



SCHOOL OF LAW AND SOCIAL JUSTICE

**INTERNATIONAL CRIMINOLOGICAL RESEARCH UNIT (ICRU):
RESEARCH SEMINAR**

WEDNESDAY 20th APRIL 2016: 4pm – 5.30pm (VENUE TBC)

Professor James Chalmers
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“Wretches of Men”: Rape Law Reform in Scotland and Sweden

To lawyers in the United Kingdom, it may seem self-evident that rape should be defined by reference to the absence of consent on the part of the victim, rather than the use of force by the accused. That was established as far back as 1845 in English law, even if the point was not put beyond doubt until rape was defined in legislation in 1976. Elsewhere, however, the shift from a force-based to a consent-based model has taken longer to achieve or has not occurred. Scotland did not make this change until 2002, while continental European jurisdictions commonly continue to define rape by reference to force. The question has been particularly controversial in Sweden, where a consent-based definition of rape has twice been rejected in the last two decades, but with renewed public debate leading to a third official commission being formed to review the issue, with a report due in late 2016. Given the continuing persistence of force-based models in continental Europe, Scotland’s relatively recent transition has been of some interest to Swedish reformers. But why has Sweden consistently rejected a consent-based model? What explains why some jurisdictions see consent as self-evidently core to sexual offences why others reject it? Equally, what do the proponents of reform hope to achieve by a shift to consent? And what lessons – if any – are offered by the Scottish transition?

James Chalmers is Regius Professor of Law in the School of Law, University of Glasgow.