PORNOGRAPHY AND REGULATION

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This paper will examine the need for the regulation of pornography. If we examine the Trends and Issues Paper No. 23 entitled *A Comparison of Crime in Australia and other Countries* (Walker, Wilson, Chappell & Weatherburn 1990), we will understand the reason for the need to regulate pornography and why the belief that pornography should be regulated has been reinforced.

Walker et al. (1990) points out how difficult a comparison of crime in Australia and other countries has been in the past, due to the variety and complexity of the criminal justice systems in various countries, resulting from the differences in the way they record and define their activities. However, Walker et al. also point out that 'with the advent of crime surveys, utilising standard sampling techniques and questions to obtain information about victimisation experiences, many of these dilemmas have been overcome'. Walker et al. used victim surveys for their data and have commented: 'Though "victim surveys", as they are called, are far from foolproof, they at least allow researchers to estimate the risk of crime in particular countries'.

Walker et al. (1990) summarise the findings of the 1989 International Crime Survey. They show estimates of the percentage of the sampled population aged 16 years or over in each country who have been victimised at least once during 1988. Walker et al. say:

The Survey findings reveal that Australia has crime rates which are much more comparable to those of North America than Europe. In a number of cases these rates are the highest recorded among the 14 jurisdictions included in the survey.

In assaults involving force, in the less serious types of sexual incidents, in burglary and in motor vehicle thefts, Australia ranked highest of all countries surveyed (Walker et al. 1990).

Walker et al. (1990) suggest:

There is evidence that some aspects of the Australian lifestyle may actually be responsible for our high crime rates. For example, we may make ourselves easy targets for burglars with our detached houses, living in big, impersonal cities. Both these features are found to be associated with high burglary rates. Likewise, it can be thought that we make life easy for car thieves by driving to work—leaving the car parked all day unattended.
Having been locked out of a car on various occasions, the author can certainly testify to the ease of breaking into a car, so long as a wire coat hanger is at hand.

With regard to assaults and sexual incidents, suggestions are made that city dwellers are over 50 per cent more likely to be victimised than those who live in towns of under 10,000 people. As Australia is among the most highly urbanised nations—ranking fifth of the fourteen nations—and has high labour participation rates—especially for women—our lifestyle means we could be more susceptible to victimisation. Again, the 1989 International Crime Survey shows that:

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\ldots \text{the risk of all major categories of crime clearly decreases the further a country is from the equator—possibly because a colder climate imposes an informal curfew on both offenders and potential victims alike} \ldots (\text{Walker et al. 1990}).
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All this, it is claimed, makes Australia a high risk country. However, Walker et al. (1990) point out that ‘in-depth analysis of the data needed to confirm these suspicions has not been completed’.

What all this indicates is that our lifestyle in Australia *may* contribute to the fact that Australia is ranked third in the fourteen countries surveyed—behind USA and Canada—in terms of overall victimisation. Australia ranks highest in sexual incidents (asked only of women) and third in sexual assault, yet national characteristics are ignored. Why? We do know that other societies have different mores, for example, in Western Sumatra where women have always been respected and influential members of the community, anthropologists say rape is low or nonexistent. The survey points out that some European countries such as Switzerland and England also rank very low in sexual assault rates—Switzerland having no incidents in 1988 and England 0.1 per cent, compared to Australia at 1.6 per cent.

It is possible that the Australian characteristic of the macho chauvinist male has taught our men that being male gives them a right to dominate women. With masculinity being seen as aggressive—both sexually and otherwise—and with the need for mate approval, perhaps it is the reason Australia ranks so high among those countries surveyed for sexual abuse. A survey that reinforces this view, undertaken by the Office of the Status of Women, points out that 22 per cent of men—an amazing one in five of our male population—believe it is acceptable for a man to use physical force against his wife. Surprisingly, 17 per cent of women agree (Public Policy Research Centre 1988).

As has already been indicated, Australia tops the survey in sexual incidents against women and does so by quite a large margin. In Australia there were 7.3 per cent of the sample victimised in sexual incidents in 1988. The next worse country was USA with 4.5 per cent and Canada with 4 per cent. The lowest being the United Kingdom and France with 1.2 per cent. With regards to sexual assault including rape, Australia came third but by a much smaller margin.

These surveys indicate there is a grave problem in Australia. The Australian Institute of Criminology acknowledges this and says in the paper by Walker et al. (1990) that the statistics give ‘a result which must surely give cause for concern to all Australians and reinforce the need for the establishment of a National Crime Prevention Strategy’.

