

Index

Footnotes are indicated by n. after the page number.

```
abnormality of mind/mental functioning,
                                                 Bentham, Jeremy, 114
       184-185, 191-200, 252
Aboraya, Ahmed, 211
abuse, trauma from. See trauma
addiction, 147-149, 179, 195, 199-200, 203
Alexander, Larry, 18
Allsopp, Kate, 211
Anderson, Joel, 74
Antill, Gregory, 123
Arenella, Peter, 156-157
Ashworth, Andrew, 224
Austin, John L., 259n42
Australia, partial excuse doctrines, 158-159,
       165-166, 265-266
autonomy and voluntarism. See also rational
  behavioural science questioning, 94
  circumstances undermining. See
       circumstances undermining
       autonomy/rational agency
  duress defence, 85n27, 86, 228, 253-254,
  feminist theory questioning, 57
  liberal account, 53-54
  recognitive justice to foster, 74-76, 139-140
  volitional capacity assessments, 190-191,
       243-244
  voluntary act requirement, 225-230
  vulnerability theory questioning. See
       vulnerability theory
```

```
Bargh, John A., 94
Baron, Marcia, 262
Barzun, Charles L., 237, 246
Bazelon, David L., 1–2, 219, 222
```

```
Bergelson, Vera, 261,
Berman, Mitchell N., 81-82, 102
Berry, Zachariah, 90
Billis, Emmanouil, 81
blame assessment. See culpability evaluation
Blom Cooper, Louis, 18
Bock, Stefanie, 18
Bottoms, Anthony E., 140
bounded causal theory of partial excuse
  critiques addressed by. See causal excuse
       theories, critiques of
  diminished responsibility, application to,
       218-223
  inculpation versus exculpation agency,
       225-230, 236
  outlined, 9-10, 222, 244-246, 254
  summary of main arguments, 5, 216-218,
       280
  UPD based on. See Universal Partial
       Defence (UPD)
Braithwaite, John, 103
Brettschneider, Corey L., 39n156
Brink, David O.
  on retributivism, 16-17, 44-45, 83n16, 84,
       95, 99, 128, 175-176,
  on stages of criminal proceedings, 169
  on verdicts, 175-178
Brown, Darryl K., 19n50
Buchhandler-Raphael, Michal, 208
```

Canada, diminished responsibility doctrine, 157

capabilities approach to rational agency,

32-33, 39-40



326 Index

capacity assessments defences requiring. See diminished responsibility; insanity defence emotional capacity, 58, 193, 253 for Universal Partial Defence (UPD), 191-194, 202-203, 205-208 volitional capacity, 190-191, 243-244 Caruso, Gregg D., 101 Carvalho, Henrique, 119-120, 126-127 causal excuse theories, critiques of absolutist view of determinism underlying, 88, 149-150, 221-222, 234, 237-238, bounded causal theory to address. See bounded causal theory of partial excuse compatibilist view, 178-179, 224-225 crime response not universal, 217, 238-241 evidential problems, 217-218, 241-244 universal (full) legal excuse claim, 216-217, 230-238 Chalmers, James, 153, 266, 273-274 Chamberlen, Anastasia, 119-120, 126-127 character-based accounts of criminal responsibility, 21, 25, 124, 228 Chartrand, Tanya L., 94 Chiao, Vincent, 14, 32-33, 39-40, 112 Child, John, 226-228 childhood trauma. See trauma Chiswick, Derek, 198 Christie, Nils, 176 circumstances undermining autonomy/ rational agency addiction, 147-149, 178-179, 195, 199-200, 203 cultural contexts, 255-258, 270-271 determinism critique. See causal excuse theories, critiques of developmental immaturity, 185, 201-203 provocation. See provocation/loss of control social deprivation. See social deprivation trauma. See trauma civil order objective of criminal law, 14-15, 29-30, 92 clinical model of criminal justice, 58-59, 101, 104-105, 111-112 Coca-Vila, Ivó, 34 Cohen, Stanley, 120 communicative function of criminal law, 10112, 18-19, 103-104, consequentialist accounts of criminal law, 15-16, 18-19, 102-103, 114, 118

