

Pornography and Sex Crimes in the Czech Republic

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Abstract Pornography continues to be a contentious matter with those on the one side arguing it detrimental to society while others argue it is pleasurable to many and a feature of free speech. The advent of the Internet with the ready availability of sexually explicit materials thereon particularly has seemed to raise questions of its influence. Following the effects of a new law in the Czech Republic that allowed pornography to a society previously having forbidden it allowed us to monitor the change in sex related crime that followed the change. As found in all other countries in which the phenomenon has been studied, rape and other sex crimes did not increase. Of particular note is that this country, like Denmark and Japan, had a prolonged interval during which possession of child pornography was not illegal and, like those other countries, showed a significant decrease in the incidence of child sex abuse.

Keywords Pornography · Rape · Child sex abuse · Internet · Sex crimes · Murder

Introduction

One of the most contentious areas of expression and free speech is that related to the presentation of sexual matters. Different factions in many societies object in different ways. Some are opposed to any graphic or open depiction or discussion of topics remotely related to sex; others desire an end to even minor restrictions on such displays. Certainly, people differ widely on what might be considered pornographic; some people even see popular magazines like *Playboy* pornographic (Asiaone, 2008). Extremists in the debate argue that pornography is a catalyst promoting sex crimes and rape in particular. Such persons have their own broad definition of pornography.

Among the most prominent expressions against pornography are in the works of Dworkin (1981) and MacKinnon and Dworkin (1988). These women are so convinced of the negative effects of such materials they believe they ought to be restricted in availability and made illegal. On the other hand, there are many women in favor of sexually explicit materials (SEM) or at least against its censorship (McElroy, 1997; Newitz, 2002; Strossen, 1995; Tiefer, 1995). The anti-censorship and pro pornography side of the argument holds that pornography is an expression of fantasies that provide pleasure (Christensen, 1990), are media that can inhibit sexual activity (Wolf, 2003), and materials that can even act as a positive displacement activity for sexual aggression (D'Amato, 2006; Goldstein, Kant, Judd, Rice, & Green, 1971).

In an effort to study this issue, research has often been to expose subjects—usually university students—to SEM and then, with pencil and paper survey testing, evaluate their responses to questions posed as if these would be a reflection of their actual behavior (Donnerstein, Linz, & Penrod, 1987). A more fruitful method, started by the Danish researcher Kutchinsky, was to see what actually happened in those countries that transitioned from having a strict ban on SEM availability

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to a situation where the material was decriminalized. Using data gathered from various governmental records, Kutchinsky (1991) compared the relevant increase in available SEM following the liberalization of anti-pornography laws in Denmark, Sweden, West Germany, and the U.S. with both pre- and post-liberalization data regarding sex crimes reported in these countries. His research found that, in the countries studied, the rates of rape, sexual assault, and other sex crimes either decreased or essentially remained stable following the ready availability of erotic materials of all sorts. In none did sex crimes of any type increase.

Other countries have been investigated to see if Kutchinsky's findings would hold across diverse cultures and traditions. Three Asian locations studied, Japan (Diamond & Uchiyama, 1999), Shanghai, China (Diamond, 1999) and Hong Kong (Ng & Ma, 2001) with very different histories and social structures from those studied earlier, also found that available government records showed that, while the amount and availability of pornography increased, the rates of sexual crimes decreased. Reassessment of the situation in the U.S. (Diamond, 1999) also supported this pattern, as did studies conducted in Croatia (Landripet, Stulhofer, & Diamond, 2006) and Finland (Diamond & Kontula, 2010).

The current article reports findings from a Slavic country, the Czech Republic, with its own religious and cultural traditions unlike any previously studied. During the 1948–1989 communist regime, the laws and customs were extremely puritanical. Pornography, by any definition was absolutely prohibited. Even the depiction of naked bodies, as well as descriptions of sexual activities in fictional novels or magazines, were almost non-existent. With the 1989 transition to democracy in the country the ban on pornography was lifted and a sexual permissiveness followed. In 1990, the availability and ownership of SEM increased explosively. Even the possession of child pornography was not a criminal offense.

Method

Subjects

Czechoslovakia (*Ceskoslovensko*) had been a sovereign federated government formed in 1918 and consisting of two separate states. On 1 January 1993, the federation peacefully split into the Czech Republic and Slovakia. Prior to the division, all judicial and police data were kept separate for each state and compiled for national statistics. For the present study, only the pre- and post-separation population and crime data pertinent to the Czech Republic were used.

