

EDITOR'S INTRODUCTION: THE CRIMINALIZATION ISSUE

Carrie Leonetti

This issue explores the phenomenon of criminalization and related normative theories about the role of the criminal punishment in regulating conduct. The articles that it contains examine who and what are and ought to be “criminal,” through the lens of the principles, values, purposes, and other distinctive features of the criminal law.

The focus of the first article, *Framing Meaning Through Criminalization: A Test for the Theory of Criminalization*, by Javier Wilenmann, is the *meaning framing* of the criminal law. Wilenmann argues that normative theories of criminalization tend to lose sight of what is really at stake in symbolic criminalization conflicts: meaning framing and the legitimacy of imposing meaning frames through criminalization. In *Framing for Meaning*, he demonstrates how legislation serves less as a means to establish general conduct and sanction norms than as a communicative tool in the struggle for cultural control. He claims that criminal law is not only a tool in achieving social governance but also a tool of contemporary cultural struggles. He asserts that the central moral question surrounding criminalization is not about the conditions under which the achievement of social governance is illegitimate, nor about the legitimacy of the neutral enforcement of morality by an impersonal agent, but rather about meaning imposition between social groups.

The foci of the second article, *Conflicting Duties in Criminal Law*, by Ivó Coca-Vila, are the principles of *autonomy* and *solidarity*. Coca-Vila seeks to redefine the conceptual notion of the conflict of duties in the criminal law, which arises when a defendant faces a conflict between grounds of obligation that cannot be simultaneously filled, with the inevitable consequence

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that fulfilling one will violate the other. He argues that the conflict should be resolved with reference to the principles of autonomy and solidarity through a hierarchical prioritization of the conflicting obligations (or conflicting grounds of obligation), which obliges the conflicting party to fulfill only the strongest duty and excuses criminal wrongdoing even in situations of equipoise between two equally prioritized duties.

The last two articles explore criminalization in a specific context: the regulation of homelessness. The focus of the third article, *Rethinking Homeless People's Punishments*, by Terry Skolnik, is the *fairness* of the criminal law. Skolnik argues that current punishment scheme for unhoused offenders is unfair, discriminatory, and disrespectful. Instead, he proposes a system of punishment for unhoused offenders that is fairer and aims to treat the unhoused as full members of the community.

The focus of the fourth and final article, *Punishing Homelessness*, by Sara Rankin, is the *effectiveness* of the criminal law. Rankin argues that the criminal law is an ineffective means of ending chronic homelessness. She explains that people experiencing homelessness often lack reasonable alternatives to living in public places. She discusses how criminal laws that punish the conduct of necessary, life-sustaining activities in public exacerbate chronic homelessness, and explains how non-punitive alternatives are more effective means of addressing chronic homelessness.