victimless act: an act whose negative effects are predominately\* felt by those who validly consent to them

victimless crime: an illegal victimless act

Relevance to Devlin:

* When an act tends to harm those who don’t consent, we can straightforwardly explain why we forbid it in *prudential* terms.
* Forbidding victimless acts can’t be straightforwardly explained in this way.
* So, victimless crimes are good test cases for the question, “Can we forbid things just because we think they are immoral?”

**Punishing victimless acts**

|  |  |
| --- | --- |
| Morally wrong to punish | Morally permissible / obligatory to punish |
|  |  |

**Devlin’s view**

1. It is appropriate for society to make moral judgments.

* Note: Devlin is not talking just about *correct* moral judgments.

1. It is sometimes permissible to use punishment to enforce society’s moral judgments.
2. There is no theoretical limit to when the law/punishment may be used to enforce society’s moral judgments.

* There’s a theoretical limit to how much *x* can be done when there’s a point at which doing *x* would be *prima facie* wrong, even if it had no bad consequences.
* (contrast “theoretical” limits to law enforcement to “practical” limits)