

## **W201 The Individual and the State**

### **Problems on consent in rape**

#### **Exercise 1**

Imagine you are a juror. Despite the judge's helpful direction what he has said about the law has not made any sense to you. Applying only innate common sense would you convict or acquit of rape based on the following evidence of consent?

1. Couple who have cohabited for 5 years

"I said no and he tried to talk me into it. Then he started shouting and getting angry. In the end I went along with it. I was too scared to say anything."

2. First meeting

"I was in a pub. This guy asked me to have sex. I didn't respond and escaped to the loo. He followed me in, pushed me into a cubicle and raped me."

3. Married 30 years

"I told him I was too tired to have sex. I went to sleep, and woke up to find him starting to have sex with me. He refused to stop."

#### **Exercise 2**

Look now at Sections 74 and 75 of the Sexual Offences Act 2003. What legal arguments are there for and against the existence of consent in each case?