

APPROACHES TO LAW 19/20

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STUDENT JOURNAL OF PROFESSIONAL PRACTICE AND ACADEMIC RESEARCH



Will you understand the Immigration rules?

Introduction

The likelihood is no. The rules are in great need of reform, our research report explains why.

Scenario

Tier 2 General Migrant

This was the type of applicant we decided to focus on

Entry clearance

This was not explained or detailed, apart from a form of payment which was detailed in a separate act.

Entry Clearance index

As it didn't seem clear what one was, I thought this would clarify it. However it did not.

Other countries

Canada and Australia have much simpler systems with easy online assessments that make it very easy for applicants to find the right visa for them and then find their likelihood of being accepted.

Why it is complex?

- **2008 Point based system:** "more efficient, transparent and objective application process". This entailed a more prescriptive approach in order to produce more certainty to applicants.
- **R (Alirol) v Secretary of State:** "any requirement which a migrant must satisfy in order to be granted leave must be contained within the Rules." This meant that previous external guidance which accompanied the rules was incorporated into the rules.
- **Article 8:** "reflect the views of the Government and Parliament as to how Article 8 should, as a matter of public policy, be qualified in the public interest in order to safeguard the economic well-being of the UK." This increased the amount of content.

Dead end?

This seemed like a dead end, because I could not easily see what one was or how to acquire one.

Requirements for entry clearance

When going back to the Tier 2 Section, I realised there were requirements listed. However, it took 3 separate searches to fully understand

Requirements for remain to leave

These very similar stipulations as to the ones for entry clearance.

Reform

The Law Commission consultation paper suggested ideas such as the points based system, which led to the rules being longer, the introduction of more guidance such as new UK Visa and Citizenship Applicant Services and the 'booklet' approach which aimed to allow applicants to be able to look at one section of the immigration rules and understand what was required of them.

Brexit

As a general consensus, people want to remain in the single market. This would mean maintaining the freedom of movement, suggesting little change in the system.

HM Government (2016), A Points-Based System: Migrant Migration Trends Review (2016) Cm 6741, para 7.21 and 7.22 (24 October 2017) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/599765/161116_mrt_review_2016.pdf>
R (Alirol) v Secretary of State for the Home Dept (Article 8) [New Rules, 30 points], No. Upper Tribunal, Immigration and Asylum Chamber [2014] UKUT 361 (AAC) Deportation [2015] UKUT 11, [2015] 1 WLR 2020
Home Office, "Immigration Rules" (2015) UKVI, 24 February 2015 <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/426666/immigration-rules-2015.pdf> accessed 14 October 2017

Further research

The aftermath of Brexit, gaining information from outside sources directly involved in immigration issues.

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By Grace Richardson, Kaitlin Richardson, Megan Robinson, Bryony Honeyman and Josh Raffles

Does Social Media need Statutory Regulation?

Social media is a worldwide obsession, with over 2.4 billion Facebook users, 1 billion Instagram users and 330 million Twitter users. Our report looks at the negative effects of social media, such as cyber bullying and online grooming, that could be addressed through statutory regulation.



Effects and cases

Researchers from Universities of Oxford and Birmingham found that cyber bullying victims are more than twice as likely to self-harm.

In 2009, Keeley Houghton was jailed for cyber bullying.

Research conducted by the NSPCC indicates that "nearly a third (31%) of counselling sessions were from children and young people experiencing bullying on a gaming or social networking site".

A high profile prosecution linked to online gaming is the case of United States v. Barriss (6:18-cr-10065) in 2018, wherein the "swatting" of another player lead to a fatal shooting.

Current legislation

Malicious Communications Act 1988

Harassment Act 1997

Communications Act 2003



Companies' Responsibilities

Setting up a social media account generally requires entering personal details to sign up. Using Facebook as an example, the user must confirm their email address or mobile phone number, but there are no processes in place which check whether the rest of the personal details are genuine.



