

# Morality, Law and the Fair Distribution of Freedom

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**Abstract** Hart's criticism of Devlin's stance on the legal enforcement of morality has been highly influential in shaping a new liberal sensibility and in paving the way to many important legal reforms in the UK. After 50 years it is perhaps time to go back to *Law, Liberty and Morality* to see it in the perspective of the general evolution of Hart's thought since the early 50s. This is a period of extraordinary creativity for the Oxford philosopher, in which he writes many important contributions to legal, moral and political philosophy. Prominent among these is 'Are There Any Natural Rights?', an article that sets the agenda for Hart's subsequent work on liberty, fairness and rights, and provides the philosophical background for the liberal understanding of the relations between law and morality defended in *Law, Liberty and Morality*.

**Keywords** Harm principle · Rights · Justice · Fairness · Freedom · Liberty · H. L. A. Hart

## Hart's Impertinence

Every reader of *The Concept of Law* remembers Hart's succinct characterization of his book as being 'concerned with the clarification of the general framework of legal thought, rather than with the criticism of law or legal policy' (Hart 1961, vi). Since 1961, when the first edition of *The Concept of Law* was published, many people have questioned the possibility of a descriptive or explanatory theory of law along the lines advocated in *The Concept of Law*, but nobody has seriously contested Hart's presentation of his purpose in writing the book.<sup>1</sup> This convergence on the proper interpretation of his intellectual agenda might explain why, when asked to identify the paradigmatic representative of legal

<sup>1</sup> For an overview of the debate, see Green (2012).

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