Index

A, Re [2001] 227–9
A.M.N.H., Re [1994] 205
abortion
Abortion Act 1967 9, 193
defences for health care professionals 203
extending to Northern Ireland considered 209–11, 213
House of Commons inquiry into scientific developments 199–200
decriminalising and reform see decriminalising abortion in Northern Ireland
decriminalising and reform in Northern Ireland considered 209–11, 213
House of Commons inquiry into scientific developments 199–200
history 195–8
abortion never wholly unlawful 197
abortion to prevent risk to life or health of the mother 197–8
increase in number of abortions following decriminalisation 37
and judges 201
and moral controversy see moral controversy in medicine and English law
Academy of Medical Sciences 191
Adomako [1995] 221, 242
Aitken [1992] 89, 90, 91, 97, 98, 99, 100
Alder Hey Children’s Hospital 130–1
Alghrani, Amel 7–8, 11
Aldous, T. 107
Animal (Scientific Procedures) Act 1986 / animal research 126
Animals Containing Human Material (Academy of Medical Sciences) 191
Archard, David 10, 11, 103, 106
Ashworth, Andrew 113, 114–15, 194, 201
Attorney-General Reference (No. 6 of 1980) 89, 93
Austin, J. L. 64
Australia 232
autonomy, personal/individual 3, 5–7, 269, 274
and BIID see under Bodily Integrity
Identity Disorder (BIID): a problem of perception
CCE use 169–70
and ECHR rights 271–2
and human dignity see under human dignity
Human Tissue Act (2004) addressing informed consent and autonomy 233–4
and paternalism 5, 6, 11, 88–9, 100–1, 223
respect for individual autonomy as a core ethical principle 5, 76, 81
and duty not to harm 75–7, 86–7
General Medical Council guidelines on capacity/consent 77
informed consent 83, 232, 233–4
mental capacity to make valid decisions 76
and self-determination and medically assisted dying 4, 27–8, 33–5, 47, 51–2, 54–5, 271–2
sexual relationships and consent see sexual relationships
Ayling, Clifford 102, 104, 105, 106
Barnes [2004] 90, 99, 100
Bateman [1925] 221, 242, 245
Belgium, euthanasia in 18, 19, 22, 25
Benditt, T. M. 56, 58, 60, 61, 62
Benjamin, Martin 56, 57, 58, 60–1, 63
Bennett, R. 92–3
Berlin, Isaiah 58
Beyleveld, D. 176–7, 183
Biggs, Hazel 6–7, 11
Bingham, Lord 45, 46, 47, 266
bioethical conflict and developing biotechnologies see xenotransplantation

Cambridge University Press
978-1-107-02512-7 - Bioethics, Medicine and the Criminal Law Volume I: The Criminal Law and Bioethical Conflict: Walking the Tightrope
Edited by Amel Alghrani, Rebecca Bennett and Suzanne Ost
Index