The time ranges used for this investigation basically started in the mid 1970s, a 15-year period in which various sex-related materials, even items like *Playboy* magazine, were banned.

With the end of communism and the coming of democracy in November and December 1989, application of the laws regarding the dissemination and availability of pornography were considerably loosened so that even the possession of child pornography was not illegal. This period covers 18 years of major sociopolitical changes, including the country's Velvet Revolution, first free elections, establishment of a democratic government to replace communism (1990), and peaceful separation from Slovakia. Our study period ended with data from 2007.¹

In the Czech Republic, the laws concerning pornography are somewhat vague. The Czech Criminal Code (Act No. 140/1961, as amended) leaves the exact definition of these legal terms to case law and to jurisprudence. As a result, it does not explicitly define pornographic works. According to Czech legal practice, a pornographic work can be any product that directly or by means of technical devices (e.g., film, video, the Internet) affects and stimulates the sexual instinct in a very intense and obtrusive manner. Essentially, any "material endangering morality" may be considered excessively sexually graphic and subject to criminal penalty. Section 205 of the Czech criminal code is the principal regulation applicable to the distribution of pornography. The basis for this law has been in existence since 1961. In practice, the law essentially prohibits the production, dissemination, trafficking, or sale of sex related materials in any form that might be considered socially damaging. Under the communist regime, the law was very broadly interpreted. Police and court actions would even judge nude pictures as social ills and impose punishments. The criteria for determining the materials illegality was not specifically stipulated.

Judgment as to the acceptability or not of the materials' characteristics were determined by sexologists and psychologists appointed by a judge for the item's review. Currently, as in the past, particular attention is given to subjects involving sex with children or animals and somehow judged "humiliating to human dignity." The punishments can range from confiscation of the materials and fine or imprisonment of 2–5 years.

Sexual crimes, such as rape, attempted rape, sexual assault, and child sex abuse, are considered major offenses. Sex related offenses, such as peeping and indecent exposure, are considered of lesser consequence. The Ministry of Interior maintains data separately on all these types of sex behaviors.

Prior to 2000, only interactions that involved genital–genital heterosexual intercourse were considered rape or attempted rape. From the year 2000, however, changes in the law

¹ In October 2007, a new law (§205a, Head V., Czech Penal Code) was enacted prohibiting the possession of child pornography. According to the law, persons holding a movie, photo, electronic, computer or any other format depicting a child involved in any pornographic activity can be imprisoned for up to two years.

made it possible to prosecute with the same severity other cases of sexual violence that could include, for instance, forced or coerced homosexual, anal, or oral intercourse. This thus enhances the potential scope for a higher number of reported sex related offenses.

Measures

Data on the number of crimes reported were obtained from the Ministry of Interior. These data allowed for a detailed analysis of all sorts of sex related infractions. Critical comparisons were between the period during which there was a strict prohibition against pornography (before November 1989) and the period following until the end of 2007. Basically, this allowed comparison of a 15–17-year interval during which any pornography was illegal with an 18-year span during which it was widely available. This post-change duration obviously includes the current era of readily obtainable Internet porn.

Accurate and definitive figures for the amounts of types of SEM available during our study periods were not available. In effect, no pornography of any sort was legally available under the communist regime and policing activities against it then were vigorous. With the switch to democracy, all sorts of porn became easily procured. One index of the availability of published pornography for the post 1989 interval under review was obtained from PK 62 Inc., publishers of SEM holding a majority of market share from its start-up in 1990 until the present. Their records, according to Mr. Pavel Kvoriak, director of PK 62 (personal communication, November 19, 2009), indicate a steady and rapid rise in the number of printed copies of pornographic magazines sold in Czechoslovakia and then in the Czech Republic and Slovakia together. Magazine sales exceeded 4 million copies in 1995. After Czechoslovakia split in 1993 sales in the Czech Republic alone were between 80 and 90% of PK 62 Inc., total sales. Their main competitor, MP Media, sold about 30–40% of the amount sold by PK 62. After the year 2000, the sale of pornographic CDs became popular and available. Another index as to the availability of pornography would be the continuing increase in available Internet access from fewer than 5.8% of the households having such connections in 2001 to the 29.9% in 2007 (Czech Statistical Office). It can thus safely be assumed, however calculated, that the types and amounts of sex-related SEM publicly available have increased considerably since the change to democracy.

