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Elements in Philosophy of Law

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THE PHILOSOPHY OF LEGAL PROOF

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The Philosophy of Legal Proof

Elements in Philosophy of Law

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Abstract: Criminal courts make decisions that can remove the liberty and even the lives of those accused. Civil trials can cause the bankruptcy of companies employing thousands of people, asylum seekers to be deported, or children to be placed into state care. Selecting the right standards when deciding legal cases is of utmost importance in making sure those affected receive a fair deal. This Element is an introduction to the philosophy of legal proof. It is organised around five questions. First, it introduces the standards of proof and considers what justifies them. Second, it discusses whether we should use different standards in different cases. Third, it asks whether trials should end only in binary outcomes – e.g., guilty or not guilty – or use more fine-grained or precise verdicts. Fourth, it considers whether proof is simply about probability, concentrating on the famous ‘Proof Paradox’. Finally, it examines who should be trusted with deciding trials, focusing on the jury system.

Keywords: legal proof, evidence law, trials, juries, beyond reasonable doubt

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