More information
bioethics and criminal law, 1–2
appropriateness of criminal law to resolve bioethical dilemmas 1–2
bioethics and criminal law in the dock 9–11
criminal law employed as part of state’s exercise of biopower 2
criminalising biomedical science 7–9
death, dying and the criminal law 4–5
freedom and autonomy: when consent is not enough 5–7
harm to others as the only justifiable reason for criminalisation 176, 193,
justice 79
legal issues 79–84
features of BIID (amputee form) 72–4
similarities with Gender Identity Disorder 73
the future 84–5
legal action against the surgeons for performing an amputation 82–4
legal redress if individual is refused what they regard as necessary treatment 79–82
nature of BIID 71, 72
Bolam [1957] 81, 221, 222–4, 228, 229, 232, 234, 242–4
Borst, Dr Els 44
Bourne [1939] 197–8, 205, 207, 208, 225–6
Boyea [1992] 94, 95
Brazier, Margaret 9, 11, 138, 155–6, 234
Brennan, Karen 210, 212
Bristol Royal Infirmary 130–1, 231
British Medical Association 209
Brock, D. W. 51
Brongersma [2003] 28, 40
Brown [1944] 82, 83, 88, 91, 93, 95
Brownword, R. 176–7, 183
Burke [2004] 232
Burt, Robert 63–4
G.H., Re [1995] 205
Canada ‘consensual’ sexual activity between doctors and patients 108
abuse of a position of trust 117
informed consent 232
xenotransplantation 145, 149
capacity 76, 77, 267, 274
abortion in Northern Ireland 205
Mental Capacity Act (2005) 232
General Medical Council guidelines on capacity/consent 77
vegetative state patients 59
Caulfield, T. 137
Chabert [1994] 27–8, 40
Chan, Sarah 7–8, 11
chemical cognitive enhancement (CCE) 8, 157–74
CCEs 159–62
effectiveness of CCEs dependent on the user 161–2
evidence of CCEs’ positive impact on various cognition aspects 159
nature of CCEs 157
prevalent varieties 159
side effects 160–1, 170
as tools that aid cognitive function 160
widespread use of CCEs 158
conclusion 173–4
the law 162–6
discrepancies and inconsistencies in relation to CCEs 164, 166
Medicines Act (1968) 163
Misuse of Drugs Act (1971) 163, 164, 173
off-label prescriptions 165–6
use of CCEs for non-therapeutic purposes forbidden 157–8
regulatory reform and strategy 167–70
access 168–70
advantages of CCE use 167–8, 170
availability of CCEs in safe, effective minimum doses 172
fair pricing strategy 172–3
monitoring 170–3
Clarence [1888] 96–9
cloning 136, 175, 185–6
Coggon, John 10–11, 156
Cohen-Almagor, Raphael 44, 57
Coleman, Phyllis 107
Index

‘consensual’ sexual activity between doctors and patients 6–7, 102–17
breaching sexual boundaries in the doctor–patient relationship 103–6
power imbalance between doctor/patient facilitating exploitation 105–6, 112
can sexual activity between doctor/patient ever be truly consensual? 106–12
categorising female patient population as vulnerable an over-generalisation 109
imbalance of power in doctor–patient relationship 106–7
intention 112
whether consensual sexual activity between doctor/patient can ever occur 107–8
whether a doctor in sexual activity with patient always exploits that patient 110–11
whether male doctor / female patient sexual relationships can be equal 108–9
