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STUDENT JOURNAL OF PROFESSIONAL PRACTICE AND ACADEMIC RESEARCH
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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, Keesey Houghton was jailed for cyber bullying.

Research conducted by the NSPCC indicates that “nearly a third (32%) 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. Barrios (W13-1006) in 2016, 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.
Adam Doyle  
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How Effective Is The Defamation Act 2013?

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

INTRODUCTION

The turn of the 21st century brought an abundance of issues relating to the outdated defamation laws. The current system has been seen by many as being too restrictive and not allowing for the spread of information.

NEGATIVES

- Legal action taken to the reputation of a body has increased profi t is not "serious harm" and a breach caused or is likely to cause the body potential financial loss
- Auchmuty no longer allows minor financial losses to be brought, this caused an imbalance as the claimant will not be penalised for the severity of their claim.

CITATIONS
- "Chambers v Telegraph Media Group Ltd. [2009] EMHR 286/9"  
- "Lennon v Independent Press Limited [2017]"  
- "Davison v G4S Secure Estate Ltd. [2006] EAT 147"  
- "Davison v G4S Secure Estate Ltd. [2006] EAT 147"

POSITIVES

- Removed the "threshold of serious" i.e. when a newspaper can be held accountable
- Almond provision to be treated as containing "serious harm" instead of "substantial harm"  
- Provided small cases, which do not require "serious harm" being brought to court
- Hables the human right of free speech creates a balance between the public interest and the individual's SPEAKING OUT
- The concept of "freedom of speech" principle to enable conclusion
- Legal issues to be decided by the court, and given a Privy Council authority that makes it applicable to all cases.

CONCLUSION

The changes made to the 1996 Act on defamation have made positive impacts for the period of entailment between itself and the 2013 Act, which has been recognised as a step in the right direction. However, the fact that there are still issues being brought to the point that perhaps more action is necessary.
Introduction:
- DNA profiling was invented by Sir Alec Jeffreys 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 person's private life is a Human Right.
- It is a controversial topic whether DNA retention affects an individual's Article 8 human rights.

What is Article 8?
- Article 8 is a conditional right: right to a person's 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 0.06% displays a very small margin of crimes detected using the National DNA database; even after 1.5 million additions it remains unchanged.
- Due to the seriousness of the crime and difficulties to inform an 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—Protection of Freedoms Act 2012.

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 individuals 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 2006 European Court of Human Rights case of Marper determined that this was an infringement of peoples' Article 8 rights.
- This case led to the Protection 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 Gaughan 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 and Human Rights.

References:
- Gaughan v Chief Constable of Northern Ireland [2012] UKSC 29
- UK and Marper v United Kingdom [2006] ECHR Case 30864/04 and 30864/04
- Criminal Justice Act 2003 (s 143) (UK)
- Police and Criminal Evidence Act 1984
- Protection of Freedoms Act 2012
- ECHR 1958 article 8

By: Georgia Keeton-Williams, Abigail Kelley, Sofia Kitson, Phoebe Lister, Daniel Livingstone, Mariam Lydon, and Pang Choon Yue
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 Menstrual Exception 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 defence of marital exception 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 defence of marital exception 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 crimes other than offenses, the gravity of the situation is reduced, therefore invalidating the severity of the incident when compared to the offenses 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 Beedle. We're stepping into the future of Sexual Offences courtesy of UK Parliament.

The Future is Here!

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

Current Definition:
A person is convicted of an offence for voluntarily performing the act, even in a situation where the person was not aware that it was an act of sexual penetration. The act does not necessarily involve physical contact.

New Definition:
A person must be deceived by the need for there to be physical penetration, only penetration.

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

Workplace sexual harassment used to be a rare issue with no way to punish the perpetrator. With the help of UK law makers, the Equality Act 2010 makes anyone who acts in an unwarranted, 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 19% of women have heard sexual comments being made in the workplace. These statistics show that the current legislation is not stringent enough to reduce the amount of harassment in the workplace.
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.

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-slowing 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.

- 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.
### Social Media Legislation

**#CommunicationsMedia2003**

**#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 cyberbullying, sharing of personal or classified information, threats of assault, and grooming of young children and the sharing of pornographic images have evolved since 2003.

**Crown Prosecution Service @cppuk**

> Currently, in UK law, as well as there being a limited amount of legislation regarding social media offences, many of these offences are not defined by law. 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**

> 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.

**Rupert Jones @CtaderChambers**

> 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 @cppuk**

> 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**

> 45% 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 inaccuracy of information spread by relatives or individuals the victim knows more derogatory than information spread by strangers.

**GOV.UK @GOV.UK**

> 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."
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.69(a) introduced sex trafficking as a specific offence. The Proceeds of Crime Act 2002 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.

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 11(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 Article 250 and 432 was removed on October 2000, making pimping and brothels illegal.

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

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 crimes since 2011.

Young Offenders
Knife Crime is increasing amongst young people. The government is attempting to deal with this issue with the “tasking 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.

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.

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 adopted 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.

Stephanie Powell, Cameron Reed, Cate Pearson Thomas Parkin, Ece Pirbudak, Yasmin Perek.
Introduction

It will look at the Stephen Lawrence case, the Acts of Parliament and how the victim 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 s.29 - 32 of the CDA. Following s.30 sas(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 as(4) of the CDA defines ‘racial group’ as a group of persons defined by reference to race, colour, nationality or ethnic or national origin” and s.28 as(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 it 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

| Year   | Hate crimes
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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 incidents following the Lee Rigby Murder.

A rise in racially or religiously aggravated offences during the EU Referendum campaign, from April 2016 to a peak in incidents 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 stabbings and ignored by officers racist stereotyping, inspector used insensitive and stereotypical racist behaviour at the scene. 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


Tony Storey, Unlocking Criminal Law (Seventh edition published 2020 by Routledge) 500, 551

Further information

- [https://www.gov.uk/government/organisations/what-can-help](https://www.gov.uk/government/organisations/what-can-help)
- [https://www.gov.uk/government/organisations/what-can-help](https://www.gov.uk/government/organisations/what-can-help)