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IS THERE A NEED FOR EUROPEAN CRIMINOLOGY?

The Editors of the *European Journal on Criminal Policy and Research* wish to stimulate a discussion on the subject of European criminology. Is there such a thing and if so should it be promoted? This was the question that was asked by a small number of European criminologists when launching a European Society of Criminology in April 2000.

The immediate reason for considering such a question was the high number of Europeans (about 500) attending the annual meeting of the American Society of Criminology (ASC) in Toronto, November 1999. It suggested that there is a growing number of European criminologists, with a keen interest in high quality empirical research, who want to meet with their European and other foreign colleagues in these increasingly international criminological meetings.

After World War II the growth of the social sciences in general, and of criminology as a social and empirical science in particular, was dominated by developments in the United States. American textbooks as well as American research invaded Europe and had a great impact on higher education, in particular in Northern and Western Europe. The influence of American criminology has been such that in the recent 25 years the annual meetings of the ASC have become major international events. The ASC gradually realised this and showed growing interest in criminological research outside the US, leading to the creation of the International Division within the Society.

However, there have been several initiatives to create a specific European platform for criminologists, including, among others, the creation of the *European Journal on Criminal Policy and Research*, now nine years ago, as well as the founding of a *European Society of Criminology* in August this year. The need for academic exchange and collaborative research on a European level is based on the following considerations.

Of course, there is a big difference between the criminal justice system in the US and the European countries. But also from a scientific perspective it may be said that over time Europe has developed its own empirical research tradition. There is now excellent European research and there are outstanding European criminologists. There also is a policy need for more collective efforts of European criminologists. Because of growing European unity and the narrow inter-relationships between European coun-

tries there is increased co-operation between countries in the fields of the police and criminal justice. There is a growing tendency among governments to learn from their neighbours and to consider social and criminal policies in the other EU countries with respect to such matters as crime prevention, drug policy, organised crime and immigration policies. These problems are not limited to any particular country and have to be studied and addressed at the European level. In this respect there is a pressing need for comparative research and empirically based recommendations for policy reforms.

J. J-T.

The European Journal on Criminal Policy and Research welcomes and invites any comments on the idea of a European criminology and its implications of possible objectives and planned activities.

The main questions we would like our readers to comment upon are the following. Does it make sense to emphasise European criminology as a separate and special category? Is it important to bring European criminologists together in order to foster criminological scholarship, research and education? Is there really a need for encouraging scientific exchange and co-operation and disseminating criminological knowledge on a European level?

Please contact us by e-mail (abaars@best-dep.minjus.nl) or at the Editorial address (see inside cover), if you are willing to contribute to the discussion. Arguments both pro and against are welcomed. Contributions (about 1,000 words) should be at the Editorial address on 26 February 2001. More information can be obtained from the Editorial assistant. We hope to stimulate an interesting discussion.
EDITORIAL

Sexual violence is of all times. Nevertheless, it seems as if this form of delinquency is more at stake than ever. The women's movement in the 1970s and 1980s has claimed attention for several forms of sexual violence at home, in the workplace and on the streets. Nowadays there is special recognition of sexual exploitation of women and children in pornography and prostitution. More specifically, child pornography on the Internet and violence of paedophiles seem to be the most disturbing moral issues.

This issue of the European Journal on Criminal Policy and Research concentrates on several sexual forms of violence from a policy and research perspective. The issue starts with an overview of Donald West. The author pleads for a rational approach to sexual offending. Such an approach requires awareness of the wide range of behaviours involved and discriminating responses according to seriousness. This is more difficult to achieve in an atmosphere of moral panic and in the face of public belief in the increasing spread of sexual crime which is due to extensive press coverage and concentration on the worst cases, accompanied by emotive rhetoric and pharisaic moralising.

Assessed by the degree of damage caused to victims, offences vary from harmless (for example, voyeuristic acts undetected by the victim) to lethal or to the infliction of permanent physical or psychological disability. As with other types of offending, sex offences that cause the most serious injury constitute a small minority, most involve less severe and sometimes only trivial harm. The author gives insight into English statistics, and the range of sex crimes. He focuses on recidivism, treatment of offenders, prevalence and effects of child abuse, and specific groups such as female offenders and boy victims.

Roxanne Lieb contrasts US and European social policies with regard to sexual offending. She describes how the definition of sex offences has changed over time, how US criminal justice policies (such as Megan’s law) are imported into Europe, and how various policies for control of dangerous sex offenders were introduced. In addition, Hans Boutellier wrote an essay-like article on the pornographic context of sexual violence. His analysis is based on the book by Anthony Giddens on the development of intimacy and sexuality in late modernity. Sexual morality nowadays combines a tolerant mentality towards pornography and a claim for prudence in the daily relationship between the sexes. This ‘schizophrenic’ moral situation gives a special meaning to sexual violence, which can be seen as a realisation of pornographic humiliation and as a rude offending of the norm of equality in

modern relationships. The strong consensus on the protection for child pornography and paedophile violence stems from this paradoxical situation.

Martin Killias gives insight into the history of the regulation of sexual offences. From the late Middle Ages criminal law throughout Europe dealt with sexual abuse of female persons under the age of 12 or 14 years, and with the repression of ‘public’ immorality. These two, partially independent developments converged later into what is now known as the statutes on sexual abuse of persons under the age of consent. The author summarises the historic developments of these statutes, and shows that the emergence of these statutes can be explained as a result of profound changes in the role of adolescents in Western societies since the late eighteenth century.

Sarah Alexander, Stan Meuwese and Annemieke Wolthuis review recent measures taken at global, EU and national levels to combat international child abuse. The sexual exploitation of children can take a number of forms. At the international level, however, those that spring immediately to mind include prostitution (in the form of both sex tourism and trafficking) and child pornography (often via the Internet). The key legal instrument combating these forms of abuse at the international level is the 1989 United Nations’ Convention on the Rights of the Child, particularly Article 34. The United Nations and EU instruments combating the sexual exploitation aim to do so without creating separate criminal offences at international level, these are to be found in national law. Here there is a problem: traditionally, national criminal law has not been extraterritorial in nature. Exceptions are now slowly being introduced to combat international child abuse.

Stefan Bogaerts, Geert Vervaeke and Johan Goethals have studied the role of attachment in a sample of 84 sexual delinquents and a matched control group. They use several instruments to measure adult romantic attachment, parental sensitivity, trust and intimacy. These factors differentiate significantly between the groups of offenders, and contribute independently to the explanation of sexual offending, although they explain only about 23% of the offending, so other factors are at stake as well. In the Current Issues section Frans van Dijk and Jaap de Waard present an analysis of the legal infrastructure of the Netherlands in an international perspective.

J.C.J.B.

Themes in preparation:
Migration, Ethnic Minorities, Crime
Illegal Products and Markets
Contours of a European Criminology (see Editorial Note)

Suggestions and papers are welcomed. See the inside cover for the editorial address and additional information.
THE SEX CRIME SITUATION: DETERIORATION MORE APPARENT THAN REAL?

ABSTRACT. Public concern about an escalation of sex crime is unsupported by a critical analysis of official crime statistics in England and Wales. Assumptions about the in-veterate recidivism of sex offenders are unconfirmed by follow-up studies. A great variety of behaviours is covered by sex crime, from the grave to the trivial. To the traditional offences of predatory aggressors, violent rapists and a small number of dangerous offenders driven by pathological emotions, are now added date rapes and harassments previously little reported. All sex incidents involving children are widely believed to cause lasting damage, despite evidence to the contrary. Female offenders and boy victims are receiving more attention. Adolescent involvement is insufficiently distinguished from paedophile offences and male homosexuals are suspected of paedophile tendencies. The development of constructive therapeutic approaches is impeded by doubts about efficacy and a punitive ethos.

KEY WORDS: child molestors, paedophilia, recidivism, sexual delinquency, statistics

THE RANGE OF OFFENCES

Sexual offending encompasses a bewildering variety of behaviours. Activities legal in many states are prosecutable in others. In England a boy and girl aged 10 behaving in a sexual way together, an adult male couple behaving sexually when a third party is present, and men or women indulging in consensual sadomasochistic practices for mutual enjoyment can all be prosecuted. Some socially disapproved practices are illegal only under particular circumstances, such as public nudity, payment for sexual services, consensual anal intercourse, urinary sexual rituals, bondage (when injurious), cross-dressing (for deception), the collection of used underwear by fetishists (criminal when articles are stolen) or adultery (which becomes criminal when it leads to bigamy).

At the opposite extreme are behaviours universally condemned as horrendous crimes, such as homicidal sexual assaults, adults overpowering and painfully molesting young children to satisfy their own lusts and multiple rape of an unwilling victim by a group of offenders.

Assessed by the degree of damage caused to victims, offences vary from harmless (for example voyeuristic acts undetected by the victim) to lethal or to the infliction of permanent physical or psychological disability. As
with other types of offending, sex offences that cause the most serious injury constitute a small minority, most involve less severe and sometimes only trivial harm. The personal characteristics of perpetrators are equally wide ranging, from the habitually aggressive, antisocial criminal who alternates between rape and robbery with violence to a timid, shy lover of children who cannot cope with adult relationships.

Extensive press coverage of sex crime and concentration on the worst cases, accompanied by emotive rhetoric and pharisaic moralising, gives the public an exaggerated impression of the scale and seriousness of sex crime.

\section*{Statistics of Offending}

Official statistics of sex offences are notoriously unreliable as indicators of the true volume of problematic behaviour in the community. They are heavily dependent on willingness to report, the systems of recording in use and, in the case of consensual behaviours, such as consenting sex between minors, on the attitudes of the public and whether the police are proactive in detection. Only if these influences remain fairly constant are changes in the incidence of officially recorded offences likely to reflect real changes in society.

Interpretation of the national crime statistics for England and Wales, published annually by the Home Office, based on police recording, is further complicated by the use of a legal categorisation of sex offences that reveals little of the seriousness of incidents or the circumstances in which they occur. For example, the category of indecent assault includes both unwanted touches and extremely violent attacks, and does not distinguish between offences against adults or minors. Some categories, such as unlawful sexual intercourse with a girl under 16, include behaviours that may be illegal, but are on the margins of what is socially tolerable, such as a young man having sex with a mature and willing girl who is only a little below the legal age of consent. These incidents tend to be reported and recorded only when extraneous factors are present, such as parental disapproval of the girl's choice of boyfriend. Such under-reporting means that official records are biased towards the more serious examples while underestimating the incidence of the commoner and milder infractions.

Notwithstanding these problems, since official statistics are often cited in support of the common assumption that sexual misbehaviour is increasing, it is worth looking at them critically to see what can be deduced. Table I displays the total number of indictable sex crimes recorded by the
police in 1988 and 1998/9, and the numbers within several major categories of sex crime. (Some relatively rare categories, such as bigamy, procuration and abduction are not included.) Also shown are the numbers of persons found guilty in 1987 and 1997. The figures are roughly but not precisely comparable, since the later police records cover a financial year, beginning in April, rather than a calendar year and the statistics of persons found guilty compare 1997 with 1987, because at the time of writing more recent data are not yet published.

From 1960 or earlier up to about 1986 recorded sex offences amounted to about 22,000 each year, but since then they have increased significantly. It can be seen from Table I that over the 1988–1998 period there has been a substantial increase of 32%, (not accounted for by any significant population shift) in the total number of recorded sex offences. However, non-sexual crimes of violence have increased by 53% over the same period. Over the last 40 years the annual total of recorded indictable offences has steadily and very significantly increased so that sexual crimes still amount to less than 1%.

The category of rape of a female shows the largest proportionate increase of 250%, whereas the number of offenders convicted of rape has increased only slightly. Home Office research (Harris and Grace 1999) finds that this trend is due to a massive increase in incidents involving rapes by acquain-

<table>
<thead>
<tr>
<th>TABLE I</th>
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<tbody>
<tr>
<td>Trends in reported crimes and persons convicted (in England and Wales).</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Offence category</th>
<th>Offences recorded 1988</th>
<th>Persons found guilty* 1987</th>
<th>Offences recorded 1998/9</th>
<th>Persons found guiltyb 1997</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape of a female</td>
<td>2,855</td>
<td>425</td>
<td>7,139</td>
<td>576</td>
</tr>
<tr>
<td>Indecent assault on a female</td>
<td>14,112</td>
<td>2,315</td>
<td>19,463</td>
<td>2,484</td>
</tr>
<tr>
<td>Unlawful sex under 13</td>
<td>283</td>
<td>102</td>
<td>153</td>
<td>44</td>
</tr>
<tr>
<td>Unlawful sex under 16</td>
<td>2,552</td>
<td>346</td>
<td>1,133</td>
<td>199</td>
</tr>
<tr>
<td>Incest</td>
<td>516</td>
<td>194</td>
<td>139</td>
<td>42</td>
</tr>
<tr>
<td>Indecency with a child</td>
<td>871</td>
<td>248</td>
<td>1,271</td>
<td>167</td>
</tr>
<tr>
<td>Indecent assault male</td>
<td>2,512</td>
<td>507</td>
<td>3,672</td>
<td>479</td>
</tr>
<tr>
<td>Male indecency</td>
<td>1,306</td>
<td>951</td>
<td>353</td>
<td>237</td>
</tr>
<tr>
<td>Buggery</td>
<td>951</td>
<td>257</td>
<td>567 +502c</td>
<td>120</td>
</tr>
<tr>
<td>Total sex offences</td>
<td>26,529</td>
<td>6,231</td>
<td>34,915</td>
<td>4,523</td>
</tr>
<tr>
<td>Total violent crimes</td>
<td>216,214</td>
<td></td>
<td>331,843</td>
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</tbody>
</table>

*Source: Home Office 1988 (Suppl., Vol. 1, Table S11(A), Vol. 2, Table S21 (A)).
*bSource: Home Office 1998 (Suppl., Tables S11(A), S21 (A)).
*cFigure for non-consensual buggery of a male, now counted as male rape, shown second.
stances or intimates, whereas rapes by strangers have remained at much the same level as before. The figures can be largely explained by increased readiness on the part of women to report the kind of incidents, so-called ‘date rapes’ in particular, that in years gone by were mostly kept secret from fear of social stigma. The rise of feminism has meant that women have been empowered to assert sexual independence, they no longer need to pretend to chastity before or outside marriage or to feel an obligation to have intercourse whenever a boyfriend wants it. More sympathetic treatment by the police, guarantees of anonymity in trial reports and limitations on irrelevant questioning of their sexual history means that to pursue a complaint of rape has become a somewhat less intimidating enterprise.

Violent rapes using weapons, surprise attacks by strangers, group assaults and the infliction of serious injury in the course of an attack have always carried a high likelihood of being reported. Reports of such incidents have apparently not increased much, but it seems curious that they have not diminished in view of the greater availability of sexual partners that is supposed to characterise modern, liberated society.

The numbers of persons found guilty of sex offences as a whole has actually decreased. The numbers convicted for rape has increased only moderately. The ratio of numbers of offenders convicted of rape to the number of rape suspects has dwindled to 9 per 100. This is because a very large proportion of complaints against identified offenders recorded as rapes by the police do not lead to prosecution. When there has been prior social or sexual contact with the offender it becomes difficult to disprove the defence that the woman consented. The Crown Prosecution Service will not bring a case to trial where the prospects of a conviction are poor. Even so, only a half of prosecuted cases result in a conviction for rape. Sentencing guidelines provide a long term of imprisonment as the appropriate sentence for rape, so juries may hesitate to find an offender guilty if they perceive the evidence inconclusive or if there was only mild coercion in the context of an ongoing sexual relationship.

In recent years much media coverage and public concern has been directed towards offences involving children. Allegations of suspected child sex abuse reaching social workers and child protection agencies have escalated as people have become sensitised to what was once a poorly recognised risk. The business of the criminal courts, as regards sexual misconduct, has always included a high proportion of offences involving minors. The Home Office has published statistics (Marshall 1997) from a national survey showing that, of all persons aged 40 who have been convicted at some time in their lives of a ‘registrable’ sex offence, a large majority (110,000 of 125,000) have had a conviction for an
offence against a minor under 16. Home Office analysis of a large sample of police records showed that around 70% of indecent assaults on females involved girls under 16 (Grubin 1998, p. 5). Police records, however, do not show an enormous proliferation of offences against children. The crime of gross indecency with or towards a girl or boy under 14 (which does not involve actual physical manipulation of the child, otherwise it would be classed as indecent assault) has increased, but proportionately nothing like so much as rape. The same is true for indecent assault on males, most of which concern boys under 16. The number of persons convicted for either of these offences has actually decreased. This must mean that, as with rape, the charges that courts are now hearing include a higher proportion of allegations that are difficult to prove. This suggests that, as with rape, greater readiness to report to the police (in these cases more often by third parties than by spontaneous complaints from the children themselves) has made a substantial contribution to the statistics. Less blatant cases may nowadays be coming to light more readily than before, but criminal statistics do not provide evidence for an alarming increase in the incidence of serious child sex abuse.

Table I shows that some offences appear to have decreased. This is true for incest (which mostly concerns intercourse between fathers and their young girls) and for unlawful intercourse with girls aged under 13 (a serious offence carrying a maximum punishment of life imprisonment). The changed figures are probably the consequence of changes in classification, more of these cases being recognised as coercive and classed as rape. The decrease in unlawful (but non-coercive) intercourse with a girl under 16 but over 13, which is a less serious offence carrying a maximum penalty of two years imprisonment, cannot be due to any lessening of under age sexual activity, teenage pregnancies having increased to worrying levels. The probable explanation is that attitudes to youthful sex have become more relaxed and parents and others have become less inclined to complain to the police about it. The most striking reduction has occurred in indecency between males. This is homosexual behaviour between adults in public places, often in and around public lavatories or gay cruising grounds, the recording of which depends upon how much resources police allocate to covert surveillance.

Killing during or following a sexual attack is recorded as homicide and does not appear in Table I. Any abduction and killing of a child by a sexual molester receives enormous publicity, causing parents' understandable anxiety, although the risk is actually remote. In England and Wales homicides of children under 16 (excluding the killing of some 30 babies under one year of age) are recorded at an annual rate of about 50 (Home Office
Most are murdered by their own parents. Only about a dozen are attributable to sexual predators. Serial sex killers of children are excessively rare, and police forces now have a sophisticated computer database to help to track them down.

Undeniably, sexual crime is a serious social problem, but contrary to popular belief the volume of sex offences recorded is small in comparison with other crime and national statistics of convictions do not suggest a massive increase in the more serious cases.

**Recidivism**

Social work literature frequently asserts that sex offenders, especially those who target children, have a lasting propensity to reoffend that is incurable and that the only hope for them is training in self-control. Official reconviction statistics, however, indicate that sex offenders in general do not have a high reconviction rate. One of the largest researches of its kind followed the records of nearly 3,000 sex offenders in Denmark for periods of 12–24 years. Nearly a quarter acquired reconvictions, but only about 10% were reconvicted for a crime of sex or violence (Christiansen et al. 1965). A recent large meta-analysis of 61 studies with a 4–5 year follow-up found an average reconviction rate for a sex offence to be 13.4%, 18.9% among rapists and 12.7% among child molesters (Hanson and Bussiere 1998). The authors conclude that their findings “contradict the view that sexual offenders inevitably reoffend”.

In a study of the records of a cohort of serious sex offenders convicted in England and Wales, half of them followed up for 10 and half for 20 years, 18.4% were reconvicted of a further sex offence during the observation period. Extrapolating from this data it was estimated that the reconviction rate for a further sex offence after a full 20-year period of freedom in the community would be 23% (Soothill and Gibbens 1978). In a sample of English prisoners released in 1995 (Home Office 1999, Table 9.5), 58% were reconvicted within two years, whereas only 18% of the released sex offenders were reconvicted in the same period, with only 1.6% reconvicted for a further sex offence. In a study of a cohort of sex offenders against children under 16, who were convicted in England and Wales in 1973, a 21-year follow-up found 20% convicted of a further sex offence eventually, but only 16% for an offence against a victim under 16 (Soothill et al. 1998).

Whereas property offenders are mostly reconvicted within a few years if they are to be reconvicted at all, the risk of reconviction among sex of-
fenders, although relatively low, persists for many years. In the study by Soothill and Gibbens (1978), the proportion of offenders reconvicted after five years had doubled after 20 years. The Home Office figure, of only 2% of released sex offender prisoners reconvicted for a sex offence within two years, compares with an earlier study in which 7% were reconvicted for a sex offence after four years of follow-up (Marshall 1994).

Hanson and Bussiere (1998) identified a number of factors which had been found in many studies to be associated with greater likelihood of reconviction for a sex offence. Chief among them were previous convictions for a sex offence and sexual deviance (mainly attraction to children). Offenders against boys were more recidivistic than offenders against girls.

Reconviction statistics underestimate the true re-offending rates. Sexual crimes are notoriously often not reported or not detected. Consensual offences in which the participants do not consider themselves victims, secret abuses within families and less serious infractions, such as indecent exposure to females (an offence that does not feature in Table 1 because it is non-indictable) are all offences with low reporting rates. Even so, persistent offenders are likely to be reconvicted eventually. Those who pursue children are often well known to police and are liable to be immediate suspects if a molestation offence is reported in their neighbourhood. Compulsory placement on the recently instituted police register of sex offenders further encourages continued surveillance.

In conclusion, it appears that sex offenders in general are less recidivistic than many other types of criminal, but some risk of repetition persists for many years and a small minority are extremely and chronically persistent. Of course, even a low rate of recidivism is of importance where serious offences are concerned.

**FROM STATISTICS TO ANECDOTE**

The gross statistics of reported offending and of persons found guilty, classified on legal criteria, reveal little about the circumstances of offending or the characteristics and apparent motives of the perpetrators. For this one needs more intimate accounts of samples of actual incidents and offenders, such as are obtainable through clinical work with offenders under treatment, from documentary records of prisoners and probationers, from victim surveys and from interviews with self-confessed and perhaps undetected offenders. The difficulty with all these approaches is to generalise from the samples under scrutiny. Hardly any sample can be claimed to be representative of all offenders in a particular category. Persons volunteering
in surveys may be highly untypical, the characteristics of prisoners may merely reflect the type of person easily arrested and processed through the criminal justice system and persons under treatment may be there on account of their special needs or the manner of their selection.

Attempts to delineate the characteristics of sex offenders have produced contradictory findings. Child molesters have been variously described as amoral sociopaths, romantic child lovers, sexually incompetent, inhibited and lonely men who cannot sustain adult relationships, or sophisticated and organised predators. Any one of these descriptions may be true of some cases, but in what proportion remains unclear. Moreover, many cases have mixed characteristics and cannot be neatly pigeonholed. Adventitious factors that facilitate offending, but are not specifically connected with sexual behaviour, such as alcohol abuse, low intelligence or antisocial life-style, play an important part in some cases, forestalling straightforward cause and effect accounts.

Despite these complexities, and supported by a certain amount of data, one can, without laying claim to any statistically validated typology, recognise a few characteristic behaviour patterns and group offenders accordingly.

**AGGRESSIVE HETEROSEXUAL ASSAULTS AGAINST WOMEN**

A much debated issue is whether the behaviour of sex offenders is an expression of abnormality meriting special treatment on the grounds that they are suffering from deviant impulses normal people do not have to contend with, or whether they are indistinguishable from the supposedly normal criminal and undeserving of a different approach. The issue arises less often in connection with common forms of indecent assault or rape of adult women. These offences are readily construed as the use of illegitimate means to satisfy desires experienced by everyone and considered entirely normal. On this model, the behaviour is not a sexual aberration, merely disregard for social rules requiring the free consent of the partner. It is analogous to a thief or burglar taking property he wants without regard to rules of ownership.

**Date Rape**

Sexual activity secured by coercion, which is rape if it includes vaginal penetration, is less likely to be reported when it occurs between acquaintances, especially in the context of an invitation out by a man that ends up with the couple going home together. In years gone by these cases rarely
resulted an official complaint. In her self-report survey of a large sample of American college students, Mary Koss (1988, 1992) suggested that studies of convicted offenders give a false impression because they omit most of these very common incidents. Among some 6,000 students questioned, 15.4% of women reported having been raped at some time, although only 5% of these rape victims had reported an incident to the police. Altogether, 53.7% claimed to have experienced some kind of abusive sexual experience. The vast majority of incidents were individual assaults by close acquaintances. Interestingly, a substantial proportion of the raped women continued, at least for a time, in a relationship with their assailant. Of the nearly 3,000 male respondents, 4.4% admitted having perpetrated at least one act of coercive sexual intercourse. Typically, the men reported only a mild struggle, perceived their partner’s resistance as minimal and felt she was equally responsible.

The borderline between seduction and date rape can be blurred. In one sample of American college students, 23% of the males admitted getting a date partner drunk or stoned in order to achieve intercourse and 24% of the females reported having had intercourse in such circumstances (Tyler et al. 1998). Kanin (1984) recruited a sample of mostly college men who admitted actual date rape and found that all that distinguished them from a comparison group of peers was being more sexually active and setting a higher value on sexual conquests. Their rapes were never premeditated and always followed on from some consensual sexual interaction during which they believed their partner was sufficiently aroused for them to ignore signals to desist. Their reasoning was supported by another survey in which 39% of the women questioned admitted that they sometimes offered a token refusal which they did not really mean (Muehlenhard and Hollabaugh 1988).

Accounts of date rapes lend plausibility to the classic feminist contention that all men are potential rapists and that their behaviour stems from a culture-bound belief that a real man needs to dominate women sexually. Some theorists suggest that macho culture is underpinned by biological factors linked to genetic sex. Evolutionary advantage is gained if stronger males distribute their genes promiscuously (Townsend 1995; Baldwin and Baldwin 1997). The more vigorous and lustful, driven perhaps by high levels of male hormone, more readily take advantage of the macho culture. However, empirical evidence linking rape proclivity to testosterone levels remains inconclusive. In any event, Western culture is moving against macho assumptions, women’s rights are gaining respect and the idea that ‘No’ means ‘Yes’ is coming to be thought of as a myth, so date rapes arising from misunderstanding may decrease in the future.
Forms of Assault on Women

Assaults by men whom they know have always been in a majority even among cases that women decide to report. The incidents may happen on an outing or date, but they tend to differ from the usual date abuse in being more violent and unexpected. Some are accomplished with the use of weapons, serious threats, or the deliberate encouragement of heavy drinking, perhaps with the covert addition of stupefying drugs. Some are planned by men who deliberately lure women into vulnerable situations where they may be assaulted either by the plotter or his friends. Victim outrage and absence of a meaningful relationship with the offender influence the decision to report. The more serious among lust offenders end up in prison and supply most of the samples used for psychological study.

The majority of men convicted of sexual aggression against women are found to share the characteristics of ordinary criminals. They are predominantly young men with an over-representation of the working class. Many have convictions for other, non-sexual offences, including crimes of personal violence. Their attitudes and lifestyles suggest impulsive, hedonistic traits, seen in an irregular work record, heavy drinking, gambling, marital instability and promiscuity. Since most criminal types do not acquire convictions for sexual offences, there must be additional and more specific factors involved.

Motivations in Serious and Repetitive Rapists

Attacks on women are sometimes so excessive in violence or persistence that psychopathological interpretations become inevitable. Attempts to categorise such men meet with the problem that their apparent motives are mixed and their opportunities and manner of expressing them differ according to whether they are defective in social skills. The classificatory system developed by Knight (1999), validated by analysis of the records of men imprisoned for serious aggression against adult women, can accommodate most cases.

The opportunistic are the least pathological, they are impulsive and predatory in satisfying their lust, but their offences are controlled by situational limits. Some gang rapes are opportunistic, committed mostly by young male delinquent types with crude macho ideas and a need to prove themselves to their peers. Their victims are often brutalised and forced into a variety of sex acts. Youths who would not normally offend this way individually can be drawn into these situations (Ullman 1999). The pervasively aggressive rapists have a chronic problem of anger, directed indiscriminately
to all and sundry, liable to flare up in attacks against women, but not exclusively directed to them. On plethysmographic testing most rapists are maximally aroused by viewing sexual activity, without the necessity for great violence, but the sexually sadistic are maximally aroused only if they can inflict pain on their victim. One variety of sexual sadist is beset with feelings of inadequacy and a need to demonstrate sexual mastery. Finally, the vindictive rapist hates women and uses sex to humiliate and degrade them. Many of the attacks on women prostitutes following intercourse are perpetrated by men who assuage their own sex guilt by projecting the blame onto the supposed wicked temptress.

These patterns are easily recognisable, though an individual case never runs perfectly to type. The vindictive offenders, paranoid towards women and bent on revenge for their real or imagined rebuffs or maltreatment, merge with the offenders frustrated by feelings of inadequacy and impelled to compensatory cruelty (West et al. 1978). These motives, in embryonic form, may be felt by many people, but they do not lead to grave sexual crime unless the individual has a severe personality disorder with impairment of self-control and lack of empathy. That is what distinguishes the dangerous sexual sadist from the large number of men and women who have an interest in consensual sadomasochistic stimulation and the many clients of S&M clubs, of sex shops selling erotic torturing toys, or of the services of the ubiquitous ‘Miss Whiplash’.