whether the patient is harmed by sexual involvement with a doctor 111
concern over sexual boundaries between health care professionals and patients 102–3
conclusion 116–17
consent obtained through coercion or inducement 116
genuinely consensual relationships rare 116
suggested new abuse of trust offence 116–7
sexual exploitation in doctor–patient relationship and limits of the criminal law 112
civil action involving problematic issue of consent 115–16
consent under Sexual Offences Act 2003 113–14
extension to exploitation in a relationship of trust 114–15
sexual activity between doctor/patient without consent criminalised 112
consent, gender and precedent: a historical view 88–9, 96–100
consent in HIV transmission and rough horseplay cases 6, 82, 83, 88–101, 152–3, 261–2
ascertaining a victim’s consent: when is it presumptuous to presume 89–96
conclusion 100–1
consent in cases of reckless transmission of HIV in intercourse 88, 91–3, 98–9
consent to GBH through rough/undisciplined horseplay 88–91, 93
three types of risky behaviour / legal regimes: horseplay, HIV, vigorous sex 93–6
discrepancies in courts’ approach to consent and grievous bodily harm (GBH) 88–9
Council for Healthcare Regulatory Excellence 103, 109, 115
Council of Europe 148–9
Criminal Justice (Northern Ireland) Act (1945) 205
criminal law see bioethics and criminal law
criminalising medical negligence 10, 236–50
‘bad doctors’ 238–40
distinction between two senses of ‘bad’/incompetence and laxness 238–9, 240
distinguishing between simple mistakes and culpable failings 239–40
identifying relevant causal contribution to patient’s death 239
Bolam and special treatment 242–4
conclusion 250
contrasting responses to criminalisation of negligent doctors 236–7
fairness and liability 247–50
justifications of punishment 248
negative consequences of introduction of criminal sanctions 249
professional censure and other public sanctions 241, 250
special position of doctors and fairness of punishment 249
gross negligence 241–2
level of blameworthiness 246–7
penalising non-fatal dangerous doctoring 237–8
role and effect of criminalisation and non-criminal alternatives 240–1, 250
why are doctors different 244–6
doctors having to run risks 245, 246
value of the work of medical professionals 246
criminality, politics and public health
10–11, 251–64
conclusions 264
public health, law and relationship
between state and individuals 251–3
public health: politics in a field without
boundaries 253–7
evaluating law / public health to
include all health-related/afflicting
issues 255–7
meaning/definitions of public health
253–7
public health, social responsibility and
health as the highest law 262–4
public health policy and criminal
regulation 257–62
criminalisation of sexual transmission
of HIV 261–2
defensible role for criminal law in
public health matters 254–6, 262–3
criminalisation of sexual transmission
of HIV 261–2
defensible role for criminal law in
public health matters 254–6, 262–3
intervention in harms to self and
‘private’ decisions of citizens 259–61
regulatory mechanisms available to
government / intervention ladder
257–8

