

Bioethics, Medicine and the Criminal Law Volume III

To date, little analysis exists of the criminal process' roles as a regulator of medical practice and as an arbiter of bioethics, nor of whether criminal law is an appropriate forum for judging medical ethical dilemmas. The conscription of criminal law into moral controversy and the (perceived) rise in criminal investigations of medical errors sets the backdrop for this innovative, contemporary, historical and theoretical analysis of the relationship between medicine, bioethics and the criminal process. Case studies on abortion, end of life and the separation of conjoined twins reveal how judges grapple with bioethics in criminal cases and the impact of 'theatre' on the criminal law's response to ethically controversial medical cases. A central argument is that bioethics and criminal law are not necessarily incompatible; rather, it is the theatre surrounding interactions between bioethics and criminal law that often distorts both and creates tension.

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Cambridge Bioethics and Law

This series of books was founded by Cambridge University Press with Alexander McCall Smith as its first editor in 2003. It focuses on the law's complex and troubled relationship with medicine in both the developed and the developing world. Since the early 1990s, we have seen, in many countries, increasing resort to the courts by dissatisfied patients and growing use of the courts to attempt to resolve intractable ethical dilemmas. At the same time, legislatures across the world have struggled to address the questions posed by both the successes and the failures of modern medicine, whereas international organisations such as the WHO and UNESCO now regularly address issues of medical law.

It follows that we would expect ethical and policy questions to be integral to the analysis of the legal issues discussed in this series. The series responds to the high profile of medical law in universities, in legal and medical practice, and in public and political affairs. We seek to reflect the evidence that many major health-related policy debates in the United Kingdom, Europe and the international community involve a strong medical law dimension. With that in mind, we seek to address how legal analysis might have a transjurisdictional and international relevance. Organ retention, embryonic stem cell research, physician-assisted suicide and the allocation of resources to fund health care are but a few examples among many. The emphasis of this series is thus on matters of public concern and/or practical significance. We look for books that could make a difference to the development of medical law and enhance the role of medico-legal debate in policy circles. That is not to say that we lack interest in the important theoretical dimensions of the subject, but that we aim to ensure that theoretical debate is grounded in the realities of how the law does and should interact with medicine and health care.

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 Frontmatter
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Volume III

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Margaret Brazier and Suzanne Ost



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*In memory of Mary Jacobs and Hilda Ost –
Y.C.L.M.A.M. T.I.L.Y.*

[The connection between bioethics and criminal law] resembles the lighthouse in its working, which sends one ray and then no more for a time; save that [the connection] is much more capricious in its manifestations and may flash six or seven beams in quick succession . . . and then lapse into darkness . . .

– V. Woolf, *Orlando* (with modification) (1928)

You cannot have art that does not in some way distort. . . . Therefore, you do not see the whole, you only see a part through this distorted view, this particularization.

– D. Heathcote, *Collected Writings on Education and Drama* (1984)

Contents

<i>Acknowledgements</i>	page xii
<i>Table of cases</i>	xiv
<i>Table of statutes</i>	xvii
Introduction: beginning the story	1
The pervasive influence of the criminal process	4
The relevance of ‘theatre’	7
A story and some themes	9
Tensions and transient connections: the lighthouse’s beam	10
Theatrical distortion	10
(Political) liberalism	11
Moral sentiment and medical politics	11
Part I Setting the scene	
1 Courtrooms, ‘physic’ and drama	15
The ‘criminal process’ and the regulation of medicine before 1858	16
The gruesome history of dissection	20
No peaceful burial place	22
Body snatching	23
<i>Causes célèbres</i> in the twentieth century: faulty connections?	25
Bourne: a reluctant ‘rebel’?	26
Bodkin Adams: ‘deserved to hang 20 times over’	30
<i>R v. Arthur</i> : framing bioethical debate	33
2 Crime, doctors and the body (politic)	38
Medical ‘assaults’	40
Rhetoric not reality	41
Bodily integrity, autonomy, self-determination	42
The tort of battery and criminal assault – one and the same?	43
‘Proper medical treatment or care’	45
Not wholly or solely ours	52
Is my body mine?	52
Kidneys for sale	53
Organ retention	55
	ix

