

LSE Law Matters public lecture

Reconstructing the Law of Voyeurism and Exhibitionism

Professor Stuart Green

*Distinguished Professor of Law, Rutgers University
Visiting Leverhulme Professor for 2016-17, LSE Law*

Professor Jeremy Horder

Chair, LSE

Hashtag for Twitter users: **#LSEGreen**

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Reconstructing the Law of Voyeurism and Exhibitionism

Stuart P. Green













PEEPING TOM OF COVENTRY.



NEW AT 5:00

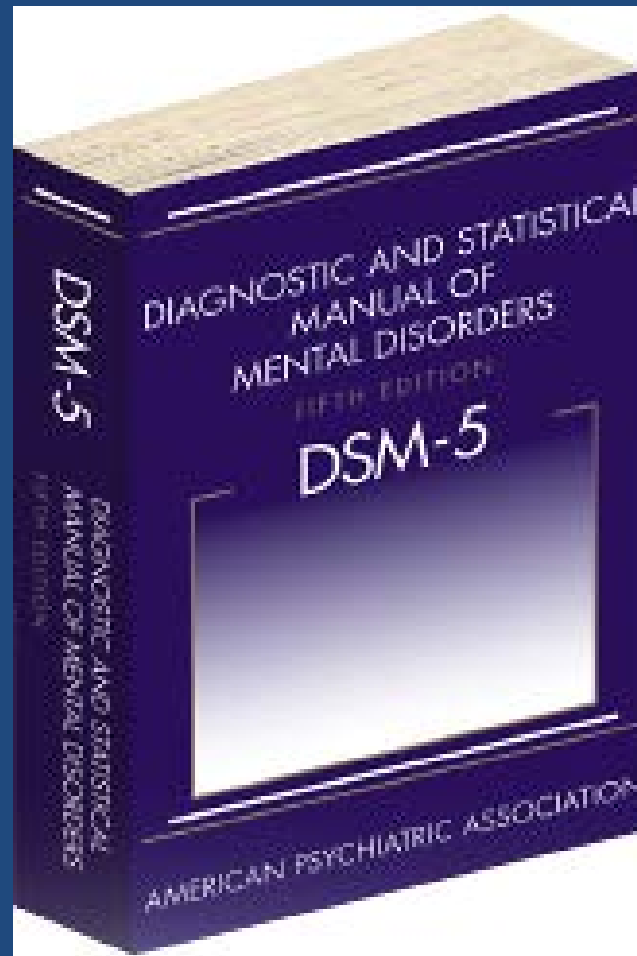
**10 MINUTES
NON-STOP
NEWS**

**ACCUSED PEEPING TOM ALSO ACCUSED OF SEXUAL ASSAULT
TWO INCIDENTS HAPPENED ON THE SAME DAY**









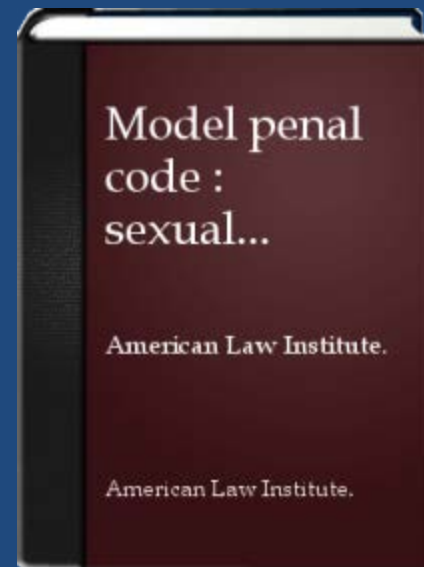




Sexual Offences Act 2003

CHAPTER 42

CONTENTS



Joel Feinberg

HARM TO OTHERS

THE MORAL LIMITS
OF THE
CRIMINAL LAW

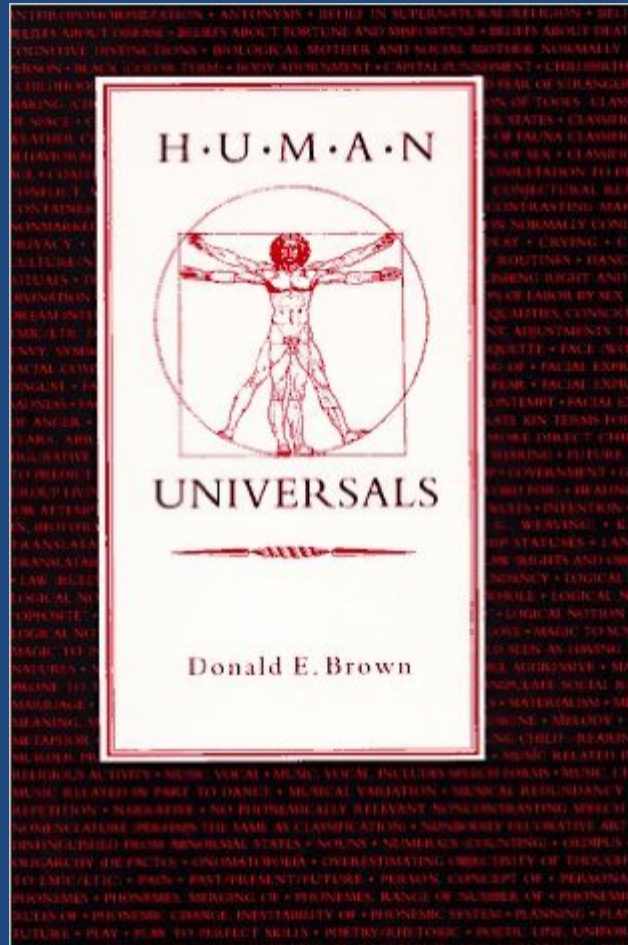
Joel Feinberg

OFFENSE TO OTHERS

THE MORAL LIMITS
OF THE
CRIMINAL LAW

Wrongs







HARVARD LAW REVIEW.

VOL. IV.

DECEMBER 15, 1890.

NO. 5.

THE RIGHT TO PRIVACY.

"It could be done only on principles of private justice, moral fitness, and public convenience, which, when applied to a new subject, make common law without a precedent; much more when received and approved by usage."

WILLES, J., in *Millar v. Taylor*, 4 Burr. 2303, 2312.

THAT the individual shall have full protection in person and in property is a principle as old as the common law; but it has been found necessary from time to time to define anew the exact nature and extent of such protection. Political, social, and economic changes entail the recognition of new rights, and the common law, in its eternal youth, grows to meet the demands of society. Thus, in very early times, the law gave a remedy only for physical interference with life and property, for trespasses *vi et armis*. Then the "right to life" served only to protect the subject from battery in its various forms; liberty meant freedom from actual restraint; and the right to property secured to the individual his lands and his cattle. Later, there came a recognition of man's spiritual nature, of his feelings and his intellect. Gradually the scope of these legal rights broadened; and now the right to life has come to mean the right to enjoy life,—the right to be let alone; the right to liberty secures the exercise of extensive civil privileges; and the term "property" has grown to comprise every form of possession—intangible, as well as tangible.