Serial sex killers of strangers are peculiarly alarming as well as fascinating – judging by all the popular books written about them. Although some are paedophiles, most target either young women or young men. They have given a boost to offender profiling, since they usually keep to a personal routine when choosing and tracking a victim, in the sex acts carried out and in the methods of killing and the mutilations inflicted. Most are odd and socially inept personalities, but not so extreme as to be incapable of living in the community without drawing too much attention to themselves, otherwise they would not be able to escape detection long enough to commit a series of murders. Their motivation is the release of emotional and sexual tension. They develop an addiction to their routine, becoming more reckless and indulging more frequently until finally captured. As individuals they display unique features, although Knight’s classificatory system could accommodate most of them. The English public does not hear about a serial sex killer every year, but when one is detected, and corpses unearthed at their homes, as with Fred West and Dennis Nilsen (Masters 1985; Wansell 1996) their names are heard everywhere. Even so, they are too few and too individualistic to have much relevance to the control of sex crime.
The usefulness of researching varieties of pathological sexual aggression lies in more effective identification of the truly dangerous and the diagnosis of what has to change in them if they are ever to be rendered safe.

THE PREVALENCE AND EFFECTS OF CHILD SEX ABUSE

Retrospective surveys of the adult population report a high prevalence of recollections of sexual initiatives from older persons during childhood. The statistics vary enormously according to the nature of the questions, such as the age range covered (commonly up to 16, sometimes up to 18) and whether non-contact incidents are included (such as indecent exposure, indecent suggestions, displays of pornography or embarrassing intrusions in the child’s bodily privacy). With the use of over-generous definitions it has been claimed that a majority of women remember some abuse (Russell 1983). More realistically, a national sample in the UK found that 12% of females and 8% of males recalled some definite sexual incident with an older person, not necessarily involving bodily contact, when they were under 16. Although most incidents had been unwanted, not all were described as serious; 57% of the males who reported ‘abuse’, and 34% of the females, thought it had had no effect on them (Baker and Duncan 1985).

Analysis of the types of experience recalled in such surveys show that incidents involving violence or forceful coercion of children under 14 are in the minority. Sexual penetration is relatively rare. Using the omnibus term ‘abuse’ for anything sexual gives the mistaken impression that a significant proportion of the population has been badly damaged. Evidence against this view has been provided by careful meta-analysis of published national sex abuse surveys (Rind and Tromovitch 1997) and surveys of college populations (Rind et al. 1998) which have shown that in the long term measurable psychological damage was not apparent in many of the individuals who had reported some early sexual abuse. Most surveys confirmed the observation of Baker and Duncan that adverse effects are felt less often by males than females. Rind’s conclusions, so contrary to popular views of the child sex abuse problem, aroused a political furore in the United States, culminating in July 1999 with a vote of the House of Representatives condemning his work.

These findings do not detract from clinical experience with individuals who have been badly damaged by gross and sometimes horrifying child abuse. Every kind of disturbance, from depressive illness to eating disorders and dissociation, from sexual frigidity to sexual promiscuity and pros-
titution, from psychosis to delinquency, has been attributed to sex abuse in childhood. What is often overlooked, however, is that sex abuse, especially abuse within the family, tends to occur in a setting that is stressful, conflict-ridden and sometimes physically abusive, so that the sexual incidents themselves are but one aspect of a constellation of damaging influences. An important psychiatric survey of New Zealand women found that psychiatric disturbance was significantly greater in those with a history of untoward sexual incidents in their childhood, but that less serious incidents, not involving penetration, usually produced detectable disturbance only when associated with unstable family situations (Mullen et al. 1993). A later survey confirmed the importance of linked trauma in facilitating long term effects. A history of physical beatings was 10 times more frequent among the abused than the non-abused members of the sample (Mullen et al. 1994).

Child Molesters Who Are Not ‘True’ Paedophiles

Moral panic about endangered children, reinforced by indiscriminate use of the demonising label ‘paedophile’, obscures the complexities of the phenomenon. Etymologically the word means a lover, not an abuser, of children. In psychiatric usage it refers to individuals whose main source of sexual arousal is an anomalous attraction to sexually immature children.

The existence of a widespread latent interest in immature children, not amounting to manifest paedophilia, is suggested by the use in advertise- ments of children in sexually suggestive dress and poses. Kincaid (1998, p. 114) cites, as evidence of the popular but covert appreciation of children as sex objects, a Shirley Temple film that exhibited the child’s “well-shaped desirable little body”[...] “with the mature suggestiveness of a Dietrich”. In one self-report study of American college students 22% of men and 3% of women reported having felt some sexual attraction to children. Some men admitted having or masturbating to sexual fantasies of children, but only 3% saw any likelihood of having actual sexual interaction with a child. Awareness of personal vulnerability could be one reason for expressions of extreme antipathy towards overt paedophiles (Smiljanich and Briere 1996).

In so far as arousal can be measured by the penile plethysmograph, it appears that among the normal male population many show some response to images of pre-pubertal children, usually small in comparison to their reaction to adult nudes, whereas recidivist offenders against young children are apt to respond weakly to adults and strongly to children (Freund
and Blanchard 1989). The latter can be regarded as the ‘true’ paedophiles, although, as with ‘true’ homosexuals, it remains open to dispute whether the apparently clear distinction from the majority of men is absolute or a matter of degree (McConaghy 1999). Among convicted molesters of young children, many have active sex lives with adults, as the married men who abuse their own children or stepchildren bear witness. Some offenders molest children only when drunk or frustrated in relationships with adult partners, just as some habitually heterosexual men may behave homosexually if seduced while drunk or when imprisoned and segregated from women.

In the treatment and control of offenders against children, ‘true’ paedophilia is not necessarily the main problem. Mutual sexual exploration that is natural for young children is different from the sexual bullying of the young by older children, which can portend adult paedophilia. Extraneous factors can trigger offences by men who are not ordinarily so inclined. Opportunistic circumstances, such as being unexpectedly alone with an affectionate and overly demonstrative child can instigate an unexpected reaction. Some men will act upon a mild paedophile interest only when they are inebriated, which may indeed be the only times they feel that urge. This is different from becoming alcoholic in response to the stress of being paedophilic and then falsely pleading alcoholism as the prime cause.

Individuals with antisocial personality disorders, characterised by impulsivity, low frustration tolerance, lack of empathy, resentment of authority and amoral attitudes, are prone to offensive behaviour at slight provocation in all sorts of situations. If they have some mild paedophile tendency they may abuse children when it suits them as an alternative to their usual sexual outlets. Compared with true paedophiles they are likely to be more aggressive towards the children and uninterested in pursuing non-sexual companionship with them.

Men with learning disability are over-represented among known paedophiles. They are impeded in the acquisition of the social skills needed for acquiring an appropriate sexual partner and interacting acceptably with other adults. This can result in a tendency to mix with children and engage in age-inappropriate sexual interactions. In addition, the disability may be specifically linked to the development of a somewhat undifferentiated sexual responsiveness, with arousal to younger children and to boys being more prominent in those of lower IQ (Blanchard et al. 1999).

**Offenders against Adolescents**

The legal system condemns sexual contact with minors, but this includes many young people who are post-pubertal, bodily mature and, of their own
volition, sexually active. Older persons who choose them as sexual partners are law breakers and may be thought immoral, but they are not necessarily paedophiles, if by that is meant being radically different from the majority in their sexual inclinations. Given the popularity of adolescents as pin-ups, models and prostitutes, this age group must appeal to large numbers of men. Some clients of prostitutes may seek even younger, pre-adolescent girls, not necessarily because they find them more exciting, but because they think they are less likely to be carrying the AIDS virus. Where the age of consent for homosexual contacts is higher than for heterosexual activity, as it still is in the UK, offenders who have relations with sexually mature young men, though breaking moral and legal injunctions, are probably no different in their sexual proclivities from most homosexual men.

The ban on consensual contact with a young person below the legal age serves purposes other than the control of sexual deviants; it protects the young from undue pressures, especially from persons in authority, and discourages teenage pregnancies or rash commitment to unsustainable relationships. Offenders who break the rules protecting mature young persons who are still legal minors do not require the special measures appropriate to paedophiles. Unfortunately, with their names on the police register of sex offenders, they may suffer the same stigma.

**Paternal Offenders**

Fathers and stepfathers, living in a marital situation, who abuse their own children do not usually target other peoples’ children as well. They are unlikely to be exclusively fixated on children and their recidivism rate is particularly low (McGrath 1991; Firestone et al. 1999). Paedophiles who seek out relationships with single mothers with whom they have minimal sexual interest simply to gain access to their children are frequently cited, but they are exceptional. Abuse within the home where the children cannot escape can be particularly cruel and its effects dire. In one substantial sample of women who responded to a British magazine questionnaire on experiences of abuse as children, most of the events reported were of this sort. Multivariate analysis revealed several factors, all interrelated, each of which was individually correlated with deleterious effects. These were the use of force or threat, sexual penetration, high frequency and persistence of abuse, blaming the victim and paternal perpetrators (Ussher and Dewberry 1995).

The severe disturbances so often found in clinical samples are linked to the presence of this cluster and reflect the extent of the damaging family pathology, sometimes including simultaneous physical and emotional
abuse, that underlies the sexual manifestations. Clinicians specialising in
the analysis of the family dynamics of child sex abuse describe a complex
array of problems, often involving sexual or power conflicts between par-
ents being worked out at the expense of one or more of their children,
usually the girls (Bentovim et al. 1988).

**HOMOSEXUALITY AND PAEDOPHILIA**

Homosexual organisations are at pains to distance themselves from pae-
dophilia, asserting that sexual orientation bears no relation to the incidence
of child sex abuse and that gays are no risk to children, but this has not
prevented suspicion being directed against unmarried male teachers and
youth workers. UK schools are finding some difficulty recruiting male staff
and teachers' unions are concerned at the increasing number of careers
blighted by unfounded allegations of sexual impropriety by disaffected
pupils (West 1998).

Suspicion of a link between male homosexuality and paedophilia is sup-
ported by the observation that the proportion of known child molesters who
target boys, and the proportion of boys among victims of molesters, are
both considerably greater than the proportion of men who are homosexu-
ally oriented. Whereas most adults have a strong sexual preference for a
partner of a given gender, many paedophiles target both boys and girls,
gender being for them a secondary consideration to the absence of off-
putting signs of adult sexual development. Paedophiles with a strong ho-
mosexual fixation tend not to be living in family settings with children and
must therefore venture out in search for contacts. They can be very per-
sistent in contacting many different boys over time. Boys make easier tar-
gets because they are allowed to wander unsupervised more than girls. Also,
boys are more sexually venturesome, they masturbate more, their genitals
are more prominent and visibly reactive, and they have less concern with
bodily modesty, being used to casual exposure for urination, and some-
times to show off to other boys.

Circumstances favour the over-representation of offenders against boys
in criminal justice samples. A higher age of consent for homosexual con-
tacts means that behaviour not prosecutable when older girls are involved
becomes so when the partner is a male of similar age. Since girls are more
often approached by members of their own family circle they have strong
reasons to avoid making an official complaint. The literature on paedo-
philia is curiously over-weighted with treatises on the love of boys and
with references to Greek homosexuality, thereby adding to the impression
that homosexuality and paedophilia are linked (Geraci 1997). Likewise, organisations advocating permissiveness towards consensual sex at any age, such as the former Paedophile Information Exchange in the UK (O'Carroll 1980) and NAMBLA (North American Man-Boy Love Association) have been run by homosexually oriented men.

Despite these considerations, analysis of sexual arousal patterns by plethysmographic measurement points to fixated paedophiles, whether homosexual or heterosexual, being a small and distinctive minority (Freund and Blanchard 1989). Even if it were true that a homosexual orientation increases the likelihood of also having paedophilic tendencies, the link could only be slight and insufficient to justify the homophobic political pronouncements sometimes made on these grounds.

**Male Victims**

Just as women rape complainants were once greeted with suspicion or disdain, male victims of male sexual assault were dismissed as 'queers', who were 'asking for it'. Before decriminalisation, they risked the threat of prosecution for having participated in homosexual activity. Boys hardly ever accused women of molestation for fear of being met with incomprehension and disbelief or, if they were old enough, of being ridiculed for not enjoying the opportunity. Times have changed, the crime of male rape has been introduced into English law and clinicians have compiled books about the sufferings of male survivors of sex abuse (Hunter 1990; Mezey and King 2000). Adult male homosexuals are at particular risk, partly because they are targets for hate crimes by men who detest homosexuals and partly because date rape and group rape are both facilitated by their readiness to accept sexual invitations from strangers.

Boys too young to understand the situation are frightened by unusual sexual behaviour by an adult and by the tension and secrecy surrounding it. Maternal sexual attentions are particularly upsetting for boys of an age when perception of its inappropriateness becomes acute (Travers 1999, p. 36ff). On the other hand, adolescent boys seduced by older women often look back with nostalgia to a helpful learning experience, but boys approached by men, unless they have a prior homosexual interest, are likely to react with immediate dislike and avoidance (West and Woodhouse 1990, p. 30ff). However, a minority, even if they are developing heterosexually, will tolerate the behaviour of a homosexual paedophile for the sake of the attention, affection and patronage it brings (Sandfort 1987). Needless to say, boys victimised by sexual bullies, or coerced or blackmailed into un-
wanted sex by fathers or other male family members, are the ones most likely to suffer aftereffects and to come to the attention of clinicians.

**FEMALE OFFENDERS**

Each year in *Criminal Statistics* the occasional woman features among persons convicted of rape. She is invariably a man’s accomplice, the one who introduces the victim or helps to overpower her. The two notorious female serial sex murderers in England, Myra Hindley and Rosemary West, both acted in conjunction with male partners. Traditionally, women were thought lacking in motivation or capacity to initiate sex assaults, but this has been disproved. Sexual harassment by women of men is well recognised, but accounts of men being overpowered by several women and sexually molested are rare (Sarrell and Masters 1982). Instances of seductive relationships between women and adolescent boys that are technically crimes and classed as child abuse, for example between teacher and pupil, occasionally result in prosecution and extensive news coverage.

Victim surveys show that children are at some risk of sex abuse from females, though it is much less than the risk from males. An analysis of children’s calls to a British telephone help line found that 9% of children complaining of sex abuse identified a female as the offender. Only 1% of girls, but 12% of boys identified their assailant as female (Harrison 1993). In the USA there is mandatory reporting by social agencies of suspected child sex abuse and the American Humane Society accumulated a large sample from all over the country. Among girls, 6% of their abusers were female without male accomplices, among boys it was 14% (Finkelhor and Russell 1984).

Clinical studies suggest that female offending occurs predominantly within the home and mothers are most often implicated. Although women offenders may gain pleasure from causing children some sexual pain, they are less likely to apply physical coercion than men. Where their victims are very young they are relatively undiscriminating about their gender, but women who involve adolescents generally choose boys unless they are themselves lesbian (Elliott 1993).

**TREATMENTS**

The issue of whether sex offenders are more or less deserving of treatment than other offenders is secondary to the question as to whether there are humane techniques available that reduce sex crime, in which case they
should surely be applied. Unfortunately, treatment efficacy is peculiarly
difficult to measure and authorities differ on whether the value of treat-
ments has been scientifically established.

Reduction in recidivism provides the clearest criterion of success, but
the use of reconviction statistics is fraught with difficulty. Since most sex
offences carry a rather low but lasting risk of reconviction, it requires large
samples and long follow-up to demonstrate a statistically significant ef-
fect. Obtaining a fair comparison group against which to judge outcome
is extraordinarily difficult. Given the heterogeneous nature of sex offend-
ers in behaviour and circumstances, random allocation of cases between
treated and untreated groups is desirable, but this is rarely achievable in
the face of practical and ethical problems. Having been selected for treat-
ment can affect the degree of surveillance following discharge and so bias
the reconviction rate. Not being allocated for treatment can mean relega-
tion to a prison regime that heightens criminality and produces a different
bias. If reconvictions are to be compared over similar periods at liberty in
the community, differences in length of detention between the treated and
the untreated must be allowed for. If those who fail to complete a course
of treatment are left out of the equation, this will bias the result, since only
the antecedently more promising cases will be left. The deadly ‘file drawer’
error, whereby evaluations with a negative result are less likely to be pub-
lished, encourages false optimism.

Treatment can mean anything from punitive regimes and harsh confron-
tations to sympathetic discussion and social support. Venues vary from
prisons, where men are hesitant to reveal their problems for fear of reper-
cussion from fellow inmates or further loss of liberty, to more therapeuti-
cally oriented specialist units or facilities in a community setting. Treatment
may end once the institution’s gate is crossed or be continued as the off-
fender faces the stress of attempted reintegration into society. In the face
of the range of problems among sex offenders, procedures can include train-
ing in social and courtship skills, anger management, risk avoidance, ad-
diction control or reconditioning of sexual arousal monitored by the
plethysmograph. Individual psychotherapy has largely been replaced by
cognitive behaviour modification in discussion groups aimed at combat-
ing denial, confronting distorted attitudes, developing sensitivity towards
victims and accepting responsibility for antisocial actions. To provide a
fair evaluation of efficacy, any treatment programme needs to be applied
rigorously and conscientiously, targeted to individuals with defined prob-
lems and directed towards identifiable goals.

Nowhere have all these daunting requirements been fully met, so scep-
tics can still argue that treatment is not worthwhile. It has even been said
that some treatments, such as insight promoting discussion with sociopaths, do more harm than good by rendering the unscrupulous more efficient at manipulating victims (Seto and Barbaree 1999). Some programmes, however, albeit long-term and demanding of resources, have achieved impressive results. For example, a sample of serious sex offenders, selected for high risk of recidivism, under treatment in a Canadian correctional institution, were matched on age and criminal profile with a group who had not had the opportunity of treatment. Followed up for 10 years, 51.7% of the untreated group were reconvicted of a further sex offence compared with only 23.6% of the treated men (Looman et al. 2000). In another example, men treated under community supervision, using intensive group work on cognitive behavioural principles, supplemented as required by substance abuse counselling, were followed up for an average of over five years. Out of 71 who had entered the treatment programme only one reoffended sexually (McGrath et al. 1998). The numbers of robust and positive findings now available justify the claim that treatment efforts can be effective in some cases. On both pragmatic and humanitarian grounds there are sound reasons for the further development and evaluation of realistic and discriminating treatment programmes.

THE PUNITIVE STANCE

A vengeful attitude towards sex offenders, particularly those who involve children, has been promoted by press sensationalism and exploited by politicians. It has taken hold of the public and influenced criminal justice. Maximum sentences for some sex offences have been increased and new offences introduced covering ‘sex tourism’, kerb crawling and possession of child pornography. Mandatory registration and post-release controls, thought unnecessary for armed robbers and other dangerous criminals, have been imposed on sex offenders. Although the number of persons convicted remains substantially unchanged, the sentences imposed have increased in severity. Table II displays the rise in the population of prisoners sen-

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Source: Home Office (1999, Table 1.7).
tenced for sex offences, which has shown a proportionate increase over the decade 1988 to 1998 more than double that of prisoners as a whole.

Over-reaction can be counter-productive (West, forthcoming). When ex-offenders are effectively denied employment or a place in society or even, in some instances, driven from their legal home, co-operation with authority is lost and motivation to conform obliterated. Vigilante attacks on released offenders cause concern. A man whose past paedophile history was revealed to local people was shot dead recently and police trying to trace the killers were met with a wall of silence from neighbours who declared to the media that they thought the killer should be congratulated. Probation officers are worried about firesetting at the homes of suspected paedophiles which cause injury to innocent family members. Even so, moral panic in the UK has not reached the extremes seen in the USA, where millions of dollars have been squandered, families torn apart and both therapists and their clients condemned for inventing recovered memories of non-existent satanic sexual abuse (Jenkins 1998). Nevertheless, the climate of opinion in the UK remains hostile to investment in any proposal that smacks of a soft option for sex offenders and acts as a barrier to the advancement of treatment projects.

**CONCLUSION**

A rational approach to sexual offending requires awareness of the wide range of behaviours involved and discriminating responses according to seriousness. This is more difficult to achieve in an atmosphere of moral panic and in the face of public belief in the increasing spread of sexual crime.

Extreme sexual aggression calls for recognition and treatment of its psychological roots. The predatory criminal who is selfishly unrestrained in his sexual behaviour, as in other aspects of life, has to be controlled, but excessive punitiveness towards any behaviour legally defined as sexual crime can be counter-productive. The long sentences of imprisonment currently applied to all convicted of legal rape, and the additional measures applied to all found guilty of involvement with minors, make the securing of convictions more difficult and may contribute to the risk of victims being killed to avoid detection.

Offences concerning children rightly preoccupy the courts and the public, but a clearer distinction needs to be made between true paedophile offending and offending with adolescents capable of *de facto* if not legal consent. Parents’ exaggerated estimates of risk from sexual predators
causes children’s freedom of movements and their interactions with adults to be curtailed. Demonisation of all offenders who have been involved with children is unrealistic. False assumptions that their behaviour is uncontrollable and inevitably persistent, or that it must become violent, discourages more pragmatic and humane policies. A therapeutic approach to those for whom this would be the most beneficial response would in the long run provide better protection for potential future victims.

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ABSTRACT. This article contrasts US and European social policies with regard to sexual offending. The three waves of social policy which are discernible in the United States' history (sexual psychopath laws, the focus on the domestic sex crimes under the influence of feminism, and a renewed attention towards sexual predators) are first described. The most significant policy trend at present concerning sex offences focuses on government controls after release. The broad overview of European countries' solutions to the same problems, concentrates on the contrasts and similarities between Europe and the United States. At present, the United States and parts of Europe are both focused on ways to increase public protection from sex offenders, particularly in ways outside the context of the criminal law. The harm caused by sex offences, in combination with the persistent nature of some patterns of sex offending, has caused citizens and governments to push for specialised remedies and powers.

KEY WORDS: legislation, sexual delinquency, social policies

INTRODUCTION

The quest for effective social responses to sex offences is typically sparked by a sexually motivated murder of a child or a woman. The precipitating events have a chilling similarity: someone is reported missing, days pass, the body is found, the identified perpetrator is discovered to be someone with a criminal record of other sex offences.

At present, some European countries are considering legal measures recently adopted in the United States, in particular the requirement for convicted sex offenders to register with law enforcement and notification to neighbourhoods when those persons are residing close by (a law commonly called 'Megan's Law').

This article traces the history of social policy regarding sex offences in both the United States and parts of Europe and explores differences between the two continents. Comments about the powerful role of risk assessment in both policy settings conclude the article.
THREE WAVES OF SOCIAL POLICY IN THE UNITED STATES

Sexual Psychopathy Laws

The United States has experienced three distinct periods of intense legislation and public attention focused on sex offenders. The first major policy response occurred between the 1930s and the mid-1950s with the passage of 'sexual psychopathy' laws (Freedman 1987). Under these laws, sex offenders were diverted from the courts to a hospital setting for treatment and then released when they were cured. Ultimately, more than half the States adopted laws allowing special medical and legal treatment for sex offenders, a trend that continued until the mid-1960s (Brakel et al. 1985).

Typically, a sexual psychopathy commitment was considered at sentencing as an alternative to the standard prison sentence (Brakel et al. 1985). Once found to be a sexual psychopath, the person was subject to indefinite involuntary commitment in a mental health facility. Depicted as someone neither criminal nor legally insane, the sexual psychopath was portrayed as requiring special considerations, both for the individual's and society's best interests. A typical statute described a psychopath as someone

suffering from such conditions of emotional instability or impulsiveness of behavior, or lack of customary standards of good judgment, or failure to appreciate the consequences of his acts, or a combination of any such conditions, as to render him irresponsible to himself and to other persons (Guttmacher and Weihofen 1952).

These mental conditions were believed to influence not only the person's actions but also to reduce or erode fear of criminal sanctions (Stanford Law Review 1949).

Sexual psychopathy laws were touted as a scientific, enlightened response to dangerous sex offenders that would simultaneously achieve two goals: remove the sex offender from the community, and treat the underlying mental condition (Brakel et al. 1985). They reflected what one writer has aptly called the "buoyant therapeutic optimism" of this period in America (LaFond 1992, p. 661). The laws gave central and powerful key roles to psychiatrists and other mental health professionals. This was the first social experiment in America to merge psychiatry and criminology and it carried strong public appeal. "The idea that one could take these men out of society and cure them in hospitals appealed to citizens who feared these offenders and to psychiatrists who wanted to change them" (Prager 1982, p. 49).

Although individual psychiatrists protested about the sexual psychopathy laws, it was not until the 1970s that formal opposition emerged. In 1977,
the Group for the Advancement of Psychiatry described these laws as “social experiments that have failed and that lack redeeming social value” and urged their repeal (p. 840). The law’s premise regarding sexual psychopaths was “not only fallacious” but “startling” and “analogous to approaches that would create special categories of burglary offender statutes or white collar offender statutes and then provide for special commitments, such as to burglary psychopath hospitals” (p. 935).

In the early 1980s, public confidence in the possibility of curing sexual psychopaths was challenged when a series of sexually motivated murders were committed by persons released from various States’ programmes. Simultaneously, requirements imposed by the courts to increase the law’s fair application meant that the programme officials had less discretion in the length of confinement. Due to this combination of restraints, most States had limited, or stopped, use of their sexual psychopathy law by the 1980s.

**Influence of the Feminist Movement**

As sexual psychopathy laws were winding down, women’s groups took the leadership role in defining the second wave of legislative activity. The modern feminist movement ignited awareness and social action regarding sexual assault initially through rape speak outs and later by disclosure of childhood sexual abuse experiences (Finkelhor 1984; Koss and Harvey 1991). This movement drew attention toward the broad variety of sexual assault experiences and the prevalence of rape and sexual abuse in intimate relationships and in families. Victims and their advocates pressed for legislative initiatives beginning in the mid-1970s that led to changes in all 50 States (Spohn and Horney 1992).

During this period, attention was focused on sex crimes that had previously been ignored or minimised. The severity of consequences for victims became a topic for the popular media as well as scholarly research. Treatment-based sentencing alternatives for sex offenders were also developed and expanded. A key rationale for this treatment focus, especially in cases of child victims, was to encourage victim reporting and cooperation with the criminal justice system. The other argument was that sex-offender recidivism could be reduced with specialised treatment (Berliner et al. 1995).

**Sexual Predator Laws**

The third wave of laws, in the 1990s, best represented by sexual predator laws, echoed the first wave, with attention focused on heinous sex
crimes involving significant physical injury or death inflicted on a victim who was a stranger to the offender. The key difference in this generation of laws was their focus on social control mechanisms that followed prison terms, rather than on alternatives to conventional confinement.

The first of these new sexual psychopath laws, commonly referred to as ‘sexual predator laws’, was passed in 1990. By the end of the decade, 16 States had passed ‘second-generation’ sexual predator laws.

The law’s emphasis on released sex offenders puzzles some people. The details of the precipitating crime in Washington State are illuminating in this regard. In late 1989, a young boy who had been riding his bicycle near a park was kidnapped, sexually mutilated, strangled, and left for dead. The person charged (and ultimately convicted of the act) was Earl Shriner, a mentally retarded man with a 24-year history of serious crimes, including several sexual assaults who was released from prison two years earlier. Some of his previous crimes were not prosecuted; others were subject to plea agreements and resulted in relatively short prison terms. In 1987, when a 10-year sentence was about to expire, prison officials learned that he had plans to torture children after his release, and they tried vigorously to detain him through the mental health system. Unable to demonstrate a ‘recent overt act’ to prove his dangerousness under state law, there was no option but to release him.

A blue-ribbon Task Force of criminal justice professionals and crime victims was appointed to craft legislative solutions and remedy the State’s powerlessness over released offenders that were identified as highly dangerous. The group held public hearings across the State and ultimately proposed the sexual predator law as part of a comprehensive reform package that included registration and the nation’s first authorisation for community notification. The Task Force’s proposals were unanimously adopted by the 1990 State Legislature.

Washington’s 1990 law became the model for similar legislation passed initially in Kansas, Arizona, California, Wisconsin, Illinois, and North Dakota (Matson and Lieb 1997). In 1997, in Kansas versus Hendricks, 117 S. Ct. 2072 (1997), the US Supreme Court upheld the constitutionality of this Kansas Statute. The five-to-four decision emphasised the clear necessity of governments acting to protect citizens from known threats.