There are no suggestions in this paper as to what should constitute a National Crime Prevention Strategy, and that may have been relegated to the ‘too hard basket’. Yet the situation is so important, legislators would be irresponsible if they do not take action that has a reasonable expectation of at least alleviating the problem.

In 1985 the Australian Parliament set up a Joint Select Committee on Video Material. This Committee took evidence for over three years. The *Report of the Joint Select Committee on Video Material* (Australia 1988) was unusual in that it was the Report of
the Committee Members, while the minority Report was the Chairperson's Report. The major recommendations brought down by the Committee regarding pornography were:

- to refuse classification of X-rated material; and
- that the current guidelines for violence in R-rated videos be tightened.

The first recommendation is self explanatory. It is recommended that X-rated videos be disallowed, that is, videos containing explicit depiction of sexual acts involving adults, but not including any depictions suggesting coercion or non-consent of any kind. (This wording was later altered by the Film Censorship Board).

The R-Violence guidelines would read 'explicit depictions of violence, but not detailed, relished or gratuitous depiction of acts of considerable violence or cruelty'. The guidelines for R-rated videos at that time stated that explicit depictions of violence would be allowed, but not detailed or gratuitous depictions of acts of considerable violence or cruelty. The inclusion of the word 'relished' may seem minor, but it was of great importance, for if the Film Censorship Board abided by this, it would stop the showing of all acts of violence where the perpetrators were seen to be enjoying committing the violence, such as depictions of many of the rape scenes, torture and other sadistic acts.

Although the Report of the Joint Select Committee on Video Material (Australia 1988) was tabled in the Senate in April 1988, the Government did not respond until December 1990. As a consequence of the delay, a Private Member's Bill was presented to the Senate in November 1988. The Bill was subsequently amended by the Democrats in June 1989, and their amendment effectively cancelled the intention of the Bill. It remained on the Notice Paper until the dissolution of Parliament for the 1990 election. On 1 May 1989—during debate on the Bill in the Senate—the Film Censorship Board accepted the second recommendation and it is now included in the guidelines, but it is not believed they abide by it.

Evidence given to the Joint Select Committee which supported the need for one or both of these recommendations was considerable. Indeed, the Australian Institute of Criminology presented a submission that carefully pointed out that, as regards violent video material, there was no evidence to establish a definite causative link between exposure to violent material and violent criminal offences. However, Dr Paul Wilson, of the Queensland University of Technology (formerly of the Australian Institute of Criminology), gave evidence at a later time to our Committee saying:

... while I find no evidence that sadistic sexual pornography causes serial killing, lust killing or child killing, depending on the terms that one uses, in my own mind, and reluctantly, I have found evidence that in the killer's background there is, first of all, a preoccupation with this material, secondly, a feeling that their sexual and sadistic fantasies are fuelled by this material and, thirdly, a feeling in some cases that the material is not strong enough and that their fantasies are not satisfactorily fulfilled. Those are the only three statements at this stage that I am prepared to make. I am not drawing a cause and effect relationship, but I am fairly deeply concerned (Australia 1988, pp. 193-4).

Dr Wilson told the Committee that it was his view that, with particular personalities, material of a sadistic, sexual kind which intertwines sex and violence reinforces existing predisposition towards the sadistic acts that are carried out. He added:

I use the word 'reinforce' rather than 'cause' deliberately ... Again I say 'reluctantly' because my basic philosophical position has always been one of allowing adults to read what they want in private, or, more relevantly, to view
what they want; I believe there is a strong case for censoring material which combines sex and sadism even though I am at the same time concerned about what effect that censoring will have on opening up a black market (Australia 1988).

His evidence appeared contrary to an extent, to the Australian Institute of Criminology's submission. His concerns were supported by Dr William Belson's (a prominent researcher on video violence) evidence. Dr Belson's study 'Television Violence and the Adolescent Boy' formed the basis of his evidence. He stated:

. . . long term exposure to television violence increases boys' participation in violent behaviour, increases their preoccupation with violent acts shown on television, makes them more callous in their reactions to the spectacle of violence in the world around them, produces sleep disturbances, reduces respect for authority, makes them feel more willing to use violence to solve their problem (Australia 1988, p. 191).