contractarianism (social contract theory), 24-25, 35, 39 control theory, 21 Coppola, Federica on emotional capacity, 253, 253n19 partial excuse proposals, 182, 193, 2031131, on rational agency, 52-53 Cornford, Andrew, 169n130 Corrado, Michael, 221-222 Crewe, Ben, 135 Crichton, John H. M., 198 criminal law, objectives of. See also public nature of criminal law civil order, 14-15, 29-30, 92 consequentialist accounts, 15-16, 18-19, 102-103, 114, 118 moral order. See moral dimension of criminal law recognitive justice. See recognitive justice relational justice, 18n38, 103 retributivist account. See retributive justice social justice. See social justice objective of criminal law victim remediation, 104, 124-125 criminal responsibility absolute or scalar, 94-95, 105, 145, 178-179 assessment of. See culpability evaluation autonomy assumption. See autonomy and voluntarism causal theories. See causal excuse theories, critiques of character-based accounts, 21, 25, 124, 228 collective responsibility theories, 30 diminished. See diminished responsibility moral responsibility and, 20-22, 25-26, 54, 'non-affective' blame recognition, 58-59 rational agency assumption. See rational therapeutic model (responsibility without blame), 58-59, 101, 104-105, 111-112 time and space contingency of, 60-61 criminalisation, debates on, 15, 27-29, 108-110 critical feminist criminology, 56-57, 73, 262 Crocker, Phyllis, 169-170 culpability evaluation. See also criminal responsibility at different stages of criminal proceedings, 169-171



> Index 327

> > substantial impairment requirement,

formalism claim for, 120 fundamental attribution error of decisionmakers, 88-94 by juries. See jury decision-making mens rea assessments, 124, 156-157 multivalent verdicts, 175-178, 271 parsimony problem. See parsimony principle proportionality problems. See proportionality problems real-world approach to, 42-44, 60 retributivist paradigm, hegemony of, 17-23 RPA. See Real Person Approach (RPA) social justice objective, need for. See social justice objective of criminal law state values underpinning, 250 UPD. See Universal Partial Defence (UPD) cultural contexts, 255-258, 270-271

Dagan, Netanel, 103 Darjee, Rajan, 198 Darwall, Stephen L., 61-62 Delgardo, Richard, 219 Dell, Susanne, 167 Dershowitz, Alan M., 200 'desert', conflicting ideas of, 24-25 determinism critique. See causal excuse theories, critiques of deterrence theories, 15-16 developmental immaturity, 185, 201-203 diminished responsibility abnormality of mind/mental functioning requirement, 184-185, 191-200, 252

bounded causal theory account, 218-223 causal link requirement, 206-207, 268-269 cross-jurisdictional variations, 156-160, 182, 195-198 evolution of doctrine, 151-155, 194-195 flexible applications by courts, 87, 181-182,

185–186, 195, 212–213, 221 normative function of jury, 208-209,

213-215 partial defences generally, 53, 145-146, 155-156, 167-168, 179-180

provocation defence, proposed merger with, 266, 273 psychiatric expert testimony, limitations of,

208-213 recognised medical condition requirement,

scalar notion of criminal responsibility acknowledged by, 171-172

203-205, 251-254 Universal Partial Defence (UPD) approach, template for, 5, 182-185, 191-194, 202–203, 205–208, 215, 269–270 volitional capacity assessments, 190-191, 243-244 disproportionality. See proportionality problems distributive justice, 10, 23-27, 38-39 domestic abuse cases, 164-167, 257-260, 263-265

Dressler, Joshua, 88, 160–161, 231, 262–263 Dripps, Donald A., 91–94

due process rights, 39-40

Duff, Anthony

on criminal law objectives, 14, 29 on parsimony, 114

on public nature of criminal law, 33 on rational agency, 31, 122n83,

on retributivism, 10n2, 102-103 duress defence, 85n27, 86, 228, 253-254, Durham rule ('product' test of insanity),

