

Human Sexuality November 4, 2009

Pornography & Prostitution

Definitions

- **Pornography** = sexually explicit material that is intended to be sexually arousing; may contain explicit sex that is combined with violence that is degrading or dehumanizing
- **Obscenity** = Criminal Code of Canada term that refers to any publication of sexual material which is offensive according to accepted standards of decency
- **Erotica** = depicts explicit sex that is not violent and is neither degrading nor dehumanizing

The down side of pornography

Little Sisters and the Supreme Court of Canada

- 1986 Canada Customs banned 'The Advocate' a gay magazine because it was "obscene"
- Little Sisters went to BC Supreme Court in 1994
- 1996 they had a partial victory; Customs was censoring material in a way contrary to the Charter of Rights and Freedoms
- 2000 Little Sisters went to the Supreme Court of Canada which concluded that customs infringed on the rights of people but no action was made
- Ongoing litigation due to material continually being confiscated

Child Pornography

- Features minors (under age 18) in sexual acts
- Kids cannot give informed consent
- 1993 statute in Criminal Code of Canada:
 - prohibiting making, possessing, or distributing child pornography
 - Prohibits "pseudo" child pornography → where adults dress/act as children
 - Possessing material for "artistic merit" is not illegal
- Displaying or offering to sell pornography to someone under the age of 16 is an offence

Legal definition of child pornography

- "a photographic, film, video, or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is or is depicted as being under the age of 18 yrs and is engaged in or is depicted as engaged in explicit sexual behaviour, or the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under 18"

December 2002: a revision to the child pornography statutes

- Amendment to child pornography law
- “artistic merit” is no longer a defence claim for possessing child porn
- Instead, the material must “contribute to public good”
- Public outrage
- 2004 election: the amendment was not passed

Case 1

- October 1993, Toronto artist Eli Langer, 27, is charged under the new law for a show of paintings of people engaged in sex. Some appear to be young males under 18. It is the first case involving the new child pornography legislation. A judge rules the works have “artistic merit.”
- Is this child pornography?

Case 2

- February 2000, the father of two children in a community near Ottawa is arrested after a technician at a photo lab processes a roll of family snapshots that includes four pictures of the man's four-year-old son "goofing around" without his pyjama bottoms. Police charge him with manufacturing child porn. The man is released on bail on condition he leave the family home.
- Is this child pornography?

Case 3

- **Case 3:** January 2001, the Supreme Court of Canada rules on the case of John Robin Sharpe, 67, a retired city planner in Vancouver charged with possessing child porn. Two lower courts in British Columbia had acquitted Sharpe, citing the Charter of Rights and Freedoms. Sharpe had pictures of boys younger than 14 engaged in sex, and a collection of his own stories titled "Kiddie Kink Classics."
- Is this child pornography?

Child pornography and the internet

July 2002 Offences under the Criminal code of Canada:

- Transmitting child porn from 1 person to another (10yrs)
- Posting child porn on a website (10yrs)
- Exporting child porn (10yrs)
- Using the internet to communicate with a child for the purposes of committing a sexual act (5 yrs)

Pornography and the commission of sexual offences

4 theories on how pornography might be used at the time of committing an offence

1. Self-stimulation **13%**
2. To groom victims **55%**
3. For self-gratification later on **37%**
4. For monetary gain later on **37%**

Langevin, 2004

The up side of pornography

What are some positive benefits of pornography?

Adult Retail Bookstores



- Womyn's Wear – Commercial Drive
- Little Sisters – Davie Street
- Love Nest – E 1st Street, N Vancouver
- The Art of Loving – W 5th Avenue

Adult retail stores as a forum for sex education

- Reece, 2004
- N = 448 adult retail stores in the US and asked:
 - Do characteristics of the store situate themselves to act as a resource?
 - Do staff working at the stores have characteristics that would support their ability to promote sexual health?
 - Do customers provide employees with the opportunity to discuss sexual health issues?