As comparative markers of social change, and for comparison, we also investigated the murder, criminal assault, and robbery figures reported for the corresponding intervals under study. Particularly appropriate for our comparisons, murders and assaults were divided by the Czech police authorities into sex-related (e.g., associated with rape) and non-sex related categories (e.g., associated with robbery).

Results

Most obvious and most significant of our findings is that the number of reported cases of child sex abuse immediately dropped markedly after SEM was legalized and became available ($t = 6.7$, $df = 32$, $p < .001$) (Fig. 1). The incidence of reported child sex abuse, following this original precipitous decline following the governmental switch in 1989, did increase in incidence for a few years to peak in 1995 and 1998 but then again dropped in number following a downward trend that had begun prior to democratization (Fig. 1).

From 1989 to the present, there has been a steady population increase. Statistical analysis using Pearson's r for the relation between the number of males aged 15–64 in the population and cases of child sex abuse found a negative correlation of $-.78$ ($p = .001$).

Reported cases of rape did briefly pitch upward following the change to democracy and the availability of pornography but then returned to its frequency seen during the period under communism: between about 500–750 cases a year. Considering the complete post 1989 period, the number of reported rapes did not increase after SEM was legalized ($t = 6.7$,

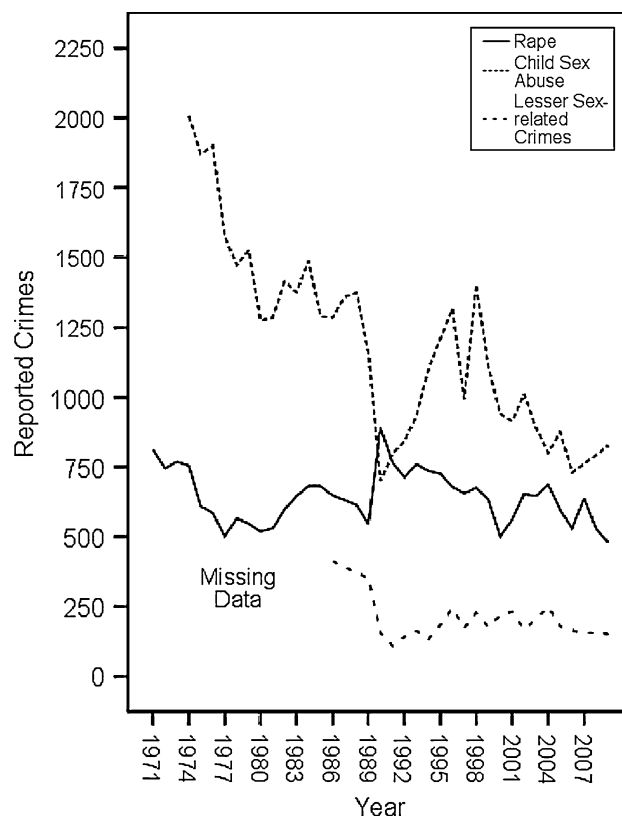


Fig. 1 Number of reported rapes, cases of child sex abuse and lesser sex crimes (e.g., indecent exposure) reported 1971–2009. Data on lesser sex crimes were not recorded before 1986. Child sex abuse data for the years 1971–1973 were not available

$df=32, p<.001$). This stability was maintained despite a significant increase in the male population aged 15-64 over the years from 3,225,960 in 1971 to 3,726,148 in 2007 (Pearson's $r = .98, p < .01, n = 37$). Statistical analysis did not show any correlation between the number of men in the population and the reported cases of rape (Pearson's $r = -.06$).

The so-called lesser sexual offenses of indecent exposure, peeping, etc. also decreased significantly following the legal availability of SEM ($t=9.57; df=20, p=.001$) (Fig. 1). In comparison with our findings for the sex crimes mentioned following democratization and porn availability, the number of societal crimes of general murder, assault, and robbery rose significantly. Murders associated with robbery or with other non-sex related motives increased sharply ($t=-6.8, df=20, p<.001$) (Fig. 2). Murders associated with sex related matters—small in number at any time—did not increase ($t=-0.3, df=23, p=.77$) (Fig. 2). The number of reported sex related crimes decreased significantly from the pre-switch period to the post period, ($t=5.3, df=32, p<.001$), whereas the number of reported nonsexual crimes increased significantly ($t=-19.72, df=35, p<.001$) (Fig. 3).