232-234

Edgely, Michelle, 35-36 emotional capacity assessments, 58, 193, 253 emotional disturbance defence. See provocation/loss of control end state justice theory, 38 Endicott, Timothy, 186 ETHOS project, 42

exculpation versus inculpation agency, 225-230, 236

excuse doctrine

bounded causal theory. See bounded causal theory of partial excuse

Brink's account, 44-45

critiques of causal theories. See causal excuse theories, critiques of

full excuses. See duress defence; insanity

partial excuses. See diminished responsibility; provocation/loss of control; Universal Partial Defence (UPD)

proportionality problem of, 84-88, 91-92,

situational vulnerability and excuse, 71-72

fair opportunity theory, 21 fair trial rights, 39-40



328 Index

Falk, Patricia J., 217, 235, 241–242
Farmer, Lindsay, 14, 28–30, 55, 133, 218–219
Feldman, Guy, 127, 131
feminist criminology, 56–57, 73, 262
Ferzan, Kimberly K., 18
Fineman, Martha A., 63, 66, 68–69, 77
Fingarette, Herbert, 177
Fletcher, George P., 27–29, 34–35, 88
formalism claim for culpability evaluation, 120
Foucault, Michel, 132
Fraser, Nancy, 40–44, 134
Frederickson, Joel, 90
Fricker, Miranda, 139
Fulford, K. W. M., 210
fundamental attribution error, 88–94

Galoob, Stephen R., 20155
Garland, David, 132
gender-based theories of crime, 239–240, 262
gender-based violence cases, 164–167,
257–260, 263–265
Germany, excuse doctrines, 178
Gibson, Matthew, 213
Gordon, Gerald H., 174
Green, Stuart P., 1013
guilt. See criminal responsibility

Hallett, Nicholas, 189-191, 206-207 Hanson, Jon, 59 Harré, Rom, 56 Hart, H. L. A., 16n24, 220, 226n34, Hart, Henry M., 12n8, 20, Hasse, Anne Fingarette, 177 Heffernan, William C., 24-25 Heider, Fritz, 89 Herring, Jonathan, 56, 65 Higgins, Raymond L., 91, 138 Hill, Rachael, 170 Hirsch, Andrew von, 81, 113 Honneth, Axel, 70, 74-75, 77 Honoré, Tony, 13, 220, 226n34, 228, honour-based violence, 257-258, 261-262 Horder, Jeremy, 218-219, 262 Hoskins, Zachary, 35n137 human dignity studies, 66-67 Husak, Douglas, 99, 102, 105, 123

idealised account of rational agency. See rational agency, liberal account Ievins, Alice, 135 Ikeda, Janice, 131 immaturity, developmental, 185, 201-203 inculpation versus exculpation agency, 225-230, 236 inherent vulnerability of human beings, 66-67, 70-71, 96, 147 insanity defence cross-jurisdictional variations, 53, 86, 232-234 generally, 22, 239-240 jury hesitance to acquit, 149, 213, 267 M'Naghten Rules, 53, 85-87, 154, 188-189, 243 instrumentalist accounts of criminal law, 15-16, 18-19, 102-103, 114, 118 intoxication, 199-200 Irarrázaval, Cristián, 34 Ireland diminished responsibility defence, 154, 187, 195-196, 2041132, 207-208, 268-269, insanity defence, 53, 86 provocation/loss of control defence, 161-162, 264n73, sentencing practice, 272 'irresistible impulse' assessments, 190-191, 243-244

Jaworska, Agnieszka, 141 Johnston, E. Lea, 252110, 272, jury decision-making bias affecting, 92-94, 273-274 insanity defence, hesitancy to acquit, 149, 213, 267 normative, 77, 208-209, 213-215, 232-234, 267-269, 273-275 just deserts idea, 83–84 justice, criminal. See criminal law, objectives of Katz, Leora D., 103 Kaye, Anders on causal excuse theories, 234-238 on partial defences, 151n18, 179, 222, on situational vulnerability, 60 Kelly, Erin, 27-28, 31-32, 100-101, 112 Kenny, Anthony, 224n31 King, Anna, 118 Knijn, Trudie, 39–41, 43 Knobe, Joshua, 124 Knust, Nandor, 81 Kubota, Jennifer T., 92 Kymlicka, Will, 36, 176n165,