Although much public attention and scholarly analysis has focused on the civil commitment of sexual predators, the vast majority of serious sex offenders in the US has historically received criminal sentences and continues to do so. The primary social policy for this population is incapacitation and punishment through long prison terms. This policy is exemplified by the ‘Three Strikes, You’re Out’ laws that have been enacted in 24 States
and the federal government since 1993 (National Conference of State Legislatures 1996). Sex offences that result in a felony conviction are covered by a majority of these laws. In 1996, Washington State extended its law to also incarcerate for life those ‘Two Strikes’ offenders convicted of two violent sexual offences, with 1997 amendments also incorporating offenders convicted of two child rapes (Wash. Rev. Code 9.94A120 and 9.94A030[27]).¹ Seven other States have enhanced sentences for persons with a prior felony conviction, including rape (Clark 1997).

In addition to habitual offender legislation, criminal sanctions for sex offenders have been increased in many States. In 1987, Arizona authorised lifetime probation for child molesters as a sentencing option for the trial court (Arizona’s Revised Statutes Ch. 6, Title 13–604.01). A handful of States either require or authorise courts to order repeat sex offenders to receive injections of Depro-Provera, a drug that inhibits sex drive. In 1996, California passed a ‘mandatory castration bill’ for serious sex offenders being released. Governor Pete Wilson declared that “Depro-Provera injections will help in the difficult struggle to control the deviant behavior of those who stalk our young” (Ayres 1996). Because the law applies prospectively, it has yet to go into effect and the legal challenges are pending.

By charting changes in US legislation regarding sex offences, one can get the false impression that most sex offenders serve prison terms. In fact, the majority receives probation terms, which may or may not involve relatively short stays in local jails, and are required, or expected, to undergo outpatient treatment. A probation sentence continues to be the norm for persons convicted the first time for the typical sex offence involving a child or children. Some jurisdictions have adopted a supervision approach that emphasises behavioural controls that limit access to victims, including the use of a polygraph to test compliance with supervision conditions (English et al. 1997).

Recent Policy Emphasises Social Control after Release

The most significant policy trend at present concerning sex offences focuses on government controls after release. Every State now requires convicted sex offenders to register with law enforcement on release. Registration ordinances were first enacted in the US in the 1930s, and di-

¹To date, only 11 persons have been sentenced under this ‘two strike’ law, even though many more appeared to be eligible. This phenomenon is common with mandatory sentencing laws in the US (Tonry 1992).
rected towards habitual violators of criminal laws. Their primary objective was to incarcerate or expel persons who were ‘undesirable’, with registration serving as the means to this end (University of Pennsylvania Law Review 1954). They drifted into obscurity for several decades, then the concept was resurrected in 1990 with Washington State’s package of reforms. By 1996, all 50 States registered sex offenders, and an estimated 185,000 sex offenders were registered under these laws (Matson and Lieb 1996). Over half the States now post their registry on the World Wide Web or plan to do so (Adams 1999, p. 1).

Registration statutes have been subject to legal challenges. The key constitutional questions are whether the registration requirement constitutes additional punishment for the offender and whether it violates the right to privacy. Most courts have found that registration is a reasonable exercise of regulatory power and that any potential rights infringements are outweighed by the requirement’s contributions to public safety (Jerusalem 1995). Legal challenges continue, however, and to the extent that legislation carries more serious social consequences, court rulings could change.

As mentioned earlier, registration laws were not the only means chosen to identify convicted sex offenders who were released into the community. A new concept of ‘community notification’ was enacted by Washington State in 1990, authorising officials to warn the public about sex offenders who were leaving prison or jail and were judged to pose high risks of reoffending. Law enforcement representatives in that State asked the legislature for this law, arguing that they faced instances where they knew about very dangerous sex offenders who were leaving state facilities and they were powerless to tell citizens about them because of confidentiality laws.

Community notification was a relatively minor feature of Washington State’s 1990 comprehensive legislation and received little attention in the US during its initial years of implementation. That changed in 1994 when the New Jersey legislature responded to the tragic killing of seven-year-old Megan Kanka, who was raped and murdered in 1994 by a twice-convicted child molester who lived on her block (Glaberson 1996). In short order, community notification was proposed and adopted as New Jersey’s legislative and political response to this horrific crime; notification has become known across the world as ‘Megan’s Law’. By 1996, the term was included in the New Words section of the Random House Webster’s College Dictionary, defined as “any of various laws aimed at people convicted of sex-related crimes, requiring community notification of the release of offenders, establishment of a registry of offenders, etcetera.”

The federal government has played a central role in reinforcing registration and community notification laws. Political pressure to respond to
child abductions led lawmakers to pass the Jacob Wetterling Act (42 U.S.C. 14071) in 1994, requiring States to create registries of offenders convicted of sexually violent offences or crimes against children and to establish more rigorous registration requirements for highly dangerous sex offenders (‘sexually violent predators’). States that did not comply with the Act’s provisions by 1997 would lose 10% of a criminal justice block grant.

When originally passed, the Jacob Wetterling Act allowed States to exercise discretion when considering the possible release of information to the public. That changed in 1996: now a State or local law enforcement agency “shall release relevant information that is necessary to protect the public concerning a specific person required to register” (Pub L. No. 104–145, 110 St. 1245).

In signing this law, President Clinton outlined its ambitious goals, saying,

> We have taken decisive steps to help families protect their children, especially from sex offenders, people who, according to study after study, are likely to commit their crime again and again [...] the law should follow those who prey on America’s children wherever they go, state to state, town to town (Radio Address of the President 1996).

Community notification laws have been subject to extensive legal and political controversy in two States: New Jersey and New York. It is highly likely that the law will ultimately reach the US Supreme Court.

Community notification has strong public appeal. A 1997 public opinion survey of adults in Washington State found that 82% supported the law (Phillips and Troyano 1998). In Georgia, a 1997 newspaper poll of adults state-wide resulted in 79% agreeing with the statement that “the public has a right to know of a convicted sex offender’s past, and that right is more important than the sex offender’s privacy rights” (Hansen 1997, p. D11).

Proponents believe that neighbours who are informed about convicted sex offenders in the community are better able to keep their children out of harm’s way from an identified individual. Neighbours can also report risky behaviour by the offender, such as joining clubs that have child members, to the police. A National Institute of Justice report concluded that the effectiveness of notification laws rests on three factors: the provisions of the state law, the resources allocated by state and local agencies, and the dedication and expertise of the probation officers, police officers, and prosecutors responsible for carrying out the notification (Finn 1997).

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2 In 1989, an armed masked man abducted 11-year-old Jacob Wetterling near his home in St. Joseph, Minnesota, Jacob Wetterling is still missing.
Police officials often hold community meetings in connection with notifications. The emphasis at the meeting is often on preventing rape and child sexual assault, in addition to information about the particular named offender. In this way, notification has been used as a public education tool.

Notification laws are controversial in many professional circles. Many who argue that the laws are unfair speculate that the identified offenders’ anger and frustration about being unable to lead normal lives will ultimately be turned against society and do more damage (Prentky 1996). Others worry that offenders subject to notification will flee the area, seeking anonymity (Montana 1995). Fears about vigilantism concern many (Rudin 1996), although the States that have examined this issue report very low incidence rates (summarised in Lieb et al. 1998, pp. 81–82).

Concerns about how notification will affect offenders often prompt a discussion about the harm that has been perpetuated by sex offenders. The ‘discomforts’ of notification need to be balanced, according to a Harvard Law Review editorial, by also assessing

the long-term negative effect that one recidivist may have on the lives of dozens of children. Given the special circumstances surrounding sex crimes, a community’s interest in having adequate knowledge to make informed decisions about the safety of their children weighs heavily against an individual ex-convict’s interest in anonymous rehabilitation (Harvard Law Review 1995, p. 787).

In the US, the concept of ‘community policing’ has moved from an innovation to the norm in many States. Community notification fits squarely into this approach. The notion that the government knows that a dangerous sex offender is moving into a neighbourhood and does not warn the community because of liability concerns, or because it is ‘police business’, has become unacceptable to most US citizens.

EUROPEAN SOCIAL POLICY

Rather than trying to cover topics by individual countries, this section will take a broad overview, more like a ‘cook’s tour’, concentrating on what appear to be the major differences and similarities with US policies.

Emphasis on Children

European policy with regard to sexual crimes is largely focused on sexual abuse of children, with proportionally little attention towards rape of adult women and teenagers. The higher rates of person crimes of violence in the US may explain this differential emphasis.
In the United States, child sexual abuse has been a topic of legislative and political action for approximately three decades. Efforts to bring the topic into the public eye and improve the responses of the child protection and criminal justice system have advanced more slowly in Europe, although once the system has responded, the remedies look very similar to those in the United States. The improvements in worldwide communications will only reinforce this trend.

The strongest example of this trend can be seen in the exportation of 'Megan's Law' to England. In March 1997, the British Parliament enacted the Sex Offender Act (HMSO 1997, Chap. 51). The Act requires offenders who have committed sexual offences against children to register with police authorities throughout the United Kingdom. The Home Office Guidelines updated in 1998 introduced 'sex offender orders' as a new tool to "stop sex offenders in their tracks" (Home Office 1998, p. 2).

The sex offender order relies on two conditions: establishing that a person is a sex offender, and that the person must have acted in "such a way to give reasonable cause to believe that an order is necessary to protect the public from serious harm from him" (Home Office 1998, p. 5). The police must conduct an assessment of present risk, in consultation with other organisations, then apply for a court order.

Home Office Minister Alun Michael described the guidelines as an "important step" in protecting the public, particularly children. "I believe they strike the right balance between keeping a check on where sex offenders, in particular paedophiles, are living, while at the same time allowing them the chance to mend their ways in the community" (BBC Politics 1997).

The most serious known case of harassment attached to notification laws occurred in February 1997 in England. Neighbours burned down the home of an alleged paedophile in the West Midlands. They were unaware that a child was inside the house. The child died as a result of the fire (Hilpern 1997).

Megan's law has become a topic of national attention recently in England following the abduction and murder of eight-year-old Sarah Payne. A UK tabloid newspaper published the names, photographs, and addresses of 49 persons that they identified as convicted paedophiles. Under the banner 'Named and Shamed', the cover story stated, "If you are a parent, you must read this". The 'named and shamed' event precipitated much discussion and reaction, including the harassment of a person wrongly thought to be one of the identified child abusers (BBC News 2000c). An e-mail discussion of the pros and cons of the newspaper's campaign attracted many responses (BBC News 2000d).
This debate mirrored the range of views usually articulated in a discussion of Megan’s Law in a diverse group of US citizens. Like the death penalty, this topic in criminal justice policy transcends political borders, can be quickly comprehended, and often evokes strong passions.

In the wake of public attention towards the sex offender registry, news articles have focused on its limitations. The primary concern has been that persons convicted as child molesters abroad do not have to register with the British police. Inevitably, public attention and concerns about sex offences leads to revelations about weaknesses in sex offender registries. In the United States, the concerns have primarily been about persons whose address is no longer valid, those who have moved to another area, and those who are homeless and report their address as “under the bridge” at a specific crossroads.

Sex offender registries and notification are policies with much greater relevance for those nations where the population is urbanised and people are moving from place to place. For those countries in Europe where most residents are in rural areas and generations remain in the same house, there is little value to a registry.

The call for community notification in parts of Europe is understandable. At present, Megan’s Law is the most celebrated policy innovation related to sex crimes. Whether this innovation offers Europeans any substantive advancement in crime or harm reduction is questionable. Historically, sexual psychopathy laws in the United States were seen as an enlightened response to sex offences. Edwin Sutherland’s description of the circumstances that prompted the adoption of these laws will be strikingly familiar to those who have followed recent events in England after the discovery of Sarah Payne’s body (Sutherland 1950).

Sutherland observed in 1950 that sex murders of children were the most common precipitating event in the United States for sexual psychopathy laws, hypothesising that citizens could not comprehend these crimes. In his estimation, this incomprehensibility fuels the public’s fears, particularly when a manhunt for the child’s killer has taken place. Sutherland observed that “agitated activity” in the community usually follows the sex murder, with political speeches, letters to the editor, and adoption of resolutions. A political response then becomes essential, and government bodies appoint a committee. As the committee examines potential remedies, the most recent policy innovation in vogue at the time is proposed as a solution; in the United States during the time of Sutherland’s analysis, that particular remedy was a sexual psychopathy law. At present, Megan’s Law seems to have played a similar role across the globe.

The debate about the relative merit of community notification for Europe, and the United States for that matter, is likely to continue for some
time. As this discussion evolves, it seems useful to mention some significant differences between the United States and European countries, differences that should not be ignored when discussing the law’s potential contribution to crime policy. From my perspective, the following differences deserve attention:

- In the United States, the notification law was enacted after three decades of social activism and law changes intended to bring sex offenses into the mainstream of the criminal justice system. For countries that lack this foundation and operate with weak child protection systems, a notification law may be a distraction from more essential tasks.

- The potential for vigilante responses to notification varies greatly. The United States’ experience regarding subsequent harassment of identified offenders may offer little value to Europe in predicting what might happen with notification. For example, football hooliganism, a significant crime concern in Europe, is a virtually unknown term and event in the United States.

- A responsible community notification law requires care and nurturing by law enforcement officials in order to minimize the risks of vigilantism and also to take advantage of the eyes and ears of community members. If law enforcement is hostile toward the law, there is significant potential for harm.

**Sentencing and Treatment Options**

The sexual predator statues in the United States have strong parallels to several European countries’ treatment and confinement orders for persons with mental disorders and criminal conduct. Norway established special legal measures for dangerous offenders in 1902; Denmark authorized preventive confinement legislation in 1925. Publications that are available in the United States indicate that these measures have been used very sparingly (Mathiesen 1965; Anttila 1975; Serrill 1977).

The Netherlands also addressed dangerous offenders in legislative initiatives during the 1920s, allowing combinations of criminal sentences, commitments to psychiatric institutions, and special indeterminate sentences at the pleasure of the government (so-called terbeschikkingstelling, or TBS; The Netherlands, Ministry of Justice 1994). The TBS is intended to “protect society from unacceptably high risks of recidivism” and legitimacy “lies in the right of society to protect itself” (p. 7). The provisions of the statute were amended in 1986, resulting in less discretion in its application. The TBS-order is an option to the court at the time of sentencing.
and varies depending on the court’s assessment of the offender’s responsibility — it can be ordered with or without instruction for enforced care (verpleging). Those individuals found to lack total responsibility receive this order exclusively, which is called TBS with instructions. The order applies for two years and can be extended for a year or two. A small number of individuals each year receive this order (15 in 1990). The TBS with enforced care is "one of the most intrusive sanctions available in Dutch law" (p. 21). The order fixes a maximum term of four years, except for violent crimes where there is no upper limit. Those judged as partially lacking responsibility can be given both a non-punitive and a punitive sentence, with the TBS-order implemented after the prison term.

In 1992, just under 600 persons were TBS-patients — this statute is obviously applied with much greater frequency than the special legal measures in Norway and Denmark. Over 90% of the TBS-patients in recent years have been identified as serious violent offenders. Of the patients in TBS-hospitals, approximately one-third have committed sex offences, typically of a violent nature (Meijers Institute 1997). The average stay for TBS-patients is five years, with sex offenders serving an average of eight and a half years.

Chapter 30 of the Criminal Code in Sweden covers persistent offenders, either for sexual or other crimes. Under this law, indeterminate preventive detention is authorised. The internment sentencing — internering — allows a minimum of one and a maximum of 12 year’s institutional confinement. Extensions may be permitted by the court for three years at a time, with lifetime sentences possible if requested by the internment board (Sansone 1976). As of 1976, no such request "had ever been made " (Floud and Young 1982, p. 107; see also Sansone 1976). Castration is another legal option, with the patient’s consent, but is rarely used (Moyer 1974).

A 1994 review of legislation in Europe concerning dangerous offenders by Petrunik, identified pertinent legislation in Belgium, Italy, and Germany. Indeterminate confinement was authorised in Belgium under a 1930 law, directed toward mentally abnormal offenders and recidivists and later modified in 1964. Italy authorised indeterminate confinement for socially dangerous recidivists, legislation that was modified in 1953 and 1975. A 1933 law in Germany authorised indeterminate preventive confinement in a penal institution for habitual offenders and dangerous sex offenders. A recent omnibus bill referred to as ‘Natalie’s Law’ significantly changed sex offender sentences and reduced the criminal history prerequisites for incapacitation sentences. The legislation honours the memory of a seven-year-old girl who was raped and killed by a paroled sex offender in a small Bavarian village (Albrecht 1997).
England and Wales do not have special criminal statutes for dangerous offenders, although indeterminate confinement is possible because of mental illness. Britain's most senior judge, the Lord Chief Justice, Lord Bingham addressed an international probation conference recently and advocated that courts should receive new powers to control violent criminals and sex offenders. In his view, sentencers should have the authority to impose a custodial term in combination with a treatment requirement, noting that time and time again, we encounter persistent offenders whose long record of offending can be traced to a single unaddressed failing, most often addiction to alcohol or drugs or inability to control the temper, or various forms of sex offending (BBC News 2000a).

A committee appointed in Scotland to review laws regarding dangerous sex offenders, a group chaired by Supreme Court judge Lord MacLean, recently recommended a new “order for lifelong restriction” that is intended to “ensure that high risk offenders are subject to control and supervision for the remainder of their lives” (BBC News 2000b). The committee’s recommendation calls for careful assessment of risk for reoffending. In addition, the group called for the creation of a new body, the risk management authority, to oversee management of high-risk offenders and lead the country’s policy development in this topical area.

**OTHER MEASURES FOR CHILD PROTECTION**

Political efforts to stop the sexual exploitation of children around the world have a strong presence in Europe. Advocates are pressing for the full implementation of the UN Convention on the Rights of the Child across Europe. In this regard, the Council of Europe and the Centre for Europe’s Children has played a prominent role (Centre for Europe’s Children 2000). The transporting of children and women from the Soviet Union and other countries into Europe, where they are forced into prostitution, is a major concern for many (Butler 1997, p. 1).

The Centre for Europe’s Children is also investigating a risk assessment instrument directed at dangerous persons who care for children (Hagell 1997). This effort was funded by the European Commission under the Daphne Initiative and undertaken in four countries: Germany, Greece, the Netherlands, and England.

The National Society for the Prevention of Cruelty Against Children is drawing attention to the need for increased education and enforcement of child protection laws within voluntary youth organisations (BBC News...
A survey by the organisation revealed that up to two-thirds of such organisations do not report on staff who are suspected of offences against children. Since persons with a sexual interest in children are drawn to organisations that work directly with youth, the organisation is focusing its education campaign in their direction.

**Predictions for the Future**

At present, the United States and parts of Europe are both focused on ways to increase public protection from sex offenders, particularly in ways outside the context of the criminal law. The harm caused by sex offences, in combination with the persistent nature of some patterns of sex offending, has caused citizens and governments to push for specialised remedies and powers. For many people, this quest for specialised treatment of sex offenders is misguided social policy that is founded primarily on hysteria and pandering.

Without trying to resolve this debate regarding underlying motivation, it is clear that sex offences are on the political agenda in both the United States and Europe and are likely to remain so for the near future. The identified problems, as well as the remedies under consideration, share considerable overlap.

Virtually all policy discussions about sex offences on both continents share an underlying reliance on the same innovation: actuarial risk assessment. Because sex offenders are not homogeneous, and the population includes the most modest of offenders to those who are the most frightening, a social policy response that is effective, realistic, and cost-effective, must start by distinguishing the group of sex offenders by relative risk. In the past, we have made these judgements using the human eye and heart—usually termed clinical judgement. With the advent of powerful computers and the dedication of brilliant researchers, mostly from Canada, we have taken millions and millions of individual observations and turned them into trend lines that allow us to know, better than ever before, which groups of violent and sex offenders share characteristics with persons who have reoffended at high rates in the past. Over time, this knowledge is becoming more and more precise, and is being individualised by jurisdictions so that their particular history of policing, sentencing, and paroling practices can be included in the equations.

In this regard, both Americans and Europeans share a common debt to the Canadian researchers who spent 20 years developing the research base for actuarial risk assessment with violent offenders: Vernon Quinsey, Grant
Harris and Marnie Rice (1998). Risk prediction has made significant strides in the last decade; those who dismissed this effort based on the previous generation of science need to take another look. Actuarial methods can now predict the likelihood of new violent or sexual offences with a degree of accuracy that is useful for policy makers; no alternative method comes close to this method in accuracy (Grove and Meehl 1996). It is important to understand that what is being predicted is not the actual event, but rather which individuals in a group pose the highest risk of reoffending. The level of precision varies depending on two key factors: the period of time in question, and the type of offences. The base rate of recidivists rises with the length of time that offenders are followed, thus certainty rises if the prediction time is extended. Also, to the extent that one is looking at sexual and violent offences, the prediction power is greater than if the only issue at question is sexual offences.

Policy makers can decide the degree of accuracy that is acceptable for these prediction instruments. If, for example, the decision is that false positives are unacceptable (identification of someone as dangerous who is not), it is possible to set the cut-off score that separates the dangerous from the non-dangerous at a level where this result is achieved. To the extent that there is some toleration of false positives, the score can be adjusted. It must be understood that the introduction of actuarial instruments does not in any way lead to a situation where only numbers count, and all policy judgements disappear. Actuarial instruments can inform policy, both at the stage of setting policy, but also in decisions regarding individuals.

Those interested in learning more about this topic are directed towards Quinsey, Rice and Harris’ book, *Violent Offenders: Appraising and Managing Risk* (1998). The path offered by these leaders will be followed, perfected and taken to new levels in the next several years. We can look forward to being able to inform policy across the globe with more accurate judgements and finer distinctions about sexual and other offenders.

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THE PORNOGRAPHIC CONTEXT OF SEXUAL OFFENCES: REFLECTIONS ON THE CONTEMPORARY SEXUAL MENTALITY

ABSTRACT. This essay-like article explores the pornographic context of sexual violence. The analysis is based on Giddens' book about the development of intimacy and sexuality in late modernity. Sexual morality nowadays combines a tolerant mentality towards pornography and a claim for prudence in the daily relationship between the sexes. This 'schizophrenic' moral situation gives a special meaning to sexual violence, which can be seen as a realisation of pornographic humiliation and as a rude offending of the norm of equality in modern relationships. The strong consensus on the protection against child pornography and paedophile violence stems from this paradoxical situation. The radical development taking place in our sexual mentality is placed within the context of relationships that are becoming more equal, and against the background of the resulting higher standards set for partners.

KEY WORDS: pornography, post-modernism, sexual delinquency, sexuality

INTRODUCTION

The discussion of the budget for the Dutch Ministry of Justice for the year 2000, in November 1999, was witness to unprecedented scenes. It centred almost entirely on issues such as child pornography, sexual offences and how effective a hospital detention order is for sexual offenders. This was surprising because these matters comprise only one aspect of Ministry of Justice policy and account for only a small portion of the budget, which is in excess of 10 billion Dutch Guilders. Agitated parliamentarians pelted one another with figures on recidivism and bandied about terms such as chemical castration and life sentences. They seemed to want to outbid one another in proposing periods during which sexual offenders, once discharged, should remain under the supervision of the probation and after-care system. "Scrambling MPs engage in verbal skirmish", various newspapers reported. And the Minister of Justice lamented that he only seemed to stay level-headed.

Sexual offenders, and more particularly child rapists, provided the focus for political strife in the lower chamber of the Dutch parliament, and this was so despite the fact that there was complete consensus as to the
seriousness of their crimes and the importance of effectively combating them. The debate was reminiscent of the analysis of moral panic by criminologist Stanley Cohen in the 1970s. "Society appears to be subject, every now and then, to periods of moral panic. A condition, episode, person or group of persons emerges to become defined as a threat to societal interests" (Cohen 1973, Introduction). The scapegoat effect seemed to be in full operation as the debate about crime and public safety concentrated on the child rapist.¹

Although, in an intellectual sense, it is tempting to dispose of the debate in these terms, it would be wiser to try to understand the reality behind all the commotion. The seriousness of the offences discussed is beyond dispute, the societal indignation is understandable and the need to find an answer to these offences is a political responsibility. The vehemence of the emotions is recognisable to all; sexual offences are matters that leave no one indifferent. Against this background I would like to consider the cultural context in which sexual offences take place, and in which we formulate our response to them. My attention will primarily be directed at an 'ethical' context, in the sense of contemporary sexual morals.

When we consider this issue, we cannot help but notice that sexuality occupies a very dominant — and, in an historic sense, perhaps even a uniquely prominent — place in public life. Sexual innuendoes are everywhere, and all the time, in video clips, in advertising, on commercial television and on the Internet. At the same time, our manners and conventions for dealing with the opposite sex involve a great deal of circumspection, which is confirmed in a political sense.² In the 1980s, attention was primarily focused on sexual abuse in domestic settings,³ and in the 1990s the debate concentrated primarily on child pornography and paedosexual violence. Although both sexual perversions have almost always been rejected (except for a brief period in the 1970s), it is nevertheless remarkable how they have come to dominate the public debate.

¹Cases in which no evidence can be found of presumed sexual abuse, as was the case in The Netherlands in Oude Pekela, are often understood in these terms.
²Recently, for example, the European Commission adopted a major programme to combat sexual violence and sexual harassment at the workplace.
³See for an analysis of sexual abuse Boutellier 1993/2000, Chapter 4. In that analysis I described three developments: the rise of the women’s movement, the altered position of the child as autonomous subject, and the role of psychotherapy. It is important to include developments in sexual morals in any discussion of the shift of attention from sexual abuse to (violent) paedosexuality (see also the article by Lieb in this issue).
In this article, I am interested in the question of what significance should be attached to sexual offences in an era of unprecedented openness about sexuality. In discussing these issues, I will start by describing the development of sexual morals, which is based on a book by Anthony Giddens (1992) on this subject. I will then discuss the significance of pornography, its production, its consumption and the consequences thereof. Finally, I will pursue the question as to why child pornography and paedodelinquency generate so much moral indignation today.

The Sexual Identity

As a biological faculty, sex is a given fact, but in a cultural sense it is 'a many possibilities thing'. Each culture generates its own ways in which to regulate sexual activity. This cultural regulation can be subject to great change. In her book Erotic Wars (1990) Lilian Rubin describes the development of sexuality in the twentieth century, based on interviews with 1,000 heterosexuals of all ages. The experiences of her subjects document a spectacular change over a period of some 50 years, in the way in which people look at sex, and the way in which people make love. The stories confirm what instinct tells you, that sex has changed from a furtive and secretive business into a prominent and everyday activity.

Nowadays — in comparison with the older generations — people have sex at an earlier age, they have more sexual partners and have sex in a greater variety of ways. According to Rubin, these changes affect girls more than boys. The most remarkable thing about the stories as related by Rubin is perhaps the openness with which they are told. Sex has become a conversation topic — or rather, when asked, people are happy to talk about their own sexuality. They almost seem to feel obliged to reflect and to discuss their sexual views and experiences: evidently, sex is of vital importance to the respondents.

Anthony Giddens' book, The Transformation of Intimacy, Sexuality, Love and Eroticism in Modern Society (1992) revolves around the relationship between self and sexuality. Giddens builds on the work of Foucault (1975) and on his own work about the consequences of modernity (Giddens 1990) for the view of self. In a world in which traditions have been relegated more and more to the background, we are continually making choices as to what we want out of life, who we want to be, and how we want to do it. This is sometimes referred to as 'life politics' or 'identity politics'. Giddens

4Since this book is referred to many times in this article for reasons of expediency only the page numbers are mentioned below.
describes how our modern day and age, which has its origins in the Age of Enlightenment, has evolved into a reflexive modernity, in which thinking and talking about ‘the self’ has become a core issue. One’s personal life has become an open-ended project, one that goes together with new expectations, requirements and fears.⁵

In his book about intimacy, Giddens analyses how, in the course of the twentieth century, life politics have come to be played in the domain of sexuality. Particularly in the most recent decades, a true revolution has taken place in this sense with the rise of what he terms — somewhat moralistically — ‘plastic sexuality’, or sexuality that has no connection whatsoever to reproduction. “Plastic sexuality can be moulded as a trait of personality and thus is intrinsically bound up with the self” (p. 2). Having sex for the sake of sex is a legitimate option and one on which people must somehow or other adopt a position in the various phases of their lives, without being guided by traditional views.⁶ Contemporary man is not so much a sexual being, but has a sexual view of self.

Giddens points out that homosexuals have been trend-setters in this respect. They have had to adopt a sexual lifestyle at a much earlier stage. Homosexual life politics were pioneering not only because the group did not have traditions to draw upon, but because sex took place without the risk or even the possibility of conception. More importantly, the sexual lifestyle that developed was one of equals. Without biological risks, cultural traditions or gender differences, a sexual reflexiveness developed that was also to become the share of heterosexuals at a later stage. “Sexuality functions as a malleable feature of self, a prime connecting point between body, self-identity and social norms” (p. 15).