Proposed reform

Regulation could be implemented by:

- Requiring companies to carry out ID checks when setting up accounts.
- Verification photos, similar to methods employed by Badoo or Blume.
- Improve the accessibility of terms and conditions.
- Making it easier to report abusive or unwelcome behaviour from others online.
- The use of AI to search for trigger phrases in posts and comments.

The need for substantial reform of the law on harassment and cyber bullying is clearly needed. The potential side effects of proposed reform include, the limiting of essential internet access for people who don't have a form of ID, like homeless people, people in deprived areas, or young people. Also, trigger phrases may be difficult to implement as Artificial Intelligence doesn't have the ability to understand context, or relationships between people.

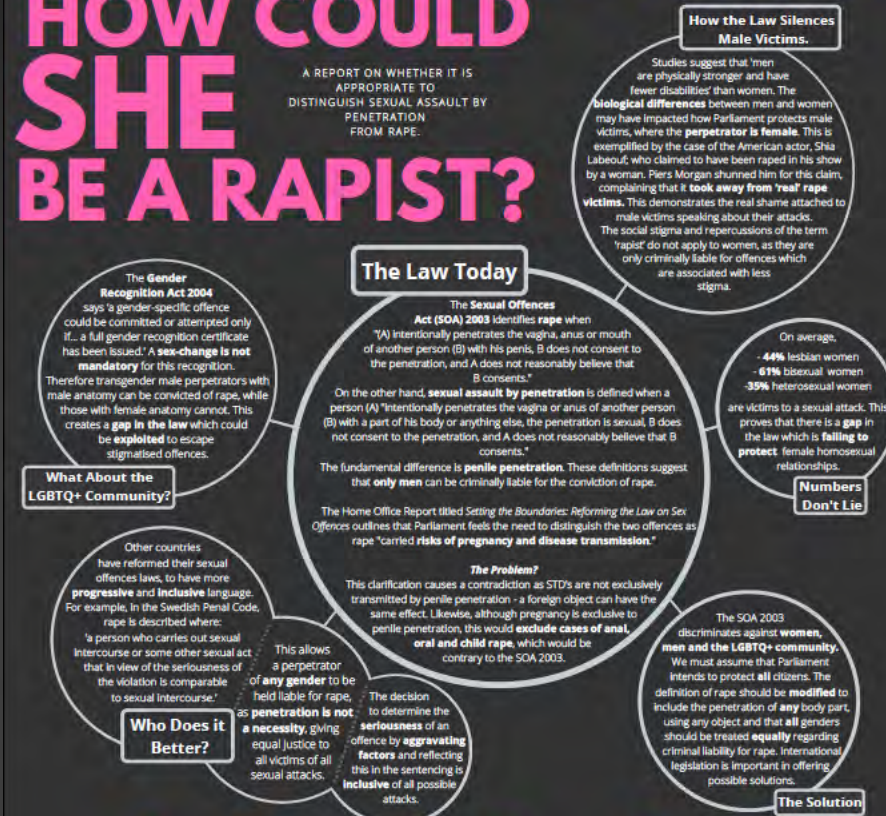
Currently, there is no independent regulatory body governing online safety measures. However, Government's White Paper proposes regulation and legislation to place a duty of care on social media companies, and to discourage harmful behaviour by users.

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HOW COULD SHE BE A RAPIST?

A REPORT ON WHETHER IT IS APPROPRIATE TO DISTINGUISH SEXUAL ASSAULT BY PENETRATION FROM RAPE.



How Effective Is The Defamation Act 2013?

By Orlagh Croskery, Georgia Fleming, Natalia Flis, Adam Doyle, Jonathan Williams, Rebecca Douglass, Sinead Finneran

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CASE LAW

- *Thomton v Telegraph Group Limited* (2010)
- *Lachaux v Independent Print Ltd* (2017)
- *Reynolds v Times Newspapers* (2001)
- Defamation Act 1952
- Defamation Act 1996
- Defamation Act 2013

NEGATIVES

- S.1(b) states harm to the reputation of a body that trades for profit is not "serious harm" unless it has caused or is likely to cause the body serious financial loss
- Amendment no longer allows minor financial losses to be brought, this causes an injustice as the claimant will not be penalised for the severity of their claim.