Jackson, Bernard S., 176



Index 329

Lacey, Nicola	misrecognition of criminal subjects. See also
on criminal law as state power, 18, 55	recognitive justice
on culpability evaluation, 124, 218	doctrinal mechanisms of, 120-125, 135-137
on punishment (with Pickard), 32, 35, 100,	injustice arising from, 41, 68-69, 116-117,
128	121–122, 134–135
therapeutic model of criminal justice (with	pathogenic vulnerability arising from. See
Pickard), 58–59, 101, 104–105,	pathogenic vulnerability
111–112	punitiveness giving rise to, 34, 63, 117–125
Laird, Karl, 214–215	Mitchell, Barry, 189–190, 195, 206, 266n78,
Lambert, Elisabeth W.	273,
on partial excuse proposals, 148, 182, 193,	mitigation at sentencing, 150–151, 167–172,
231–232, 250, 270	174
poverty/scarcity defence, 207, 254n21,	M'Naghten Rules. See under insanity defence
255,	Moore, Michael S.
Lemke, Thomas, 132–133	on causal excuse theories, 224, 229–231,
Lepianka, Dorota, 39–40, 43	
	235–236,
Leverick, Fiona, 274	on retributivism, 21, 45 moral dimension of criminal law
Levine, Kay L., 257, 270–271	
Lewis, Rachel, 119–120, 126–127	communicative function, 10n2, 18–19,
liberal account of rational agency. See rational	Damuell's respect thesis 6. 6.
agency, liberal account	Darwall's respect thesis, 61–62
Liebenberg, Linda, 131	emotional capacity framed in moral terms,
Lippke, Richard L., 114–116	193, 253
Loader, Ian, 111, 113, 115	moral essentialism risk of culpability
Locke, John, 35	evaluation, 120–125
loss of control defence. See provocation/loss of	moral responsibility for wrongdoing, 20–22,
control	25–26, 54, 59
Loughnan, Arlie, 54, 57, 60–61, 159	normative decision-making by juries, 77,
	208–209, 213–215, 232–234, 267–269,
Mackay, Ronnie	273-275
on diminished responsibility (with	political dimension, relationship to, 28–29,
Mitchell), 189–190, 195, 206, 266n78,	32
273,	of punishment, 21, 31–32
on insanity defence, 86	retributive justice, morality-based critiques
Mackenzie, Catriona, 68–72, 75, 77, 96	of, 100–102
marginalisation of offenders, 30, 34-35, 72-73,	social justice accounts of, 31
126–128, 133–134, 136	Morris, Norval, 113–114, 235
Maruna, Shadd, 118	Morse, Stephen J.
masculinity, criminogenic, 239-240, 262	on causal excuse theories, 231-232,
Matravers, Matt, 51–52	235–236, 239–240, 242–243
Matthews, Roger, 117	on culpability evaluation, 94-95, 170-171,
McEwan, Jenny, 210	231
McNeill, Fergus, 135, 140n167,	partial excuse proposals, 148, 182, 191-193,
McPherson, Rachel, 264n71	202–203, 260, 269, 272n99,
mens rea assessments, 124, 156–157	on rational agency and volitional capacity,
mental health disorders	52113, 53, 252,
defences based on. See diminished	multivalent verdicts, 175–178, 271
responsibility; insanity defence	Munro, Vanessa E., 274
prisoners with, 37, 86–87, 239–240	, , , , , , , , , , , , , , , , , , ,
mercy killing cases, 208, 212–213, 221, 275	Naffine, Ngaire, 57, 66, 133
Miller, David, 22–24	Nathan, Rajan, 180, 214



