

The enforcement of morality

Devlin's questions

1. Does society have the right to pass judgment at all on matters of morals?
2. If so, does it have the right to use the law to enforce its judgment?
3. If so, should it always use the law to enforce its moral judgments and, if the answer is "no", what is the principle used to decide when to use the law and when not to?¹

Feinberg on "harm"

1. "A harms₁ B" means "A adversely affects B's interest."
2. "A harms₂ B" means "A adversely affects B's interest and in doing so wrongs B (violates B's right)."²

What is morality anyway?

"We do not call anything wrong, unless we mean to imply that a person ought to be punished in some way or other for doing it; if not by law, by the opinion of his fellow creatures; if not by opinion, by the reproaches of his own conscience."³

¹ Quoted in Gerald Dworkin, "Devlin was right: law and the enforcement of morality," *William and Mary Law Review*, 40 (1999), p. 932.

² Dworkin, "Devlin was right," p. 937.

³ John Stuart Mill, *Utilitarianism*, ch. 5, par. 14.

