common evidentiary standards is being developed in both domestic and international jurisprudence, John Jackson and Sarah Summers chart this development with particular reference to the jurisprudence on the right to a fair trial that has emerged from the European Court of Human Rights and to the attempts in the new international criminal tribunals to fashion agreed approaches towards the regulation of evidence.