Daniels, K. R. 108–9
Davies, T. 129–30
Davis v. Davis [1989] (US) 198–9
De Haan, J. 52
de Than, C. 113–14
decriminalising abortion in Northern
Ireland 9–10, 203–19
can law offer solutions? 209–13
extending the Abortion Act 1967 to
Northern Ireland 209–11, 213
litigation and subsequent government
guidance 211–13
conclusion 218–19
consequences of criminalisation:
abortion in Northern Ireland 204–9
criticisms of the law for lack of
certainty/predictability 206–7
fetal disability 205, 212
health risks to women 207–8
impact on health professionals 208
injustice of outlawing abortion-seeking
women 208–9
restrictive regime 204–5
contesting the deployment of criminal
law to regulate pregnancy 203–4
legal reforms must be framed with
historical and cultural contexts in
mind 204
what now? 213–18
criminalising abortion a discrimination
against Northern Ireland women
217–18
framing arguments for
decriminalisation 215–18
pursuing reform by arguments
grounded in denial of women’s
rights 213–15
decriminalising and legalising euthanasia
and assisted suicide 4, 15–16
argument for decriminalisation 15, 20–2
criminal law as an ineffective way to
regulate MBPSL 20–1
criminalisation of euthanasia fostering
secret practices 21
defence to medical profession
creating reservations about criminal
law use 21
need for regulation 20
problems of proving causation 21
reactive nature of criminal law 21
review capacity of criminal law
inadequate 20
argument for legalisation 15, 22–6
abstention and pain relief compared to
euthanasia 25
criminal liability and omissions 22–3
double effect 23–4
duty to act 22
euthanasia procedures/practices
as model for controlling other
MBPSL 26
intentional causing of death illegal
unless justified 24–5
legalisation associated with transparent
medical practices 25–6
subjective intention 23–4
withholding/withdrawing treatment
only a ‘passive’ failure to act 22–3
conclusions 28–9
‘decriminalisation’ and ‘legalisation’
16–17
decriminalisation, meaning of
16–17
legalisation, meaning of 17
limitation to ‘an appropriate case’ 26–8
self-determination and the
involvement of another person/doctor
27–8
‘slippery slope’ argument 26–7
wish to die based on suffering from a
medical condition 27–8
medical context 15–16
medical behaviour that potentially
shortens life (MBPSL) 15–16
sorts/frequencies of MBPSL in UK and Netherlands 16, 18–19, 20, 22–3
three scenarios of dying and their dangers 17–19
circle request for euthanasia 18–19
increased pain medication / withdrawal of life-sustaining treatment 17–18
refusal by patient of life-prolonging treatment 19
see also flawed arguments for decriminalising euthanasia
Deech, R. 127
defere towards the medical profession and criminal law 2, 10, 220–35
conclusion: Human Tissue Act 2004 – a blueprint for the future 233–5
assumptions about doctors’ consciences still persisting 234
enshrining concept of informed consent and lessenling deference 233–4
defere in the criminal sphere 225–7
existen of deference in the civil courts 220–5
Bolam test encapsulating deference 221, 222–3
criticism of deference and scrutiny of the evidence 223–5
doctors assumed always to act in the best interests of their patients 220–3
judges/prosecutors’ reservations about use of criminal law 21
loss of deference 231–3
lessening of automatic deference / positive assumptions about doctors 232–3
movement towards rejecting Bolam 232
more recent cases in the criminal sphere 227–31
convictions/sentences for gross negligence manslaughter case 229–31
Dellapenna, J. W. 195–6, 198
deontological approach 2, 57
Devlin, Lord 193
Dica [2004] 91, 93, 95, 96–7, 98–9
dignity as a socially constructed value 8–9, 175–87
classes of claims relying on dignity as providing the harm claim 176–7
cases of persons who have interests but only their dignity is infringed 176–7, 184
entity in question may not be capable of possessing interests 177, 182–3
conclusion 186–7
consideration of whether potential humans qualify for human dignity 185–6
dignity as an inalienable part of being human 184
embryos 175, 177, 184, 185–6
entities covered by concept of human dignity 177–8
foundations for human dignity 178–83
conception of humanity based on Kantian rationality 178, 179–81
human being and rationality not necessary characteristics of each other 182
humans who are unable to develop capacity for rational thought 181
precautionary principle, application of 183
protection of individuals who may lack rationality 182–3
specific genetic material/pattern as defining characteristic of human beings 181–2
theological conception of humanity 178–9
inherent value in human beings not a foundation for dignity 183–4
interference with dignity as argument in favour of criminalisation of conduct 176
social aspect of humanity 184–5
society as a whole making the determination of membership 185
Director of Public Prosecutions (DPP) 272
guidance for prosecutors after Purdy 273–6
explicit reference to compassion 66
not achieving compromise 65–6
undermining blanket ban on assisted suicides 46–7
discrimination 260
abortion law in Northern Ireland see decriminalising abortion in Northern Ireland
Donovan [1934] 93, 99
double effect see under euthanasia / medically assisted dying
Doyal, L. 52
Draper, H. 92–3
Duff, G. B. 108–9
duties of doctors / health care professionals see under health care professionals
Dworkin, Ronald 194
embryos and embryo research 138

