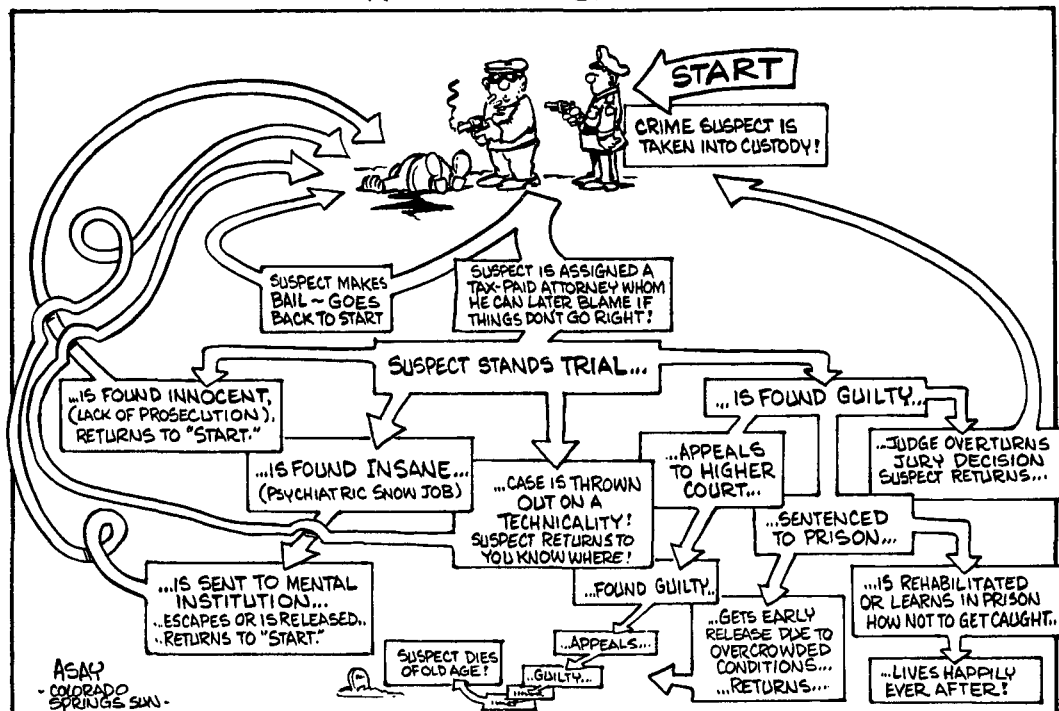


CRIME AND PUNISHMENT: PROCESSING OFFENDERS



core functions, and very little else. And it performed them quite well. Well enough, in fact, that many people concluded that government should also be able to perform lots of other tasks. But government can't grow food or sew clothing or build cars—it can only confiscate wealth from the people who create it. The only thing of real value that government can produce is security. It is a product which individuals are singularly poor at producing themselves.

Unfortunately, the attempt to get more from government did not mean that government would fail at only its new tasks. That would have been bad enough, for government "solutions" discourage private actions that could work toward solving society's problems. It also meant that government's limited talents and abilities would be stretched beyond the breaking point. And so government no longer performs its one, irreplaceable function—the protection of life and property.

What has been forgotten in this process of expanding government is that virtually all the gains society reaps from government come with the securing of life and property. Beyond that

security, more produces less. As more tasks are assigned to government, it slowly begins to dissipate those large initial gains. America is approaching a middle area where government's failures outnumber, and outweigh in importance, its successes.

It seems today that everyone has a prescription for ways in which more government can make America a better place. Just one more law, one more program. But even if we could find the money and expertise to perform all these tasks well (which we cannot), the programs themselves would make us worse off. Asking government to perform these additional tasks—demanding that government compensate us for every bad break and insure us against our own failings—condemns us to fear and insecurity.

The average American pays 35 percent of his income in taxes. And he can't walk the streets at night. It is important to recognize that government doesn't need any more money to keep us safe. Government simply needs to concentrate on that task, and stop wasting our money on other things. □

Rights, Law, and Morality

by Douglas B. Rasmussen

Rights are a moral concept, but they are different from other moral concepts. They have a unique function. Their function is not to secure directly the moral well-being of individuals. Rather, their function is to protect the self-directedness or autonomy of individual human beings and thereby secure the social condition under which individual human moral well-being can occur.

Rights provide guidance in the creation and interpretation of a legal system which protects individuals from being used by others for purposes to which they have not consented. Rights are used to determine what ought to be a law. They provide the normative basis of law but, unlike the moral virtues, they do not provide individuals with any guidance regarding what choices to make in the conduct of their daily lives. Regrettably, the unique function of the moral concept of "rights" is not recognized today, and there is much confusion regarding this concept. This confusion is especially manifested in the claim that people have "welfare" or "positive" rights—the claim, for example, that people have a right to a job, an education, a home, and medical care. There are no such rights. The concept of "welfare" or "positive" rights confuses the functions of law and morality and thus does damage to a proper understanding not only of rights, but of law and morality as well.

Law and morality are not entirely unconnected. Law must have a normative basis if it is ultimately to have authority, and so the attempt to make law

entirely independent from morality is a mistake. But it is also a mistake to reduce the moral concepts that underlie law to those moral concepts which provide individuals guidance in the conduct of their lives. Yet, what is the fundamental difference between morality and law?

Morality and Law

There is a fundamental difference between the concerns of morality and law, and an examination of the character of human moral well-being will reveal the basis for this difference.

1. *Morality.* The moral life is concerned with choices that necessarily involve the particular and the contingent. Knowledge of the moral virtues and true human goods may tell all of us what, abstractly speaking, we ought to do; but in the real world of individual human conduct, where all actions and goods are concrete, moral virtues and goods involve the particular and the contingent. This is why prudence—the use of reason by the individual person to determine what ought to be done in the concrete situation—is the cardinal virtue.

Determining what moral virtue and goods call for in terms of concrete actions in specific circumstances can vary from person to person, and certain virtues can have larger roles in the lives of some persons than in others. Determining the appropriate response to the situation faced is, therefore, what moral living is all about. A successful moral life is by its very nature something that is highly personal.

This, of course, is not to say that any choice one

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