330

Nelken, Dana K., 128 neoliberal responsibilisation discourse, 128-134

New Zealand, partial excise doctrines, 159-160, 166-167

Norman, Wayne, 36, 176n165,

normative decision-making by juries, 77,

208-209, 213-215, 232-234, 267-269,

273-275

Norrie, Alan

on diminished responsibility, 153-154, 184 on rational agency, 26, 55-56, 121

on retributivism, 19

not proven verdict (Scotland), 175n153, 178,

274n110,

Olusanya, Olaoluwa, 170

O'Malley, Tom, 20

Ormerod, David, 214-215

overcriminalisation, debates on, 15, 27-29,

108-110

Parekh, Bhikhu, 256

parsimony principle. See also proportionality principle

definitions and role, 112-116 for Real Person Approach (RPA), 108-115,

punitiveness (absence of parsimony). See under misrecognition of criminal

subjects

scholarly discourse trends, 109-112

summary of main arguments, 63, 107-108,

partial defences. See diminished responsibility; provocation/loss of control; Universal

Partial Defence (UPD)

pathogenic vulnerability. See also vulnerability theory

'abnormality' tests contributing to, 184-185, 191–200, 252

definition, 72-73

marginalisation of offenders, 30, 34-35,

72-73, 126-128, 133-134, 136

mental health disorders, prisoners with, 37, 86-87, 239-240

punitiveness reconceptualised as, 108-117, 125-126

therapeutic model of criminal justice,

58-59, 101, 104-105, 111-112 penal parsimony. See parsimony principle Index

Perlin, Michael L., 267

personhood in criminal law

autonomy assumption. See autonomy and

voluntarism

generally, 50-52

idealised under liberal account, 36-37

misrecognition injustice. See misrecognition

of criminal subjects

'non-ideal' theories of, 37-38, 42

psychiatric expert evidence and, 211-212

rational agency assumption. See rational

agency

relational theories of, 54-62

vulnerability and personhood, 66-67,

70-71, 96, 147

Petherbridge, Danielle, 70

Pettit, Dean, 124

Pettit, Philip, 103

Pfeffer, Elizabeth Gordon, 118n57

Pickard, Hanna

on punishment (with Lacey), 31-32, 35,

100, 128

therapeutic model of criminal justice (with

Lacey), 58-59, 101, 104-105, 111-112

Pleasants, Nigel J., 237

Porro, Costanza, 136

post-traumatic stress disorder. See trauma

poverty. See social deprivation

'product' test of insanity (Durham rule),

232-234

proportionality principle. See also parsimony

principle

just deserts idea and, 83-84

for Real Person Approach (RPA), 82-83,

95-100

significance and meaning, 80-82

proportionality problems

degrees of desert, failure to recognise,

94-95, 105, 145, 178-179

excuse doctrine, disproportionate blame

arising from, 84-88, 91-92, 94-95

summary of main arguments, 4, 62-63,

79-80, 105-106

vulnerability, failure to recognise, 97

provocation/loss of control

controversies respecting, 164-167, 258-259

cross-jurisdictional variations, 160-164, 182,

196-197, 260-261

diminished responsibility defence, proposed

merger with, 266, 273

generally, 152, 183, 240



Index 331

loss-of-control test, 191, 259-261, 264n73, partial defences generally, 53, 145-146, 155-156, 167-168, 179-180 Universal Partial Defence (UPD) of, 258-266 volitional capacity assessments, 190-191, psychiatric expert testimony, limitations of, 208-213 PTSD. See trauma public nature of criminal law citizen protections, offenders' entitlement, 33-36, 39-40, 44-45 culpability evaluation, state values underpinning, 250 political theory approach generally, 27-33 public law principles. See parsimony principle; proportionality principle state duties, recognitive justice account. See recognitive justice punishment. See also sentencing communicative function of, 10n2, 18-19, 103-104 consequentialist account of, 15-16, 114 moral dimension, 21, 31-32 as retribution. See retributive justice parsimony principle. See parsimony principle pathogenic vulnerability arising from. See pathogenic vulnerability punitiveness. See under misrecognition of criminal subjects therapeutic model, 58-59, 101, 104-105, 111-112 Ramsay, Peter, 70-71, 218-219 rational agency. See also autonomy and voluntarism capabilities approach, 32-33, 39-40 circumstances undermining. See circumstances undermining autonomy/rational agency cognitive bias errors, 88-95 emotion theory questioning, 58, 193, 253 liberal account. See rational agency, liberal

