

Contents

VOLUME THREE: HARM TO SELF

17. *Legal Paternalism*, 3
 1. Diverse meanings of “paternalism,” 3
 2. Types of paternalistic coercive laws, 8
 3. Hard and soft paternalism, 12
 4. What makes a restriction paternalistic?, 16
 5. Legal paternalism, the harm principle, and “garrison thresholds,” 21
 6. Presumptive cases for and against legal paternalism, 23

18. *Autonomy*, 27
 1. Conceptions of personal autonomy, 27
 2. Autonomy as capacity, 28
 3. Autonomy as condition, 31
 4. Autonomy as ideal, 44
 5. Autonomy as right, 47

19. *Personal Sovereignty and its Boundaries*, 52
 1. Domain boundaries, 52
 2. One’s right versus one’s good, 57
 3. Autonomy contrasted with liberty and *de facto* freedom, 62
 4. Autonomous forfeitures of liberty and autonomy itself, 68
 5. Total and irrevocable forfeiture: the riddle of voluntary slavery, 71
 6. Alternative rationales for not enforcing slavery agreements, 79
 7. Deciding for one’s future self: commitment and revocability, 81

8. Personal sovereignty compared with constitutional "privacy," 87
 9. Alien dignity: some animadversions on Kantianism, 94
20. *Voluntariness and Assumptions of Risk, 98*
1. The soft paternalist strategy, 98
 2. Some preliminary distinctions, 99
 3. Voluntariness, reasonableness, and rationality, 106
 4. The elusive model of a "perfectly voluntary choice," 113
 5. Variable standards of voluntariness: some rules of thumb, 117
 6. The presumption of nonvoluntariness, 124
 7. Examples: dangerous drugs, 127
 8. Examples: protective helmets, 134
21. *Failures of Voluntariness: The Single-Party Case, 143*
1. Direct injury: suicide and self-mayhem as crimes, 143
 2. Circumstantial and personal coercion: analogies and differences, 145
 3. Classification of voluntariness-reducing factors, 150
 4. External compulsion in risk-taking, 153
 5. Ignorance and mistake in risk-taking, 159
 6. Neurosis, 162
22. *Consent and its Counterparts, 172*
1. The soft paternalist strategy for two-party cases, 172
 2. The nature and effect of consent, 176
 3. When consent is problematic, 180
 4. Summary and transition, 186
23. *Failures of Consent: Coercive Force, 189*
1. The spectrum of force, 189
 2. Second party coercion; intent and control, 195
 3. Differential coercive pressure: how coercive is coercive enough?, 199
 4. Other measures of coercive pressure, 203
 5. Subjective and objective standards, 210
 6. Moralistic theories of coercion, 213
 7. Coercive proposals: offers and threats, 216
 8. Norms of expectability, 219
24. *Failures of Consent: Coercive Offers*
1. Coercive and noncoercive offers, 229
 2. Noncoercive enticements, 233
 3. Coercion and exploitation: the Zimmerman solution, 242
 4. Coercion and exploitation: summary and conclusions, 245
 5. Unequal bargaining positions: unconscionability, 249

6. Coercion, voluntariness, and validity, 254
 7. Applications to criminal law problems, 262
25. *Failures of Consent: Defective Belief*, 269
1. Division of categories, 269
 2. Misunderstanding over what is being agreed to, 270
 3. Ignorance or mistake about background facts, 273
 4. Mistaken expectation of future occurrences, 277
 5. Limits to the assumption of risk, 280
 6. Fraud: false pretense and false promise, 285
 7. Fraud in the *factum* versus fraud in the inducement, 291
 8. False belief and degrees of voluntariness, 300
 9. Informed consent in medicine, 305
26. *Failures of Consent: Incapacity*, 316
1. Forms of moral and legal incapacity, 316
 2. Incompetent status, 322
 3. Immaturity, 325
 4. Intoxication, 332
 5. Illness, pain, and distracting emotion, 340
27. *The Choice of Death*, 344
1. Voluntary euthanasia, 344
 2. Rachels' modest proposal, 347
 3. Whose life is it anyway?, 351
 4. Understandable depression, 354
 5. Alternating moods, 362
 6. Living wills and their problems, 367
 7. Durable power of attorney, 372
- Notes, 375
Index, 413