CITATIONS

- Thomton v Telegraph Media Group*, [2009] EWHC 2863 (QB)
- Lachaux v Independent Print Limited*, [2017] EWCA Civ 1534
- Reynolds v Times Newspapers Ltd*, [2001] 2 A.C. 127

INTRODUCTION

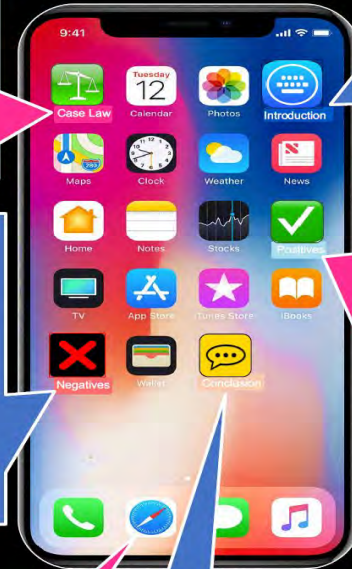
The turn of the 21st century created an abundance of issues arising from its outdated defamation law. Our group conducted research on the law surrounding defamation and technology's increasing impact on the spread of information.

POSITIVES

- Raised the "threshold of seriousness" for when a defendant can be held accountable.
- Allowed perpetrators to be branded with committing 'serious harm' instead of 'substantial harm'.
- Prevented small cases, which do not cause 'serious harm' being brought to court.
- Solidifies the human right of free speech; enables people to have confidence when speaking out.
- Introduction of s.4's principles avoids confusion, and gives it Parliamentary authority that makes it applicable to all courts, therefore allowing it to be used as a legal act rather than as the Reynolds Test precedent.

CONCLUSION

The changes made to the 1996 Act on Defamation made greatly positive impacts due to the period of evolution between itself and the 2013 Act, which has to be recognised as a step in the right direction. However, the fact that there are still issues brings attention to the point that perhaps more reform is necessary.



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Introduction:

- DNA profiling was invented by Sir Alex Jefferies in the 1980s as a way to analyse, gather and store DNA.
- DNA profiling is used to help in the identification of perpetrators at the designated crime scenes.
- Protection of a persons private life is a Human Right.
- It is a controversial topic whether DNA retention affect an individual's Article 8 human rights.

What is Article 8?

- Article 8 is a **conditional right:**
right to a persons private and family life
- It can be removed in certain circumstances such as criminal investigations as directed in PACE.
- DNA is stored on a shared EU database.
- The statistic of **0.36%** displays a very small margin of crimes detected using the National DNA database even after **1.5 million** additions it remained unchanged.
- Due to the seriousness of the crime and difficulties to inform a individual of each search carried out this remains proportionate.

What is PACE?

- **PACE** (the police criminal evidence act) is the main legislation that guides the storage and collection of DNA.
- Many individual cases state **PACE infringes upon the Article 8 Rights.**
- The PACE act has been edited and amended to ensure that it complies with the article 8 rights— Protections of Freedoms Act 2012.

IS YOUR DNA PRIVATE?



What is a DNA sample?

A DNA sample is defined by the Police and Criminal Evidence Act known as PACE as:

'any material that has come from a human body and consists of or includes human cells.'

This definition was used throughout the research report to maintain consistency and in the interests of parliamentary supremacy.

Summary:

- It is inevitable that PACE will interfere with an individual's private life because of the intimacy required to collect DNA samples.
- This interference remains proportionate for the prevention of future crimes or the ease of future DNA matches.
- This is to ensure that individual's who commit crimes are rightfully convicted for justice and rehabilitation.

How has the law developed?

- Since a **2002 Court of Appeal** ruling there has been many changes to the ways in which DNA can be retained, stored and used.
- The ruling allowed the police to retain any DNA collected from those who faced prosecution even if a conviction was not given.
- This was upheld with a 2004 ruling from The House of Lords (Supreme Court)
- However, the 2008 European Court of Human Rights case of **Marper** determined that this was an **infringement of peoples' Article 8 rights**
- This case leads to the **Protections of Freedoms Act** an important amendment to PACE, allowing it to **proportionately infringe upon Article 8.**
- A more recent Supreme Court ruling from the controversial case of **Gaughran** 2012 indicates that the current laws surrounding the retention of DNA are now **justified** and satisfied **the principle of proportionality** in terms of Article 8 Human Rights.