Thus, with the recognition of the legal value of sensations, the protection against actual bodily injury was extended to prohibit mere attempts to do such injury; that is, the putting another in











"Any of these guys look like the Peeping Tom?"

Exhibitionism





DISGUST

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#INSIDEOUT





Harms



OXFORD

PREVENTIVE JUSTICE

Andrew Ashworth and Lucia Zedner



OXFORD MONOGRAPHS ON CRIMINAL LAW AND JUSTICE

“Harmless” voyeurism?



“It is no objection under the harm principle that a harmless action was criminalized, nor even that an action with no tendency to cause harm was criminalized. It is enough to meet the demands of the harm principle that, if the action were not criminalized, *that* would be harmful. This test is passed by the pure case of rape with flying colours. If the act in this case were not criminalized, then, assuming at least partial efficacy on the part of the law, people’s rights to sexual autonomy would more often be violated.”

The harm in exhibitionism?







IF IT'S UNWANTED, IT'S HARASSMENT.

You have the right to be safe waiting for and riding Metro. You don't have to put up with inappropriate comments, touching, gestures, or actions. Help Metro protect you and other riders. Together, Metro, our partners, and you can stop harassment. If you experience or witness harassment, report it to the nearest Metro employee.

Call MTPD at 202-962-2121 or text MYMTPD (696873).



The offense principle









Consent or assumption of risk

Intent of actor

Value to offender or society

Alternative times and places

Assumption of risk or consent







ATTENTION
BEYOND THIS SIGN
YOU MAY ENCOUNTER
NUDE SUNBATHERS

THE FOLLOWING **PREVIEW** HAS BEEN APPROVED FOR
APPROPRIATE AUDIENCES
BY THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.

THE FILM ADVERTISED HAS BEEN RATED



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www.mpaa.org







When observer has *not* consented
to or assumed risk of exposure

1. Intent to gratify sexual desire

2. Intent to cause affront or distress

3. Strict liability







Value to exposurer or society

















Two final issues





Apply law to:

1. protect even the most “sensitive.”
2. protect the majority sensibility.
3. only to cases in which all but the most “insensitive” would be offended.

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