dignity arguments 175, 177, 184, 185–6

HFEA see Human Fertilisation and Embryology Authority (HFEA)
law see Human Fertilisation and Embryology Act 1990 (HFE Act)
whether embryos are people/human 186, 193–4

Environment Protection Act 1990 126

Erin, Charles 92

European Convention of Human Rights (ECHR) 269

assisted suicide
blanket ban engaging right to respect for ‘private and family life’ 46
blanket ban not a breach of the Convention 45–6
no obligation on states to facilitate assisted suicide 46

evative interpretation 276, 277–8

politicians’ reaction to narrowing of margin of appreciation 277–8

fair balance and compromise as essence of Convention 276–7
forced use of CCEs as a breach of Convention rights 170

right against discrimination (Art. 14) 260
right not to be subjected to torture / inhuman or degrading treatment (Art. 3) 270–1, 276–7
right to life (Art. 2) 270, 271
right to a private and family life (Art. 8) 46, 80, 200, 260–1, 265, 271–2

European Directive (2001/83) 165–6

euthanasia / medically assisted dying 4–5

eas for the Convention (Art. 3) 270–1, 276–7

euthanasia within 67

assisted dying / mercy killing as a special case but still contrary to criminal law 67–8

compromise replacing justification with excuse 49, 55

DPP guidance for prosecutors not achieving compromise 65–6

euthanasia: permitted or prohibited 53

arguments for and against susceptible to attack 54–5

consensus of opinion unlikely 55

Gilderdale case 50–1, 52, 53, 64, 65

instruments of life 52, 54
to prohibit or to permit 51–5

safety arguments needed to protect the vulnerable 4

sanctity of life 4, 31, 33, 52–3, 54

’slippery slope’ argument 25–7, 33–5, 47, 53, 54

safeguards needed to protect the vulnerable 4

sanctity of life 4, 31, 33, 52–3, 54

’slippery slope’ argument 25–7, 33–5, 47, 53, 54

safeguards needed to protect the vulnerable 4

sanctity of life 4, 31, 33, 52–3, 54

’slippery slope’ argument 25–7, 33–5, 47, 53, 54

more information
Index

Ferner, R. E. 225, 231
Field, R. 231
First, M. 72
flawed arguments for decriminalising euthanasia 4, 30–48
blanket ban on assisted suicides 44–7 undermined by court order that DPP issue guidance on prosecutions 46–7 conclusions 47–8 definitions adopted by Walton Committee 30 five arguments for decriminalisation 31–47 autonomy, VAE and NVAE / logical slippery slope 33–5, 47 failure of the criminal law / permitting effective legal regulation 35–8, 47 hypocrisy of the criminal law / intention and foresight 31, 47 lessons from Dutch criminal law and medical practice see under Netherlands VAE for the ‘non-vulnerable’ 44–7 incidence of VAE/PAS increasing with decriminalisation 36–7 little evidence that law is frequently broken 35–6 mental illness and depression in requests, possible role of 38–9 sanctity of human life as a key component of human rights 31 see also decriminalising and legalising euthanasia and assisted suicide Fletcher, Ruth 209, 214, 216, 217 Foster, Sir Michael 99–100 Fovargue, Sara 8, 11, 262 Fox, Marie 9–10 France 266 dwarf-tossing case 176–7, 184, 260 Francombe, Dr Colin 207–8 Frith, L. 92–3 Furness, P. 135 Galletly, C. A. 104 Gavignan, S. 196 Gender Identity Disorder 73 Harry Benjamin Guidelines for treatment 85, 87 General Medical Council (GMC) and BIDI 84, 87 Duties of a Doctor 84 guidelines on capacity/consent 77 guidelines regarding treatment at the end of life scrutinised by courts 232 Maintaining Boundaries 102–3 off-label prescriptions 165 overseeing the activities of doctors 125, 241, 250 sexual relationships with patients a breach of doctors’ code of conduct 102–3 genetically modified organisms 126, 137 Gilderdale [2010] 50–1, 52, 53, 64, 65 Gillon, Ranaan 229 Golding, M. P. 58, 62, 63 Goodin, R. E. 105 Gorsuch, Dr Neil 37, 43–4 Gostin, Larry 252 grievous bodily harm in sexual encounters see consent in HIV transmission and rough horseplay cases Griffiths, Professor John 4, 11, 234 views discussed by Huxtable 49, 64 views discussed by Keown 34–7, 38, 39–40, 41–4, 48 Gurnham, David 6, 11 Hale, Lady 11 Hanigsberg, Julia 215 harm classes of claims relying on dignity as providing the harm claim 176–7 and consent see consent in HIV transmission and rough horseplay cases duty not to harm 75–6, 115 and principle of respect for individual autonomy 75–7, 86–7 harm principle / harm to others as the only justifiable reason for criminalisation 176, 193 intervention in harms to self and ‘private’ decisions of citizens 259–61 meaning of harms 176 public interest justifying bodily harm caused by treatment with consent 83 Harris, John 8, 11, 155–6 Hart, H. L. A. 193 Healey, Morgan 214 Health Act 2006 260–1 health care professionals CCEs dispensing, role of health care professionals in 171–2 duties of doctors duty to do no harm 75–6, 115 duty to ensure patients die a humane death 38, 39–40 duty to give patients appropriate treatment 22, 81 duty to preserve lives of patients 53