x	Contents	
	Appropriate consent	57
	Organ trafficking	61
3	From 'theatre' to the dock – via the mortuary	66
	Serious wrongs	71
	What makes wrongs 'serious'?	72
	'Medical manslaughter'	73
	Responsibility for medial error	75
	Gross negligence, recklessness and manslaughter	77
	Moral luck and a game of chance	79
	Harm short of death	80
	Serious but not 'wrong'	82
	Escaping from sanctity of life?	83
 Part II Judges on the stage: case studies		
4	Protecting life before birth?	95
	Not a unique dilemma?	96
	'Proper medical treatment'	99
	Protecting women: the power of the profession	101
	Protection of morals and society	105
	Protecting future children	106
	Decriminalising abortion: a case study from Canada	109
	Muddling through in England	114
	Abortion and sanctity of life	118
5	Medical (and non-medical) ending of life	124
	Criminal responsibility and the (ir)relevance of motivation	125
	Killing with compassion: motive's role in attenuating the strict legal response to assisted dying cases	126
	Intention, causation, the doctrine of double effect and the murky waters of the 'doctor's defence'	133
	Intention	133
	Causation	135
	Double effect and its application in the medical setting	135
	The slipperiness of the central premise(s) of the 'doctor's defence': does the DDE have a place in the criminal law?	137
	Does the DDE reflect medical practice at the end of life?	145
	Implications for the criminal law and bioethics	145
	The criminal law's differentiation between doctors and relatives: a 'benign conspiracy'?	148
	(Evading) the criminal law's role in cases of withdrawing life-sustaining treatment	152
	Charades and prosceniums: it's all an act, but to what end?	159
6	Which twin lives?	163
	Jodie and Mary (Gracie and Rosie)	164
	The heart of the matter: the criminal process	165
	Necessity and 'self-defence': a utilitarian calculus disguised	166

Cambridge University Press
 978-1-107-01825-9 — Bioethics, Medicine and the Criminal Law
 Margaret Brazier, Suzanne Ost
 Frontmatter
[More Information](#)

Contents	xi
Conflict of duty	167
Designated for death	168
'A very unique case'?	168
The rejected 'defences'	169
Immunity and double effect	169
'Monstrous births'	172
Stillborn or a tumour?	174
Withdrawing life support	176

Part III Bioethics and the criminal law: connecting performances?

7 Drawing connections: moral philosophy, (political) liberalism, responsibility and the theatre of interpretation	181
Bioethics, moral philosophy and law	183
The criminal law, moral philosophy and introducing (political) liberalism	187
The 'common morality' and political liberalism	195
Responsibility in bioethics and criminal law	199
The theatre of interpretation	209
Moving from broader connections between bioethics and criminal law to more specific links	216
8 Parallels and disconnects: bioethical principles, principles of criminalisation and the rule of law	217
Principlism in bioethics	219
Principles of criminalisation	223
Parallels and disconnects between the 'four principles' in bioethics and principles of criminalisation	224
Nonmaleficence	224
Beneficence	230
Autonomy	237
(Liberal) justice	245
Connections between the four principles and the rule of law	247
Can principles of bioethics and the criminal law work together? Are they compatible?	250
Concluding thoughts: a story part told?	255
Theatrical distortions	257
Culture, medicine and public sentiment	259
Medicine framing the criminal process' response: promoting a dialogue?	260
<i>References</i>	264
<i>Index</i>	284

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978-1-107-01825-9 — Bioethics, Medicine and the Criminal Law
Margaret Brazier, Suzanne Ost
Frontmatter
[More Information](#)

Acknowledgements

xiii

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Table of cases

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Table of cases

xv

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R v. Ireland, R v. Burstow [1998] AC 147 (HL)
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xvi Table of cases

- R (on the application of Nicklinson) v. Ministry of Justice* [2012] EWHC 2381 (Admin)
R (on the application of Purdy) v. DPP [2009] UKHL 45
R (on the application of Smeaton) v. Secretary of State for Health [2002] 2 FLR 146
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Re A (children) (conjoined twins: surgical separation) [2001] Fam. 147 (CA)
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Re S (adult patient: sterilisation) [2000] 3 WLR 1288
Re T (adult: refusal of medical treatment) [1992] 4 All ER 649 (CA)
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Stafford v. UK (2002) 35 EHRR 32
Vo v. France (2005) 10 EHRR 12
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Table of statutes

Abortion Act 1967

s.1

Anatomy Act 1832

Births and Deaths Registration Act 1953

s.41

Children and Young Persons Act 1933

s.1(i)

Coroners and Justice Act 2009

s.52

s.62

Criminal Justice Act 2003

s.269

Schedule 21

Female Genital Mutilation Act 2003

s.1(1)

s.6

Homicide Act 1957

s.2(1)

Human Fertilisation and Embryology Act 1990

s.3(1)

s.12(e)

s.42

Human Fertilisation and Embryology Act 2008

Human Organ Transplants Act 1989

Human Tissue Act 1961

Human Tissue Act 2004

ss.1–3

s.5

s.32

s.33

s.53

Schedule 1 Parts 1 and 23

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Margaret Brazier, Suzanne Ost
Frontmatter
[More Information](#)

xviii Table of statutes

Infant Life (Preservation) Act 1929

Medical Act 1983

Mental Capacity Act 2005

s.4(5)

s.44

Mental Health Act 1983

s.127

Offences against the Person Act 1861

s.20

s.47

s.58

s.59

Prohibition of Female Circumcision Act 1985

Sexual Offences Act 1967

Sexual Offences Act 2003

ss.38–41

Suicide Act 1961

Surrogacy Arrangements Act 1985

Theft Act 1968

s.1