References:

Gaughran v Chief Constable of Northern Ireland [2015] UKSC 29
S and Marper v United Kingdom [2008] ECHR CoE 30562/04 and 30566/04
Criminal Justice Act [2003] s 142(1)(C)
Police and Criminal Evidence Act 1984
Protection of Freedoms Act 2012
ECHR 1998 article 8
Image reference: https://www.google.com/imgres?imgurl=https://californiatechnologyproject.org/wp-content/uploads/2015/04/afai-hq_zmz_murphy_2008_002.jpg

By: Georgia Keeton-Williams, Abigail Kelley, Sofia Kitson, Phoebe Lister, Daniel Livingstone, Mariam Lydon, and Pang Choon Yue

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WHAT DO YOU MEAN YOU DON'T WANT TO HAVE SEX WITH ME?

THE EVOLUTION OF SEXUAL OFFENCES

Nina Kennett, Jack King, Abi Laverick, Poppy Lawson, Kirsten Lowes, Ayla Hakeem

"I married such a sourball!"



"What do you mean you don't want to have sex with me? You're my wife!"

The Sexual Offences Act 1956 was used to establish Marital Exemption through Common Law, where a husband could legally rape his wife because they are married. Now, thanks to the ruling in R v R, it is illegal to rape your wife under the act. The removal of the defense of marital exemption in 1991 shows that there has been an evolution of the law on sexual abuse in both a parliamentary and judicial approach.

Due to the constant need to update the law, most of the outdated legislation has been repealed as well as the courts removing the defense of marital exemption to help protect women in sexual abuse cases.



"Sexual Assault?"

It's a thing!

Introducing the *new* Sexual Offences Act 2003!

Our updated legislation makes it possible for a person to be convicted of sexual touching without consent. Sexual assault and causing a person to engage in sexual activity without consent are triable either-way offences, the gravity of the situation is reduced, therefore invalidating the severity of the incident when compared to the offence of rape covered in the same act!

Sexual Assault is not just for women! Men can be victims too as shown in the case of Beedall. We're stepping into the future of Sexual Offences courtesy of UK Parliament!

"What do you mean it's sexual harassment?
 It's just a joke!"

"Don't be so uptight!"

"I was only being friendly!"

"You're being so sensitive!"



"Don't be so dramatic!"

"It's a compliment."

"It just means they're interested!"

Workplace sexual harassment used to be a rife issue with no way to punish the perpetrators. With the help of UK law makers, the Equality Act 2010 makes anyone who acts in an unwanted, sexual way guilty of sexual harassment and therefore liable to prosecution. It is reported that 52% of women experience some kind of sexual assault in the workplace and 35% of women have heard sexual comments being made in the workplace. These statistics show that the current legislation is not expansive enough to reduce the amount of harassment in the workplace.

The Future Is Here!

Introducing the newest reform, suggested by The People! No longer can a woman escape the offence of rape.

Current Definition:

A person (A) commits an offence if he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis. (b) B does not consent to the penetration, and (c) A does not reasonably believe that B consents

New Definition:

To remove the need for there to be penile penetration, only penetration.

The current definition only allows for male perpetrators due to the need for penile penetration. By changing the definition of rape to encapsulate the idea of forced penetration, it will allow for there to be female offenders of rape. This could be done by removing the need for the penile penetration for the offence to be considered rape

You're a guy, how can you be raped by a woman?
 That's impossible!



Joe Maw, Will McMullen,
Bradley Molloy, Leon Moore, Jemima Mupungu,
Jennifer Ziregbe

Do I Get a Say?!

Are we satisfied that the current laws on Children Transitioning between Genders are fair?

What Does "Transgender" Mean?

