
The principles of the English criminal law.

This essay is going to explain and judge the rules and standards of criminal law in the light of certain guiding principles of restraint in the construction and use of the criminal law. Harm The principle of harm presents a concept of crime where a conduct must only be banned if it results in harming another person. This principle put a standard in place for what types of conducts a liberal should be able to rightly forbid. The harm principle does not say that conducts that are harmful, should be prohibited; rather, it says that harmful conducts alone should be able to be prohibited.[1] JohnStuart Mill's essay, 'on liberty,' regarding the principle of harm argues that: 'Power should only be exercised over civilians against their will if the reason is to prevent harm to others.' Thus, the idea behind this principle is that individuals should be able to do as they please if their actions do not harm the interest of others.

Autonomy The principle of individual autonomy is one of the crucial concepts in the justification of criminal laws. An individual's right of living his or her life as he or she pleases (The right or autonomy). This principle is used in criminal law to forestall somebody's exercise of autonomy from obstructing another individual's autonomy. The criminalization of certain conducts restricts our option by the construction of the legal code. In relation to criminalizing failures to act, the law is hindering the individuals' decisions and demanding an explicit course of conduct. Henceforth, if we perceive autonomy as something that should be perpetuated and increased, criminal offenses, especially those regarding omissions liability, that restrains our autonomy ought to be kept to a minimum. Welfare Autonomy is also the primary approach for the advancement choice' as a critical component of both legal and moral blame.

As a result, conducts that the defendant can not evade must not be criminalized. The most fundamental implications of this would rule out the legislation of, for example, sleeping and respiration, where we carry out these actions without choice. Accordingly, the fairness or criminalizing unrealistic choices is debatable. In other words, where the defendant commits an offense to avoid threatened severe violence, the defense or duress is applied.

Notwithstanding, duress is not in any way permitted as a defense to murder, irrespective if it is highlighted that a reasonable person would have responded within the same manner, and therefore the defendant's response was in a way an inevitable response.[2] Functions of PunishmentThis is the principle that people ought to solely be guilty of conduct that they are accountable. In other words, individuals must not be guilty for conduct that they are not responsible for or had no control over. This principle can be infringed if the legal code punished an individual for the behavior he carried out while having an episode from an epileptic fit, for instance. This would be unreasonable as the individual did not have the necessary men's rea as

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he was not in the right state of mind to make the decision for the actions he carried out and therefore didn't intend on causing harm. The principle of minimum criminalization proposes that criminal law ought to prohibit a certain conduct only if it is compulsory. This is due to several logical reasons.

Firstly, there is a limitation on the number of individuals that can be incarcerated due to lack of space and facilities in prisons. Creating more offenses regularly would cause courts and prisons to become overcrowded. More so, criminalizing more serious conduct carries the message that there are certain conducts that aren't simply just immoral, but immoral enough to result in criminal proceedings. Criminalising conducts that aren't as serious will remove the importance of this message and will not be as effective in reducing unpleasant social behaviors.

Civil proceedings and gratifying good behaviors are other ways in which the law deals with immoral behavior. Therefore, having such many statutes that create criminal offenses is questionable. Minimum Criminalisation A principle that assists the role of the law in protecting society from harm is the principle of welfare. From a possible victim's point of view, the principle of welfare is in accordance with the principle of autonomy mentioned previously: for someone to exercise their right of autonomy, he should be protected from others that would unfairly hinder his ability to do so, physically or otherwise. Nonetheless, the protection of an individual's right to autonomy entails the limitation of another individual's right to autonomy.

Therefore, the principle of welfare delivery counterbalance to that of autonomy, and one could validate an extremely limiting criminal law. For instance, if an individual was to harm someone whilst suffering from an epileptic seizure the concept of autonomy would suggest that there is no liability as the individual did not have the necessary *mens rea*. This means that harming someone whilst having a seizure is not a voluntary act and only a blameworthy should be punished.

However, the welfare principle could potentially favor criminalization since the victim's welfare was still hindered.[3] Finding the stability to encourage maximum autonomy and welfare by making the conditions, through minimum criminalization, that permits and encourages individuals to pursue their genuine social goals is a challenge in criminal law. Joseph Raz argued that: 'the social conditions required for the full exercise of autonomy must be provided for the states to appreciate the importance of autonomy.' (Raz 1986). In pursuance of a criminal sanction to take effect, judges, as well as lords, must consider numerous conditions and principles before concluding.

As the society, today would desire a more liberal perspective. Thus, elements such as the Human Rights Act 1998 are viewed in more depth by courts. The rudimentary components for conducts to be deemed as a crime are not as adequate as they previously were as there are

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measures that could potentially be developed to enhance the social and make the world a better place.

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