With this premise, Giddens builds on the work of Michel Foucault, who pointed out in his History of Sexuality that the origin of ‘the sexual identity’ — that is, the definition of one’s own subjectivity in terms of sexuality, such as ‘the homosexual’ — goes back to the eighteenth century. It is the product of modernity — more explicitly, the period when the science of sexology made its entrance. It is illustrative to note that the concept of sexuality was not applied to people until the end of the nineteenth century (before that it was a zoological term).⁷ In line with his earlier work about

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⁵In this context, see also Sennett (1998), who points out the uncertainty that has grown in identity formation on account of the flexible nature of modern culture.
⁶This is not to say that traditional views no longer play a role, but they must compete with other options, and have thus in fact become one of the choices.
⁷The concept of sexuality was introduced in a medical book in 1889 as an explanation for female medical complaints.
the origins of the prison (and criminology) and the mental asylum (and psychiatry), Foucault saw the emergence of the sexual identity as a moment in the refinement of power.

According to Foucault, the prison and the mental asylum were the physical manifestations of an increasingly detailed production of knowledge and an increasingly refined control of the conditions in which individuals lived and their conduct therein. He spoke in that respect of the microphysics of power. In his *History of Sexuality* he concentrates on the life politics of modernity. "The subject is invited to produce a discourse of truth about his sexuality which is capable of having effects on the subject himself" is how Giddens (p. 20) summarises Foucault's position. Erotic pleasure becomes sexuality; sexual varieties become linked to identities; a 'truth' emerges in respect of sexual behaviour, where first there was merely a 'reality' — one that was valued only in a moral, not in a scientific respect.

At the end of the nineteenth century, sexuality became a source of concern, a form of behaviour for which 'solutions' were needed, and around which representations of power were built up in respect of women, homosexuals and children. According to Foucault, the 'discovery' of the sexual identity was important for the formation and consolidation of modern social institutions, such as the family, the school and the regular job. These life politics in respect of sexual behaviour acquired greater relief when set off against the Greek 'care of self', which focused more on asceticism and nutrition. Until well into the twentieth century, the belief in God — and the struggle with this belief — was a central theme in self-perception. The sexual core of the modern view of self was therefore not the most obvious development.

According to Foucault, 'the sexual identity' was on the cultural agenda long before the sexual revolution of the 1960s. For that reason he rejects the idea that sexuality had been repressed (the repression postulate), only to be 'liberated' in the 1960s. Sexual identity has its roots in a remote past. His tracing of the history of the present view of self is valuable, but it does little justice to the radical changes that were subsequently to take place. In

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8This forms the subject of the third part of Foucault's *Histoire de la sexualité* (1975).
9 "However, let us now formulate the general hypothesis that I put forward in this book. The society that came to development in the eighteenth century — irrespective of whether one calls it bourgeois, capitalist or industrial — did not approach sex with a fundamental refusal to recognise it. On the contrary, it set into motion an entire apparatus to produce genuine representations of sex. Not only did that society talk a lot about sex, and force one and all to talk about it, but it also took it upon itself to formulate its truth set forth in the form of rules." Foucault 1975, p. 176
this context, Giddens disputes the suggestion that there is a direct line from the Victorian era to the present. This becomes very obvious in the stories related by Rubin, with their focus on the experience of these ‘sexual identities’. The way in which needs, codes and norms are perceived, is translated into what I would like to term a mentality, in which sexuality takes on an increasingly central significance. With Rubin, we may state that this mentality has undergone radical change in the twentieth century.

**Intimacy and Eroticism**

Foucault’s reference to a microphysics of power concentrated on the self is somewhat unsatisfactory in attempting to understand this transformation of the sexual mentality. In any case, it does little justice to the reality of sexual morals, the perception of sex and recent changes in these aspects. With Giddens, I consider that a separate analysis of modern sexual morals is more appropriate; he calls this an analysis of intimacy.¹⁰ In the course of the nineteenth century, marriage changed from a union that was primarily economic into a romantic relationship. Conjugal rights and obligations became couched in terms of mutual desires and expectations that primarily improved the position of women. While men were required to be more virtuous and upright,¹¹ women gradually struggled free from the compulsion to procreate imposed on them by the traditional marriage.

The romantic ideal of a relationship focusing on the partner, in any case as a mental image, became commonplace. This ideal assumed ‘intimacy’, which is different from sexual lust and passion; “it presumes a psychic communication, a meeting of souls which is reparative in character” (p. 45). Romantic love revolves around a future, and implies stories about the self and the other—with all the problems this entails.¹² Romantic love thus distinguishes itself from passionate love, which, says Giddens, can be seen as a more or less universal phenomenon, and which was viewed—

¹⁰I prefer the term mentality because it offers more scope for the description of the other sides of this development.

¹¹Illustrative in this context is the motto of the first wave of the English women’s movement: “Votes for Women; Chastity for Men”.

¹²Giddens says in this context that the importance of Freud did not lie in his articulation of the modern preoccupation with sex, but that he “disclosed the connections between sexuality and self-identity [...] and [...] showed these connections to be problematic” (p. 30). Psychoanalysis yielded a setting for a “reflexive ordered narrative of self” (p. 31).
example, by the aristocracy — as something entirely separate from an arranged marriage. The *ars erotica* was enjoyed — by men — outside institutionalised relationships, with prostitutes, concubines and mistresses. Romantic love created the mentality within which ‘the quest of self-identity’ could unfold. It is based on a self-image that is derived from the quality of the relationship with the partner, in which sexuality plays a derived role.

With the rise of family planning and contraception at the beginning of the twentieth century, the sexual act could be separated from reproduction. The introduction of the pill in the 1960s made it possible for this separation to become generalised, leading to the opportunity, primarily for women, to claim their own sexuality, one that was no longer determined by procreation, traditions and male dominance. For this reason, says Giddens, a new phase in the relationship between the sexes got under way. The contemporary sexual mentality is characterised by the erosion of this romantic ideal: “In the current era, ideals of romantic love tend to fragment under the pressure of female sexual emancipation and autonomy” (p. 61).

Out of this romantic intimacy, and in combination with the widespread use of contraception, a new, contemporary ‘special relationship’ evolved that Giddens calls ‘confluent love’. In this new form of relationship between potentially equal partners, identity flows together with the *ars erotica*, but without the life-long loyalty from the concept of romantic marriage. Within the romantic ideal, sex moves to the foreground, along with therapy and counselling, sexual education, popular magazines and the mass media. The relationship must be total, as it were. Naturally, such a relationship is not without difficulties. Expectations run high, all too easily resulting in disappointment. “Confluent love presumes intimacy: if such love is not achieved, the individual stands prepared to leave” (p. 84).

The modern, total relationship is permanently threatened by possible termination: it presumes a continuous process of renewal and reassessment. “The ‘separating and divorcing society’ of today appears to be an effect of the emergence of confluent love rather than its cause” (p. 61). This radical development in respect of intimacy is “about sex and gender, but is not limited to them” (p. 96). It extends to the ethics of personal life, in which people must reflect, argue and negotiate about choices and decisions. This also applies to the relationship between parents and children, in which authority has been levelled out, and in which children have acquired a voice of their own. “People have to work out how to treat relatives and, in doing so, construct novel ethics of day-to-day life” (p. 98).
This pressure has the greatest consequences for men, who have seen the traditional conventions— which were in their favour— disappear: male dominance, double standards, the right to a male 'nature'. Particularly the male perception of sex becomes problematic and frequently compulsive within this context. To illustrate this, Giddens describes the obsessive addiction to sex which led to the founding of Sex Addicts Anonymous groups in the United States (and which many women have joined as well). Today's male who is addicted to sex differs from the Don Juans and Casanovas of the past, because temptation has lost its meaning in our era of emancipation. Women are more readily available for making love, but they are also autonomous and equal in their choices. The loss of the traditional background in which sex was embedded has led to an isolated and paradoxical perception of sex in which sex objects have adopted the posture of autonomous subjects.

In the past, sexual violence— in the sense of violent sex— occurred primarily at the margins of society, such as in war situations. Indeed, the sexual behaviour that arose from male dominance could in itself be considered violent, but within the moral context of the time, it did not overstep any bounds. The patriarchal dominance of men included a right to sexual relations, but this was embedded in a totality of mutual expectations and codes. In the past, male power was defined in terms of rights, ownership and limited obligations. These obligations lay in the area of chivalry and protection. The situation might even be termed a patriarchically determined equilibrium that, on balance, was to the advantage of men, but offered a certain degree of protection to women. Violent sex was the exception in an unequal, but highly regulated, equilibrium between the sexes.

The equality of women in public, in labour relations, in marriage and in sexual dealings offers an entirely different context for sexual violence. It no longer forms an exception in what is still an unequal relationship between the sexes. It is more easily understood as an encroachment upon a sexual mentality based on equality. Sexual violence can be regarded as a ruthless rejection of female autonomy, as an eruption of power in a context of equality. In that sense, it marks the male incapacity for intimacy. "A large amount of male sexual violence stems from insecurity and inadequacy rather than from a seamless continuation of patriarchal dominance. Violence is a destructive reaction to the waning of female complicity." (p. 122). From this point of view, we see the paradoxical situation that female autonomy sometimes even creates its own violent subordination.

Sibo van Ruller pointed out to me that in the nineteenth century in the Netherlands, rape was punished as an offence against property of the husband.
The Pornographic Context

The radical development in our sexual mentality is taking place within the context of relationships that are becoming more equal, and against the background of the resulting higher standards set for partners. There is more openness, a greater variation in lust and sexual desire, more promiscuity. Within this setting, perverse forms of sex take on the connotation of varieties. This development was a gradual one. For example, Freud regarded perversions as a normal condition of human beings (he spoke of polymorphous perversity of the human drive). Several decades later, sexologist Havelock Ellis spoke of sexual deviancy rather than perversion, which primarily held significance for the homosexual movement. But the argument was definitively settled at the time of the sexual revolution of the 1960s.

What was described by Jeffrey Weeks (1986) as the 'decline of perversion' is understood by Giddens as a consequence of modern self-expression. "The replacement of perversion by pluralism is part of a broad-based set of changes integral to the expansion of modernity" (p. 34). Within this process of the decline of perversion, pornography appeared in the 1970s, a welcome confirmation of sexual pluriformity. The production of pornography was swept along on the waves of the sexual revolution of the 1970s. It was all at once a release from convention, an exploration of sexual pluriformity and the confirmation of the sexual core of the modern identity.

Although the development of the pornography industry was initially accompanied by protest, it persevered. Pornography is always available everywhere, in all variants. Seated at the computer, we are but three mouse clicks away from hard-core pornography, audio sex is available by telephone at every moment of the day, softer forms of porn have become commonplace on television, and otherwise there is always the corner video shop. Viewed in retrospect, the speed with which public sex has become ordinary is breath-taking. The first naked female — Phil Bloom — appeared on Dutch television in 1968. Although it resulted in many members cancelling their subscriptions, it found a sequel in many other programmes.

This was first met by a political counteroffensive, primarily directed against hard pornography in cinemas. The Minister of Justice in the Netherlands, Van Agt, joined battle against the advancing porn industry in relation to the film *Deep Throat*. His proposal to stop its spread was the 49-seat cinema. Pornography would only be allowed free rein in a public place of limited size, a sort of space for heavy users in which people addicted to visual sex could get their 'shots'. Van Agt’s proposal was received
with much hilarity at the time. His 49-seat cinema can be seen in retrospect as a final death throes of an era of sexual circumspection.

Two obvious factors can be pointed out for the broad dissemination of pornography: the technological revolution and the free market. One example of how closely intertwined sex, market and technology are is the famed flop of Philips's Video 2000 system in the 1980s. According to experts at the time, the system was technically superior to all its competitors. And yet it lost the battle for the video market because hardly any pornographic videotapes were available for this system. On the books as a marketing bloop, what it amounted to was that the management of Philips refused to worm its way into people's living-rooms via pornography.

The pact between the free market and technology has made pornography an everyday matter. You no longer need to go out in search of it, you no longer need to go to any lengths to acquire it and you no longer even need to spend money on it. Every living-room, even in the best households, has become a miniature pornographic cinema. In my opinion, the free availability of pornographic material in the 1990s constitutes an essential change in the significance of pornography. Particularly the fact that it is offered on commercial television confirms its everyday status. Pornography has become a consumer good, comparable to soaps, documentaries, quizzes, sport competitions, violent films or any other sort of entertainment.

Three arguments have always played a role in the discussion of pornography: propriety, dignity, and protection. According to the propriety argument, the sex drive is an intimate matter that does not belong in the public view. As a result, in the 1920s, Hollywood had prescribed exactly how long a screen kiss could last. Sex was imbued with shame and guilt; its enjoyment was a strictly private and hush-hush affair. The propriety argument was refuted by the reproach that it was hypocritical. At the time of the sexual revolution, pornography was felt to be the emancipation of lust. A naked female on television implied the definitive rejection of the argument of propriety. Public sex became synonymous with the search for freedom. Pornography became a form of freedom of opinion.

The argument of human dignity is strongly related to a religious view of life in which sex is first and foremost associated with reproduction. According to this view, lust is a necessary biological—animal—need, which in fact undermines human dignity. It serves the procreation of the species, and according to the doctrine of the church, it may at most be enjoyed as a means of strengthening marital relations. Although this argument is still heard, it has been refuted by the argument of self-development of 'the whole individual'. With the secularisation of society and the coming of the contraceptive pill, this limited view of sex was cast aside. The individual was
placed on a pedestal and the freedom of the individual to enjoy lust was considered the supreme good.

The third argument — protection — was put forward by the women’s movement in reaction to the sexual revolution of the 1960s and 1970s. Pornography made women easy targets, according to one of the main arguments of its feminist opponents. It is no longer heard very often, as feminists have increasingly adopted a stand against any restriction of female lust by patronising do-gooders. Instead of asking for protection, they prefer to promote emancipation and autonomy. If self-possessed women favour pornography — whether as producer or as consumer — they are perfectly entitled to do so, is the implicit argument.¹⁴

A line is only drawn when it comes to children. Although during the sexual revolution this line was very nearly crossed, the fact that children are seen as victims of child pornography is so manifest that even the porn world stands firm on this point. With thinly veiled pride, the porn traders proclaim on television that they know their limits. In the meantime, the trade has grown into a global industry involving billions. In a period of 30 years it has gone from offering ‘a bit of good fun’, educational and taboo-breaking sex films to become a ubiquitous and unbounded phenomenon.

Pornography and Sexual Delinquency

The tempestuous growth of the porn industry and the mass consumption of its products in recent decades are due to a combination of technological possibilities and commercial motives. And yet this says nothing about the significance of the industry for the way people view sex and intimacy. The — implicit — message of pornography is highly complex. In the first place, it still contains a promise of freedom from convention and sexual repression. Within a liberal culture, a hotbed of vested interests and tolerance, pornography implies a permanent testing of boundaries. In a culture that is to all appearances Puritan, as is the case in the USA, a pornography producer can invoke the argument of hypocrisy while priding himself on his role as avant-gardist.

Secondly, pornography has a strong effect on the consumer. Almost no one can avoid the appeal it makes to lust. A hard-porn film evokes ambivalent feelings ranging from excitement to revulsion, from the need for

¹⁴This feminist position is comparable to the prostitution debate in the Netherlands (Boutellier 1993/2000, Chapter 5).
The force of the appeal of pornography is so strong that any resistance to it is laughed off as hypocrisy. Why should you resist images that excite you? Is your resistance not simply due to your bourgeois beliefs or to a haughty, better-than-thou attitude, rather than to justified misgivings about the images you have seen? What is more, the actors involved have apparently chosen to make pornographic films. If other people make themselves available for it, what right has a hesitant consumer to be against it?

But pornography has a third, more substantial significance within the sexual mentality, as was described in the previous section. It is a sort of counterpoint to the modern relationship in which sex is experienced within the ideal of equality. Pornography itself furnishes a paradoxical argument in respect of the so recently acquired female autonomy. On the one hand, it confirms the emancipation of female lust, while on the other hand, it often involves the degradation of women. For this reason, Russell (1998, p. 3) describes pornography as “material that combines sex and/or the exposure of genitals or degradation in a manner that appears to endorse, condone or encourage such behavior”. Her description presumes a relationship between pornography and sexual violence. Although a direct relationship has by no means been established, in her book Dangerous Relationships she develops a very pertinent argument. She begins by discussing 10 studies which analysed the content of pornographic films and magazines. Although there were big differences between the studies in the definitions and methods they used, she feels the conclusion to be justified that at least the vast majority of porn products is violent, degrading and dehumanising in respect of women. In addition, this particular trait seems to have increased over time, although the studies are not unequivocal in this respect (Russell 1998, p. 26/27). In the second chapter she documents and comments on 110 scenes from films and magazines, and this description (without any images) can very definitely be termed brutal.15

Russell subsequently develops a multi-causal theory about the relationship between pornography consumption and rape, derived from the work of sociologist David Finkelhor. Finkelhor (1984) formulated this model to explain the sexual abuse of children. He distinguishes four conditions that lead to sexual abuse. In the first place, his model assumes a person who has the will to commit sexual violence. In the second place, this per-

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15The book is an adaptation of an illustrated version for which she was unable to find a publisher due to copyright problems.
son's internal inhibitions to actually put this into practice must be under-
mined. The same applies, in the third place, to his social inhibitions. Fi-
ally, the perpetrator must undermine, or render harmless or inactive, the 
capacity of his victims to resist or to defend themselves.

Russell applies this model to the effect of pornography on the rape of 
women. She says that pornography primarily has an effect on the first 
three conditions: it increases the will to rape and undermines internal and 
social inhibitions. These effects seem to be stronger the younger the men 
are, and thus more receptive to external stimuli. She refers to research by 
Check and Maxwell (1992), who found that 90% of boys and 60% of girls 
aged 14 had seen a pornographic film at least once; one-third of the boys 
watched one at least once a month, and 2% of the girls. Of the boys, 29% 
regarded pornography as the most important source of their sexual educa-

Russell also puts forward empirical evidence for the following pre-
mises: pornography stimulates rape fantasies; it sexualises dominance 
and subordination, creates a need for stronger material; promotes the 
acceptance of interpersonal violence; trivialises rape; desensitises men 
to rape; undermines the fear of social sanctions and rejection by con-
temporaries; and undermines the resistance of women to reject degrada-
tion. An extensive discussion of the research considered by Russell is 
beyond the scope of this article. Moreover, as is always the case for 
empirical evidence, there are methodological and ideological drawbacks 
to this research.

Generally speaking, however, it seems justified to state that sexual vio-
lence nowadays takes place within the context of an ample supply of por-
nography, one that at least in part is characterised by the degradation and 
subordination of women, and one that can encourage sexual violence or 
legitimise it for a number of men. As was argued earlier, in our present 
day and age, sexual violence has a specific meaning. This form of vio-
lence takes place within a sexualised culture in which the sexual mental-
ity offers scope to give free rein to uninhibited lust. On the other hand, the

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16 Although the theory is applicable to other forms of sexual violence as well, the larg-
est amount of empirical evidence is found in respect of the relationship of pornography 
to rape.

17 Compare this to the discussion about the influence of violent films, where studies 
that did and studies that did not find an effect long kept each other in equilibrium. The 
issue now seems to have been settled in favour of the view that violent films have a nega-
tive effect (see the thematic issue of the Dutch Journal Justitiële verkenningen on this 
topic (1997, 23(3))).
norm is equality within a relationship, one in which intimacy and eroticism are deemed to come together. However, in the absence of generally shared conventions, this norm is permanently under pressure.

Specifically for men, this results in the paradoxical situation that sexual lust can be experienced without inhibitions in a situation that sets higher and higher standards for their self-control in respect of women. Only in pornography is the female sex object still there for the taking. Much porn is thus aimed at isolating female sexuality, at separating it from intimacy (Giddens, p. 119). In hard porn the power relationship is generally open and coerced. Pornography thus forms the hard-core business of a sexualising culture, a business against which arguments no longer have any validity within a liberal context, but which by its very nature is opposed to the dominant ideal of equality. In the consumption of porn, the sexual power of men is experienced and enjoyed phantasmagorically.

The contrast between the way women are portrayed by pornography as subordinated and degraded and the demands of circumspection in day-to-day dealings, leads to an extremely complex moral situation. The two-sided moral — freedom of sexual fantasy and perception, and reticence in active intercourse — assumes a very careful initiation, one which will not be available to one and all, and perhaps might even be wasted on some. The ideal of an integral relationship exists alongside the ubiquitous appeal of pornography. Within this context, sexual violence appears, a desperate attempt on the part of some men to establish their sexual identity at the expense of women (and children).

**Child Pornography and Paedodelinquency**

It is difficult to give a straightforward answer to the question as to what extent pornography is the theory and rape its effect in practice (as Russell claims). To confirm it, sexual violence would have to have increased along with the growth of the porn industry. Although this has a certain plausibility, it can never be proved on account of methodological problems and the problem of definitions. And we might well ask ourselves exactly how important this is: after all, each offence takes place in its own context of the moment. In this day and age, pornography and sexual delinquency can both be understood on the basis of changes in our sexual mentality and in our views about relationships. As expressions of degradation, the two are at least related to each other. Pornography and sexual violence on the one hand, and an equal intimate and erotic relationship on the other hand, are two sides of the same coin in a cultural sense.
This analysis is naturally not a plea to turn back the relationship between the sexes — if such a plea could have any effect at all. But we might well raise some questions as to the desirability of unrestricted pornography production and consumption. A fundamental difference between the consumption of pornography and committing actual sexual violence is the fact that the former is a phantasmagoric affair and the latter a realistic form of delinquency. (However, Russell remarks on this point that this cannot be said of the production of pornography, as pornography is no fantasy (1998, p. 113).) It is definitely a huge attainment that, in our liberal society, fantasy has been unfettered by freedom of opinion. Nevertheless, the question might well be asked as to whether violent pornographic material should not be regarded as a form of inciting or aiding and abetting sex crimes. However, this article is basically intended to describe the context in which contemporary forms of sexual delinquency and our discussion of it take place. The high stakes of this debate become very clear in the case of child pornography. In these products, any illusion about a fantasy achieved with mutual consent is absent. Child pornography is a registration of sexual abuse and rape. In the production of this material, pornography and sexual abuse overlap, and any conceivable legitimation has been eradicated. In my opinion, the vehemence of the rejection of these products arises from the fact that child pornography is the culmination of a sexualised culture.

It would seem that the feeling of uneasiness engendered by this culture—which now and then emerges in discussions about explicit television programmes on sexual practices—is directed to a malign outgrowth, one about which we are all in agreement. This moral consensus sometimes takes on excessive forms, whereas a broadening of the discussion would be much more useful. Even the very word paedophile has acquired a demoniac sound to it, almost getting in the way of normal contact between adults and children (see Ippel 1999; Moerings 1999). Strangely enough, the rejection of child pornography does not lead to a discussion about the massive supply of pornography in itself, and the significance that this has for other forms of sexual delinquency—and this despite it being a well-known

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18Russell (1998) makes her position on this point very explicit by dedicating her book “to all feminists who recognize that pornography is a vicious manifestation of misogyny designed to keep women subordinate to men, and who are committed to the fight for a pornography-free world.”

19For instance some experts point out that sexual abuse within families has been pushed entirely to the background (Cossins 1999).
fact that sexual delinquents often point to pornography as a trigger for their acts (see e.g. Zgourides et al. 1997).

The ideal of the intimate integral relationship goes hand in hand with the ubiquitous appeal of pornography. Within this context, sexual violence rears its head as a desperate attempt on the part of men to establish their sexual identity at the expense of women and children. Although pornography may perhaps not lie at the root of this conduct, it can easily serve to legitimise sexual degradation. This paradoxical state is shown in its most unmitigated form in sex with children. Child pornography is the most extreme consequence of the schizophrenic mindset of pornographic permissiveness and the equality norm. This form of pornography shows utter contempt for our cultural ideal of equality. Put together, our feeling of uneasiness about unrestricted pornography and our wish to achieve equality, will fight these crimes.

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ABSTRACT. Sexual abuse of children and minors is, nowadays, regularly highlighted in the media. As such, it became an offence, however, only during the nineteenth century, along with the development of a particular, child-like social role of juveniles. Before 1800, adolescents were less excluded from adult life including marriage and procreation. Sexual activities were also generally criminalised outside marriage. Statutes concerning child abuse had their origins in these laws, as well as in statutes extending the scope of rape to the abuse of immature girls. Along with the increase of the age of consent from 10–12 to approximately 16 in most countries, abuse of boys and sexual contacts other than intercourse have been included in these statutes. This movement, sometimes supported by moral crusades against 'immorality', occurred in most Western countries along with the extension of the school system, and with the acceptance of the view that adolescence should, as a distinct period of life, be devoted to the preparation for adult life. In recent years, the focus has shifted from combating 'immorality' to the protection of vulnerable parties. Sexual contacts between juveniles have been gradually decriminalised, whereas recent moral crusades call for more tougher prosecution policies, bringing to the courts a higher proportion of cases, including those involving acts committed abroad and/or in the remote past.

KEY WORDS: child abuse, child protection, history, juveniles, sexual delinquency

INTRODUCTION

Our modern view of more remote periods of history is remarkably inconsistent when it comes to sexuality. At times, the past and particularly the Middle Ages is seen as a dark, totalitarian period with few legitimate sexual outlets and many witches and homosexuals burned alive; but sometimes the same past is described as particularly lascivious, with little restrictions,
as Boccaccio had depicted it in his fourteenth century collection of novels *Decamerone* and as Elias (1939) presents it in his work on modernisation as a process of 'civilisation'. Somewhere in-between these 'extreme' views of past morals are those writers who—as Ovid in his *Metamorphoses* and Rousseau in his writings—see it as rather efficiently regulated through many 'simple', but rather rigid social and moral rules. Duerr (1988) presents, in his critique of Elias' work, a view which comes close to this intermediate position.

As we shall see, history offers many surprises as to how sexual conduct was regulated. This is true even for offences which are today so unanimously condemned as child abuse, a crime for which there was no parallel in Western criminal law before the early nineteenth century. Given the strong emotional rejection of child abuse in our time, it may be surprising to realise that age had hardly been of any concern to the criminal courts when they had to deal with sexual offences. In this article, we shall try to summarise, in the first part, the historic development of those statutes which make sexual contacts between adults and persons under a certain age an offence regardless of the kind of acts and the attitude of the persons concerned; in the second part, we shall see how the emergence of these statutes can be explained as a result of profound changes in the role of adolescents in Western societies since the late eighteenth century. This model will be tested using regression and other data analyses.

PROTECTION OF MINORS AND AGE OF CONSENT

From the late Middle Ages and definitively since the sixteenth century, criminal law throughout Europe dealt with sexual abuse of female persons under the age of 10–12 years, and with the repression of 'public' immorality. These two, partially independent, developments converged later into what is now known as statutes on sexual abuse of persons under the age of consent. In the following paragraphs, these two developments will be presented in their greater contexts.

*Sexual Conduct Norms and the Definition of Marriage*

From the viewpoint of Christian morality, sexual contacts were permitted only within a context where procreation was biologically possible and socially desirable — within marriage. This standard was in itself hardly any different from the current views of the Catholic and other Christian churches. However, what made moral standards somewhat more relaxed was the ambiguity of the definition of marriage before the reforms of laws
regarding marriage, brought about by Protestantism and the Council of Trent in 1563. Before these reforms, the church considered as married any couple who engaged in sexual acts with what was called *animus matrimoni*, that is, with the idea of a lasting relationship (Plöchl 1960, vol. II, p. 269). Given this wide interpretation of marriage, any heterosexual relationship between unmarried persons could be seen as a *matrimonium clandestinum*, that is, a ‘secret’ or, rather, an informal but nonetheless valid marriage. In the light of this definition of marriage, only sexual relationships with persons already married and promiscuity — prostitution — were problematic. The secular criminal law statutes of the numerous cities and principalities — which since the fifteenth century dealt increasingly with these issues (Killias 1979, p. 43) — typically addressed, at the beginning, only these two forms of deviant heterosexual behaviour. As far as prostitution was concerned, the numerous statutes making it an offence were almost never aimed at repressing it altogether, but at restricting it to ‘brothels’ and similar zones of ‘tolerance’: obviously, the purpose had been to preserve public morality by preventing promiscuity from spreading out of these ghettos (Killias 1979, p. 49).

A wide definition of marriage may have been in line with the interests of rural communities where it allowed the easy arrangement of many otherwise embarrassing situations. However, it hardly responded to the interests of the ruling bourgeois classes in Europe’s growing cities, since it did not help parents to control the choice of partners by their children and prevented them from using marriage as a tool of accumulating wealth and forming alliances with other family clans. The public announcement of engagements, the increased minimum age and the requirement of parental consent to marriage belonged, therefore, to the most popular features of the Reformation among the ruling classes in the cities, and explains in itself to a large extent its success particularly among Europe’s urban populations. During the Council of Trent, the Catholic church had, therefore, to concede that no marriage should be valid unless it was concluded before a priest after a public announcement in due form (Plöchl 1960, vol. IV, pp. 218, 269).