- Transgender refers to those people who are born as one gender but don't feel that they fit the gender and body that they were born into, they are then able to transition to the other gender as this will enable them to lead a more comfortable and fulfilling life.
- Gender Dysphoria is the condition which those who experience feelings of discomfort within their own body, which may lead to them feeling trapped and isolated causing severe mental issues.



If you suffer with Gender Dysphoria, your reflection doesn't match your own self-image.

Current Laws for Minors Wishing to Transition

- As of now, a person must be 18 years old before they can apply for a Gender Recognition Certificate, under the Gender Recognition Act, 2004
- The age of consent for surgery is also 18 years old for a gender transition.
 - The Law currently does nothing to recognise children who feel they are living in the wrong body.

We Can Help...

The Option of Hormone Treatments

- Puberty-slowng hormones can be applied to the child, which stop the process of puberty to prevent sexual organs from developing, making the eventual transition easier for the person.
- These are useful as they simply pause natural processes, allowing the child to return to natural puberty should they decide not to transition. Thus, they allow the child greater consideration of the issue.
- However, we must accept that there may be side effects so use of these must be contained to children with genuine gender dysphoria which must be diagnosed by psychiatrists.

Do Mum and Dad Get a Say? How Current Legislation Treats Parental Influence.

- Unlike with a hernia, for example, even with parental consent, a minor may not undergo gender altering surgery.
- This is because the decision needs to be the child's - not influenced by an outside source.
- Some parents encourage their child to live as the opposite gender, even if this isn't the child's wishes; the age of consent protects against this.

We can do better... How to reform the current law:

- Gender recognition should be available at age 16, just not surgery.
- Clearer guidelines should be set out regarding how to demonstrate that you are living as the opposite gender.
- Less intrusive process into the person before they can transition, crucially do not force large amounts of tests upon the person; physical ones are not necessary as gender dysphoria is not a physical illness.
- Minors should not be allowed surgery under any circumstance until they are 18 and have made their own decision, however, treatments like hormone therapy must be available to them from the start of puberty to help with the beginning of the transition.
- Access to hormone blockers for all children diagnosed with gender dysphoria, with laws in place to ensure that they are all able to have access.

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Has the law sufficiently incorporated social media offences into legislation?

@ufis #increasedoffences

2004
FACEBOOK

2005
YOUTUBE

2006
TWITTER

Compose new legislation...

Who to follow

-  Maddison Ogden  Follow
-  Lauren Moore  Follow
-  Chidera Obonna  Follow
-  Samantha O'Byrne  Follow
-  Caitlin McPherson  Follow
-  Risivarthini Murali Kumar  Follow

Social Media legislation

- [#CommunicationsAct2003](#)
- [#CriminalJusticeAct1988](#)
- [#DefamationAct2013](#)
- [#MaliciousCommunicationsAct1988](#)
- [#OffencesAgainstThePersonAct1861](#)
- [Chambers v DPP \[2012\]](#) 
- [Online Harms White Paper](#)

Tweets



Jordan Reynolds @ShropshireStar

In the UK alone, a total of 2,274 social media offences were reported in 2017, with many more that may have gone unreported. Issues such as cyber bullying, sharing of personal or classified information, threats of assault, compiled with the grooming of young children and the sharing of pornographic images have evolved since 2003.



Crown Prosecution Service @cpsuk

Currently, in UK law, as well as there being a limited amount of legislation regarding social media offences, many of these offences also do not have fixed legal definitions. The Crown Prosecution Service states that "there is no legal definition of cyberstalking, nor is there any specific legislation to address the behaviour".



Chambers v DPP @QueensBenchDivision

This case highlighted multiple issues regarding the Communications Act. Language used within the Act, such as "obscene or menacing character", is too subjective and requires interpretation. Moreover, the case also demonstrates the outdated nature of the Act, as it fails to consider new social media sites and whether they would be classified under the Act.

 Chambers v DPP [2012] EWHC 2157, [2013] 1 WLR 1833



Rupert Jones @CitadelChambers

There should be four classes of offences, including: threats of violence or damage to property, harassment of an individual, breaches of court orders and communications that are grossly offensive, indecent or obscene.



