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The Teaching of Criminal Law – Are We Stuck in a Timewarp?

BY
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ABSTRACT
A typical criminal law course covers general principles of criminal liability (actus reus, mens rea, causation, party liability and so on). In terms of specific offences, it is most common to make use of homicide; also commonly covered are other assaults, and in particular serious sexual assaults; some courses also cover property offences (theft, burglary and so on). Rarely covered are drugs, driving and public order offences. This paper seeks to address the question of why are particular offences covered; in particular, the question is why criminal law teaching concentrates on relatively infrequent offences, particularly homicide and serious sexual offences, and does not cover much more common offences, particularly drugs, driving and public order offences. Does this represent a sensible choice? Indeed, does it represent a choice at all, or is it merely a reflection of what has always happened? The paper reports on findings of a survey of course descriptions from the common law world (which confirms the starting point of the paper, namely the concentration on homicide and serious sexual offending), and compares this with the available statistics as to the crimes that are reported and/or prosecuted, to verify that there is at best a partial overlap between what is taught and what law students are most likely to meet if they practice criminal law. There is a further report on the external constraints on university law courses from bodies such as bar examiners. The paper then turns to the question of the pedagogy of criminal law teaching, makes some suggestions as to the benefits that arise from being able to select from a wider variety of offences, outlines proposed research questions that are relevant to the question of what offences should be taught, and offers some tentative conclusions.

ABOUT THE SPEAKER
Kris Gledhill, who has law degrees from the University of Oxford and the University of Virginia, qualified in Virginia in 1985 and then as a barrister in England in 1989. He practiced for two decades first in commercial law but then in criminal and public law, appearing in several cases in the English Court of Appeal and House of Lords and the European Court of Human Rights. In 2006, he moved to New Zealand to undertake a PhD and in 2007 joined the Faculty of Law at the University of Auckland, where he teaches criminal law, tort law, and international human rights law.

REGISTRATION
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