The clarification and narrowing of the definition of marriage implied that any sexual relationship between persons who had not gone through the official procedure became implicitly deviant. Since the ruling urban classes had a vested interest in fighting any sexual conduct that threatened the newly established standards concerning marriage, the statutes of cities and principalities increasingly criminalised couples living together without being officially married. Soon these statutes were extended to any form of deviant heterosexual conduct, making any sexual relationship among unmarried persons an offence (fornication, *stuprum*).
In practice, however, the narrower definition of marriage had not been easily accepted by rural populations even by the end of the eighteenth century, as writings by poets and early tourists (including Goethe) — describing e.g. the morals in Swiss villages and other rural areas — as well as official records from rural France illustrate (Depauw 1972). On the other hand, the standards were particularly rigid regarding marriage and seduction of sons and daughters of leading families; in France for example, sexual relations with children from the elite were — under the designation of *rapt de séduction* — considered as a form of (violent) abduction and punishable by death (Duguit 1886). Many comedies — from Molière to Goldoni — offer ample illustrations of this. But adolescents from popular classes were left without almost any protection since they tended to leave their families at approximately 10 years of age and were, therefore, considered adults in all respects including sexual matters (Castan 1971, p. 99; Ariès 1960/75, p. 540). Statutes prohibiting sexual relations between unmarried persons were, therefore, typically applied to women and girls from popular classes who had lost their good reputation; this was the background to the tragic figure of Margaret in Goethe’s *Faust* (Wächtershäuser 1973; Radbruch and Gwinner 1951, p. 242).

Under the criminal law before 1800, the young age of a seduced girl might, at best, have been considered as a mitigating circumstance, but never saved her from being viewed as an accomplice in an indecent act rather than as a victim. Age was, until the early 1800s, irrelevant from the viewpoint of criminal law as far as sexual relationships between ‘consenting’ parties over the age of puberty were concerned. Two case stories may illustrate this point. Around 1550, a niece of Bonifacius Amerbach — a famous law professor at the University of Basle who corresponded with many celebrities including Erasmus of Rotterdam — had been seduced by one of his servants. Amerbach, who bitterly complained in many letters about this matter, seemingly never considered making her age — she was 13 — an issue in the endless procedures which followed (*Amerbach-Korrespondenz* 1973, vol. VII, pp. 351–356; Killias 1979, pp. 56–59). Another interesting case is conserved in the archives of the Prince of Fürstenberg and concerns a village chaplain who had been executed in 1747. He had sexually abused over years many boys and girls who had attended his religious instruction.1 His victims were — on legal advise provided by the Law Fac-

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1The file used in this case is conserved in the archives of H.H. the Prince of Fürstenberg at Donaueschingen (Germany). Dr. Karl-Siegfried Bader, who used to be the Prince’s archivist during the 1930s, provided the author access to this file.
ulty of the University of Freiburg – punished as accomplices, though not executed; their relatively young age had never been an issue throughout the procedure (Killias 1979, pp. 78–82). Similar cases of concurring penal responsibility of the victim are reported for fourteenth century Venice (Ruggiero 1975).

The 'Invention' of the Age of Consent Concept

Only very young girls under the age of puberty were consistently considered as victims regardless of their own behaviour. Following an earlier statute enacted under Edward I in 1275,2 the concept of age of consent first appeared in Anglo-Saxon law under Elizabeth I in 1575/76;3 it was this statute which was later adopted by the American colonies where this offence continued to exist until present times as statutory rape (Hall and Glueck 1958: keyword 'rape'; Schultz 1980). At about the same period or slightly earlier, similar statutes appeared in several cities and principalities in Italy (Kohler 1897, p. 501) and throughout the German Empire (Würtenerberger 1933, p. 105). They were probably influenced by the writings of criminal law professors, such as Damhouder4 in the Netherlands and Clarus (1583, p. 44) and Menochius (1587, vol. 2, p. 412) in Italy, who, under the influence of Roman law (Digesta 48, 19, 38, 3 de poenis), developed the concept of the incapacity of very young girls to consent validly in sexual matters. Most influential throughout continental Europe was the statute of 1577 of the Prince Elector of Saxony which became well known through the famous treaty of criminal law by the Saxonian professor Benedictus Carpzovius. Rather than relying on puberty as the – necessarily vague – criterion, it introduced an age-limit of 12 years, under which any sexual act committed by an adult was considered to be an offence tantamount to rape; in the treaty of Carpzovius, this offence appears in the chapter concerning rape (stuprum violentum) as well as in the one concerning fornication (stuprum voluntarium).5 This illustrates well the ambiguity which surrounded the new offence: it was not certain whether it

2 Edward I. I c. 13 (1275).
3 Elizabeth I. c. 7 IV (1575/75); cf. Holdsworth (1945, vol. IV, p. 504).
4 Damhouderius 1556, pp. 373–375. Damhouder used to be an influential Dutch law expert under Emperor Charles V under whom the first famous codification of (essential parts of) criminal law had been enacted.
5 See Carpzovius 1652, qu. 69 n. 39–41, and qu. 75 n. 38–40. Carpzov served as a professor of Criminal Law in the famous Law Faculty of Leipzig; besides that, he acted as a judge over many years.
should be considered as an offence directed against individual interests (as in the case of rape), or rather as an offence against public morals (as in the case of fornication). This uncertainty continued until the nineteenth century.\

In practice, however, sexual abuse of immature girls was usually dealt with as a special form of rape. This was true to some extent for Germany and even more so for Italy, France and England. The practical importance of these laws was very limited, however, as was the role played by the French statutes against seduction and abduction of juveniles. Convictions at least were, compared to contemporary standards, surprisingly rare under these statutes, as studies based on court records tended to show. Several factors may have been responsible for this. On the one hand, children and adolescents may have been much more involved in adults' daily lives, sharing even the bed with them and having many physical contacts of all kinds (Ariès 1960/75, p. 175); thus, tolerance towards sexual contacts between adults and children may have been greater in those days. On the other hand, feelings of shame may have been stronger in the past and adults may, therefore, have been more restrained from sexually approaching children than nowadays (Duerr 1988, pp. 197–210). However, the strong taboo surrounding sexuality and abuse of children could also have led to a social climate where many (eventually minor) forms of abuse had been ignored by society and the criminal justice system. Whatever the true reason may be, it seems definitively that sexual abuse even of children was not a major concern to the criminal courts before 1800. Child abuse really seems to be a 'modern' crime.

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6 It is still visible in the famous textbook by Von Feuerbach who coined for this offence the term of "stuprum nec violentum nec voluntarium" (1805, p. 264) which could be translated as "intercourse without violence, but also without the (victim's) will".

7 See for Germany e.g. Von Wächter (1826, p. 21); for France see Petrovitch (1971, p. 215) who analysed eighteenth century court records from Paris, as well as the monumental work on the practice of criminal law at the end of the Ancien régime by Daniel Jousse (1771, vol. III, p. 742); concerning Italy see Martini 1746, p. 93; concerning England see note 3.

8 See e.g. the (surprisingly few and unusual) cases mentioned by Jousse (1771, vol. III. p. 740).

9 See e.g. Petrovitch (1971), who has analysed all cases handled by the criminal courts in Paris in 1755, 1765, 1775 and 1785. For Germany, see the analysis of court records from the city of Freiburg (for the years 1520–1806) by Schindler (1937, pp. 276, 283), as well as the accounts of Frantz Schmidt who, during his long activity as executioner of Nuremberg, executed only three offenders who had abused young girls (see Keller 1913).
The Extension of the Protection to Adolescents

The French Revolution and the legal reforms it had initiated in many countries considerably reshaped the legal environment for adolescents and their sexual conduct. Most significant was undoubtedly the increase of the age of consent to marriage from 14 years for boys and 12 years for girls (under the Catholic ecclesiastic law) to 18 to 21 years in most countries (Plöchl 1960, vol. IV, p. 235). This change implicitly excluded adolescents from any legitimate sexual activity, given that society continued to accept sexuality only within the context of procreation and marriage. During the same period, the statutes making fornication, that is, sexual relationships between consenting adults an offence, were repealed in all but a few countries (among which were many US States). These legal changes exacerbated the problem of protecting adolescents—and not only children—from sexual abuse.

Legislators throughout the Western world reacted by expanding statutes concerning sexual abuse of minors. First of all, the age of consent tended to be raised from puberty or as low as 10–12 years to 13 (France 1863), 14 (Austria 1852, German Empire 1871), 15 (Sweden 1864) or even 16 years (England and Wales 1885). This trend continued into the twentieth century and has so far not yet been reversed, although 16 has become the prevailing upper limit, as is illustrated by Figure 1 which covers all legal changes in this area in eight European countries and from 1791 to the present time (Killias 1979, pp. 123–153).

The increase of the age of consent occurred usually in connection with an extension of the scope of statutes concerning the protection of minors from sexual abuse (Killias 1979, pp. 117–122). Before 1800, these statutes usually covered only sexual intercourse or very serious forms of sexual abuse; during the nineteenth century, they increasingly included any acts which could be viewed as sexually motivated, such as kissing, hugging, petting, etcetera. At the same time, female adolescents were no longer the only target of protection, but reformed statutes increasingly criminalised homo- and heterosexual acts with boys as well. Concomitantly, young persons could be involved in any such crime only as victims whenever the offender was an adult; thus, the adult partner began to be seen as the only guilty party whatever the behaviour of the adolescent had been. Before 1800, no such absolute rule had ever existed in this domain. Given that

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10 For the German principalities cf Stenglein (1858, vol. I); only the Duchies of Oldenburg and Sachsen-Altenburg maintained statutes against fornication. Concerning Switzerland where many Catholic cantons maintained such statutes see Stooss (1890). In 1955, fornication was still punishable in 37 American states (American Law Institute 1955, p. 204).
these reforms usually occurred in a climate of liberal reforms, characterised e.g. by the legalisation of hetero- and sometimes even homosexual relationships between consenting adults, one might say that regulations of sexual conduct involving minors became more repressive the more the standards for adults tended to be relaxed.

Reforms extending the scope of statutes concerning sexual abuse of minors usually went along with the increase in the age of consent. This is well documented by the strong (Pearson) correlation coefficients given in Table I. In this Table, the correlations (r) are given separately for the codifications (included in Figure 1) of eight European countries (France, England and Wales, Sweden, Denmark, Switzerland, Austria, Italy, and Germany [Empire, Federal Republic, German Democratic Republic]) between 1791 and 1974, the 19 codifications of German principalities between 1791 and 1871, and for the 41 codifications of Swiss cantons between 1807 and 1937.

![Figure 1](image-url)

**Figure 1.** Age of consent in the legislation of 8 European countries (France, England and Wales, Sweden, Denmark, Switzerland, Austria, Italy, Germany [Empire, FRG, GDR]) since 1791. (Each spot in the figure stands for the enactment of a new law).

<table>
<thead>
<tr>
<th>Correlation (r) between age of consent and</th>
<th>21 European codifications</th>
<th>19 German codifications</th>
<th>41 Swiss codes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inclusion of less serious forms of sexual abuse</td>
<td>0.539</td>
<td>0.763</td>
<td>0.735</td>
</tr>
<tr>
<td>Protection of boy victims</td>
<td>0.627</td>
<td>0.763</td>
<td>0.712</td>
</tr>
</tbody>
</table>
In order to compute these correlations, the extension or not of the protection to male adolescents as well as the inclusion or not of minor forms of sexual abuse (that is, other than sexual intercourse) have been dichotomised as dummy variables (assigning a score of 1 in the case of absence, and a score of 2 in the case of presence of these legal characteristics).

As Table 1 illustrates, the correlations between the age of consent and the extension of the scope of these statutes are very strong (and significant, p < 0.01), that is, close to the maximum correlations between continuous and dummy variables. They also reach similar values in the three analyses included in Table I. These three samples of codifications showed also very similar correlations between the age of consent and time of enactment. This suggests that the increase in the age of consent really went along with extensions of these statutes in other respects, and that the same trend occurred in different countries. It now remains to be seen how this trend can be explained.

**The Reshaping of Sex Offences**

*The New Social Role of Juveniles in Modern Society*

Under the *Ancien régime*, the transition from childhood to adulthood was not a matter of clear-cut age-limits, but occurred more gradually, according to the practical demands of life. Many juveniles occupied adult social roles in the domains of work, the military — where boys of 15 years could accede to officer’s positions — in politics and in the family. This was not true only for juveniles from the elite or in exceptional positions, but for juveniles from virtually all social classes; in the rural Swiss cantons, juveniles were usually admitted to the so-called *Landsgemeinde*, that is, the open-air gathering where people elected officials and decided upon political issues, from the age of about 15 when they participated in the armed forces (Blumer 1850). Thus, throughout Europe, juveniles were well integrated into the world of adults.

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11 Due to the limited variance in the dichotomised (dummy) variable, correlation coefficients will never reach the value of 1.0 (even in the case of a perfect correlation).

12 The correlations (r) between age of consent and year of enactment is 0.697 for the 22 codifications in 8 European countries between 1791 and 1992 (see Figure 1), 0.496 for the 19 codifications of German States between 1791 and 1871, and 0.619 for the 41 codifications in Switzerland’s 25 cantons from 1807 to 1937.

13 For young teenagers as officers in Europe’s armies see Ariès (1960/75, p. 460).
This changed significantly during the early nineteenth century in all areas of law (Wieacker 1967, p. 230). In tandem with the minimum age of marriage, the age of majority increased and 'minors' were from then on excluded from many spheres of adult life such as the military, voting rights (as far as they existed), and – later in the nineteenth century – from paid work. Gradually the social role of adolescents was thus assimilated into the role of children. This was also reflected in other parts of the criminal law, since the age-limits for full penal responsibility tended to increase as well (Sutton 1983). Concomitantly and under the influence especially of the writings of Rousseau and Pestalozzi, adolescence tended to be considered by society as a period of preparation for adult roles – and no longer as a period of life with its own legitimate pleasures, challenges and pains. Being increasingly restrained to a child-like social role, adolescents needed logically to be excluded from any sexual activity which, traditionally, had been admitted only within marriage and procreation and which, now, definitively became a prerogative of adults. And given the view that adolescents should prepare for adulthood instead of being involved in adult activities, they had, from the nineteenth century on, to meet more and more rigid standards of 'purity' in sexual and other moral matters, such as drinking (Wechsler 1981) and smoking. These new standards of purity ironically developed at a time when puberty tended to occur at an increasingly young age.

What has brought about these changes in the role of juveniles in general and the increasing exclusion of sexuality from their social role? According to Ariès (1960/75) who is the leading authority in this domain, the educational sector played the decisive role in this development: the more the schools covered all social classes, the longer they extended to age-groups beyond childhood, and the more they became intellectually demanding (instead of offering mere religious instruction), the more juveniles tended to be excluded from adult social roles. During the nineteenth century, the school systems throughout the Western world expanded considerably in all three respects, whereas schools in earlier centuries never reached all segments of the population, did not last longer than just a few years and offered rather little education. Thus, one may hypothetically assume that the statutes regulating sexual abuse of minors were the broader in scope and in age-limits, the more the school system tended to be expanded in a given society.

On the other hand, one might also argue that the exclusion of juveniles from adult life was affordable only to societies with a certain surplus production and a relatively long life expectancy. Thus, the expansion of the educational sector as well as the increasing protection of adolescents in connection with sexual abuse may be the result of a third variable, namely
of increasing industrialisation which led to a certain accumulation of wealth and to a higher need for qualified manpower. Concomitantly, one might argue that industrialised, capitalist societies needed more disciplined workers, and that sexual abstention as well as restriction of other pleasures (such as drinking) needed to be learned from early childhood throughout early adult life in order to prepare people to a life characterised by hard work and many restrictions of consumption (Schelsky 1955, p. 96). This kind of moralistic training through discipline might have been particularly popular in protestant societies since it meted perfectly well their moral standards; besides that, protestant societies tended to develop industrialisation earlier than catholic countries.

In order to assess the empirical validity of these two competing models, a multivariate analysis has been conducted which will be presented in the following section.

Empirical Test: Education versus Industrialisation

Data and Methods

As one might imagine, data on the relevant independent variables are not easy to find in Europe for the nineteenth century. Especially data on the expansion and the quality of the educational system are not available for a sufficiently large sample of countries (see e.g. Flora 1975). However, for more or less accidental historic reasons, data of the kind needed here are available in excellent quality for nineteenth century Switzerland.

During that period, Switzerland was characterised by an extreme heterogeneity in religion, in industrialisation, in educational systems, and in criminal law (including the age of consent), every one of the 25 cantons having its own Criminal Code. Thus, the variance one finds among the Swiss cantons in these variables may be almost as large as the variance which might have existed at that time among European nations. About 40% of the Swiss population were Catholics and the remaining parts were Protestant; certain areas belonged to the most industrialised regions of Europe, others were entirely rural and poor, with a lot of emigration to the United States and other parts of the world; in some cantons the schools were of excellent quality, comparable to Europe’s most advanced urban areas, in others a substantial number of young people were unable to read and write (Hunziker 1881/82, vol. II, p. 342). During the second half of the nineteenth century, the Swiss federal government started testing army recruits

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14Switzerland unified its criminal law only in 1942.
concerning their basic educational achievement (such as reading, writing, basic mathematical operations) and published the results (that is, the average test scores obtained by the recruits) per canton in order to blame conservative, anti-modernistic cantonal governments. For this political reason, excellent data on the quality of education and the number of school hours (in a student's career) are available for cantons during the late nineteenth century (Hunziker 1881/82, vol. III, p. 353; 1893, p. 13). In the following multivariate analyses, data on the educational test scores of 1875–1882 will be used as an indicator of the quality of education in the several cantons, whereas data on the percentage employed in agriculture will be used as a measure of industrialisation, in order to test the weight of potentially competing explanations. Finally, the percentage of Protestants in each canton in 1888 was introduced as an additional control variable.15

As to the dependent variable, Table I shows that the age of consent is strongly correlated with other features of the expanding protection of juveniles in sexual matters, such as the inclusion of boys and the criminalisation of sexually motivated conduct other than sexual intercourse. This makes it possible to focus the following multivariate analysis on the age of consent in 1903 (Killias 1979, pp. 134–137) when the variance between the cantons had reached a maximum.

Results
As Table II reveals, all of the independent variables discussed above are substantially correlated with the dependant variable. There also exist several relatively high correlations between independent variables, though multi-collinearity is not beyond tolerable limits in the present case.

All variables are normally distributed and have no outliers, as scattergrams (not shown here) confirm. Despite the small sample (25 Swiss can-

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**TABLE II**
Simple correlations (r) between age of consent (in 25 Swiss cantons in 1903) and independent variables (correlation matrix).

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age of consent</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percentage of Protestants</td>
<td>0.496</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percentage in agriculture</td>
<td>-0.338</td>
<td>-0.621</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compulsory school hours</td>
<td>0.512</td>
<td>0.653</td>
<td>-0.603</td>
<td></td>
</tr>
<tr>
<td>Test scores of recruits</td>
<td>0.596</td>
<td>0.537</td>
<td>-0.590</td>
<td>0.673</td>
</tr>
</tbody>
</table>

15 These data had been collected during the 1888 census.
tons), regression analysis can, therefore, be used without major risks of distortion. The three independent variables mentioned above explain, together, 41% of the variance in the ages of consent (see Table III). If a different indicator of educational investment, namely the total number of school hours in a student’s curriculum is used, rather than the quality of education (as in Table III), the results are basically the same, but the proportion of variance explained drops to 31%.

Although the explanatory power of the educational variable is by far stronger, the percentage of Protestants and the degree of industrialisation both contribute significantly to the explained variance. Even if Protestantism has favoured industrialisation and if the latter was the precondition to the expansion of the school system, the educational system played the decisive role in the exclusion of adolescents from adult life including the sphere of sexuality. There is good reason to assume that this had been true not just for the Swiss cantons, but for Europe in general, given the consistency in trends observed in many European countries in the present study and the support these conclusions find in other author’s writings on the history of childhood and adolescence (see e.g. Ariès 1960/75).

Discussion
The 41% of variance explained suggests that factors not considered here may have played a major role in the rising age-limits in statutes concerning sexual abuse of minors. Among these factors may have been the role played by pressure groups who pushed legislators to adopt higher ages of consent and to expand the scope of these statutes to male juveniles and to sexually motivated acts other than sexual intercourse. There were indeed such lobbies at work in various European countries and in America during the late nineteenth century. They called for outlawing prostitution, or at least brothels, and considered the protection of juveniles against any confrontation with sexuality as an important preventive measure against these ills (sources in Killias 1979, pp. 109–113). Some of the leaders

<table>
<thead>
<tr>
<th>Independent variables</th>
<th>$R^2$</th>
<th>$\beta$</th>
<th>$F$</th>
<th>$p &lt;$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average test scores</td>
<td>0.355</td>
<td>0.525</td>
<td>12.7</td>
<td>0.01</td>
</tr>
<tr>
<td>Percentage Protestants</td>
<td>0.043</td>
<td>0.320</td>
<td>7.3</td>
<td>0.01</td>
</tr>
<tr>
<td>Percentage in agriculture</td>
<td>0.015</td>
<td>-0.170</td>
<td>4.9</td>
<td>0.05</td>
</tr>
</tbody>
</table>
in this ‘moral crusade’ (Gusfield 1967) called for increasing the age of consent to the minimum age required for marriage, that is, to 18 years or even higher (Reinhardt 1967, pp. 28–29). With the exception of a few American States (American Law Institute 1955, pp. 266–272), such proposals were not followed by most countries, however, as Figure 1 illustrates for Europe; professors of criminal law expressed reservations about such extreme proposals, reminding legislators of the risks of excessive criminalisation for the application of these laws in practice (Reinhardt 1967, pp. 33–34).

Besides these reservations which certain experts expressed rather reluctantly, the increase in the age-limits and the expansion of the scope of these offences passed through most parliaments without meeting significant opposition. In general, these reforms were not adopted as isolated measures, but occurred within the context of general revisions of the criminal code or at least of its chapter on sexual offences; usually certain parts of these packages met with the opposition of several groups within the parliament or the public, as was the case when prostitution or brothels were to be outlawed, but these debates never concerned the proposals made in connection with sexual abuse of minors (Killias 1979, pp. 111–112). The relative silence surrounding these reforms, as well as their seemingly self-evident acceptance by parliaments, experts and the public, puts into question Gusfield’s (1967, p. 188) assumption that ‘moral crusades’ necessarily generate strong counter-movements; it also seems doubtful whether lobbies, among which were early feminists and moral entrepreneurs, really were as important in this case as their pamphlets may suggest. Since most of these legal reforms occurred long before women suffrage had been adopted in Europe, the political weight of feminists may not have been a decisive factor in the reform movement’s success. As in the case of American anti-prostitution laws (Hagan 1980), the leading figures in the process of creating these laws had been, besides legal experts and early feminists, individuals engaged in social work and sharing humanitarian ideals (Reinhardt 1967, pp. 28–34), whereas the political and economic elite were rather passive in this case as they seem to be, more recently, in American criminal law making in general (Berk et al. 1977, pp. 293–294). Unclear, so far, is the influence the media had in this particular case.

RECENT DEVELOPMENTS

Certain developments of the past 30 years have contributed more recently to the relaxation of the taboo of desexualisation of youth. For example,
the general availability of methods of birth control has led to a broader acceptance of sexuality outside the context of marriage and procreation (Sigusch and Schmidt 1973). With the gradual disjunction of sexuality and procreation, the exclusion of adolescents from the domains of paid work and family no longer implies their automatic exclusion from sexual experiences; thus, sexuality no longer needs to be totally suppressed during adolescence as part of preparation to marriage, and virginity has lost most of its former value (Sigusch and Schmidt 1973). Given the surplus production and the strong incentives to consumption in modern Western societies, it no longer seems rational to train adolescents in postponing or even suppressing the satisfaction of needs (Adorno 1963, p. 300; Dörner 1971, pp. 175–176); indeed, it seems much more functional to encourage them to pursue the satisfaction of needs as immediately and completely as possible.

All these changing conditions in the socialisation of juveniles seem to converge on a more differentiated transition from adolescence to adulthood (Rosenmayr 1976). There are domains where the status of adulthood continues to be reached rather late, as on the labour market where increasing education may further delay the transition; on the other hand, there will be sectors where the status of adulthood is going to be reached earlier than in the past, such as sexuality. To the extent that the laws regarding the age of consent excluded minors from sexuality or, even worse, made any kind of sexual contacts even between persons under age an offence for both parties involved, the tension between the law and widespread sexual experimentation among teenagers became quite obvious. Interestingly, however, the public debate did not turn around this changing role of adolescents, but on the earlier age at which puberty tended to occur since 1945 (Reinhardt 1967). The stress between the law and social ‘reality’ was social and not biological, however.

How did the criminal law adapt to these changes in the role of adolescents during the last generation? So far, the age of consent has not been lowered in Europe (Horstkotte 1984), whereas such reforms have been passed in a few American States (Schultz 1980). In Austria and, more recently, in Germany (1994) and in Switzerland (1992), however, the sections in the Criminal Code concerning sexual abuse of minors were amended in a way which legalised sexual contacts between young persons as long as the older partner is relatively young, that is, younger than 21 in Germany or not more than two (Austria) or three years (Switzerland) older than the younger partner. Similar amendments had been brought forward in 1962 by the American Law Institute in its Model Penal Code (Section 213.3). Simultaneously, heterosexual and homosexual contacts are being
treated equally in reformed statutes. In most countries, however, consensual contacts among young persons were ‘legalised’ under the expediency principle, that is, by dropping prosecutions of such cases; these policies have brought about a massive drop in convictions, particularly in countries with traditionally high conviction rates (Killias 1987). Thus, it seems as if European countries were increasingly following a line which has been in use in the United States for many years where, despite unusually high ages of consent in the sections on statutory rape, teenagers are hardly facing any risk of prosecution under these laws (Skolnick and Woodworth 1969; Zelnik et al. 1981).16 The fact that prosecutors tend to seek the solution through policies of non-prosecution rather than by asking legislators to amend the statutes concerning protection of juveniles in sexual matters, illustrates the difficulty of repealing or amending offence definitions which are no longer in line with current views and standards. It seems as if a taboo, once in the criminal code, is there to stay eternally whatever the problems it produces in practice.

No matter whether the ‘legalisation’ of sexual experimenting among juveniles is being achieved through amending laws or through a policy of no longer prosecuting consensual relationships between young persons, the shift which has occurred throughout the Western countries also denotes an increasing recognition of the role of adolescent partners, since a free will (and some capacity to consent) seems no longer to be denied to persons under the age of consent under all circumstances, as a generation ago. Unlike in the recent past, the focus is no longer fighting ‘immoral’ behaviour among juveniles (who claim to do what adults consider their right to do), but on the protection of the vulnerable, as Boutellier (1993/2000) has observed much more generally.

This partial decriminalisation is, however, only a small part of the picture. Sexual abuse of minors has, in fact, become the focus of enormous media attention over the last 20 years. Interestingly, those involved in this new moral crusade are convinced of having ‘discovered’ this problem, and seem to ignore the preceding waves of such campaigns in the late nine-

16A few years ago, this policy received nation-wide media attention (see e.g. *International Herald Tribune*, 30 March 1993, pp. 1, 6; 31 March 1993, p. 8) when more than 20 members of a Los Angeles Gang, the Spur Posse, were under investigation for having had sexual intercourse with under-age girls, some of them as young as 10. There seems to have been a kind of competition going on among the boys, the group’s top scorer admitting to 66 acts. All nine gang members who had been arrested were released after a few days in jail, with the exception of one boy who admitted to sexual intercourse with a 10-year-old girl.
teenth century and again after 1945 — when many American States adopted so-called Sex Psychopath Laws (Murbach 1980). What is new, however, is the focus on the protection of children as vulnerable beings, and the lesser moral condemnation of sexuality in general, including of homosexuality. This new focus coincided with widespread concern about violence against women and children in the family context which represents another form of abuse of vulnerable persons by somebody in a power position. The climax has probably been reached during the Dutroux crisis, although this man used to be an ordinary criminal who, with his many extremely violent sex crimes, resembles almost perfectly the stranger girls used to be warned against (and whom feminists would have described as an irrelevant threat). The new campaigns have, so far, not advocated changes in the criminal law regarding the age of consent and related rules. Its priority clearly is making prosecution more systematic, and on disclosing ‘concealed’ incidents of abuse. The only implication it has had on criminal law has been, so far, to make prosecution possible for child abuse abroad (particularly in exotic countries), to repeal or relax rules on prescription, and on criminalising child abuse in connection with new technologies of communication, such as the Internet (De Roos 2000). As things stand, it is hard to predict where we will move from here. Perhaps juveniles may face less tolerance in the future, particularly in cases where younger children have been involved.

