

LAW 201 Week 4 Lecture Notes

September 28th, 2023

Sources of Criminal Law

- **Only federal government.** Parliament has exclusive legislative jurisdiction for criminal law and procedure
- **No judge made offence.** Common law offences abolished in 1953. Charge must always allege a breach of a statutory provision (usually the Criminal Code)
 - Risk of individual subjectivity
 - It ensures the closest thing to a consistent judicial outcome across Canada

Sample Offence the Criminal Code

Assault:

- **265 (1)** A person commits an assault when
 - **(a)** without the consent of another person, he applies force intentionally to that other person, directly or indirectly
 - **(2)** This section applies to all forms of assault, including sexual assault
- Law deals with two main elements. The first is the act element. The second is the mental element
- Application of force without consent
- What was in the defenders or accused mind
 - For any bad behaviour to be considered assault the prosecution has to prove that intention was present
- Absence of consent
 - Consent may be vitiated where "serious hurt or non-trivial bodily harm" intended and caused
- Knowledge of absence of consent (possible defence of mistake of fact, must take "reasonable steps" to ascertain consent)
- A mistake of law is no defence. You can, however, argue that you that they were consenting
 - Actions are considered consent in these cases

Are There Any Limits on What Can be Criminalized?

- The difference between assault and a morality offence like drug consumption is that assault infringes on the sovereignty of others
- The *Bedford v. Canada* case
 - Canada became the first country to legalize sex work
 - This is a case of a judge changing law
 - They did it through legislation but did a partial decriminalization

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BM King



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The Criminal Law Journal ,1964 **Current Law Index** ,2001 **Kenya Gazette** ,1949-01-18 The Kenya Gazette is an official publication of the government of the Republic of Kenya It contains notices of new legislation notices required to be published by law or policy as well as other announcements that are published for general public information It is published every week usually on Friday with occasional releases of special or supplementary editions within the week **Records of the Proceedings and Printed Papers of the Parliament** Australia. Parliament,1908 *The Mysore Gazette* Mysore (India : State),1960 **Parliamentary Papers** Australia. Parliament,1908 **Engineering** ,1895 Hansard's Parliamentary Debates Great Britain. Parliament,1879 **The Academy** ,1878 **Challenges of Policing Democracies** Dilip Das,Marenin Otwin,2012-10-12 In this text the editors analyze the diverse situations that police forces operate under and the challenges that they face in different kinds of democracies This cross cultural comparison of various systems highlights the universal observation that police are a anomaly in a democracy and explores how various influences for example large scale social violence a zeal for crime fighting and vulnerability to temptation often find police incapable of behaving in a democratic manner Challenges of Policing Democracies goes beyond just showing the similarities and differences of the policing challenges democratic societies face it also examines the responses and remedies adopted by police in various countries at different levels of democratic achievement and how every society struggles with the challenges of preserving democratic values without sacrificing the effectiveness of policing

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Table of Contents Matric Exam Paper Sa Criminal Law 201

1. Understanding the eBook Matric Exam Paper Sa Criminal Law 201
 - The Rise of Digital Reading Matric Exam Paper Sa Criminal Law 201
 - Advantages of eBooks Over Traditional Books
2. Identifying Matric Exam Paper Sa Criminal Law 201
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Matric Exam Paper Sa Criminal Law 201
 - User-Friendly Interface
4. Exploring eBook Recommendations from Matric Exam Paper Sa Criminal Law 201
 - Personalized Recommendations
 - Matric Exam Paper Sa Criminal Law 201 User Reviews and Ratings
 - Matric Exam Paper Sa Criminal Law 201 and Bestseller Lists
5. Accessing Matric Exam Paper Sa Criminal Law 201 Free and Paid eBooks
 - Matric Exam Paper Sa Criminal Law 201 Public Domain eBooks
 - Matric Exam Paper Sa Criminal Law 201 eBook Subscription Services
 - Matric Exam Paper Sa Criminal Law 201 Budget-Friendly Options
6. Navigating Matric Exam Paper Sa Criminal Law 201 eBook Formats

- ePub, PDF, MOBI, and More
 - Matric Exam Paper Sa Criminal Law 201 Compatibility with Devices
 - Matric Exam Paper Sa Criminal Law 201 Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Matric Exam Paper Sa Criminal Law 201
 - Highlighting and Note-Taking Matric Exam Paper Sa Criminal Law 201
 - Interactive Elements Matric Exam Paper Sa Criminal Law 201
 8. Staying Engaged with Matric Exam Paper Sa Criminal Law 201
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Matric Exam Paper Sa Criminal Law 201
 9. Balancing eBooks and Physical Books Matric Exam Paper Sa Criminal Law 201
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Matric Exam Paper Sa Criminal Law 201
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Matric Exam Paper Sa Criminal Law 201
 - Setting Reading Goals Matric Exam Paper Sa Criminal Law 201
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Matric Exam Paper Sa Criminal Law 201
 - Fact-Checking eBook Content of Matric Exam Paper Sa Criminal Law 201
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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