vulnerability theory questioning. See vulnerability theory rational agency, liberal account as idealised construct, 36-37 misrecognition injustice arising from. See misrecognition of criminal subjects neoliberal responsibilisation, link with, 128-134 problems arising from. See parsimony principle; proportionality problems reasons-responsiveness thesis, 31, 52-53, 94-95, 122-125, 192 retributivist underpinnings, 25-27 variations of, 31-32 Rawls, John, 23-37 Real Person Approach (RPA) determinism critique. See causal excuse theories, critiques of feasibility and reconciliation with retributivism, 76-77, 80, 97-105, 140-141 objective of, 12-14, 23, 42, 62-63 parsimony principle aligned with, 108-115, personhood issues. See personhood in criminal law proportionality principle aligned with, 82-83, 95-100 real-world approach to culpability evaluation, 42-44, 60 recognitive justice promoted by. See recognitive justice summary of main arguments, 3-4, 49-50, 77-78, 277-279 UPD proposal. See Universal Partial Defence (UPD) vulnerability recognition for. See vulnerability theory reasons-responsiveness thesis, 31, 52-53, 94-95, 122-125, 192 recognitive justice. See also social justice objective of criminal law future-orientated, 74-76, 139-140 generally, 17, 97, 137 mechanisms to promote. See Real Person Approach (RPA); Universal Partial Defence (UPD) misrecognition injustice. See misrecognition of criminal subjects present-orientated, 138-139 respect thesis (Darwall), 61-62 social justice conceived as, 38-42, 76

neuroscientific views on, 22

59-60, 2401110,

53, 189–190

partial defences, lower threshold permitted,

social psychology studies questioning,



332

Index

Reeves, Craig, 56-57 Scots law relational justice, 18n38, 103, not proven verdict, 175n153, 178, 274n110, relational theories of personhood, 54-62 partial excuse doctrines, 151-153, 164-165, remorse, 19, 169, 193, 253 186-187, 196-198, 202, 204-205 representative justice, 40 selfhood. See personhood in criminal law republican theories of criminal law, 103, Sen, Amartya, 39, 44 sentencing. See also punishment 114-115 respect thesis (Darwall), 61-62 mitigation at, 150-151, 167-172, 174 responsibilisation discourse, 128-134 Universal Partial Defence (UPD) success responsibility assessment. See culpability and, 271-273 evaluation Shaver, Kelly G., 89, 93 retributive justice Simester, Andrew P., 209n164 at culpability evaluation stage, 17-23, Singh, Sarah, 73 situational vulnerability, 71-72, 91-92, 96 76-77, 80, 97-105 definition and types, 10, 16-17, 98-99, situationist psychology, 59-60 Slovenko, Ralph, 199 102-102 distributive justice as main competing Snyder, C. R., 91, 138 social contract theory, 24-25, 35, 39 paradigm, 23-27, 38-39 just deserts idea, 83-84 social deprivation. See also causal excuse morality-based critiques of, 100-102 theories, critiques of causal theories based on, specific critiques, parsimony, retributivist accounts of, 110, 118 punitiveness. See under misrecognition of 231-232, 237-238 criminal subjects indices measuring, 242 rational agency assumption. See rational Lambert's poverty/scarcity defence, 207, agency 254N21, 255, resistance to criminal justice reforms, 87-88, neoliberal responsibilisation discourse on, 131-134 RPA and UPD proposals reconciled with, situational vulnerability concept, 71-72, 76-77, 80, 97-105, 140-141, 228-229 91-92, 96 Ripstein, Arthur, 22n63 social justice objective of criminal law Ristroph, Alice, 21-22, 21n57, 137, distributive justice, social justice equated Roberts, Julian, 103 with, 23-27, 38-39 Robinson, Paul political obstacles to acknowledgement, 30 public law-based rationale. See public on causal excuse theories, 239-241, 266 partial excuse proposals, 177, 183, 207, 250, nature of criminal law retributive justice hegemony, passivity 267-268, 274-275 on provocation/loss-of-control defence, 163, towards, 17-25 273 social justice as recognition. See recognitive 'vengeful desert' idea, 124 justice Rosen, Michael, 67 summary of main arguments, 1-3, 9-12, Ross, Lee, 89-90, 92-93 45-46 'rotten social background' defence. See social Sola, Javier C., 68-69, 71-73, 75-76 deprivation South Africa, provocation defence, 163-164 stigmatisation of offenders, 30, 34-35, 72-73, RPA. See Real Person Approach (RPA) Rui, Jon Petter, 81 126-128, 133-134, 136 substantial impairment, 203-205, 251-254 scapegoating offenders for social wrongs, 126-127, 133-134 Tadros, Victor, 22n63, 240n110

