

## **Lacey, Nicola**

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### **Key words**

Nicola Lacey; contemporary legal theory; feminist legal theory; criminal law; criminal responsibility

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### **Biography**

Professor Nicola Lacey is a leading British feminist legal theory and comparative criminal law scholar. Lacey is School Professor of Law, Gender and Social Policy at the London School of Economics (LSE); affiliated to the Department of Law, Department of Social Policy and Gender Institute. This broad affiliation reflects her commitment to theorizing law as a social phenomenon (2006), drawing on social, cultural, political and economic contexts to understand the development of legal orders. She is a Fellow of the British Academy (2001), an Honorary Fellow of New College (2007) and University College (2010), Oxford, and an Honorary Bencher of the Inner Temple (2011). She held a Leverhulme Major Research Fellowship 2006-2009, was awarded the Hans-Sigrist Prize (2011), for work on the rule of law in

modern societies, and the Swiney Prize (2004) for her biography of Herbert Hart, *A Life of H.L.A. Hart: The Nightmare and the Noble Dream* (2004a).

Lacey earned her LLB Law Degree at University College London (UCL) and Bachelor of Civil Law Degree at University College, Oxford. She began her career at UCL in 1981, moving to New College, Oxford, in 1984. She was appointed Professor of Law at Birkbeck College, University of London, in 1995, and Professor of Criminal Law and Legal Theory at LSE in 1998. Lacey was a Senior Research Fellow at All Souls College, Oxford and Professor of Criminal Law and Legal Theory at The University of Oxford 2010-13. Selected visiting appointments include: Harvard; Yale; The Australian National University; Humboldt University and Stanford. Notable prestigious lectures include: the Leon Green '15 Lecture in Jurisprudence 2004 (University of Texas); the Clarendon Law Lectures 2007 (University of Oxford); the Hamlyn Lectures 2007 (University of Exeter); and the Bernstein Lecture in Comparative Law 2013 (Duke University).

### **Criminal law, penal philosophy and legal theory**

Lacey considers the attribution of criminal responsibility in her book *In Search of*

*Criminal Responsibility: Ideas Interests and Institutions* (2016a). Lacey's

characteristically interdisciplinary approach draws together criminal law, legal theory, social theory and political economy. The book displays her interest in historical aspects of criminal law, and its development. Despite modern criminal law requirements of *actus reus* (action) and *mens rea* (intention), she argues that character-based criminal responsibility-attribution persists in character evidence and status offences. Lacey advances a new account of the conceptual structure of

criminal responsibility, influenced by developments in the institutions and social functions of criminal law. This long-term project continues themes of character and criminal responsibility raised in *Women, Crime and Character: In Search of Criminal Responsibility* (2008a).

Other recent work on criminal justice includes a normative reconstruction of blame and analysis of the implications for criminal justice, developed jointly with Hanna Pickard (Lacey and Pickard 2013; 2015a). This collaboration also produced reflections on the salience of abstract ideas of proportionality in legal and political discourse (Lacey and Pickard 2015b; Lacey 2016b). Lacey has co-authored criminal law and jurisprudence texts for students and scholars of law at all stages (Lacey 2002; Lacey and Jackson 2002; Braithwaite et al. 2004; Lacey 2004b; Lacey et al. 2003).

Lacey's first monograph *State Punishment: Political Principles and Community values* (1988), a philosophical work employing a communitarian perspective, is widely recognized as an excellent, accessible and concise introduction to core philosophical perspectives on the justification of criminal punishment. Punishment is placed in the context of political questions of obligation and the role of criminal law; and socially situated as a socially constructed system. Lacey advances a theory of punishment centered on the values of the particular community, linking punishment to the recognition and maintenance of many community members' commitments to these values.

*The Prisoners' Dilemma: Political Economy and Punishment in Contemporary Democracies* (2008b), Lacey's 2007 Hamlyn Lectures, offered an innovative analysis of penal practice trends, against a political economy backdrop. 'Penal popularism', rising prison populations and penal severity in conjunction with popular anxiety about crime, she argues, is not inevitable for contemporary democracies. Understanding institutional differences as preconditions for penal tolerance or moderation provides scope to consider reform options for particular systems, appropriate to political context. Her 2007 Clarendon Lectures, *Women, Crime, and Character* (2008a), drew together philosophy, social history and classical literary representations of the female offender. This interdisciplinary approach illuminates a radical shift in literary perceptions of women's agency and the legal attribution of criminal responsibility across the 18<sup>th</sup> and 19<sup>th</sup> centuries. The lectures discuss the implications for the criminalization of women, suggesting that some link to character remained, modified by some social environment considerations, in the attribution of criminal responsibility. These themes are picked up in her recent work. This volume bridges between Lacey's interests in a critical understanding of the criminal law and its historical development, to her interests in feminist theory.

### **Feminist legal theory**

Professor Lacey's prominent work in feminist legal theory was inspired during her early career by the 'Women Law Teachers Group' at UCL, and influenced by leading feminist scholars, including Drucilla Cornell, Catherine McKinnon, Judith Butler, Luce Irigaray, Katherine O'Donovan and Carol Smart. *Unspeakable subjects: Feminist Essays in Legal and Social Theory*, (1998), considers the conceptual framework of

legal practices, traversing public law, criminal law and anti-discrimination law, and critiques the gendered nature of the structure and methods of law. As with much of Lacey's broader work, the essays critically examine a wide array of socio-legal problems within social contexts that showcase the utility of using a feminist legal lens. Practical legal examples illustrate these issues, including sexual offences, pornography restrictions and race relations law. The book covers a range of conceptual topics, including equality, freedom, justice and rights, and the construction of the public/private divide. Lacey's innovative discussion of the construction and socio-legal impact of the public/private divide provides a point of engagement between feminist and mainstream legal theory, drawing critical feminist thought into mainstream debate. Lacey challenges understandings of what is possible by developing her critique to offer alternatives. This normative reconstruction allows a reconsideration of the conceptual framework of law and legal orders.

**Other writing**

Professor Lacey is the highly acclaimed biographer of H. L. A. Hart, having been an acquaintance of the Hart family. Lacey met the then retired Professor Hart during her time as a graduate student at University College, Oxford in the late 1970's. Lacey was invited to compile the autobiography in 2000, and given access to Hart's unpublished personal papers, by his widow, Jennifer Hart; following Herbert Hart's death in 1992. Although a departure from academic writing, Lacey's award-winning biography of Hart (2004a) provides detailed insight into his life, and context for his

intellectual work. This work weaves into her broader legal theory project, given Lacey's emphasis on the role of social contexts in the shaping of legal orders.

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