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ABSTRACT. This article begins by noting the huge amount of attention that is now being paid at almost every level — international, European, national and by independent organisations and NGOs — to the growing problem of international child sexual exploitation and considers why this is the case. It then comments briefly on what we mean by 'international sexual exploitation', noting that different definitions are used. The main part of the article reviews developments in this field, beginning with the main international measure: the 1989 UN Convention on the Rights of the Child and then goes on to review the 1996 First World Congress Against Commercial Sexual Exploitation (the ‘Stockholm Congress’). After that some key measures subsequently adopted at international and national level, as well as by the European Union (which is increasingly taking international child sexual exploitation within its remit) are outlined. Lastly, some final thoughts are set out in the conclusion.

KEY WORDS: child abuse, international co-operation, legislation, pornography, sex tourism, sexual delinquency

INTRODUCTION

Commercial Exploitation of Children

Why is so much attention now being paid to the international commercial sexual exploitation of children when it is a long-standing problem? It is impossible to prove that there is more sexual exploitation of children nowadays than there was in the recent past. But the public is clearly paying more attention to the issue. This may be because the UN Convention on the Rights of the Child provides for more public and political awareness for the position of children in general, and for children in vulnerable circumstances in particular. Governments have not only accepted the obligation to implement the UN Convention on the Rights of the Child, but also to report on that implementation.

Despite the lack of clear statistics to prove the generally accepted increase in the international sexual exploitation of children, two developments can be assumed to have contributed to this: firstly, more and more people can afford intercontinental holidays and are — far from home — more
open to new sexual experiences, particularly when young girls and boys are made so available for sexual purposes. Secondly, new technical developments make it much easier to produce and distribute pornographic material involving children. One camcorder and two VCRs are all that is required for the production of child pornography. And the Internet, a free market place for what is forbidden or restricted by law, provides unparalleled distribution, without effective control by the authorities.

We should be well aware of the fact that all different forms of commercial sexual exploitation of children are just the tip of the iceberg in terms of child abuse. Far more child abuse takes place behind closed doors within the family, child care institutions and other places which should be safe places for children. At the same time, it is still a significant problem: the Asian-European Meeting (ASEM) estimates that up to 650,000 children are involved. The exploitive aspects refer to an economic dimension which is very present when it concerns international abuse.

Towards a Common Definition of Commercial Sexual Exploitation

There is a need for a common definition of commercial sexual exploitation. For the purposes of this article, we have identified three main forms of international commercial sexual exploitation of children:

- trafficking in children for sexual purposes;
- child sex tourism;
- the cross-border distribution of pornographic material involving children.

Others involved in the fight against these problems have defined these issues too, but in differing ways. For example, the Declaration adopted at the close of the First World Congress Against Commercial Sexual Exploitation (see below) describes the commercial sexual exploitation of children as:

sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labour and a contemporary form of slavery.

In its 1997 Joint Action (see below), the European Union defines ‘sexual exploitation’ slightly differently, without specifically referring to the commercial element, as the following behaviour:

(a) the inducement or coercion of a child to engage in any unlawful sexual activity;
(b) the exploitative use of a child in prostitution or other unlawful sexual practices; and/or
(c) the exploitative use of children in pornographic performances and materials, including the production, sale and distribution or other forms of trafficking in such materials, and the possession of such materials.

It would be helpful if a common definition of the different aspects of international commercial sexual exploitation could be adopted to assist those concerned making a uniform approach in tackling the problem. The very act of sitting down to define international child sexual exploitation would focus minds even more closely on what it involves and lead to identification of, and agreement on, the most important elements that we should be fighting against.

THE STARTING POINTS


The UN Convention on the Rights of the Child came into force on 2 September 1990. It took 70 years of efforts to ensure that the international community recognised the special needs and vulnerability of children as human beings. The Convention covers civil and political rights as well as economic, social and cultural ones, which was new and innovative at the time. The different rights covered by the Convention are commonly identified as the three ‘Ps’: provision, protection and participation. Children have the right to be provided with certain things and services, ranging from a name and nationality to health care and education. They have the right to be protected from certain acts such as (sexual) exploitation, torture and arbitrary detention. And children have the right to do things and to have their say; to participate in decisions concerning themselves and in society as a whole (Cantwell 1995, p. 2). The Convention is close to universal ratification with 191 State Parties. Only the United States and Somalia are missing.

Article 34 of the UN Convention on the Rights of the Child provides for the child’s right to protection from sexual exploitation and abuse, including prostitution and involvement in pornography. Article 34 reads:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:
a) the inducement or coercion of a child to engage in any unlawful sexual activity;
b) the exploitative use of children in prostitution or other unlawful sexual practices;
c) the exploitative use of children in pornographic performances and materials.

This Article is the result of a proposal made by the French and the Dutch delegations at the negotiation sessions during the drafting process of the UN Convention on the Rights of the Child. It was not so easy to come to a compromise between the protection of children against commercial sexual abuse and allowing room for the experimental sexual behaviour of youngsters (Detrick 1992, pp. 429–438; Hodgkin and Newell 1998, pp. 455–470). The final result of the text of Article 34 was considered unsatisfactory, which provided an incentive to start within five years the process of developing an additional protocol to the Convention (see below).

The ‘Stockholm Congress’

The First World Congress against Commercial Sexual Exploitation of Children was held in Stockholm from 27–31 August 1996 (‘Stockholm Congress’) and organised by ECPAT (End Child Prostitution in Asian Tourism, the world-wide movement against commercial sexual exploitation of children), UNICEF, and the NGO Group for the UN Convention on the Rights of the Child, together with the Swedish government. It was attended by government representatives from 122 countries together with non-governmental organisations active in the fight against the commercial sexual exploitation of children. The Stockholm Congress was held a few weeks after the discovery of the cruelties of Marc Dutroux against several girls. The public was especially receptive to the issue of child sexual exploitation at that time. Governments really felt the need to take action to combat the sexual exploitation of children.

The Stockholm Congress closed with the adoption of a Declaration describing the problem of the increasing commercial sexual exploitation of children and setting out broadly defined areas for action to be taken by countries working in co-operation with national and international organisations. It notes that “concerted action is needed”, among other things, “at international level to bring an end [to the commercial sexual exploitation of children]” (Art. 2). It describes such exploitation as a “fundamental violation of children’s rights” (Art. 5) and (in Art. 12) calls on all States in co-operation with national and international organisations and civil society, among other things, to:

- criminalise the commercial sexual exploitation of children, as well as other forms of sexual exploitation of children, and condemn and penal-
ise all those offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalised;

- review and revise, where appropriate, laws, policies, programmes and practices to eliminate the commercial sexual exploitation of children;
- enforce laws, policies and programmes to protect children from commercial sexual exploitation and strengthen communication and co-operation between law enforcement authorities;
- mobilise political and other partners, national and international communities, including intergovernmental organisations and NGOs, to assist countries in eliminating the commercial sexual exploitation of children.

Both the Declaration, and the Agenda for Action that follows it, aim to assist in the implementation of a number of international instruments protecting children's rights, including the 1989 UN Convention on the Rights of the Child. The Agenda for Action sets out specific steps to be taken to this end by States, regional, national and international organisations, and all sectors of society. It is divided into separate sections specifying measures to be taken in relation to: co-ordination and co-operation; the prevention of commercial sexual exploitation; the protection of children; their recovery and reintegration; increased child participation in fighting commercial sexual exploitation.

Among other things, these require:

- the adoption of national agendas for action and indicators of progress by the year 2000 (Section 2(i)(a));
- the development of monitoring mechanisms at the national and local levels, so that by the year 2000 there are data bases on children vulnerable to commercial sexual exploitation, and on their exploiters (Section 2(i)(b)). In the United Kingdom, the Sexual Offenders Act 1997 seems, at least partly, to meet this aim (see below);
- the promotion of better co-operation between countries and relevant international organisations, including the UN Committee on the Rights of the Child, UNICEF, the International Labour Organisation (ILO), the International Organisation for Migration (IMO), Interpol and the UN Crime Prevention and Criminal Justice Division (Section 2(ii)(d));
- pressing for full implementation of the Convention on the Rights of the Child (Section 2(ii)(f));
- developing or strengthening, implementing and publicising relevant laws, policies and programmes to prevent the commercial sexual exploitation of children (Sections 3(h) and 4(a)) and establishing the criminal responsibility of service providers, customers and intermediaries in
child prostitution, child trafficking, child pornography, including possession of child pornography, and other unlawful sexual activity (Section 4(b));
- preventing child victims of sexual exploitation from being penalised and ensuring their access to child-friendly services;
- promoting extraterritorial legislation to combat child sex tourism;
- combating trafficking of children for sexual purposes;
- promoting co-operation of law enforcement authorities and NGOs to monitor against commercial sexual exploitation of children;
- promoting the establishment of national and international networks and coalitions of NGOs, tourist industry, employers and trade unions, computer industry, and mass media to monitor and report cases to the authorities and to adopt voluntary ethical codes of conduct.

This long list of recommendations has set an agenda for governments and NGOs to make the 'promises' of Stockholm a reality. Stockholm became the reference point for international actions and national policies.

INTERNATIONAL MEASURES

Global measures to combat sexual exploitation that have been taken before and since Stockholm are laid down in different documents and studies.

Special UN Rapporteur

Immediately after the adoption of the text of the UN Convention on the Rights of the Child by the General Assembly, the UN Human Rights Commission appointed a Special Rapporteur on the sale of children, child prostitution and child pornography in the person of Vitit Muntarbhorn, a law professor from Thailand (see UN Doc E/CN.4/1991/51). His reports had a great influence on the decision to hold the Stockholm Conference. He was later succeeded by Ophelia Calcetas-Santos from the Philippines.

Optional Protocol to the UN Convention on the Rights of the Child

The first steps to an Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography were already taken 10 years ago. The process started with the adoption by the UN Commission on Human Rights of its resolution 1994/90, based on one of the reports of the Special Rapporteur Muntarbhorn (Cappelaere 1996; Detrick 1999, p. 595). In that resolution it was decided to establish
an open-ended inter-sessional working group responsible for elaborating guidelines for a possible draft optional protocol.

It was a long process, where it was very difficult to find unanimity among the delegates on the definition question. The final text of the Additional Protocol to Article 34 was adopted by the UN General Assembly on 25 May 2000. This Protocol contains 17 articles extending the measures that State Parties should undertake to guarantee the protection of the child from being sold, child prostitution and child pornography (also on the Internet). In the preamble it is stated that a "holistic approach" addressing "the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctional families, lack of education, urban-rural migration, gender-discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking of children" is needed to eliminate the sexual exploitation of children.

During earlier stages of the drafting process, NGOs expressed objections to drafting a new document. They emphasised the need to implement existing mechanisms in this area. Some Latin American countries, mainly Cuba, lobbied hard for a new document — the traffic in organs was an important issue for them.

NGOs such as ECPAT and the Focal Point on Sexual Exploitation of Children have commented on different stages of the process. Their main complaints were about the lack of a clear focus, that its scope was far too wide and that it failed to meet any consensus on any of the major issues considered. Disappointing factors of the new protocol are that the age of protection from sexual exploitation is set at 18, but applies Article 1 of the CRC which states that the appropriate age threshold is 18 or "until majority is attained earlier under national law". This contrasts with the new ILO Convention No. 182 where the relevant age threshold is 18.

Further criticisms are that the simple possession of child pornography is not criminalised, only national victims are protected, offenders staying in a country without having the nationality of that state are not mentioned and in cases of trafficking and prostitution a commercial element is required.

**ILO Convention**

The perspective of combating child labour also contains a stimulus to protect children from sexual exploitation. On 17 June 1999, the International Labour Organisation (ILO) adopted a new convention "concerning the prohibition and immediate action for the elimination of the worst forms of child labour". In this new ILO convention (No. 182), which can be con-
sidered as a better international instrument than ILO Convention 138 (concerning the minimum age for admission to employment of 1973) Article 3(sub b) mentions as one of the worst forms of child labour: "the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances". Under the new Convention the term ‘child’ “shall apply to all persons under the age of 18” (Art. 2). The ILO has a tripartite structure: governments, employers’ federations and trade unions. However, where sexual exploitation of children is part of the informal economy where employers and trade unions do not have much influence, it is not really likely that this Convention will be an effective instrument to combat sexual exploitation.

**Interpol**

Interpol has a Standing Experts’ Committee on Crimes against Minors, which is fulfilling a role as expert group for information exchange. This group is also producing manuals to combat sexual exploitation in practice and setting up training programmes.

In 1997 an experts’ meeting on child pornography on the Internet was organised in Lyon at Interpol Headquarters. Co-operation between the police at the international level in the combat against child pornography has increased since then.

The Cathedral project is the code name for an international investigation project into child abuse. Where child abuse has an international dimension, the commercial and exploitive dimensions are mostly there. ‘Operation Cathedral’ (led by Interpol) led to surprise raids in six countries on 2 September 1998.

**Asia-European Meeting**

The Asia-European Meeting (ASEM) is the forum for co-operation between Asian and European governments. On the initiative of the prime minister of the United Kingdom and the president of the Philippines, it also has sexual exploitation on its agenda (although it is mainly focused on economic and financial issues). ASEM organised three meetings on Child Welfare in an effort to make Stockholm commitments a reality in Asian-European relations: June 1998 in Manila, October 1998 in London and May 2000 in Seoul. Work is being done on a website to bring together good practices to combat the sexual exploitation of children, especially focusing on child sex tourism between Europe and Asia.
European Measures

Presidency Statement Tralee (Ireland)

A presidency statement on behalf of the European Union was published at an informal meeting of the ministers of foreign affairs held at Tralee (Ireland) on 6 and 7 September 1996, a few days after the closing session of the Stockholm Congress. In this Statement, the EU welcomed the outcome of the World Congress in Stockholm. The EU intends to “press ahead firmly with its concerted action and co-operation aimed at putting a stop to this particularly evil and cruel modern-day form of slavery”. It also stated that it would strive for the implementation of the recommendations adopted in Stockholm and would continue its efforts to have traffic in human beings made a criminal offence internationally. It expressed its commitment to strengthen police and justice co-operation as well as the need to provide physical and psychological support for the child victims of sexual exploitation and to promote their recovery and re-integration in accordance with the Declaration adopted in Stockholm (EU Bulletin, (9), 1996).

The Amsterdam Treaty

The Council of the European Union adopted the text of a new treaty for the Union in June 1997 in Amsterdam. As far as the commercial sexual exploitation of children is concerned, the relevant provisions are set forth in Articles K.1-K.9 which relate to co-operation between the Member States in the fields of justice and home affairs. Article K.1 provides for the Member States to consider a specified number of areas as matters of ‘common interest’. These include: immigration policy and policy regarding nationals of third countries (Art. K.1(3)); judicial co-operation in civil and criminal matters (Art. K.1(6) and (7)); as well as police co-operation for the purposes of preventing and combating certain serious forms of international crime (Art. K.1(9)). Article K.1(9) specifically lists two forms of serious international crime that will benefit from police co-operation as a matter of common interest. Neither of these (terrorism and unlawful drug trafficking) relate to the international commercial sexual exploitation of children. However, Article K.1(9) goes on to provide more generally for police co-operation in relation to other — unspecified — serious forms of international crime. Article K.1(9) further provides that such police co-operation can include, among other things, a Union-wide system for exchanging information within a European Police Office (‘Europol’; the Europol Convention indicates that its primary relevance to the international commer-
cial sexual exploitation of children will be only in relation to trafficking, see below).

In perhaps one of its key EU initiatives to date – Joint Action 97/154 which deals with trafficking and the sexual exploitation of children, including via pornography, see further below – the EU considered that these matters were of common interest because they fell within Articles K.1(3) and (7), that is, the Joint Action was necessary to fight unauthorised immigration and improve judicial co-operation on criminal matters.

Perhaps more indirectly, Article K.1(2) could be used to argue that measures taken to stop sex tourists leaving the EU to visit child prostitutes in third countries are a matter of common interest. This provision states that Member States shall regard as a matter of common interest “rules governing the crossings by persons of the external borders of the Member States and the exercise of controls there on”. It presumably was not intended to deal with sex tourism but its wording seems to leave room for a successful argument to be made that it should do so (thus making sex tourism a matter of common interest) if this were deemed necessary or desirable. (Of course, many Member States now have their own national legislation to combat sex tourism.)

Where a matter falls within the Article K.1 list of matters of common interest, Article K.2 requires Member States to inform and consult one another within the Council with a view to co-ordinating their action. Falling within the Article K.1 list also means that the Council may, on the initiative of a Member State, among other things, adopt ‘Joint Actions’ in so far as the objectives of the Union can be attained better by joint action than by the Member States acting individually. (This may be because of the scale or effects of the action concerned.) However, two or more Member States are not prevented from establishing or developing closer co-operation as long as this does not conflict with or impede the general Article K co-operation (Article K.7).

**Action Taken to Combat Trafficking and Child Sexual Exploitation**

By way of background, it is interesting to note that the EU has been actively considering the problem of trafficking since at least 1993 when the Justice and Home Affairs Council agreed a set of recommendations to the Member States on combating trafficking in human beings. This was followed, among other things, by the June 1996 Vienna Conference on trafficking in women which the European Commission organised to bring together experts in the fight against trafficking; it identified a number of special areas for action. A later EU Communication on traf-
ficking in women for the purposes of sexual exploitation noted specifically that:

trafficking in women raises questions which are also relevant to traffic in children. However, current concern about abuse and exploitation of children raises many other issues besides trafficking which must therefore be specifically addressed. The particular needs and situation of children require targeted analysis and responses, both socially and legislatively. (COM(98)726 final)

That Communication also stated that the European Commission intended to follow the conclusion of the 1996 Stockholm World Congress that a “coherent and co-ordinated approach is needed”.

The EU Council has been able to adopt at least four Joint Actions to combat trafficking and sexual exploitation. First, on 29 November 1996 (OJ L322, 12/12/96), the Council adopted a Joint Action to establish a five year Incentive and Exchange Programme for Persons Responsible for Combating Trade in Human Beings and the Sexual Exploitation of Children (the so-called STOP programme, see below). Another Joint Action is dated a few weeks later and aimed to extend the mandate of the Europol Drugs Unit to trafficking in human beings (OJ L432, 31/12/96, see below). This was followed by a third Joint Action on 24 February 1997 concerning Action to Combat Trafficking in Human Beings and the Sexual Exploitation of Children (97/154/JHA, OJ L63, 4/3/1997). In addition, the Council has adopted a Joint Action to set up a Directory of Centres of Excellence (OJ L342, 31/12/96).

The key measure adopted so far seems to be the Joint Action of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children. The definition, used in this EU-document is cited in the introduction of this article.

In Title I(B), Member States undertake to review national legislation relating to trafficking and sexual abuse generally, particularly that concerning “sexually exploiting or sexually abusing children” and “trafficking in children with a view to their sexual exploitation or abuse”. Member States must then ensure that these types of behaviour are classified as criminal offences and that committing such an offence and (with the exception of the offence of possessing child pornography), participating in or attempting to commit them, are punishable by “effective, proportionate and dissuasive criminal penalties”. The penalties include custodial sentences and extradition; confiscation, where appropriate, of the instruments and proceeds of the offence concerned; and/or the temporary or permanent closure of establishments that have been used for, or were intended to be used for committing a relevant offence.
It is also interesting to note that the Joint Action goes on to provide, among other things, for double criminality. Member States must ensure that its authorities are competent to act where the offences of sexually exploiting or sexually abusing children and/or trafficking in children with a view to their sexual exploitation or abuse are committed wholly or partly on their territory and, with certain exceptions (among other things relating to extradition), the person committing the offence is a national or habitual resident of the Member State. However, "where it would be otherwise contrary to the established principles of its criminal law relating to jurisdiction, a Member State may [... ] provide that the offence must also be punishable under the law of the State where it was committed." If a Member State does so provide for double criminality, however, it must review its law to ensure that this does not prevent it taking adequate measures against its nationals or habitual residents who may have committed relevant offences in countries that do not have adequate child protection laws.

Specific provision is made to require Member States to take necessary measures to ensure that search and seizure powers as well as other adequate investigation powers and techniques are available to enable relevant offences to be investigated and prosecuted effectively. There are also measures relating to witnesses, and victims and their families; and to ensure that national immigration and social security services as well as tax authorities are alert to child exploitation and trafficking and co-operate where necessary in investigating suspected offences. Their role includes taking the initiative to advise police where they suspect that a relevant offence has been committed. Lastly, detailed provision is made for co-operation between Member States, although the preamble to the Joint Action notes that Member States retain the right to take measures which further enhance the protection of children or combat trafficking in human beings.

This Joint Action paper is a basic document for the involvement of the EU in matters of combating sexual exploitation. Of course, much depends on actions taken by the EU Member States. And where sexual exploitation has a strong international dimension the EU contribution should not be underestimated.

**Action Taken to Combat Sex Tourism**

In 1999, the European Commission adopted a Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the Implementation of Measures to Combat Child Sex Tourism (COM 1999-262 final, 26/5/99). This follows a 1996
Communication (OJ C3 7/1/1997), reporting on its achievements and drawing conclusions on which to base follow-up, to be launched in 1999. To prepare this communication paper, the EU Commission organised a first meeting of the main partners in the fight against child sex tourism in Brussels, on 24 and 25 November 1998, during the Brussels Holidays Fair. The Commission’s policy with regard to child sex tourism is 2-fold: firstly, to reduce demand for child prostitutes by working with the tourist industry and relevant NGOs. This work involves awareness raising campaigns and codes of conduct. Secondly, the Commission aims to reduce supply in the tourist destination countries by “all appropriate means”.

Europol

In response to the urgent problems arising from terrorism, unlawful drug trafficking and other serious forms of international crime, the European Police Office was established in 1995 by the Europol Convention (OJ C316, 27/11/1995) to improve police co-operation between the Member States in the fight against these types of crime. Europol was some years in the making: the 1992 Treaty on European Union first provided for its establishment; this was followed in 1993 by a Council Decision agreeing that it should be established in the Netherlands and have its seat in The Hague. Only in 1995 did the Europol Convention provide for the establishment of a central European police force to co-operate with national police forces and additional procedural measures were adopted in the years that followed. It should be noted, however, that Europol is not the only measure regulating police co-operation; the Europol Convention expressly states that measures should not affect other forms of bilateral or multilateral co-operation.

In principle, Europol may be drawn into international child abuse issues where “there are factual indications that an organised criminal structure is involved and two or more Member States are affected by the forms of crime in question in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences concerned” (Art. 2(1) Europol Convention). However, in practice, it seems that Europol’s role will be limited, at least initially, to fighting trafficking — the Europol Convention lists a number of areas in which Europol “shall initially act” (Art. 2(2) Europol Convention). These include the prevention and combating of “trade in human beings” (Art. 2(2) Europol Convention) which is defined as the “subjection of a person to the real and illegal sway of other persons by using violence or menaces or by abuse of authority or intrigue with a view to the exploitation of prostitution, forms
of sexual exploitation and assault of minors or trade in abandoned children” (Annex referred to in Art. 2 Europol Convention). This, as we have seen, is one of the main forms of international commercial child abuse. However, the Annex to Article 2 also contains a list of other “serious forms of international crime which Europol could deal with”, in addition to those forms of crime already identified as one of its Article 2(2) initial actions. This does not include unlawful trade in child pornography, policing of paedophile exchanges on the Internet, or sex tourism. Thus, it seems unlikely that these forms of international child abuse will, at least initially, receive much of Europol’s attention.

Thus, as far as trafficking in children is concerned, Europol acts as a central liaison body responsible for:

- facilitating information exchanges between Member States;
- obtaining, collating and analysing information and intelligence;
- notifying competent national authorities of relevant information, including connections between offences;
- maintaining a computerised information system, including details of persons suspected and/or convicted of offences falling within Europol’s remit and those for whom there are serious grounds under national law for believing that they will commit such offences (Art. 3 and 8 Europol Convention). This system is directly accessible by, and to, specified national authorities.

Member States are required to designate national units to supply Europol with information and respond to Europol requests (Art. 4 Europol Convention). These national units may also request advice, information, intelligence and analysis from Europol.

**Child Pornography on the Internet**

On 29 May 2000, the EU Council adopted a Decision including measures to combat child pornography on the Internet (OJ L138, 9/6/2000). The measures are focused on better co-operation between the EU Member States and to involve Europol in this process. The authorities are dependent on the computer industry and the Internet providers. The EU advises the Member States to have ‘a constructive dialogue’ with the industry.

**Funding: STOP and Daphne**

Two main EU measures provide for EU funding for private initiatives to fight international child abuse. These are the STOP and Daphne programmes.
The STOP programme was adopted on 29 November 1996 (OJ L322, 12/12/96) for an initial period 1996–2000. STOP is an incentive and exchange programme for persons responsible for combating trafficking in human beings and sexual exploitation of children. To this end it provides funding (with a budget of €1.5 million for 2000) for initiatives that encourage, support and reinforce networks and practical co-operation between those responsible for the fight against trafficking and child sexual exploitation. Such initiatives could take the form of exchanges and other means of disseminating information and sharing experiences as well as initiatives to improve and adapt relevant training and skills programmes. STOP funding is also available for multidisciplinary approaches to fighting trafficking and child sexual exploitation; work in unravelling the trafficking ‘chain’, such as recruiters, exploiters, other intermediaries and clients; establishing networks of those responsible for preventing and fighting these crimes; and encouraging research in the most effective methods of fighting these issues and disseminating the results. It is specifically applicable, among other things, to public prosecutors and police departments.

The Daphne programme aims to contribute towards ensuring a high level of protection of physical and mental health by the protection of children, young persons and women against violence (including violence in the form of sexual exploitation and abuse), by the prevention of violence and by the provision of support for victims of violence in order, in particular, to prevent future exposure to violence. It is a four-year programme running until the year 2003 and aims to complement existing programmes in the field. It is seen by the EU as “very much a beginning of co-operative action by European NGOs and voluntary organisations in the fight against violence, among other things, towards young children”.

Extraterritorial Legislation

One example of a project supported by the STOP programme is the extraterritorial legislation project of ECPAT. In 1999, the ECPAT Europe Law Enforcement Group prepared this study on Extraterritorial Legislation as a Tool to Combat Sexual Exploitation of Children. It is a study of 15 child sex tourism cases and their prosecution in Europe (see Alexander et al. 1999). As more European countries recognise that child sex tourism and commercial sexual exploitation of children requires an international response, they are amending or enacting national legislation so that they have extraterritorial jurisdiction. Extraterritorial jurisdiction allows for the prosecution in their
country of citizenship or residence of nationals who go overseas to sexually abuse children (Muntarbhorn 1998). Also with the support of the STOP programme, a popular version of this study is available (Seabrook 2000). The importance of extraterritorial legislation has already been identified by the European Commission as one of the key elements in combating child sex tourism.

NATIONAL MEASURES

In Stockholm in 1996, 122 governments committed themselves to implementing an Agenda for Action, including the establishment of National Plans of Action in the field of sexual exploitation of children. The plans are to co-ordinate and identify the actions needed in each country. Several countries now have such a National Plan of Action and others are working hard to draw up such plans. What is important is the implementation of the National Plans.

Several NGOs are active on the national level. ECPAT is an important movement (with many national branches, or sections) which started as End Child Prostitution in Asian Tourism. ECPAT is now a global network of organisations and individuals working together for the elimination of child prostitution, child pornography and the trafficking of children for sexual purposes. The ECPAT network consists of groups and individuals in over 50 countries around the world (O’Grady 1996). One of its activities is monitoring the Stockholm Agenda for Action. Its 1999 report, A Step Forward, contains information about how 136 countries around the world have been protecting children against commercial sexual exploitation and have been implementing the Agenda for Action.

In different countries, campaigns have been launched to prevent sex tourism involving children by awareness raising activities within the tourist industry. These campaigns are addressed to tourism professionals; they include workshops with NGOs and the police. Leaflets are produced aimed at tourism professionals and distributed to travel agencies, the tourism industry and tourism training schools. Furthermore, training modules have been produced for students and teachers in tourism schools. France, the Netherlands and Belgium, for example, are very active in this field. Materials to create awareness among travellers on child sex tourism have been introduced all over Europe. These include leaflets, luggage tags and ticket jackets.

Below different initiatives at the national level and its effects are stated per country. The list gives a non-exhaustive overview of different measures taken in European countries.
Belgium

One of the actions of the Belgian government in the aftermath of the Dutroux case was the establishment of a national committee against the sexual exploitation of children. The committee was formed by a decision of the National Council of Ministers and consisted of six independent experts. Its main goals were:

- to get more knowledge about the phenomenon of sexual exploitation of children;
- to evaluate the policy so far in the field of sexual exploitation of children;
- to formulate proposals for the identified problems.