Dr Patricia Edgar, Director of the Australian Children's Television Foundation, agrees that video violence can have a disinhibiting effect on certain personality types. If a viewer inclined to aggression has an inhibiting factor working against this predisposition, the video breaks it down by making violence appear more normal and thus more acceptable. Dr Edgar sees it as 'feasible' that some individuals may select materials that exaggerate their aggressive tendency and hence allow the committal of a violent crime—a crime that otherwise may not have occurred (Australia 1988, p. 196). Many other eminent academics and researchers gave similar evidence on violence.

Evidence given in support of regulation of X-rated videos was again considerable, but perhaps more controversial. Dr Paul Wilson told the Committee that he was 'not convinced' that this material had any harmful effects. By 'harm' he meant 'criminal activity'. He went on to say:

The issue of whether it causes harm in other ways is an issue that I am not really particularly concerned about at this stage' (Australia 1988, p. 207).

Dr Wilson referred to Professor E. Donnerstein's claims that non-violent pornography had no anti-social effects.

Professor James Check, who undertook research for the Fraser Committee on Pornography and Prostitution in Canada, disagreed. He found that the anti-social effects of any pornography were the most pronounced in individuals who already possessed a certain 'sexual aggressivity'. Moreover, the data revealed that it was the frequent users of pornography who had the most striking inclinations to sexually aggressive behaviour (Australia 1988, p. 205). Again, many eminent academics and researchers supported this view: Dr J.H. Court, of the Spectrum Psychological and Counselling Centre, Kent Town, South Australia; Mr F.M. Horwill, of the Australian Psychological Society of Victoria; Dr James Weaver, of Kentucky, USA; Zillman & Bryant, to name but a few. Others included Scotland Yard and many Australian police forces.

The evidence that made most sense was given by Professor Sheehan, from the University of Queensland. Like Dr Wilson's evidence on violence, Professor Sheehan argued that the personality of the viewers was of prime importance:

. . . the critical thing in whether or not there will be these so-called effects of sexually explicit material is how aggressive the person is in the first place . . . There is no question that a lot of people are stimulated mildly or strongly by seeing sexually explicit material. When one is aroused one tends to behave as a consequence of that arousal and I think if the person is aggressive, aggression
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will out . . . In and of itself, I do not think that sexually explicit material divorced from aggression leads to strong negative effects. Once you combine sexually explicit material with aggression you have a different kettle of fish . . . The critical thing is how much someone is aroused and how aggressive he is in the first place (Australia 1988, pp. 207-8).

If this evidence is considered in conjunction with the survey on domestic violence—where nearly one-quarter of Australian men consider it acceptable to use physical force against their wives—then Australia has a real problem.

The three main concerns of witnesses who opposed any censorship of either X-rated videos or violence in R-rated are as follows:

- 'Adults should be able to view what they like and that censorship is a violation of civil rights'.

  It is illogical that those who gave this type of evidence did not object to censorship of child pornography, that is the depiction of sexual acts involving children or adult actors depicted as children. Again there is no proven evidence of a causative link between the viewing of child pornography and criminal child sexual abuse. Yet those who gave the Committee this evidence were all in favour of banning child pornography. It was not that they really objected to censorship, it is just where they wanted the line drawn.

- 'if banned, it would open up a black market'.

  Similarly, those who made this claim did not seem to think that, just because there was a black market in child pornography, that type of censorship should be lifted. They agreed that, yes, a minority would continue to use the black market but you would not be able to walk down to the supermarket and get 'the stuff'. Use would certainly be greatly limited.

- 'that there is no proven evidence of a causative link between the viewing of violent or non-violent pornography and violent criminal behaviour and so there is no justification for its ban'.

  There is evidence that convicted paedophiles have libraries of videos showing child pornography and there is evidence that many convicted murderers and rapists have libraries of X-rated and sexually violent R-rated videos. As Dr Wilson said:

  I have found evidence that in the killer's background there is, first of all, a preoccupation with this material (Australia 1988, pp. 193-4).

  However, he disagrees when it comes to non-violent pornography. Dr Wilson is quoted, when speaking at the Victorian Criminal Justice Symposium, as rejecting the view that sexually explicit material, without violence, caused sex crime. He said studies failed to present clear evidence of a causal link between pornographic exposure and aggression. He rejected the view that sexually explicit material, without violence, caused sex crime (The Age 18 March 1991).

  There are no studies that give clear, proven evidence that viewing child pornography, violent pornography or non-violent pornography causes criminal behaviour. But there is a reasonable expectation that frequent viewing of any of these types of videos by people with
aggressive characteristics can, as Professor Sheehan says, stimulate them mildly or strongly and, when one is aroused, one tends to behave as a consequence of that arousal, and so on.