Crown Prosecution Service @cpsuk

Under the Defamation Act 2013, statements must pass "high threshold" before the law will intervene, such as making grossly offensive or threatening remarks or a "campaign of harassment specifically targeting an individual". This is subjective terminology that does not identify how much harassment the individual must receive nor what this harassment must entail.



Wiggin @WigginLLP

46% of 18-24-year olds were unaware they could be sued for defamation if they were to tweet an unconfirmed rumour about someone. However, many factors are not clarified under the law including is inaccurate information spread by relatives or individuals the victim knows more derogatory than information spread by strangers.



GOV UK @GOVUK

A proposition for reform is that of a new Act which would incorporate all social media offences under it, making the law clearer and more accessible. In April 2019, the government issued a consultation for the Online Harms White Paper, which "comprises legislative and non-legislative measures and will make companies more responsible for their users' safety online, especially children and other vulnerable groups".

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Kennedy Moroney
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Ethan O'Brian
Jessie Melroy

What is the current law in England and Wales?

As the law stands, the exchange of sexual services itself is legal but (in accordance with various statutes) many associated activities are illegal
Street Offences Act 1959 s.1- made loitering or soliciting in a street or public place for the purposes of prostitution an offence
Sexual Offences Act 2003 s.59(a) introduced sex trafficking as a specific offence
The Policing and Crime Act 2009- introduced a strict liability offence which is committed if someone pays or promises payment for sexual services from a prostitute who has been subject to exploitative conduct

What are the current proposals for reform?

Ideas for reform have been proposed by the All-Party Parliamentary Group. These ideas aim to decriminalise those who sell sexual services, which would mean that prostitutes would no longer face prosecution.

Alongside this, the APPG have also proposed that buying sex services should be made illegal, which would mean the consumer would be prosecuted. The aim of this is to reduce the number of cases involving sexual exploitation and modern-day slavery.

Prostitution

'How effective is the law in England and Wales in reducing and safe regarding prostitution.'



What are the contemporary issues surrounding sex work?

Section 2 of the modern slavery Act 2015 includes the offence of arranging or facilitating the travel of another person for the purposes of sexual exploitation.

A person commits the offence of sex trafficking when he arranges to travel the victim, or transfer the victim, or maybe harboring the victim.

For these purposes, exploitation involves the commission of an offence under part 1 of the **Sexual Offences Act 2003**, or **section 1(1) Protection of Children Act 1978**. it also incorporates all sexual offences of prostitution.

What are other models of the law in other countries?

Prostitution in the Netherlands is legal and regulated so that all sex workers are kept safe from sex trafficking. **Criminal Code Articles 250 and 432** was removed on October 2000, making pimping and brothels legal.

The Nordic Model is a proposed model to control prostitution. It is the idea that prostitution itself will not be illegal but those buying the services will be criminalised. This model is in force in Ireland but England are yet to adopt this approach.

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Hannah Thompson
 Lucy Stout
 Liam Walmsley
 Holly Thompson
 Oliver Turnbull
 Harry Thompson

Are the regulations regarding sex-work for adults in the United Kingdom adequate in the modern era?

“Sex work can take a number of forms...it predominantly consists of men buying sexual services from women, but also includes...men selling to men and men selling to women”



“Sex workers are campaigning for the total decriminalisation of the industry, which they would say makes prostitution safer”

The act of prostitution is legal, however acts related such as luring and soliciting are controlled through numerous legislation. Our initial intention was to decide whether this legislation was adequate for the modern era and whether it punishes regarding involvement, gender and social status. The United Kingdom has criminalised acts related to prostitution such as brothels and the act of procuring sex-workers. However, there has been a public outcry to prosecute and introduce legislation that targets violent crimes against those who sell sex.