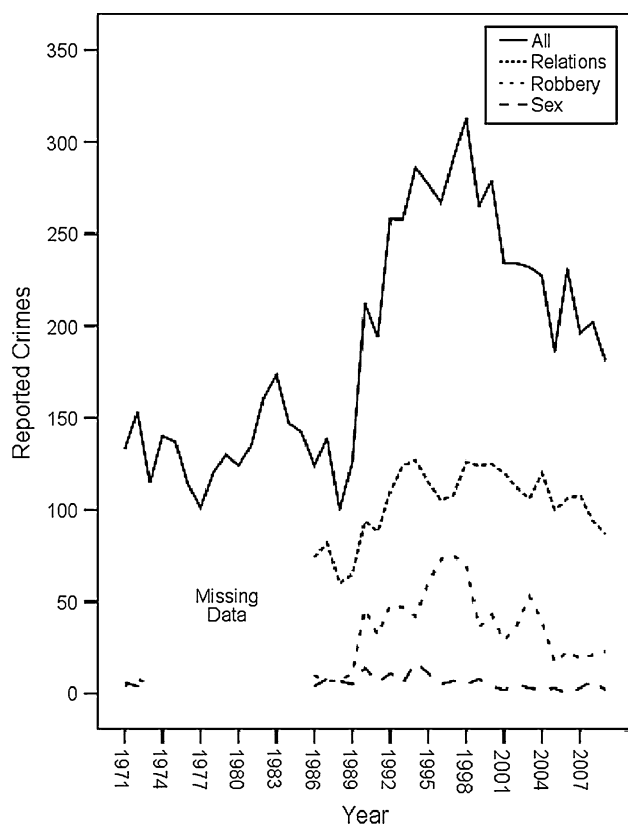


Fig. 2 Number of reported sexually motivated murders, murders associated with robbery, and murders motivated by non-sex related reasons 1971–2009. Data for the interval 1971/1974–1985 were not available

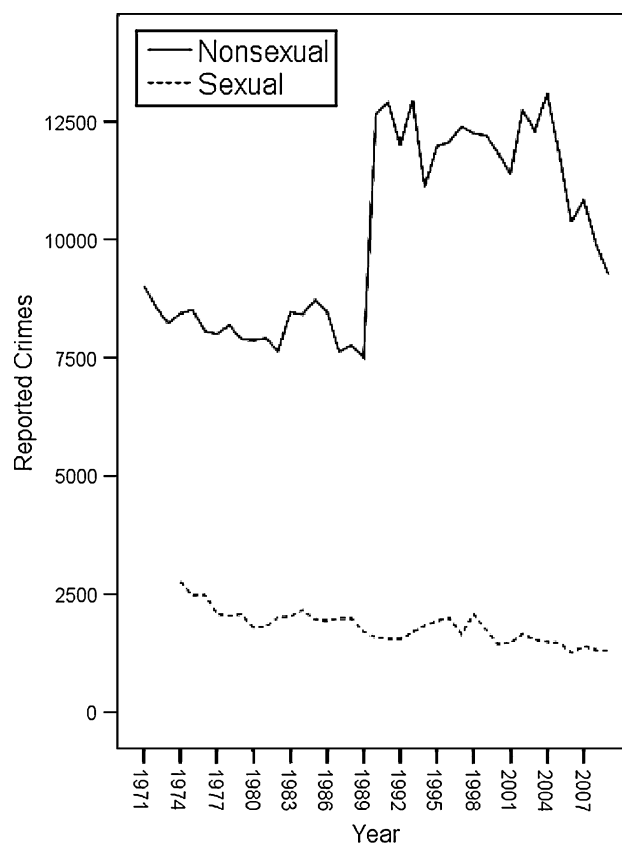


Fig. 3 The number of sexual (rape and child abuse) and nonsexual reported crimes (wilful battery and robbery) during the years 1971–2009

Discussion

The most obvious and significant finding is that since 1989, with the shift from a political system with its total ban on SEM and anything that might be considered pornographic to the present regime and the wide spread availability of SEM in various media from publication to films, CDs and the Internet, the incidence of reported sex related crimes has not increased. Perhaps most critically, child sex-abuse, despite a brief upswing toward its pre-democracy rate, resumed a decline that had begun, for unknown reasons, in the early 1970s. The lesser sex related crimes of peeping and indecent exposure also dropped significantly and appears to have reached a low and steady state. This is interesting since child sex abuse and so-called “hands off” sex crimes are supposedly the most resistant to change (Marshall, 2005).

Concurrently, the number of reported rapes and attempted rapes, after an immediate but brief rise following the release from communism and advent of available SEM, returned to their pre-revolution numbers. This occurred despite a significant increase in the male (and female) populations.

