

CAN CRIMINAL LAW BE PERSONALIZED? REFLECTIONS ON ARTIFICIAL INTELLIGENCE AND CRIMINAL LIABILITY

Professor Hamish Stewart
Professor, Faculty of Law, The University of Toronto



16 October, 2023 (Mon)



12:30PM – 1:30PM



Academic Conference Room, 11/F,
Cheng Yu Tung Tower,
The University of Hong Kong

Chair



Professor Simon Young
Professor,
Faculty of Law,
The University of Hong Kong

Our Speaker

Hamish Stewart joined the Faculty of Law in 1993 and is now a Professor of Law at the University of Toronto. Before attending law school, he studied economics (B.A., University of Toronto, 1983; Ph.D., Harvard University, 1989) and taught for a year in the economics department at Williams College. He received an LL.B. degree from the University of Toronto in 1992, clerked at the Ontario Court of Appeal in 1992–93, and was called to the Ontario Bar in 1998.

Professor Stewart teaches criminal law and the law of evidence, and has published numerous papers in these areas as well as papers on legal theory, the law of contract, and economic methodology. He is the general editor of *Evidence: A Canadian Casebook*, 4th ed. (Toronto: Emond Montgomery, 2016) and the associate editor of the *Canadian Criminal Cases*. His most recent book is *Fundamental Justice*, 2d ed. (Toronto: IrwinLaw, 2019), a treatise on s. 7 of the *Canadian Charter of Rights and Freedoms*.

Abstract

Will artificial intelligence (AI) replace law as we know it? Some have argued that AI will eliminate all uncertainty about the application of legal rules and will therefore be able to produce “micro-directives”, commands that will be perfectly tailored and instantly communicated to any legal subject in any situation. Micro-directives, it is suggested, will eliminate the characteristic legal problem of applying general norms to particular fact situations will vanish. So far, however, the literature has provided relatively little discussion of the interaction between micro-directives and criminal liability. The purpose of this paper is to investigate some of those possible interactions. In particular, should failure to comply with a micro-directive be punishable conduct (put another way, does violation of a micro-directive call for a micro-sanction)? Or, on the other hand, should reliance on a micro-directive immunize a person’s conduct from punishment? Can micro-directives help in the application (*ex ante* or *ex post*) of traditional criminal law doctrines, such as the law of homicide? I anticipate that my conclusions will be skeptical.

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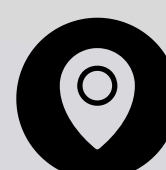
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