Legislation & Reform
 Legislation aims to prosecute people who exploit sex workers. It establishes an outline of the rights reserved for sex workers. Past reform of the **Sexual Offences Act 2003** has removed gender-specific offences (excluding rape). The **Police and Crime Act 2009** has **Section 16** which outlines the regulations related to advertising prostitution and luring in relation to prostitution. **S. 16** helps clarify key words such as 'persistent' replacing 'common prostitute' to person to make it easier to prosecute due to being less specific. These crimes result in fines not exceeding level two for first time offenders. Many prostitutes receive cautions from soliciting, resulting in the amount of work received and ultimately, a reduction in income.

Adequacies in the legislation
 SOA 2003 gives meaning to specified prostitution offences. It provides protection for those who are exploited or enticed into sex offences as stated in the act. The **Police and Crime Act 2009** provides much of the law on sex work, unifying much of the law under one statute and removing injustices regarding gender. Amendments have been made in order to make the legislation more applicable, broadening the law prevents advertisement of prostitution, lowering the levels of exploitation. Reform of the **Sexual Offences Act 2003** has also abolished offences geared towards homosexuals demonstrating adequacy and a movement in line with the modern era.

Inadequacies in the legislation
 There is an apparent lack of protection available for sex workers, specifically in terms of criminalisation. There is potential that prostitutes could fear reporting crimes inflicted upon them or due to fear of being criminalised for their acts. There is also a strong threat of prosecution towards prostitutes and the difficulty of prosecuting those who exploit them, due to cases, such as **R v Davis (2019)** where the victims have admiration for the defendant. This causes a difficulty of gaining evidence and getting justice for the victims.

Liberal feminists view prostitution and sex work as something that would empower women. Their movement has been massive in encouraging the Netherlands in keeping their laws on prostitution. They see this as any other job where someone would struggle to earn a living. Radical feminists would make the claim that prostitution and sex work in fact demean women as they are seen more as objects to be purchased. Radicals would also argue that there are a lot of dangers involved in sex work such as healthcare and policing.

- We concluded that the law is relatively inadequate for the modern era. Under the current law, women are able to partake in prostitution. The law prevents the unlawful control of women, thus protecting sex workers. There remains a substantial threat of violence in the field of sex work. Reforms would benefit many whom pursue or involve themselves with this industry.
- Decriminalisation of acts surrounding 'brothels' would fundamentally improve the safe selling and matter of sex work, ensuring the safe selling and pursuing of sex. Sexual liberation should be encouraged, not criminalised.

Harry Thompson, Holly Thompson, Lucy Stout, Hannah Thompson, Oli Turnbull, Liam Walmsley.

In the modern day, how effective is the law in dealing with knife crime in England and Wales?

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Thomas Parkin
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Ece Pirbudak

Key Statistics

In the year ending March 2019, there was an overall average of 47,100 knife crimes involving a pointed or bladed article recorded by the police throughout England and Wales. This is the highest number in the ten years documented statistics on knife crime.

Across the country 43 out of 44 police databases recorded a rise in knife crime since 2011.



Young Offenders

Knife Crime is increasing amongst young people. The government is attempting to deal with this issue with the "tackling knives, saving lives action programme".

Similarly sentencing has become harsher as seen in section 42(1) of the Violent Crime Reduction Act 2006. However, young offenders are likely to evade imprisonment and receive fines instead.

Modern Day Knife Crime Prevention

(The Offensive Weapons Act 2019)

Part 2 of the Offensive Weapons Act 2019 lays out the variety of provisions that will be enforced to prevent knife crime. For example, Knife Crime Prevention Orders (KCPOs) aim to deter the potential and previous offenders from committing further offences.

Conclusion

The law is ineffective in relation to young offenders due to most punishments being regarded as short term. The purpose of punishment and rehabilitation has potentially been overlooked due to the high statistics of reoffending.

The offensive Weapons Act 2019 and Knife Crime Prevention Orders have been adapted so that they effectively deal with modern day knife crime.

It is clear that any offender involved in will be convicted; however this is in the review stage on whether this is a permanent solution to reduce knife crime.

The law around the possession of a bladed or pointed article needs to be reformed due to the high statistics of offending and reoffending.

