

ABSTRACT

The *Sexual Offences Act*, 1992 (No. 3 of 1992) was enacted by the Barbados Parliament on the 31st January 1992 and became operative on the 13th February 1992. The object of the statute was to revise and reform the law relating to sexual crimes.

This thesis examines the Act in a three fold way. Firstly, it attempts an exposition and a critical evaluation of the substantive, evidential and procedural law set out in the Act. Secondly, it examines the extent to which the pre-existing law has been reformed. In pursuit of these two objectives, the study is limited to a consideration of the offences which involve penetration of the bodily orifices. Thirdly, it focuses on how the issues of capacity and consent are treated by the legislature.

It is hoped that this study will be of benefit to students and practitioners. The paper concentrates on the presentation of relevant case law, academic commentary and comparative legislation as a means of explaining and evaluating the contents of the Act.

The paper is divided into six parts. The introduction highlights the major changes which emerged in other Commonwealth Caribbean jurisdictions and analyses how the Act uses the term "sexual crimes".

Chapter 1 presents an overview and critique of the pre-existing law. The need for reform was self-evident.

The substantive law is examined in Chapter 2. The Act makes major changes in this regard.

Chapter 3 concentrates on the Act's response to the call to make trials of sexual offences less of an ordeal for victims. Concern is expressed that the interest of the accused might well have been sacrificed on the altar of the feminist movement.

Chapter 4 looks at capacity and punishment. With respect to the former, the creation of varying thresholds for criminal liability and the retention of archaic presumptions attract criticism. As to the latter, the basic approach to sentencing has been left untouched.

These chapters are followed by a conclusion which summarises the major achievements and shortcomings of the legislation. Two Appendices follow. One

reproduces the Act for ease of reference. The other displays the statutory maxima for offences set out in the Act comparing them with the previous maxima.

I would like to express my profound gratitude to all who contributed to the completion of this work.

I am most grateful, in particular, to Mr. Clifford Hall whose supervision and insightful comments proved invaluable and Ms. Waveney Webster who exhibited great patience in deciphering my scribbles and retyping the many drafts presented to her.

Oisín DeC. Ailcyné

Faculty of Law
Cave Hill
1997