In 1997, the final report Kinderen stellen ons vragen was produced. Proposals have been made on different aspects, national and international:

- prevention, including the strengthening of the social and legal position of children;
- youth care, both for children who are victims as well as offenders of sexual exploitation;
- legal response; penal, civil and youth care;
- legal protection of children.

One of the important aspects of the report was the need to respect children. Another recommendation was for the government to work towards implementation of the Convention on the Rights of the Child. The results so far are the new Article 22bis of the Belgium Constitution which states that every child has the right to protection of his moral, physical, psychological and sexual integrity, and this right should be protected. The Articles 19, 32, 33, 34, 35, 36, 37, 38 and 39 of the Convention are now covered in one regulation of national law. However, there is a risk that the government thinks the work has already been done, although the other articles of the Convention need to be translated into national legislation. Furthermore it is not clear how abused children themselves can benefit from the new Article (Vandekerckhove 2000).

In 1999 a National Youth Conference was organised in Belgium, with 200 young boys and girls. Victims of sexual abuse and other youngsters were brought together to discuss the topic. It was an activity connected with the international Youth Conference in Manila in May 2000 where youngsters from all over the world came to set an agenda for action.
France

In France an in-flight video has been developed in co-operation with Air France. This video warns travellers about child sex tourism. It is shown to passengers during long haul Air France flights alerting them to sex tourism and the penalties involved. This campaign was successful. The idea was established in Germany. Following the airlines Air France, Corsair, Aerolyon, and Finnair now Swiss Air are screening the video and it is also expected to be shown in Austria and Italy.

Germany

ECPAT Germany started a campaign against child prostitution in association with the German border police in 2000. In particular children from the Czech Republic are being trafficked into Germany.

Problems faced at the border with the Czech Republic include the fact that children as young as age the of four are on the streets. It concerns mostly girls, but also boys. There are suggestions that trafficking rings from Russia are involved. The abuse includes child prostitution and child pornography. It is difficult to give figures, but street workers estimate that there are certainly hundreds of children. Most children are poor and have to earn money for their families. Most boys are addicted to drugs (amphetamine). The customers are mostly German men who buy cheap sex. Most children stay in Germany during the day or the weekend and then go back home. Some are trafficked to other countries.

Italy

On 3 August 1998, the Italian Parliament passed the Law 269/98 ‘Provisions against the Sexual exploitation of children including prostitution, pornography and sex tourism, as a new form of slavery’. ECPAT Italy has been the promoter of the Act. Of special importance is Article 16:

1. Tour operators who organise collective or individual travel to foreign countries are obliged, for at least 3 years from the date given in ¶ 2, to insert in a prominent manner in their advertising material and programmes, or otherwise in the travel documents given to customers, as well in their brochures and catalogues (whether for single or multiple destinations), the following notice: ‘Obligatory notice for the purposes of article 16 of Law 269/98 – Italian law punishes with imprisonment offences related to child prostitution and child pornography, even if the offences are committed abroad.’[...]

3. Tour operators who fail to comply with the obligations in ¶ 1 will be liable to a fine of from 2–10 million lire.’

The role of the government is very important. Organisations are fined if they fail to comply with Article 16. The Italian travel industry is becom-
The Netherlands

Cases of sexual abuse of unaccompanied minor asylum seekers are of serious concern in the Netherlands. Young girls from China, Nigeria and also Eastern Europe have disappeared out of the asylum centres and ended up in organised prostitution. During the last few years more than 100 African girls from Nigeria, Liberia, Sierra Leone and Sudan have disappeared every year from the centres. Quite often organised trafficking in children for sexual purposes is involved, although it is very difficult to get hard facts about the situation (see e.g. Terre des Hommes 1999). The need for research and police involvement has been taken up by NGOs and the government.

The first case of a Dutch sex tourist being prosecuted for sexual offences abroad (the Van der S. case) as well as other Dutch cases resulted in more attention being given to Dutch laws concerning sexual offences against minors. This also led to the government presenting a new draft law to the Parliament. The new draft removes the formal complaint procedure as a condition for prosecution in cases involving child prostitutes. The complaint requirement meant that the Public Prosecutor could only prosecute a suspect of having committed illicit sexual acts with minors between 12 and 16 when there was a complaint by the victim, its legal representatives or the Child Protection Board. The complaint requirement had been the subject of in-depth research leading to the conclusion that the complaint procedure should be deleted as a formal condition for prosecution. On 30 November 1998, the Minister of Justice agreed with the conclusions of this research report. A new law has been drafted whereby the complaint procedure in cases of child prostitution will be removed. The same law will also legalise prostitution but will penalise the customer and the brothel where minors are involved. The new law is planned to enter into force in October 2000 (Act of 28 October 1999, S. 1999, no 464).

The same Van der S. case became important Supreme Court case law on the possession of child pornography. By the decision of 21 April 1998 it was decided that the simple possession of child pornography is unlawful, even if it is not intended for distribution or commercial purposes (Dutch Supreme Court, 21 April 1998, NJ 1998).

Norway

Norway has been very active in the field of combating child pornography on the Internet. ECPAT Norway has developed good methods. An interna-
tional hotline was established in 1996. In 1999 children@risk.sn.no received 5979 messages related to child pornography. Save the Children Norway/ECPAT Norway initiated the closing of 1235 web pages that contained child pornography. It works closely with a special team at the Criminal Bureau of Investigation dealing with child pornography. Verified information concerning child pornography is passed on to this team who communicate with the authorities in other countries through Interpol. There are international initiatives such as the Inhope Forum, a co-operative network of hotlines to fight child pornography on the Internet.

**Sweden**

ECPAT Sweden has developed a Certified Code of Conduct for tour operators which gives very specific guidelines about measures to be taken by the travel industry and what they should not do. Other countries such as Germany are also campaigning for the implementation of this Code of Conduct.

Another initiative contributing to the combat of child sex tourism is that the Foreign Ministry (at the proposal of ECPAT Sweden) sent letters to Swedish Embassies informing them on how to react when dealing with Swedish sex tourists.

**United Kingdom**

The Sex Offenders Act 1997 entered into force on 1 September 1997 and requires certain categories of sex offenders to notify the police with any change of name or address during a specified period. Sex offenders caught by the Act include those convicted of a relevant offence (see below); those cautioned in respect of a relevant offence and who admit having committed it; those already serving a custodial sentence or subject to supervision requirements or a community service order in respect of a relevant offence; and those who have committed a relevant offence but who have been found not guilty by reason of insanity. The notification requirements apply to different categories of offender for varying lengths of time, as set forth in the table in Part I of the Act.

Any offender who is subject to the notification requirements must notify the police of his name (and any other names he uses), his date of birth and his home address and any changes thereto. Failure to comply can lead to fines or imprisonment for up to six months, or both.

Subject to certain exceptions, the relevant offences are defined by reference to provisions of the Sexual Offences Act 1956 and include: rape, intercourse with a girl under 13 or between 13 and 16, incest by a man,
buggery, indecency between men, indecent assault and causing or encouraging prostitution of, intercourse with, or indecent assault on, a girl under 16. Relevant offences also include indecent conduct towards a young child contrary to Section 1(1) of the Indecency with Children Act 1960, inciting a girl under 16 to have incestuous sexual intercourse contrary to Section 54 of the Criminal Law Act 1977, and offences relating to indecent photographs of children contrary to Section 1 of the Protection of Children Act 1978 and Section 160 of the Criminal Justice Act 1988 (Cobley 2000).

ECPAT UK launched a campaign to require sex offenders convicted overseas to register when they enter the UK. The government has taken up the suggestion and an amendment to the Sex Offenders Act 1997 has been made to enlarge the provisions concerning the registration of offences committed overseas and persons travelling overseas.

CONCLUSION

The sexual exploitation of children can take a number of forms. At the international level, those that spring immediately to mind include prostitution, sex tourism, trafficking and child pornography (often via the Internet).

The key legal instrument prohibiting these forms of abuse at the international level is the 1989 UN Convention on the Rights of the Child, Article 34. But the UN Convention on the Rights of the Child is not giving a child its rights; the Convention is mainly directed at governments, since they are responsible for implementing the content of the Convention and making it a reality; they have the means — laws and budgets — to make a difference. This overview shows that the international level is there for the intentions, and the national governments for the concrete action.

But the international level can of course influence the national level. Dutroux was not only living in Belgium, he was also a European citizen. And newspaper reports at the time indicated that he was also operating in the Czech Republic. Crime knows no boundaries, only States have frontiers.

Thus, in terms of criminal law, there is no single international (that is, United Nations or European Union) instrument making child abuse an offence. We must turn then, instead, to national law. The problem is that traditionally, national criminal law has not been extraterritorial in nature. Exceptions are now slowly being introduced, for example, to combat international child abuse. Here we do find relevant measures, such as extraterritorial legislation to deal with sex tourists.
One of the areas where no clear information is available is on trafficking in children for sexual purposes, although research projects are underway. The ECPAT Europe Trafficking Project’s objective is to build on existing, but often piecemeal research, to set forth a comprehensive account of the extent to which children are trafficked to the European Union; how they get there; and what happens to them once they arrive in the European Union. The project’s results will be used to formulate specific policy recommendations as well as practical ideas for training and co-operation.

The Second World Congress will take place in Yokohama, Japan, in December 2001. The 122 States with their Stockholm promise to take action have to explain to the world community what they have done, not only in words, not even in laws, but also in enforcing the law, setting up prevention programmes and establishing rehabilitation and treatment centres for young victims.

In the recent years, much has been developed, but we are far from having achieved the goals. The legacy of Stockholm will now be the burden of Yokohama and the future. Implementation of the national plans of action and the other goals already set in Stockholm should be reached.

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ABSTRACT. Some important authors in the field of sexual delinquency stress the importance of inadequate attachment in the aetiology of sexual abusive behaviour. This contribution reports on parental sensitivity, trust, intimacy and adult romantic attachment in a group of sexual offenders (exhibitionists, child molesters and child rapists) and a matched normal control group. Based on the analyses, it appears that parental sensitivity, trust, intimacy and adult romantic attachment significantly differentiate between sexual delinquents and the control group. There is no significant relationship between the different categories of sexual offenders, except for the variable adult romantic attachment. Furthermore, it was found that parental sensitivity, trust and the adult romantic attachment style contribute independently to the explanation of sexual delinquent behaviour. The results tend to be important for the prevention and the treatment of sexual delinquent behaviour.

KEY WORDS: exhibitionism, paedophilia, prediction, sexual delinquency

INTRODUCTION

Although the research into sexual offending has a longstanding tradition, two groups of scholars have contributed to the development of integrated explanatory models. First, Finkelhor and Araji (1986) have integrated previous research regarding paedophilia in a 'four factor-model'. These four factors are emotional congruence, sexual arousal, blockage and disinhibition. Emotional congruence explains why a person engages in a sexual relationship with a child, for example because of a disturbed psychological development or low self-esteem. Sexual arousal refers to the reasons why a person becomes sexually aroused by a child; these reasons can be found in, for example, early sexual experiences or pornography. Blockage explains why a person shows aversion to adult sexual and emotional satisfaction, for example because of a lack of social and relational skills. Disinhibition explains why social rules and norms that prohibit sex with a child, for example psychopathology, do not deter a person.

A second group of scholars (Marshall and Barbaree 1990), have developed a 'multifactorial bio-psychosocial model' of sexual violent behaviour, with again four factors: biological factors (e.g. hormonal disturbances), socio-cultural influences (e.g. masculine dominance), childhood experi-
ences (e.g. violent parents) and situational circumstances (e.g. alcohol abuse). Whilst Marshall and Barbaree started their research by focusing on biological influences, later on they studied childhood experiences (violent parents, development of negative feelings and insecure attachment style) as causes of sexual delinquency. The research presented in this article further explores the relationship between (early) childhood experiences, adult intimate relationships and sexual delinquency.

**THE ATTACHMENT THEORY AS A FRAMEWORK**

John Bowlby (1951, 1969, 1973, 1979) was the first scholar to emphasise the relationship between the experiences of a child with his parents during childhood and the development of enduring emotional bonds with others during adulthood. Ainsworth et al. (1978) have carried out empirical research into childhood attachment. Based on the reactions of the child to separation and reunion with the parent, they described three basic attachment styles: a secure attachment style and two styles of insecure attachment (avoidance and anxious-ambivalent attachment styles). Other research (George et al. 1985, 1996; Main et al. 1985; Hazan and Shaver 1987) studied the relationship between childhood and adult attachment. A fairly strong relationship between the childhood attachment style and the adult (romantic) attachment style was described (Hazan and Shaver 1987; Van IJzendoorn 1994; Gladstone et al. 1999). For example, Hazan and Shaver (1987) found that the avoiding attachment style in adulthood is characterised by a lack of trust and the avoidance of (too) close bonds with others. Avoiding adults describe their parents as cold and rejecting. Anxious-ambivalent individuals describe their parents as controlling, and experienced their parents as inconsistent and unreliable. Those individuals are characterised by anxiety of being abandoned or losing the love of the other. This very often results in an over-controlling behaviour towards the partner.

Secure-attached adults describe their parents as positive, experienced a sense of security and did not feel overprotected by their parents. They feel comfortable in an adult intimate relationship and can trust the other without anxiety. Furthermore, parental sensitivity is a very important educational dimension in the development of the childhood attachment style (Canetti 1997; De Wolff and Van IJzendoorn 1997, 1998). Parental sensitivity can be defined on the one hand by care (warmth *versus* rejection) and on the other hand by protection (overprotection *versus* autonomy) (Parker et al. 1979). A sensitive parent is a parent who warmly interacts
with his child and who facilitates autonomy while recognising the needs of the child. A further distinction was made between the sensitivity of the mother and the father (Dekovic and Rispens 1998). Wolff and Van IJzendoorn (1997) found that the sensitivity of the mother seemed to be more important for the quality of attachment of the child than the sensitivity of the father.

TRUST AND INTIMACY IN RELATION TO ATTACHMENT

Gaining (basic) trust is the first social task of the child, as Erikson (1963) described: "His willingness to let the mother out of sight without undue anxiety or rage, because she has become an inner certainty as well as an outer predictability" (p. 247). Trusting the mother builds a shield against insecurities and existential fears (Giddens 1990). Furthermore, a distinction can be made between global trust (trust in people in general) and relational trust (trust in a specific person with whom one is intimately involved) (Rotter 1980; Rempel et al. 1985). Research clearly showed that relational trust is essential for the interpersonal and social functioning. The tendency to trust others is an important component for general adaptation (Doherty and Ryder 1979) and contributes to the learning of dealing with stress and fear (Heretick 1981). Next, relational trust strengthens the development and maintaining of intimate relationships (Lewis and Weigert 1985). According to Erikson (1963), intimacy is an indication of the quality of an adult relationship, which leads to the capacity to engage in close bonds with others and to preserve these bonds. Perlman and Duck (1987) further distinguished three important characteristics of intimacy: closeness and solidarity between partners; self-disclosure in the relationship; and warmth and affection.

Intimacy is facilitated by the strength of self-confidence and trust in others. The strength of self-confidence and the trust in others is determined by the (in)sensitivity of the parents. By acting as a sensitive parent (warm and autonomy facilitating), the child develops self-confidence and trust in others, which strongly stimulate the adult intimacy.

ROMANTIC ATTACHMENT, TRUST AND INTIMACY

Marshall (1994, 1996) and Ward et al. (1996) emphasised the role of inadequate attachment within the family of origin in the aetiology of sexual abusive behaviour. An explanation of the inadequate attachment during infancy is found in rejection, lack of warmth and maltreatment by the parent(s). This leads to insufficient basic trust obstructing the development of a healthy and intimate relational life. Sexual delinquents exhibit more insecure attachment patterns than non-sexual delinquents, especially in the relationship with their mother (Smallbone and Dadds 1998). Incestuous offenders report insecure attachment experiences with their mother, while non-incestuous offenders have rather insecure attachment relationships with their father (Smallbone and Dadds 1998). Experiences in early childhood of family violence in combination with an inconsistent attitude of the parents, play a role in the development of sexual delinquency.

Concerning the relationship between intimacy and sexual delinquency, it was found that paedophiles and rapists had less experience of intimacy in their life than the control group (Marshall 1994). Secondly, sexual delinquents experienced a lower level of intimacy than non-sexual delinquents (Siedman et al. 1994). Thirdly, paedophiles are clearly less capable of engaging in an intimate relationship than non-sexual delinquents (Marshall et al. 1997). Finally, within a group of sexual delinquents, rapists and non-incestuous paedophiles obtained the lowest score on intimacy. Exhibitionists, on the other hand, obtained the highest score (Marshall 1994).

**Empirical Research**

**Hypotheses**

The results of the previous reported research pointed out that the concepts of parental sensitivity, trust, intimacy and adult romantic attachment are related to sexual delinquent behaviour (see Figure 1). Parental sensitivity influences the quality of the child attachment style. A strong relationship exists between an insecure childhood attachment style and the lack of intimacy and trust. The lack of intimacy and trust is connected with the development of an insecure adult (romantic) attachment style, and this insecure (romantic) attachment style will help to explain the development of sexual delinquent behaviour. The inability to establish an intimate (romantic) relationship with others results in temporary and quick sexual relations with adults or children.

Based on the findings of the research mentioned above, the following hypotheses will be tested: sexual delinquents, in contrast with a control group
experienced less parental sensitivity;
- experience less relational trust;
- are less capable of engaging in intimacy;
- are insecurely engaging in adult romantic relationships.

Furthermore, we supposed that the exhibitionists experienced less parental sensitivity and showed significantly lower scores on trust, intimacy and secure adult romantic attachment, than paedophiles. Finally, it is supposed that parental sensitivity, trust, intimacy and adult romantic attachment contribute to the explanation of sexual delinquent behaviour (Bogaerts et al. 2000a, b).

**Methods**

To measure the adult romantic attachment style, the ‘Adult Attachment Scale’ (Hazan and Shaver 1987) was used. This instrument contains two parts, a multiple-choice question with three response categories (a ‘secure’, an ‘avoidant’ and an ‘anxious-ambivalent’ attachment style), and a seven point scale, on which the level of secure, avoidant and anxious-ambivalent attachment can be marked. The validity and reliability of this scale are satisfactory. To measure parental sensitivity, the ‘Parental Bonding

![Figure 1. Parental sensitivity, trust, and intimacy and adult romantic attachment in relation to sexual delinquency.](image-url)
Instrument' (PBI; Parker et al. 1979) was used. The PBI measures the ‘parental contribution to bonding’, or the parental behaviour and attitudes as perceived by the children. This instrument consists of 25 items and must be filled out for the mother and the father separately. The items of the Flemish draft are scored on a four point scale, ranging from ‘Such was my mother/father not at all’ (= 1) to ‘Such was my mother/father’ (= 4). The instrument consists of two scales: ‘care’ and ‘overprotection’. The ‘care scale’ measures how much warmth the respondents experienced (support, consolation, empathy) in the relationship with their father and mother during childhood and adolescence. The ‘overprotection-scale’ measures how much autonomy the respondents experienced during childhood and adolescence (in the relationship between their mother and father; see Verschueren and Marcoen 1993). The validity of the scale was confirmed by Parker et al. (1979), who identified care and protection as two central educational dimensions. Alpha coefficients for the Dutch PBI-scales ranged from 0.87–0.94.

Trust and intimacy were measured by the ‘Erikson Psychosocial Stage Inventory’ (Rosenthal et al. 1981). This instrument consists of six subscales and is based on the first six psychosocial crises developed by Erikson (1963). In this research only the subscales ‘intimacy’ and ‘trust’ were used. Intimacy and trust, both existing of 12 items are scored on a five point scale going from ‘Never true (= 1)’ to ‘Almost always true (= 5)’. The subscale ‘trust’ refers to self-trust and the subjective feeling of self-control (e.g. ‘I do not doubt myself very soon’) and to the trust in others or the world in general (e.g. ‘I believe that the world is fundamentally good’). The subscale ‘intimacy’ examines the degree of sincerity or self-disclosure, the degree in which one feels comfortable in close, confident relationships and the degree one feels ready for relational engagement. The alpha coefficient of the trust scale is 0.79 and of the intimacy scale 0.84.

**Subjects**

Eighty-four adult men, who attended an educational training programme as an alternative sanction, made up the experimental group (sexual delinquents). The duration of the course varied from six months to one year. The group was composed of 33 exhibitionists, 29 child molesters and 22 child rapists. The mean age in the experimental group was 38 years and four months. Thirty-seven percent were married, 41% single and 22% divorced. Twenty percent attended only primary school, 30% finished the

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1The Adult Attachment Scale, the Parental Bonding Instrument and the Erikson Psychosocial Stage Inventory were translated into Dutch by Verschueren and Marcoen 1993.
first level of secondary school and 32% succeeded in the second level of secondary school. Sixteen percent attended college or university. The experimental group was matched with a control group (N = 80) on the variables age, marital status, employment and level of education. However, for four sexual delinquents no control subjects were found. This resulted in only small differences between the experimental and the control group. The mean age of the control group was 38 years and six months. Forty-one percent were married, 42% single and 18% divorced. Twenty-one percent only attended primary school, 29% finished the first level of secondary school and 32% succeeded in the second level of secondary school. Eighteen percent attended college or university. A chi-square analysis revealed no significant differences between the two groups.

**Results**

**Parental Sensitivity**
Warmth by mother and father and overprotection by the father were discriminating significantly between the research and the control group. Warmth by the mother differentiates very strongly between sexual delinquents and the control group (Me² = 33.8, Mc = 38.6, t = 4.19, p < 0.000). The group means indicate that the sexual delinquents experienced less warmth during the first 16 years of their life than the control group. Warmth by the father during the first 16 years also differentiates between sexual delinquents and the control group (Me = 31.7, Mc = 34.6, t = 2.44, p < 0.016), but the difference is smaller than the warmth by the mother. With regard to the experienced parental overprotection and lack of autonomy, only the overprotection by the father differentiates between sexual delinquents and the control group (Me = 28.6, Mc = 26.3, t = 2.19, p < 0.030). Thus, sexual delinquents feel significantly more overprotected by their fathers and experienced less possibility of acquiring autonomy than the control group. The felt overprotection by the mother and the resulting lack of autonomy did not differentiate between sexual delinquents and the control group

(Me = 29.6, Mc = 28.2, t = 1.33, ns).

**Trust and Intimacy**
Sexual delinquents express significantly less trust (in themselves, in others and in the world in general) than the control group (Me = 38.5, Mc = 41.5,

³Me – Mean experimental group; Mc – Mean control group.
t = 3.89, p < 0.000). The variable intimacy which measures the degree one feels comfortable in close and intimate relationships and the willingness to engage in such relationships, also differentiates significantly between sexual delinquents and the control group (Me = 38, Mc = 40, t = 2.11, p < 0.03).

**Adult Romantic Attachment**

As indicated, the variable adult romantic attachment style (secure, avoiding and ambivalent) was scored as a dichotomy (presence or non-presence of the characteristic) and on an ordinal seven point scale which was further collapsed into a three points scale. Using the dichotomous scale, less sexual delinquents feel secure (43% versus 61%, X² = 26.04, p < 0.000), they feel more avoiding (34% versus 14%, X² = 23.33, p < 0.001) and more ambivalent (23% versus 10%, X² = 25.80, p < 0.000) in adult romantic relations than the control group. Using the ordinal three point scale, it can be concluded that sexual delinquents feel significantly more insecure (t = 3.96, p < 0.000), more avoiding (t = 2.05, p < 0.04) and more ambivalent (t = 3.46, p < 0.001) in adult romantic relationships than respondents in the control group.

**Differences between Subgroups**

One way analyses of variance (ANOVA) show further differences between subgroups of exhibitionists, child molesters and child rapists. Differences are found for the level of secure attachment in adult romantic relations (F = 4.705, p < 0.012). Exhibitionists feel less, and child rapists more, secure in adult romantic relations (t = 2.79, p < 0.007). Avoiding and ambivalent attachment styles do differentiate between exhibitionists (lowest scores) and child rapists (highest scores), but these differences are not significant. With regard to the variable parental sensitivity, child rapists show the highest scores. During their childhood, child rapists experienced more feelings of warmth by mother and father, and less overprotection from their father than exhibitionists and child molesters.

**Correlations between the Independent Variables**

The studied dimensions are highly intercorrelated. High correlations are found between warmth expressed by mother and father (r = 0.56, p < 0.001), and between overprotection by mother and father (r = 0.57, p < 0.001). Secondly, warmth and overprotection are significantly negatively intercorrelated (r = -0.44, p < 0.001 for mother and r = -0.66, p < 0.001 for father). Thirdly, parental warmth is positively (r = 0.33, p < 0.001 for mother and r = 0.37, p < 0.001 for father) and parental overprotection negatively (r = -0.13, ns for mother and r = -0.31, p < 0.001 for father) correlated with secure
attachment. On the other hand, parental warmth is negatively \((r = -0.16, p < 0.05\) for mother and \(r = -0.26, p < 0.001\) for father) and parental overprotection positively \((r = 0.14, \text{ns}\) for mother and \(r = 0.30, p < 0.001\) for father) correlated with insecure attachment (avoiding and ambivalent). Finally, parental warmth and secure attachment are positively correlated with trust and intimacy, and parental overprotection and insecure attachment are negatively correlated with trust and intimacy.

**Multivariate Analysis**

As the intercorrelations between the studied dimensions are high, bivariate correlations between these dimensions (the level of secure, avoiding and ambivalent attachment in adult relations, warmth by mother and father, overprotection by father, and trust and intimacy) and sexual delinquency do not necessarily mean that these variables will each exert an independent influence on sexual delinquent behaviour. Therefore, a series of logistic regression analyses were performed to determine the independent contribution of the studied variables in the prediction of sexual delinquent behaviour. The variables showing a significant correlation on the bivariate level were regressed on the dichotomy sexual delinquent/non-sexual delinquent behaviour. The backward stepwise and enter options were used. The global model was able to predict correctly 71.81% of the 149 respondents in the experimental and the control group as sexual delinquent or non(sexual) delinquent. This prediction was made on 149 cases from a total of 164 files. Fifteen files were rejected from the analysis by lack of information. A Nagelkerke's \(R^2\) of 0.273 shows that the global model explains 27% of the variation in the dependent variable. Three independent variables offer a significant contribution to the prediction of sexual delinquency:

- the level of secure attachment in an adult romantic relationship \((p < 0.05)\);
- warmth by mother \((p < 0.01)\);
- trust \((p < 0.03)\).

An analysis based on the backward option confirmed these results. Limited to the three above-mentioned variables, the model explained 23% of the variance in the dependent variable, and the model was able to correctly classify 71.14% of the experimental and the control group.

**Conclusions**

Sexual delinquents are likely to have experiences of insecure attachment bonds during childhood. The review of the literature shows that parental sensitivity, trust, intimacy, and the type of adult attachment style play an
important role in the development of delinquent sexual behaviour. On a bivariate level our empirical data largely confirm these findings: sexual delinquents show less positive scores on intimacy and trust, and a different adult attachment style than the control group. Our results do not confirm the hypothesis that exhibitionists obtain higher scores on the intimacy and the trust scale than rapists or paedophiles, although these differences are rather small. On a multivariate level a logistic regression analysis confirmed the influence of the warmth of the mother, trust in others and in the world, and the secure adult attachment in romantic relations as strong predictors for sexual delinquency. These three variables account for nearly 23% of the explained variance in the dependent variable.

The data suggest that subjects who experienced insufficient warmth from their mother during childhood and adolescence, who have insufficient trust in themselves and others and who are insecurely attached in adult romantic relations, run a higher risk of behaving as sexual delinquents in adulthood. Clearly, the relationship between a child and his father and mother is very important in the development of a secure adult romantic attachment style. One of the factors that seem to play an important role in the development of trust and intimacy, and hence in sexual delinquency, is the absence of warmth by the mother during childhood. This, however, does not mean that the role of the father during the development of the child should be underestimated. Understanding the importance of parental sensitivity in the development of childhood attachment, trust and intimacy to gain adult romantic relations is very important in the treatment of sexual delinquents. This view can open new perspectives for the treatment of sexual delinquents by focusing on the interpersonal aspects we have described.

A few remarks should be made. Firstly, a bivariate analysis and a logistic regression are only a first step in the analysis of our results. Our data must be subjected to path analysis in order to explore the mutual intercorrelations of the different variables. Secondly, our regression analysis makes clear that only 23% of the variance in the dependent variable can be explained by the set of factors that was introduced in the analysis, and that 77% of the variance in sexual delinquency remains unexplained. Thus one must conclude that other factors are playing a significant role in the aetiology of sexual delinquent behaviour. For instance, it can be expected that the personality profile of the delinquent will account for an unknown amount of variance in sexual delinquency. Other research (Quinsey et al. 1995b) has shown that psychopathy is a strong predictor of sexual delinquent behaviour and that psychopathy and recidivism are strongly intercorrelated. Furthermore one can hypothesise that personality disorders will differentiate between sexual delinquents and a control group. This hypothesis has
already been confirmed in other research (Kirkland and Bauer 1982; Scott and Stone 1986; Quinsey et al. 1995a; De Doncker et al. 1997). Others (e.g. Marshall 1996) stress the role of multiple paraphilia and alcohol abuse. In a second analysis, obsessive compulsive disorders (Van Oppen 1995) and personality disorders will be included in the model.

