

8. Liberalism and Community

Essential

- Dworkin, 'Do We Have a Right to Pornography?', 1 OJLS, 177
- Dworkin, 'Liberal Community', 77 *California Law Review* (1989), 479; reprinted as Ch. 5 of *Sovereign Virtue*
- Raz, *The Morality of Freedom*, Ch. 15
- Raz, 'Autonomy, Toleration, and the Harm Principle', in R. Gavison (ed.), *Issues in Contemporary Legal Philosophy*, 313-33

Further

- The 1979 ('Williams') Report on Obscenity and Film Censorship, Cmnd 7772, HMSO 1979, 50-60, 96-102
- Mill, *On Liberty*, Chs. 1, 4, 5
- Hart, *Law, Liberty, and Morality*, esp. Chs. 1-2
- Hart, *Essays in Jurisprudence and Philosophy*, Ch. 11
- Devlin, *The Enforcement of Morals*, Ch. 1
- Dworkin, *Freedom's Law*, Chs. 8, 9, 10

Essay

What considerations could justify the prohibition of pornography? What could justify non-prohibition? How does the assumption that most people find pornography offensive or immoral affect this matter?

Discussion Questions

1. What is the harm principle? What counts as harm? Does the principle afford sufficient protection of liberty? Can it explain why we ought not make it a criminal offence to engage in behaviour which others find disgusting? How about behaviour that others find immoral?
2. What can justify making it an offence not to wear one's seat-belt?
3. What is the right to privacy? Does the desire to secure within a political community the conditions that are ideal for human flourishing imply or necessitate, or is at least consistent with, such a right?
4. How does a goal-based strategy differ from a rights-based strategy, in respect of justifying not prohibiting pornography?
5. Does a right to privacy extend to activities that could not plausibly be thought to involve pursuit of excellence?
6. Is a right to free speech inconsistent with hate-speech legislation?
7. Does the community to which we belong endow our life with meaning and value? If it did, would that imply that the community must be morally homogeneous?