As has been suggested, Professor Sheehan is not alone in this belief. Substantial evidence was presented to us which claimed viewing of such material desensitises the viewers—a claim all could identify with. How often have we become desensitised to the use of unacceptable language or to the viewing of violence either in the news or in films. We all know that when we hear certain expletives in conversations that were previously considered unacceptable, we no longer turn a hair. This is fact, and yet there seems to be a lack of acceptance of this. Many people do not believe that regular viewing of pornography, and indeed sexual violence so readily found in all these videos, leads to the desensitisation of the viewer, even though so many experts have brought this evidence to the Joint Senate Committee. Considering the doubt, this is not acceptable. We must not allow, or even run the risk of allowing, these videos to desensitise our population. The cost is too great.

Following research undertaken by Sommers and Check in the United States of America, a report was published. The research involved forty-four women who suffered severe battering by their male partners. These women were compared with a control group of women who had not had any battering and no domestic violence. It was found that the partners of the battered women were high consumers of pornography—in the form of both videos and magazines—while the partners of the control group were not (Sommers & Check 1987).

Following the tabling of the Report of the Joint Select Committee on Video Material (Australia 1988), the Attorneys-General from all the states met in Darwin on 30 June 1988. All states expressed opposition to the introduction of a new 'Non-Violent Erotica' category. They also stated that the present X-classification would not be introduced to the states. The Federal Attorney-General indicated that he would take the matter back to the Government for consideration. The future of X-rated material in the Australian Capital Territory would depend upon what the Federal Government decides.

Unfortunately, the Federal Attorney-General was unable to convince the Government to agree with the states' wishes as regards X-classification, so Australia is left with the situation where it is illegal to sell or hire X-rated material in the various states but, because of our Constitution rightly allowing free trade between the states, there is a thriving mail-order business conducted from Canberra.

It is ironical that X-rated videos are considered by the Government to be too degrading to women to be shown in cinemas. They ban them but believe it is quite suitable for home entertainment, where our young people can gain access to them. Would anyone be happy for their children to view X-rated videos as an introduction to their sex education? Does anyone believe this would contribute to a happy, healthy relationship in their children's future life?

This paper has shown that Australia rates highest among fourteen countries surveyed in the number of sexual incidents that take place and third in the more serious offence of sexual assault including rape. There is considerable concern in the community regarding the increase in the figures of sexual abuse—the latest figures on rape alone show an increase of 159 per cent in ten years (National Committee on Violence 1989).

Headlines such as: 'War Declared on Sex Crime'; 'Men on the March against Rape'; 'The Mind of the Rapist'; 'Rape Law Reforms Timid and Inadequate, Say Critics'; 'Rape: A New Victim Every Hour'; 'How Much More Proof do We Need to Ban Porn?', 'Rapes up by 23 per cent, Say Police', 'Longer Jail Terms Urged for Rapists', 'Cher-like Photos Spark Aggression: Kirner' mirror this concern. While these could be called emotive headlines, they do reflect the community's grave concern. Women are taking self-defence courses and talk about one-sex car-parking lots. They no longer can go for walks in their neighbourhoods after dark. When politicians are door-knocking during election times, women will no longer
open their doors—even in the middle of the day—but wait until they can establish who is knocking.

Every women's organisation except one—The Women in Science Inquiry Network—supported the Bill. From the most conservative to the most radical, all pleaded with the Government to support the legislation, but they were ignored.

The Office of the Status of Women has put out a Position Paper to provide the basis for the work of the National Committee on Violence Against Women. In it, examples of some of the more common types of sexual violence are given—including 'forcing her to view pornographic material'. They say sexual violence is not only an attack on the woman's physical body it is also a violation experienced at emotional and intellectual levels (National Committee on Violence Against Women 1991). Dr Wilson is quoted in the Daily Telegraph (1 August 1990) as saying 'I think there is a view that pervades Australian culture that sex is readily available and if you cannot get it you should take it'.

Walker et al. (1990)—quoted at the beginning of this paper—said the 1989 International Crime Survey's results 'must surely give cause for concern to all Australians and reinforce the need for the establishment of a National Crime Prevention Strategy'. As legislators, we are required and it is our obligation to do everything in our power to make Australia a safer place for our women, our men and their families. The Government has been given evidence that the banning of both violent and non-violent pornography may well help to alleviate that violence. Why are we not prepared to take that action?

Bibliography


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