© in this web service Cambridge University Press
www.cambridge.org
Index

health care professionals (cont.)
duty to relieve suffering 34–5, 38
GMC’s Duties of a Doctor 84
and sexual relationships 102–3
see also ‘consensual’ sexual activity between doctors and patients
legal action against surgeons for performing amputations for BIID patients 82–4
public interest justifying bodily harm caused by treatment with consent 83
legal redress if individual is refused what they regard as necessary treatment 79–82
negligence 81, 83
private law rights / Bolam test 81–2
public law rights 79–81
legal uncertainty of abortion regime in Northern Ireland, impact of 208, 211–13
medical errors see criminalising medical negligence, deference towards the medical profession and criminal law
off-label prescriptions 165–6
regulation of
respect for patients’ autonomy see under autonomy, personal/individual
Hirst [2006] 278
HIV and consent see consent in HIV transmission and rough horseplay cases
Holm, S. 56–8
human dignity and autonomy 175–6, 270
ECHR conferring a right to human dignity 271, 272
entities covered by concept of human dignity 177–8, 184–6
see also dignity as a socially constructed value
Human Fertilisation and Embryology Act 1990 (HFE Act) 127–8, 131, 134, 136, 138, 267
revisited 210–11, 213, 215
Human Fertilisation and Embryology Authority (HFEA) 127
enforcement 129–30
Licence Committees 129
Human Rights Act 1998 80, 205, 269, 276
abortion law in Northern Ireland 213–14
consequences of a section 4 declaration of incompatibility 265
forced use of CCEs as a breach of rights 170
protection from xenotransplantation risks 156
Human Tissue Act 2004 130–1, 135, 220, 267
criminal sanctions in 131–3, 233–4
enshining concept of informed consent and lessening deference 233–4
sale of body parts 132
Human Tissue Authority 130, 134
licensing 131, 132–3
Huxtable, Richard 4–5, 11, 57
Hyder, Nishat 8, 11
Idowu, Oladapo 102
International Xenotransplantation Association 145–6
Jones [1986] 89–90, 91, 97, 98, 99, 100
judges deference towards doctors see deference towards the medical profession and criminal law
role see moral controversy, human rights and common law judges
see also abortion, Human Rights Act 1998, medical negligence, public health
Kalven, H., 64–5
Kant, Immanuel 178, 179–81, 184
Kennedy Inquiry (Bristol Royal Infirmary) 130–1, 231
Keown, John 4, 11
abortion 195, 197, 197
views discussed by Griffiths 22, 23
views discussed by Huxtable 49, 53, 64
Kerr/Haslam Inquiry 102–3, 104
Kuutik, A. 56, 57
Laurie, G. T. 9, 191, 224–5
Lawrence, A. 73
Lee, Simon 206, 208, 210, 211
Legal Alchemy (Faigman) 192
legal redress for patients see under health care professionals
MacKinnon, Catherine 217
Magnusson, R. 21
Mason, J. K. 9, 191, 224–5
May, W. F. 58–9
Maynard [1985] 224, 232, 222
McCall Smith, A. 64–5, 239
McDowell, S. E. 231
McGeoch, P. 75

© in this web service Cambridge University Press www.cambridge.org
Index

McGleenan, Tony 209
McLean, Sheila 223
Meachen [2006] 94–5
Means, Cyril 193
medical negligence see criminalising medical negligence, deference towards the medical profession and criminal law
medically assisted dying see euthanasia / medically assisted dying
Medicines Act 1968 163–4
Mental Capacity Act 2005 232
Merry, A. F. 239, 244–5
Mill, J. S. 176, 177
Miola, José 10, 11
Misra [2004] 230–1
Misure of Drugs Act 1971 163, 164, 173
Mohr, Richard 254–5
Money, J. 72
Montgomery, Jonathan 127, 218, 261
moral controversy, human rights and common law judges 11, 265–78
judges’ role and applicable principles 266–9
adapting judge-made law to meet new problems/situations, limits on 267–8
application of legal principles 266 disagreements between judges 269 interpreting legislation 268–9
judges’ job to decide the cases that come before them 266
judging against ECHR fundamental values 269, 276–8
juries and judges 268
Pretty case 269–73, 275
Purdy case 273–5
moral controversy in medicine and English law 9, 191–202
abortion: a muddled history 195–8
abortion never wholly unlawful 197 abolition to prevent risk to life or health of the mother 197–8
abortion laws 9
criminalising conduct and values 193–4
inconclusive conclusions 201–2
the private domain 200–1
whether judges should make law in this area 201
reasons why moral questions of medicine and science are especially tricky 192–3
role of the criminal law 193, 194–5
sanctity of life and abortion 9, 192, 201
science and certainty 198–200