Finally, research has shown that sexual delinquent behaviour is also dependent on the social environment of the individual. Literature shows that sexual delinquents are suffering from social and emotional loneliness. The fact that one is involved in social relations and can rely on social networks can withhold a potential offender from sexual delinquency. However, in our research no information relating to these characteristics is available. We would like to conclude that this research is only a first step in our understanding as to how the studied factors influence the adult attachment style, and indirectly create sexual delinquent behaviour. More research is therefore needed, both quantitative and qualitative. The latter can contribute to the further conceptualising and refining of the examined variables, and help to explain the differences found between the experimental and the control group, and to understand how the independent variables are interconnected.

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The purpose of this short contribution is to describe, from an international comparative perspective, the performance of the Dutch public sector in respect of crime control. It summarises the key findings of a larger study recently conducted by the Directorate of Strategy Development of the Netherlands Ministry of Justice (Van Dijk and De Waard 2000).²

The report brings together data from a variety of sources in 10 countries relating the nature and volume of crime to the efforts of the public sector to control crime. In doing so, account is taken of (semi-)autonomous environmental factors such as the opportunity structure and the activities of the private sector in preventing crime. The efforts of the public sector are primarily, but not exclusively, expressed in terms of the financial and human resources, allocated to the criminal justice system. The information gathered is used to establish manifest differences between the Netherlands and the reference countries in the problem of crime, and the resources and methods to control crime. These differences are then used to evaluate the performance of the Netherlands public sector in controlling crime, and to find areas in which there is need for improvement as well as promising routes toward improvement. Statistical methods were not used due to the small number of observations and other data limitations.

Another objective of the study was to explore the availability and adequacy of information for international comparisons in this field. The study attempts to chart the entire field of crime and the efforts to control it. This implies that, even if case information is fragmentary or likely to be unreliable, it is still presented, if only to underscore the need for better information. The exploratory nature of the study implies that it is not always possible to draw ‘hard’ conclusions. Policy implications are there-

²Copies of the report are available from the authors.

fore formulated as issues requiring attention and as questions that can only be answered on the basis of specific further research. Before turning to the key findings of the report, the set-up of the study is briefly discussed.

**Choice of Countries**

The Netherlands is compared with nine reference countries. The reference countries are comparable societies in both economic and socio-cultural respects and basically have well functioning legal systems. The choice of countries was limited by the availability of data. The countries chosen belong to four legal traditions: English (UK, USA, Canada, Australia), French (France), German (Germany and Austria) and Scandinavian (Denmark and Sweden). The English legal system is strongly represented, partly thanks to the Anglo-Saxon tradition of data collection. It should also be remarked upon that, even for these countries, the data are incomplete. This is even truer of the other countries. If there is occasion to do so, other countries are included in the comparison, as are EU averages when these are relevant and can be calculated. The limited and often varying availability of data was a reason to include a fairly large number of countries in the comparison.

**Data Sources**

In principle, secondary international data collections and publications were used. The data on the human and financial resources of the criminal justice system are an exception. These data were gathered by means of a questionnaire to relevant public authorities in the reference countries, and were combined and, as far as possible, compared with data from other sources. In the absence of internationally agreed definitions, for instance, with respect to the delineation of the organisations that constitute the criminal justice system, some uncertainty remains. Estimating the volume of crime in its many forms is much more problematic. After all, much of the efforts of criminals are aimed at keeping their actions covert. While for many types of crime, such as crime against the business sector and economic crime, data are scarce or even absent, for other types more than one estimate is available and these estimates often differ widely. For instance, victimisation surveys and police registrations lead to very different estimates of crime against citizens. Both problems are discussed in detail in the report. Another consequence of the very nature of the phenomena under discussion is that frequently opinion surveys need to be used, ranging
from victimisation surveys to surveys of the opinions of business leaders. It is not always clear whether such surveys are representative.

**General Framework**

In the report, the volume of crime is seen as the result of the opportunity structure, facilitating factors and private and public crime control. The opportunity structure concerns the presence of potential targets for crime (pull factors), while facilitating factors are factors specific to individuals that incite or inhibit them to commit crimes (push factors). Private crime control consists primarily of measures taken by individuals and private organisations to prevent crime against themselves or others. For the government, these elements are environmental factors of an autonomous or semi-autonomous nature. For an international comparison of public sector performance, it is too simplistic to suggest a relationship between crime and the efforts of the government disregarding differences in all these other factors. Attention must be devoted to the entire complex of factors.

In addition, account must be taken of feedback loops. For instance, the volume of crime influences the willingness to invest in prevention and repression. When such reactions of private and political actors are taken into account, relationships become less clear-cut. To illustrate, an ample opportunity structure (one that promotes crime) in itself leads to high crime rates, but societal reactions reduce crime. On balance, the resulting crime level is not necessarily much higher than when the opportunity structure is restricted. If there is an ample opportunity structure, sizeable expenditures on crime control (sum of private and public expenditures) may in any case be expected.

Furthermore, to a certain extent, private and public measures act as substitutes for one another (Philipson and Posner 1996). The effect of public

![Figure 1. General framework.](image-url)
measures may be partly cancelled out by the reactions of private parties that feel safe and reduce precautionary measures. For this reason as well, the entire set of variables will need to be considered in order to avoid drawing erroneous conclusions.

In assessing the crime situation, attention must be devoted to the many forms crime can take, ranging from violence on the street to tax fraud from the home. A major reason is that prevention and repression can lead to crime displacement (for instance, from one type of crime to another). Finally, account must be taken, in principle, of the differences between countries with respect to what is considered to be a crime. The Dutch policy of toleration (gedogen) in various fields is an example.

**KEY FINDINGS**

Addressing the elements of the framework of Figure 1 separately and focussing on the position of Netherlands, the following observations can be made. Only a few tables of the report are included due to space limitations.

**Nature and Volume of Crime**

In comparison with the reference countries, the Netherlands is faced with a severe crime problem of a complex nature. The problems range from a very large number of less serious crimes to financial and economic crime and drug trafficking, both of a presumably large magnitude. Due to the volume of less serious crimes, total crime against citizens is the highest among the 10 countries studied (see Table I). In a positive sense, it is im-

**TABLE I**

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Serious</th>
<th>Less serious</th>
<th>Less serious excluding bicycle theft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>32,000</td>
<td>7,500</td>
<td>24,500</td>
<td>20,200</td>
</tr>
<tr>
<td>France</td>
<td>45,000</td>
<td>23,200</td>
<td>21,800</td>
<td>18,100</td>
</tr>
<tr>
<td>Sweden</td>
<td>45,000</td>
<td>17,900</td>
<td>27,100</td>
<td>15,700</td>
</tr>
<tr>
<td>Canada</td>
<td>48,000</td>
<td>26,400</td>
<td>21,600</td>
<td>17,600</td>
</tr>
<tr>
<td>USA</td>
<td>51,000</td>
<td>31,100</td>
<td>19,900</td>
<td>16,100</td>
</tr>
<tr>
<td>UK</td>
<td>61,000</td>
<td>33,400</td>
<td>27,600</td>
<td>23,400</td>
</tr>
<tr>
<td>Netherlands</td>
<td>63,000</td>
<td>23,500</td>
<td>39,500</td>
<td>26,500</td>
</tr>
</tbody>
</table>
important to point out that serious crime in the Netherlands is no higher than average, and for a few categories even lower. Whilst with regard to violence the Netherlands takes a midfield position nation-wide, the high level of violence in urban areas is cause for concern. In this respect, the situation in the Netherlands is comparable to that in the United Kingdom. Fatal violence is also relatively frequent in the cities.

The scant data available on crime against business yield a similar, although less pronounced, picture. The retail trade in particular has to contend with considerable but generally less serious crime. The Netherlands occupies a middle position as to bank robberies, a form of serious violent crime against business. As to fraud and other forms of financial and economic crime, it must first and foremost be observed that reliable data are scarce. However, the little information available gives rise to the impression that the volume of this category of crime is relatively large in the Netherlands. Considering the magnitude of the economic interests which are at stake, there is plenty of reason to gain more insight into the magnitude of the problem. As far as crime against and within the public sector is concerned even less information is available. With regard to corruption in the public sector, the situation is quite favourable.

As to drug-related issues, it is striking that addiction is no higher in the Netherlands than in most other countries, despite particularly low consumer prices for hard drugs. Addiction seems not to be very sensitive to price levels. Even if no account is taken of the differences in size of the countries, police seizures in the Netherlands involve large quantities of hard and soft drugs (see Table II). The low prices and large quantities seized point to an abundant supply of drugs and thus to substantial international trafficking.

<table>
<thead>
<tr>
<th></th>
<th>Hard drugs</th>
<th>Soft drugs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denmark</td>
<td>187</td>
<td>124</td>
</tr>
<tr>
<td>Germany</td>
<td>2,917</td>
<td>2,129</td>
</tr>
<tr>
<td>France</td>
<td>1,468</td>
<td>1,560</td>
</tr>
<tr>
<td>Netherlands</td>
<td>5,247</td>
<td>14,930</td>
</tr>
<tr>
<td>Austria</td>
<td>104</td>
<td>225</td>
</tr>
<tr>
<td>UK</td>
<td>2,592</td>
<td>7,881</td>
</tr>
<tr>
<td>Sweden</td>
<td>314</td>
<td>225</td>
</tr>
</tbody>
</table>
The relatively unfavourable crime situation in the Netherlands seems to be developing into a drawback for international competitiveness. The Global Competitiveness Report 1999 reckons that the weak level of protection of personal safety is one of the three major competitive disadvantages of the Netherlands (WEF 1999).

Opportunity Structure

The phenomena described above primarily have to do with the ample opportunity structure that is inherent in a densely populated country with a very open economy such as the Netherlands. The opportunity structure looks set to become more extensive rather than less. Although ongoing internationalisation is a favourable development for the Netherlands in an economic sense, it also expands opportunities for financial and economic crime. Developments in information technology contribute to this as well. In this same context, it may be expected that the position of the Netherlands in international drugs trafficking will be further strengthened, if left to its own. This might well lead to an increase in other forms of crime, including extreme violence and economic crime. Because of the specific Dutch opportunity structure, the Netherlands will have to make greater efforts towards crime control than the reference countries if it is to achieve the same crime level as these countries.

Facilitating Factors

Factors that encourage criminal activity do not play a major negative role in the Netherlands. Age composition of the population, juvenile unemployment, poverty and alcohol consumption are all around the average of the countries studied, while overall unemployment is low. Government policy in other areas than criminal justice has a large influence, especially, on the socio-economic factors. Such policy contributes indirectly to the prevention of crime. The favourable situation with respect to facilitating factors cannot be regarded as stable. Firearm possession is an important example. The possession of firearms is still particularly low in the Netherlands, but it seems likely that it will rise to a level closer to the average of the countries studied. This could well cause extreme violence, already frequent in urban areas, to increase strongly.

Private Prevention

While data are not particularly abundant, it seems that, in comparison to the reference countries, private individuals and (business) organisations
in the Netherlands do little in the way of crime prevention. This can be seen in the relatively small number of households that have taken preventive measures. In particular, more complex precautions such as alarm installations are not widespread. Data on the retail trade show that the situation there is similar. Another indication is that the number of private security officers in the Netherlands is far lower than the average of the countries studied, and is also below the EU-average. In this context it is important to note that some forms of crime against property, and even some forms of violent crime, can be prevented rather simply by taking precautionary measures in the private sphere. It is not efficient for the government to attempt to compensate for the low level of preventive behaviour by private parties, when the means available to the public sector are less suited to do this.

Public Prevention and Repression

In view of the ample opportunity structure and the limited private willingness to take precautions against crime, the public sector in the Netherlands faces a difficult task. The crime situation sketched briefly above shows that the public sector does not fully succeed in compensating for these disadvantages, and bringing the crime rate to a level nearer the average for the reference countries. Table III charts the financial resources that are available for the criminal justice system.

Expenditure on prosecution and sentencing is a small component of the total expenditure, but is most difficult to estimate. In some countries pros-

<table>
<thead>
<tr>
<th>Country</th>
<th>Police</th>
<th>Prosecution and sentencing</th>
<th>Prison system</th>
</tr>
</thead>
<tbody>
<tr>
<td>USA</td>
<td>188</td>
<td>38</td>
<td>153</td>
</tr>
<tr>
<td>UK</td>
<td>205</td>
<td>20</td>
<td>49</td>
</tr>
<tr>
<td>Canada</td>
<td>169</td>
<td>16</td>
<td>58</td>
</tr>
<tr>
<td>Austria</td>
<td>203</td>
<td>14</td>
<td>26</td>
</tr>
<tr>
<td>Netherlands</td>
<td>151</td>
<td>18</td>
<td>54</td>
</tr>
<tr>
<td>Australia</td>
<td>160</td>
<td>14</td>
<td>38</td>
</tr>
<tr>
<td>Germany</td>
<td>137</td>
<td>34</td>
<td>25</td>
</tr>
<tr>
<td>Sweden</td>
<td>119</td>
<td>15</td>
<td>43</td>
</tr>
<tr>
<td>Denmark</td>
<td>117</td>
<td>17</td>
<td>32</td>
</tr>
<tr>
<td>France</td>
<td>132</td>
<td>14</td>
<td>19</td>
</tr>
</tbody>
</table>

*Public prosecution service and criminal courts.*
Table IV

Total expenditure on the criminal justice system in € per crime committed, 1998 prices.

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Police</th>
<th>Prosecution and sentencing</th>
<th>Prison system</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>759</td>
<td>632</td>
<td>44</td>
<td>83</td>
</tr>
<tr>
<td>USA</td>
<td>742</td>
<td>368</td>
<td>73</td>
<td>301</td>
</tr>
<tr>
<td>Canada</td>
<td>506</td>
<td>352</td>
<td>33</td>
<td>121</td>
</tr>
<tr>
<td>UK</td>
<td>449</td>
<td>337</td>
<td>33</td>
<td>79</td>
</tr>
<tr>
<td>Sweden</td>
<td>395</td>
<td>265</td>
<td>35</td>
<td>95</td>
</tr>
<tr>
<td>France</td>
<td>366</td>
<td>294</td>
<td>31</td>
<td>41</td>
</tr>
<tr>
<td>Netherlands</td>
<td>354</td>
<td>239</td>
<td>31</td>
<td>84</td>
</tr>
</tbody>
</table>

*aPublic prosecution service and criminal courts.*

Executors are part of the magistracy, in others they belong to the police. In either situation, it is often difficult to isolate the financial resources allocated to this function. In addition, a comparison of the funds available to the judiciary for criminal justice is difficult to make due to a lack of information about the amount of time spent on criminal cases as opposed to civil and administrative cases.

The expenditure level of the Dutch criminal justice system as a whole, per inhabitant, is close to the average of the countries studied. If expenditures are related to total volume of crime, however, a different picture emerges (see Table IV).

A low figure, such as that for the Netherlands, points to a high crime rate and/or a low level of public crime prevention. Since the two phenomena are related, the Dutch situation can be characterised by the combination of relatively little public crime control and a relatively high crime rate.

In addition to the conclusions that can be drawn from the expenditure tables, the major findings of the report about the components of the criminal justice system, are the following.

- The police force of the Netherlands is small per head of population, but also in relation to its expenditure. Furthermore, there seems to be a strong negative trend in the percentage of crimes that are solved, and the confidence of the public in the police is low.
- The small number of public prosecutors in relation to expenditure, and in relation to total staffing, is striking.
- On a per capita basis, the funds allocated to the judiciary, and thus to the administration of criminal justice, are low.
The Netherlands opts for a humane prison system in comparison with most other countries studied. One of the effects of this choice is the relatively high cost per detainee.

There is no unequivocal answer to the question as to how, in view of all these findings, the Dutch government performance compares to that of the other countries. On the one hand, it can be argued that given the ample opportunity structure and the relatively low level of preventive efforts made by the private sector, the organisations charged with law enforcement perform very reasonably on the funding they receive, which is at an average level per capita. In particular, the midfield position of the Netherlands with respect to serious crime against persons supports this view. On the other hand, it is undeniable that, in view of the high overall level of crime, the joint efforts of the public and private sectors are apparently not sufficient to bring crime down to the average level of the reference countries. Also, the analysis of the performance of the organisations that constitute the criminal justice system points to weaknesses.

**Opportunities for Improved Crime Control**

The study identifies many opportunities for the improvement of crime control. These opportunities can be categorised as follows.

- Encouraging greater efforts on the part of the private sector for the prevention of crime. Taking precautionary measures in the private sphere can prevent many types of crime rather simply.
- Better co-ordination of policy in respect of the opportunity structure and its consequences. This primarily concerns recognition of the consequences of urbanisation and the ample opportunities that the economic structure offers for financial and economic crime and international drug trafficking.
- Integration of policy in respect of the relationships between types of crime such as drugs trafficking, financial and economic crime and violent crime.
- Systematic use of best practices to increase the effectiveness of deployment and working procedure of the organisations in the criminal justice system and introduction of local benchmarking. It would also be wise to take a closer look at the efficacy of the small number of public prosecutors in the Netherlands.
- Better co-ordination of the capacity of the organisations in the criminal justice system. The relatively small volume of financial and human re-
sources for the administration of justice and criminal justice will require special attention.

Inadequacy of Information

As the above has already suggested, major deficiencies exist in the availability and reliability of information. These hamper international comparisons, but also policy making in general. A major problem is the near absence of estimates of the volume of financial and economic crime, both for the Netherlands and for other countries. Moreover, only fragmentary information is available on illegal drugs markets, while no international comparative figures at all are available on other illegal markets such as those for firearms. The limited knowledge about the extent to which business and other organisations are the victims of crime is also problematic. Problems of a different nature arise in comparing criminal justice systems as to resources and performance. In principle, core data can be derived from the national budgets and other documents of the reference countries. However, these are difficult to compare due to the lack of international co-ordination of definitions and data collection, despite important initiatives by the UN and the Council of Europe. Unfortunately, these difficulties render comparisons less accurate. In some cases, it is even impossible to make a comparison due to differences in definitions. Clear-up rates are an important example.

CONCLUSION

As this exploratory study shows and also studies in other areas of government policy, international comparisons can yield important insights. Prospects for the expanded use of this instrument in the area of legal infrastructure are favourable. But if the instrument is to be used effectively, it is essential that bottlenecks in international information provision be eliminated. Despite the many limitations inherent in an international comparison and especially one that is still in an exploratory phase, the findings are of interest and they are relevant for policy, particularly in their implications for overall strategy in respect to crime control in the Netherlands. Comments on the report are very much invited, and will help to improve future editions.
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This section contains a selection of abstracts of reports and articles on the central topic of this issue. The aim of publishing these short summaries is to generate and disseminate additional information. Most of the articles have been published in other journals in the English language, although we aim to incorporate French, Dutch or German literature on the subject. General information on criminal policy and research in Europe can be supplied by the WODC Documentation Service (wodcinfo@wodc.minjust.nl). Single copies of the articles can (when used for individual study or education) be provided by the WODC Documentation Service.


In 1993, the West Midlands Probation Service set up a sex offender unit (SOU), the largest in England, with the aim of providing a specialist treatment service for sex offenders serving a community sentence. This article presents a brief description of the treatment programme and discusses some of the issues which have arisen during the design and implementation of the programme. Although cognitive-behavioural groupwork is widely believed to be the most effective intervention for men who sexually abuse children, it is thought that there are some groups of offenders who may not derive maximum benefit from the standard programme and for whom it might be necessary to modify existing practice by providing alternative or complementary interventions.


Classical psychoanalysis has been unable to adequately address the underlying narcissistic character pathology in sex offenders and sufficiently reduce relapse. Recent theoretical constructs about the nature of attachments to others and the formation of self-system are discussed and applied to sexually exploitative behaviour. A new dimension of relapse prevention – the interpersonal dimension – is described, along with an enhanced explanation of the cycle of offending behaviour and the nature of high-risk situations. Principles of change and recovery to follow in the treatment of the offender character pathology are also described. This deeper theoretical understanding of the motivation of sex offenders has formed the basis for treatment developed by the Counseling and Psychotherapy Center (C.P.C.). Two cases serve to illustrate this theoretical approach.


The main aim of this Dutch study on underage sexual delinquents is to provide a description of the nature of the offences, and the subsequent criminal justice procedures.
questions are examined from two perspectives: from a forensic sexological and criminological perspective and also from a legal perspective. This research involved studying police files on 182 underage suspects. These files are compared with the data from the documentation service. The author also sought an interpretation of the description of the offence which best approximates to the aims of the legislature when determining sexual offences. Also examined are the range of punishments sanctioned by the criminal law in relation to young offenders. Furthermore, in order to provide a better insight into the make-up of this group of offenders, a study was set up in the Amsterdam-Amstelland police district.


In order to deal with very high risk, violent offenders, the Canadian Criminal Code (CC) provides for the indeterminate incapacitation of these offenders. One of the intentions of the dangerous offenders (DO) provisions was to target non-sexual offenders in addition to sex offenders, a criticism of the earlier dangerous sexual offender legislation. There was also criticism that the DO provisions may not target the truly dangerous offender. The present study compared 64 DO's to a known group of violent offenders on a range of variables. The DO's showed many similarities to the comparison group of violent offenders suggesting that the DO's represent a potentially violent group. In addition, objective risk scales may have limited use with the present DO population because the scales were not developed with sex offenders in mind. Nevertheless, steps to improve the identification of dangerous offenders are suggested by the research.


The aim of this paper is to illustrate how recent criminal justice legislation, policy and practice have conspired to hinder the development of a common approach to the sentencing of sex offenders between the courts and the prison and probation services. In consequence, the treatment needs of sentenced sex offenders have been subsumed to the wider goals of system objectives and political agendas. A number of suggestions are made for improving coherence and continuity in both policy and practice.


This article examines the relative merits and problems of two intervention approaches — confrontational techniques and motivational interventions — to working with child sex offenders. It is proposed that confrontational techniques may be anti-therapeutic and push offenders further from contemplating and taking responsibility for potential changes in their own behaviour. It is suggested further that motivational interventions produce dissonance and then direct the change process in a more productive direction, with a greater probability of offenders taking responsibility for, and engaging in, active treatment.

'Sexual predator' is used in the media and in legislation to describe the most dangerous sex offenders. Efforts to reduce the risk they pose to society have intensified. States have enacted post-criminal-sentence civil commitment statutes and registration and notification laws that provide for identification of convicted sex offenders living in the community. Social policies concerning sexual predators could be improved through consideration of empirical research on violent and sexual offenders. Actuarial methods can predict which offenders will commit new violent or sexual offences with a level of accuracy that is useful to policy makers. Community safety is better served by focussing on offenders' dangerousness rather than on their mental disorder. Separation of sexual from violent offending makes it more difficult to identify the most dangerous offenders because sex crimes have a lower probability of occurrence than the combined probability of occurrence of violent and sex crimes, and both are of public concern.


Recidivism rates were examined for the near-exhaustive sample of 122 sex offenders placed in a rural Vermont county under correctional supervision from 1984 through 1995. Participants were at risk for an average of 62.9 months. Of this sample, 71 non-randomised participants enrolled in a comprehensive outpatient cognitive-behavioural and relapse-prevention-based treatment programme, 32 participants received less specialised mental health treatment, and the remaining 19 participants received no treatment. Pre-treatment, between-group comparisons identified the no-treatment group as having more extensive criminal histories. No other statistically significant between-group differences, among factors related to reoffense risks, were found. At follow-up, the cognitive-behavioural treatment group demonstrated a statistically significant treatment benefit. The treatment programme is described.


The authors address the high variability in sex offender recidivism rates by examining several of the critical methodological differences that underlie this variability. They used a data set on 251 sex offenders (136 rapists and 115 child molesters) who were discharged over a 25-year period to examine changes in recidivism as a function of changes in dispositional definition of reoffense (e.g. arrest or conviction), changes in the domain of criminal offences that are considered, and changes in the length of exposure time. The data indicate that both rapists and child molesters remain at risk to reoffend long after discharge, in some cases 15–20 years after discharge; there was a marked underestimation of recidivism when calculating a simple proportion consisting of those who were
known to have reoffended during the follow-up period, and there was a marked underestimation of recidivism when the criterion was based on conviction or imprisonment. Forensic, clinical and policy implications of this high variability are discussed.


Considering the increasing public discussion on sexual crimes against children in Germany, this paper describes the different therapies for sexual offenders and their effectiveness with regard to a better protection of potential victims. The descriptive and comparative survey on such treatment programmes concentrates on recent international research experiences, studies and meta-analyses, especially those from the USA, Canada, the Netherlands and Scandinavia. Resuming research results and insights from these countries there is a certain support to the hypothesis that it is worthwhile putting more effort into the treatment of sexual offenders. In particular the 'cognitive behavioural therapy' is reported as quite successful in the USA and in Canada, and it seems to deserve more attention and application in other countries.


In this research, the culture of violence that encompasses the lives and well being of youth prostitutes is explored. Using Social Services data on 400 young offenders from the cities of Saskatoon and Regina, the authors examine the connections between abusive childhood, personal and educational success and involvement in the youth sex trade. They then extend the analysis to investigate the effects that prostitution has on those youth involved. Within a multiple understanding of well being, they test the associations between involvement in prostitution and psychological, physical and emotional safety. Consistent with the ethno-cultural nature of Western Canadian society, the data are analysed and theorised within the racial contexts of aboriginal and non-aboriginal ancestry.


Following abolition in September 1993 of the common law presumption that a boy aged under 14 years is incapable of sexual intercourse, there were 12 prosecutions of boys aged 10 to under 14 years for rape and just two convictions (of which one was overturned on appeal) in 1993 and 1994. This study identifies and discusses newspaper reports of such cases coming to court in the period 1993 to 1995. It is suggested that the law change has not been helpful in dealing with serious sexual offences among this age group. In particular, victims are unlikely to have benefited. Confronting the reality that boys aged 10 to 13 years can indeed rape opens the window to another set of realities which also needs to be confronted.

Sexual offending is on the political agenda but there has been little research focus on the four offence categories – indecent assault against a female, indecent assault against a male, indecency between males and unlawful sexual intercourse with a girl under 16 – which together comprise the vast majority of convictions for sexual offences in England and Wales. The authors consider the criminal records (1963–1994 inclusive) of the 6,097 males convicted of one of these offences in 1973. The results are discussed in terms of criminality, heterogeneity, dangerousness and specialisation. By recognising two levels of analysis – general crime level and sex crime level – they argue that sex offenders can be both generalists and specialists; they may range widely across a spectrum of offences but still specialise within sexual offending.


The study examined differences between gang and individual offender rape incidents reported to the Chicago police. Analyses showed that victims and offenders in gang rape incidents were younger, more likely to be unemployed, but not different in marital status or race than victims and offenders in individual rapes (e.g. single offender, single victim crimes). Gang rapes were characterised by more alcohol and drug involvement, fewer weapons, more night attacks, less victims resistance, and more severe sexual assault outcomes compared with individual rapes. Regression analyses revealed distinct correlates of physical injury outcomes for gang and individual rape incidents. Implications for treatment and prevention of these types of assaults are discussed.


In this contribution sexual abuse of young people is regarded as a ‘social problem’. Its social constitution and understanding in Germany today are briefly described. Sexual abuse is criminalised by German law with respect to several matters. After a presentation on the crime development by means of official data the authors conducted a postal questionnaire in Berlin and Cologne to gather opinions about reporting these offences to the police. The majority of the people questioned rejected criminal interventions. In so far as penal prosecution of sexual abuse is supported people do so to protect and help the child. Aspects of general prevention, however, are not important or only very marginally important.

Juvenile sex offenders have been the subject of increasing interest to researchers, clinicians, and criminologists in recent years. In the present study, the authors explored the relationship between various sexual attitudes, use of sexually explicit materials, prevalence of prior adult sexual contact, and offender status in a group of 80 adolescent male sex offenders and a comparison group of 96 adolescent male non-offenders. Offenders reported significantly higher rates of sexual touching and physical abuse by an adult than non-offenders did. Being a sex offender was negatively associated with the belief that homosexuality is wrong and beliefs in the so-called rape myths. Furthermore, being a sex offender was significantly associated with the use of sexually explicit materials. These data may prove useful to clinicians and researchers interested in understanding the general correlates of sexual offense.
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