

Crimes Against Minds: On Mental Manipulations, Harms and a Human Right to Mental Self-Determination

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Abstract The neurosciences not only challenge assumptions about the mind's place in the natural world but also urge us to reconsider its role in the normative world. Based on mind-brain dualism, the law affords only one-sided protection: it systematically protects bodies and brains, but only fragmentarily minds and mental states. The fundamental question, in what ways people may legitimately change mental states of others, is largely unexplored in legal thinking. With novel technologies to both intervene into minds and detect mental activity, the law should, we suggest, introduce stand alone protection for the inner sphere of persons. We shall address some metaphysical questions concerning physical and mental harm and demonstrate gaps in current doctrines, especially in regard to manipulative interferences with decision-making processes. We then outline some reasons for the law to recognize a human right to mental liberty and propose elements of a novel criminal offence proscribing severe interventions into other minds.

Keywords Mental self-determination · Mental integrity · Cognitive liberty, manipulation · Emotional harm · Mental and bodily injury · Dualism · Freedom of thought

Introduction

Isn't it a bit strange that unpleasant but rather trivial actions like cutting another's hair, inflicting some seconds of minor bodily pain or even firmly touching (without sexual intent) another person may constitute a criminal offense whereas deliberately causing mental suffering often falls squarely out of the purview of the criminal law? Isn't it remarkable that working conditions dangerous to bodily integrity are shut down and employers are threatened with criminal charges while millions of office workers suffer from diagnosable work-related stress, burn-out and depression without raising any legal concerns?

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