common law struggling with uncertainty/nature of embryos 198–9
safety issues 199
viability and fetal awareness 199–200
Müller, S. 78
Murphy, Therese 210, 216
Netherlands euthanasia see Netherlands euthanasia / medically assisted dying
health care professionals having sexual relationships with patients 103–4
Netherlands euthanasia / medically assisted dying 4
euthanasia concrete requests not carried out in many cases 18–19, 34
decriminalised and legalised 17
disabled babies / Groningen Protocol 26, 34, 40, 41, 43
discussions of end-of-life decisions 25
doctors’ duty to alleviate suffering justifying both VAE and NVAE 34–5
double effect doctrine rejected 24
intention 23, 24, 33
limiting access to euthanasia to ‘patients’ 27–8
medically indicated treatment, legitimacy of 24
numbers of reported cases before decriminalisation 20
patients safer where euthanasia under control of non-criminal institutions 21
permissive approach 58
practice reasonably safe 19, 22
illicit assistance in suicide by doctors and laypeople 36–7
lessons from Dutch criminal law and medical practice 38–44
critics 41–4, 47, 53
doctors’ duty to ensure patients die a humane death / necessity defence 38, 39–40
legal requirements for VAE/PAS 18, 38, 275
patients’ responsibility to make clear they will not want euthanasia 40
reporting 41–4
‘unbearable suffering with no prospect of improvement’ 40–1
voluntary request 38–40
MBPSL 15–16
Netherlands euthanasia / medically assisted dying (cont.)
euthanasia procedures/practices as model for controlling other MBPSL 26
sorts and frequencies of MBPSL 16, 18–19, 35–6, 39
refusal by patient of life-prolonging treatment 19
see also decriminalising and legalising euthanasia and assisted suicide
New Zealand 244–5
‘consensual’ sexual activity between doctors and patients 108, 109
informed consent 232
Northern Ireland, abortion in see decriminalising abortion in Northern Ireland
Nuffield Council on Bioethics report on ethics and public health 253, 257–8
Offences against the Person Act 1861 9, 257
abortion 197, 203, 204–5
section 18 offences
BIID amputations 82–3
xenotransplantation risks of harming others 152–4
section 20 offences
HIV transmission and rough horseplay cases 88, 95, 97, 98–9
xenotransplantation risks of harming others 152–4
sections 23, 24 and 47 offences
xenotransplantation risks of harming others 152, 153–4
off-label purposes of drugs
off-label prescriptions 165–6
pharmaceutical companies prohibited from advertising off-label drug uses 165–6
O’Neill, O. 63
Organisation for Economic Co-operation and Development 149
Ost, Suzanne 6–7, 11
paternalism 5, 6, 11, 88–9, 100–1, 223
persistent vegetative state (PVS) see vegetative state patients
Phillips, S. P. 109
PIGD 193, 201
precautionary principle 183
Prentice [1994] 225
Pretty [2001] 11, 44–6, 269–73, 275
Price, D. 130–1
Principles of Criminal Law (Ashworth) 194
public health and criminality and politics see criminality, politics and public health
risks of xenotransplantation see xenotransplantation
Public Health (Control of Disease) Act 1984 149–52, 155
Quick, Oliver 2, 231
Ramachandran, V. 75
Ramsey, P. 64
Rebouche, Rachel 205, 216
Redfern Inquiry (Alder Hey Children’s Hospital) 130–1
regulating science 1, 7–8, 121–39
collections: moral controversy and criminal law – a symbolic role 137–9
embryo research 138
is criminal law appropriate? 133–7
criminal law as moral dictum 134
discouraging research 135
hindering scientific progress 134–5
legal regulation and scientific freedom 136–7
fast-moving science and ethical controversies presenting regulatory challenge 121–2
how does the law currently regulate science? 125–33
criminal sanctions and HFE Act 128–30
criminal sanctions in the Human Tissue Act 2004 131–3
research involving human tissue and organs 130–1
research involving reproductive biomaterials 127–8
and human dignity see dignity as a socially constructed value
regulating science: how and by whom 122–5
scientific responsibility: moral code, code of conduct 122–4
Regulatory Enforcement and Sanctions Act 2008 130
Reid, Lord 267
Roe v. Wade [1973] (US) 199
Rothstein, Mark 256
xenotransplantation 8, 140–56
compliance 144–5
compulsory surveillance scheme and enforcement measures 155
criminal law supporting early, anticipatory action 154–5
human rights 156
reckless endangerment 156
overview of the risks 141–2

securing compliance 145–54
civil law – contract 146–8
criminal law – existing provisions 152–4
criminal law – existing public health provisions 148–52
support of law / surveillance required for xenotransplantation risks 140
xeno-surveillance 143–4
Xenotransplantation Interim Regulatory Authority, UK (UKXIRA) 143, 144–5, 149