



women in PHILOSOPHY

UNIVERSITY OF BAYREUTH

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NEGLIGENCE, MENS REA, AND WHAT WE WANT THE ELEMENT OF MENS REA TO PROVIDE

PROF. DR. MARCIA BARON
INDIANA UNIVERSITY

It is widely agreed that the top three Model Penal Code culpability levels suffice for criminal liability, but the fourth is controversial. And it isn't just the particular MPC wording; that negligence should be on the list at all is controversial. My question, then, is What makes negligence so different? What is it about negligence that gives rise to the view that it should not suffice for criminal liability?

In addressing it, I draw attention to we conduct the debate, and how the questions we raise and our framing of the issues are shaping it (maybe leading some scholars to view negligence as less suitable as a species of mens rea than it in fact is, maybe leading those who want to argue that it does suffice for criminal liability to develop an account of negligence that meets some requirement that should not have to be met). My hope is to prompt some thought and discussion on just what we want the element of mens rea to provide, and to recognize background assumptions about this that shape our views of what it should take for negligence (or anything else) to count as a species of mens rea (or framed differently, to suffice for criminal liability).

ORGANISATION

PROF. DR. ALICE P. WALLA
(MA) MARIA EUGÊNIA ZANCHET
(BA) JOAN GOUVERNE



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