Threats with an Offensive Weapon

Reforms made under the Offensive Weapons Act 2019, aim to reduce the level of threat perceived by a potential victim, in order for someone wielding a knife to commit an offence. This will allow for a more effective way of dealing with knife crime in the modern day.

Possession of Knives and Other Bladed Articles

It is a criminal offence under the Prevention of Crime Act 1953 to be in the possession of a bladed or pointed article without any lawful authority or reasonable excuse (such as work purposes) in a public place. However, many of the punishments that are applied are more often suspended sentences and fines.

To what extent is the law on racially motivated hate crime sufficient?

Dinaroz Al-swedi, Mariya Akhtar, Aliya Al-saraf, Jamie Armstrong, Daniel Anderson & Sefal Alam

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Introduction

It will look at the Stephen Lawrence case, the Acts of Parliament and how the victims felt after being attacked based on their race or religion.

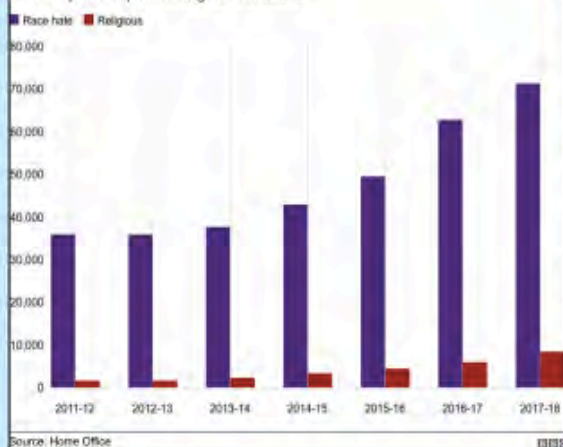
Context

S.31 of the Crime and Disorder Act (CDA) created racially aggravated versions of the offences under s.4 and s.4A. 11 basic offences can be prosecuted as racially or religiously aggravated, as set out in ss.29 - 32 of the CDA. Following s.28 ss(1) of CDA, the basic offence is aggravated if at the time of committing the offence, or immediately before or after, the offender demonstrates hate towards the victim of the offence based on race or religion. Further, the offence needs to be motivated by hostility towards members of a racial or religious group.

S.28 ss(4) of the CDA defines 'racial group' as a group of persons defined by reference to race, colour, nationality or ethnic or national origins" and s.28 ss(5) of the CDA defines 'religious group' as 'a group of persons defined by reference to religious belief or lack of religious belief'. It shows that if a defendant uses words identifying specific nationalities or races, then this can make the offence a racially aggravated one within the definition of s.28.

Hate crime

Crimes reported to police in England and Wales



Statistics

Increase in the number of racially or religiously aggravated offences over the five-year period, reflecting improvements in crime recording by the police;
A peak in July 2013 in offences following the Lee Rigby murder

Rise in racially or religiously aggravated offences during the EU Referendum campaign, from April 2016, to a peak in offences after the result, in July 2016;
A sharp increase in hate crime in June 2017 following terrorist attacks in May and June.

Stephen Lawrence

Group of white youths fatally stabbed young black man. A victim of the attack 'was side-lined and ignored by officers racist stereotyping', Inspector used 'insensitive and stereotypical' racist behaviour at the scene, and Police used racially offensive language'. Failure 'to direct proper searches' caused by 'insensitive understanding.



Conclusion

The law on racially motivated hate crime is not adequate based on the research that we have collected throughout the last few weeks.

Literature Cited

"Abenna Owusu-Bempha, Mark Austin Walters, Susann Wiedlitzka, Racially and Religiously aggravated offences: "God's gift to defence", Crim. L.R. 2019, 6, 463-485

Tony Storey, Unlocking Criminal Law (Seventh edition published 2020 by Routledge) 600, 601

Further information

- <https://www.lawcom.gov.uk/project/hate-crime/>
- <https://www.cps.gov.uk/hate-crime/>
- <http://report->
- <https://www.cps.gov.uk/hate-crime>
- it.org.uk/organisations_that_can_help
- <https://www.bbc.co.uk/news/uk-wales-48692863>