Sexual health characteristics of the store

- Almost all stores had sexual health products like condoms and lubricants
- 96% sold educational books
- Only 60% of employees received formal training
- Most also had written information available on proper use of condoms, hygiene of therapeutic devices

Sexual health promotion characteristics of employees

- Most employees had correct info on HIV transmission and cleaning sex toys
- Fewer, 73% had correct info on STI transmission and pregnancy prevention
- Most reported feeling confidence in the info they had and as a result had good comfort in speaking about these topics with customers
- 60% perceived themselves as a sexual health resource or a safer sex educator, some even considered themselves sex therapists

Sexual health questions of customers

- Customers asked more questions about sexual sensation than sexual health
- CONCLUSIONS:
 - sex stores can be considered resources for customers
 - stores should provide more formal training
 - academics should take part in this training

Prostitution:

Legalities, Realities, and Moralities

Canadian Prostitution Laws

Scenario 1: You're walking down the street and pass a prostitute standing on the corner. You're curious as to how much she charges so you decide to ask her.

Legal or illegal in Canada?

Canadian Prostitution Laws

Scenario 2: You see a woman hitchhiking and when you pull over, you find out she's hoping for a ride to the next town. That's further than you want to go so you start to decline. However, she then offers you oral sex in exchange for the ride and you agree.

Legal or illegal in Canada?

Canadian Prostitution Laws

Scenario 3: You have an escort come to your hotel room where you pay \$100 in exchange for sex.

Legal or illegal in Canada?

Canadian Prostitution Laws

Scenario 4: You go to a massage parlour such as Madame Cleo's but you just get a massage (no sexual services involved).

Legal or illegal in Canada?

Canadian Prostitution Laws

Scenario 5: You see a prostitute who looks quite young. You ask her how old she is because you don't want to sleep with an underage girl. Although she is only 17, she tells you she is 19 and you have sex with her.

Legal or illegal in Canada?

Canadian Prostitution Laws

Scenario 6: You go on vacation with a few friends to Thailand. While there, you have sex with a 15-year-old working in prostitution.

Legal or illegal in Canada?

Canadian Prostitution Laws

Is selling or buying sex (or some other sexual service), in and of itself, illegal in Canada?

No, but...

Canadian Prostitution Laws

S. 213 – Communicating in a Public Place for the Purposes of Prostitution

- (1) Every person who in a public place or in any place open to public view
- (a) stops or attempts to stop any motor vehicle,
 - (b) impedes the free flow of pedestrian or vehicular traffic, or
 - (c) stops or attempts to stop any person or in any manner communicates or attempts to communicate with any person
- for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute is guilty of an offence punishable on summary conviction.

*Summary conviction = up to \$2000 fine and/or 6 months in jail

Canadian Prostitution Laws

S. 210 – Bawdy House Laws

- (1) Every one who keeps a common bawdy-house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.
- (2) Every one who
- (a) is an inmate of a common bawdy-house,
 - (b) is found, without lawful excuse, in a common bawdy-house, or
 - (c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy-house,
- is guilty of an offence punishable on summary conviction.

*Summary conviction = up to \$2000 fine and/or 6 months in jail

Canadian Prostitution Laws

S. 212(4) – Prostitution involving a minor

- (4) Every person who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years and to a minimum punishment of imprisonment for a term of six months.

Canadian Prostitution Laws

S. 212(1-3) – Procuring; Living on the Avails (Pimping)

- (1) Every one who
- (d) procures or attempts to procure a person to become, whether in or out of Canada, a prostitute
 - (j) lives wholly or in part on the avails of prostitution of another person,
- is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

OTHER Canadian Laws applicable to Prostitution

- Robbery
- Sexual Assault
- Sex Tourism Law

PATHWAYS TO PROSTITUTION

Recruitment by pimps:

1. **Drug addiction**
 - Addiction followed by being told one owes it all back
 - E.g., Jackie from the Butterfly collectors
2. **“Love-bombing”**
 - Falling in love with the pimp, followed by being told prostitution is temporary, just for economic survival
 - E.g., Christine from the Butterfly collectors
3. **“Gorilla” pimping**
 - Kidnapping, followed by being forced into prostitution
 - E.g., 11-year-old from Portland, Oregon; human trafficking

PATHWAYS TO PROSTITUTION

Economic Necessity:

1. **Drug addiction**
 - supporting a drug habit
 - E.g., those on the Downtown Eastside
2. **Survival**
 - E.g., -single mothers
 - run-aways
 - girls from third-world countries trying to support their families

THE REALITIES OF PROSTITUTION

- Average age of entry = 14-16
- Emotional, physical, and sexual violence
- Quotas
- Poverty
- Disease
- Undesirable sex
- Isolation
- Degradation

THE REALITIES OF PROSTITUTION

Pimp Sub-Culture:

- **“Main girls”**
 - collect money; discipline other girls
- **Live clubs**
 - buying/selling girls
- **Own language**
 - E.g., “tricks,” “signing,” “family”
- **Specific forms of violence**
 - E.g., Pimp stick, Jamaican smile

THE REALITIES OF PROSTITUTION

Is indoor prostitution any better than outdoor prostitution?

- Organized crime
- High rates of violence & trauma
- Fees for everything (that many can never pay back)
- Simultaneous work on the streets
- No choice in services/clients
- No less degrading

THE REALITIES OF PROSTITUTION

What about male prostitution?

- The vast majority of clients are men but the vast majority of male prostitutes are NOT gay
- Like female prostitutes, they're not doing it for sex; they're doing it for survival
- Only marginally different dynamics
- Possibly even more shameful than female prostitution

Barriers to exiting

- Fear of violence/death
- Distrust of police, courts, and society in general
- Lack belief they're capable of doing anything else
- Addictions
- Belief that people will know they were prostitutes, resulting in rejection or further exploitation
- Non-prostitution world is completely foreign
- Logistical barriers (e.g., no money; no work experience; no phone number/address)
- Difficulty holding jobs

Difficulties convicting pimps

- It's her word against his
- Must have exact dates and times of assaults
- Must be willing to testify in court
- No rape shield law to prevent talk about her sexual past
- Judges and juries are uninformed about the realities of prostitution

Impact of prostitution

On prostitutes:

- Halted development
- Difficulty having normal relationships/trust issues
- Anxiety, depression, dissociative disorders, etc.
- Lack of self-esteem
- Triggers/flashbacks
- Risk of continued exploitation
- Substance Abuse
- Guilt/shame/stigmatization
- Bodily Impact

Impact of prostitution

On the parents of prostitutes:

- Daily worry whether their child is alive
- Stigmatization
- Shame & difficulty coping with what their child is doing
- Guilt; wondering if it's their fault

Impact of prostitution

On the children of prostitutes:

- Stigmatization
- Shame
- Unknown father
- Being raised in foster care
- FAS & Addiction to narcotics
- Losing one's mother to violence, addiction, or AIDS

Impact of prostitution

On the communities in which prostitution takes place:

- Condoms/needles
- Traffic & noise
- Sex happening outside one's window
- Being propositioned
- Decreased safety in neighbourhood
- Decreased property values

legalization

Research on legalization is controversial. However, in general:

- There is an *increase* (not a decrease) in trafficking
- Illegal brothels continue to flourish
- Exploitation of children/youth does *not* diminish
- While it may take healthy, adult women indoors, HIV+, drug-addicted, and underage women remain on the streets
- Policing costs go *up*, not down
- Although prostitution is taxed, only a very small minority have been found to pay taxes
- Less, rather than more, money is spent helping women exit the trade as the perception is that since it's legal, it must be a voluntary choice

Prostitution & morality

Is prostitution a moral issue?

"The harm experienced in prostitution is made invisible, described not as sexual harassment, not as rape, not as intimate partner violence, but as 'sex.'"