

Sexual Ethics and Criminal Law: A Critique of the Sexual Offences Bill 2003,

by Francis Bennion

reviewed by Andy Armitage

Francis Bennion is that rarity among those who write books and – in this case – booklets about the law: he's a plain speaker. All the clichés come to mind: he doesn't mince his words; he says what he means; he doesn't beat about the bush.

Bennion clearly doesn't like the Bill. His primary objection is that it is not based on "any discernible system of morals and values" but "grounded in a low view of human sexuality", displaying what he calls "sex-negativism". This is a theme that recurs.

While most people would accept some of the ethical propositions – such as that rape is immoral – there are other areas that seem to worry him: one of them is incest. This "offence" when practised by consenting adults invites no general agreement on morality. Yet it is there in the Bill.

On this question of relativism, he cites our multicultural social fabric. Britain's people have "many different sets of morals and values, some directly opposed to one another. Many are based on various religions, mainly Christian, Muslim, Hindu or Jewish. Yet the majority of our people are not close adherents of any particular faith and would be classed by an impartial assessor as secular in their values," he writes. Since the majority should prevail, Britain's sex laws should be based on secular, not religious, ideals.

A taboo subject is always children, and here again Bennion does not jib at confronting the issues. He is thankful that the Bill does not use the term "paedophilia", and says the nation is in confusion over sexual relations between adults and "the immature" because the media use "paedophilia" as a blanket term, masking "the fact that many very different types of action are involved here, verging from the horrific to the trivial".

He cites three types: the paedophile, who is "a man who is sexual attracted by little children well below the age of puberty – usually girls"; the pederast, who "is a man or youth (or occasionally a woman) who is sexually attracted by handsome pubescent boys, good-looking young males between the ages of eleven and fifteen"; and the man with "Lolita syndrome", who is drawn "to nubile girls aged again between the ages of eleven and fifteen, with whom he desires otherwise normal sexual intercourse".

The Bill, he complains, ignores these distinctions and "applies a blanket approach. This is one more ground for condemning it."

Something Home Secretary David Blunkett made great play of in speeches concerning the Bill was the "grooming" of children, which can attract a maximum penalty of five years' jail.

He makes the point that this offence will arise only (and here the quotation is from the Bill) "where it is clear that this is what the offender intends", and goes on to ask the reasonable question, "But how is that clear intention to be proved?"

Then comes the very logical observation – so why haven't the lawmakers spotted it? – that, if a "groomer" subsequently carries out a sexual assault that "can be charged as an offence in itself", there is no need for the preliminary offence of grooming. If there is no assault, how can grooming be proven?

In his conclusion, Bennion hints at – without using the term – a sexual thought police. “When, at the age of eighty, I read through this Bill I was dismayed. Plonking clause after plonking clause, framed in crass civil service language, brings the police officer and social worker into our nation’s bedrooms, to the peril of our cherished humanity. Civilisation can surely do better.”

He deals with other aspects of the Bill, of course, including prostitution, adult sexual activity with children, familial sex abuse, mistaken age of children and bestiality.

It is a “grossly defective Bill”, he says, that should be scrapped. The Home Office should start again. “State forces should not come bursting into the bedroom unless the need is dire,” he writes. “Children should not be frightened by hysterical adults as they strive to come to terms with the life force ... The mentally handicapped ... should not, on top of their other deprivations, be denied sexual fulfilment. Sex *should not be seen as a bogey* by anyone.” (My emphasis.)

At 48 pages, including appendices dealing with Bennion’s 1991 book *The Sex Code: Morals for Moderns* (Weidenfeld & Nicholson), www.francisbennion.com/book/sexcode.htm, it can be read in a sitting – two at most.