Tetlock, Philip E., 92

therapeutic model of criminal justice, 58-59,

101, 104-105, 111-112

Scheffler, Samuel, 25

Schulhofer, Stephen J., 11

Schmitt, Carl, 35



Index 333

summary of main arguments, 2-3, 5-6, Thorburn, Malcolm, 28, 31 145-147, 179-180, 215, 249-250, Tonry, Michael, 81, 114, 116n47, transitional justice, 38 275-276, 280-281 test for, 249-251 clinical diagnosis problems, 199, 211 substantial impairment, 251-254 emotional capacity assessments taking arising from condition or circumstance, account of, 58, 193, 253 254-255, 266-267 as partial excuse, current recognition, 170, such that reduced responsibility 195, 198, 200-201 recognition is morally appropriate, as partial excuse, proposed recognition, 203, 267-260 universality of, 73, 147-149, 171-172, 202 263-265 trivalent verdicts, 175-178, 271 Tsee Chee, Kuan, 244 Valentini, Laura, 37–38, 66n88, verdicts, multivalent, 175-178, 271 Ungar, Michael, 131 victim-centred criminal justice, 104, 124 United States volitional capacity assessments, 190-191, cultural defence, 257-258 243-244 insanity defence, 232-234 voluntarism. See autonomy and voluntarism partial excuse doctrines, 156-158, 162-163, vulnerability theory 182, 201, 260-261 autonomy questioned by, 55-56, 69, 71-72 concept of vulnerability, 64-66 Universal Partial Defence (UPD). See also Real Person Approach (RPA) generally, 42, 63 bounded causal theory for. See bounded Mackenzie's typology applied to culpability causal theory of partial excuse evaluation, 69-73 non-recognition of vulnerability as capacity assessment for, 191-194, 202-203, 205-208 proportionality problem, 97 circumstances considered for. See paternalism risk arising from, 77 circumstances undermining pathogenic vulnerability. See pathogenic autonomy/rational agency vulnerability personhood and vulnerability, 66-67, complexity objection, 273-275 coordination objection, 172-178 70-71, 96, 147 criminal responsibility, scalar concept rational agency questioned by, 67-69 requirement, 178-179 situational vulnerability, 71-72, 91-92, 96 current partial defences. See diminished responsibility; provocation/loss of Walker, Nigel, 209-210 control Ward, Tony, 214 Wasik, Martin, 167–168, 172–174 evidential issues, 269-271 feasibility and reconciliation with Watson, Gary, 123n85 retributivism, 76-77, 105, 228-229 'weak' form retributivism, 98–100 full excuse alternative, 149-150 Williams, Glanville, 213, 244 mitigation at sentencing alternative, Wilson, William, 243 Wolf, Susan, 123n85 150-151, 167-172, 174 objective of, 12-13, 41, 149 Wolff, Jonathan, 42 outcomes of successful UPD, 271-273 Woodward, Kitaj, 159–160 recognitive justice promoted by, 76, Zehr, Howard, 20 137-138