Interestingly, at least for the 4 years following the new availability of pornography and governmental change, there is little

evidence that the social views against SEM had markedly changed. Weiss (2002) and Weiss and Zverina (2003) surveyed Czech men and women in 1993, 1998, and 2003 regarding their acceptance of pornography. In all three surveys, men were more permissive than women. However, their results showed that, among both men and women, social acceptance of pornographic materials has essentially remained the same; some 50% of both men and women retained reservations about the acceptance of porn despite the dramatic change in circumstances. The only significant sex difference was that more men in all three surveys, approximately 30%, thought SEM should be available without restrictions while only about half as many women felt similarly. According to the 2003 survey, 26% of the women questioned would forbid pornography while only 9% of the men would do so.

It might be said that while social conservatism persisted, personal values changed. This seems indicated by results of a study on teen females aged 16–18 and their sexual behavior. During the period 1986–1989, response to the question of “what was the reasoning that led to first coitus” the most frequent answer was “obliged her partner.” By 1994, that response had significantly decreased and the new answer was “wished it for myself” (Raboch, Raboch, & Sindlar, 1996).

Significantly, these changes have occurred during a period of nearly two decades, from 1989 to 2007, during which the possession of child pornography was not illegal. At the same time, society could be said to be changing in negative ways as measured by the increase in robbery, impersonal murder, and other general types of crime. And, again in contrast, the number of sexually motivated murders or killings somehow associated with sex did not increase. Thus, the widespread increase in pornography since 1989 did not appear to have any noticeable adverse social effect as measured by any reported increase in sex crimes.

While the rates for reported rape and sex-related assault did not increase, there were indications that, post communism, Czech society became more sensitive to rape and sex related crimes. Before the revolution, everything related to sex was hidden and not publicly discussed. Afterward, problems in these areas began to be openly dealt with. Organizations for victim support and general education of the population regarding sexual matters emerged (e.g., <http://www.linkabezpeci.cz>; <http://profem.cz>; <http://www.stopnasili.cz>; <http://www.centrumelektra.cz>) and were established after the revolution. Training increasingly focused on special police details to enhance their ability to communicate with and deal empathically with victims (Vonkova & Hunkova, 2004). Such activities were postulated as appropriate for the new democracy period (see <http://www.bkb.cz/>).

It has been suggested that it is quite probable that false accusations may at least partially explain the increase in the number of reported sex abuse crimes after the government changed in 1989. These appear to be associated with an

increase in divorce and other indices of social discord. Mala, Raboch, and Sovak (1995) found an increased tendency for advisories in domestic legal disputes to falsely accuse partners of sex crimes after the revolution. These researchers suggest that up to 55% of child sex abuse accusations were false when they occurred in property dividing disputes or guardianship legal disputes involving child custody. Cases of divorce increased significantly following the switch from communism ($t = -4.3$, $df = 35$, $p < .001$; data provided by Czech Statistical Office).

The rebound jump in rape following the dramatic political revolution might also be a phenomenon notably associated with dramatic social change or upheaval. As in times of war, the incidence of rape increases when offenders believe the chaos will hide the incident and authorities have other priorities that demand attention (Thornhill & Palmer, 2000). We believe the disorder that accompanied the political revolution may have, for some, encouraged the same temporary strategy.

The striking rise in reported child sex abuse depicted for the last half decade of the 1990s, according to notations and records in the *Year Book of Ministry of Internal Affairs*, do not apparently relate to the same types of child sex abuse recorded previously or afterward. They are believed to more closely reflect a concerted effort by the government to deal with a rise in child prostitution and the influx of foreign pimps, their prostitutes, and clients following the introduction of capitalism. This phenomenon seemed to be caused by the new economic situation and the society's attempt to cope. Once the child prostitution surge was dealt with, the downward trend in overall reports of child sex abuse continued.

Kendall (in press) conducted an in-depth analysis of possible relationships between society, pornography, rape and the Internet for the state of California. Kendall found that the arrival of the Internet, while not seeming to have an effect on other crimes, was associated with a reduction in rape incidence. After checking the results for the effects of the extent of porn use, user marital status, size of city in which potential rapists might live, possible economic status, and other social and demographic features, Kendall concluded that “potential rapists perceive pornography as a substitute for rape...pornography is a complement for masturbation or consensual sex, which themselves are substitutes for rape, making pornography a net substitute for rape.” This conclusion reflects on the earlier findings of Goldstein et al. (1971). These investigators, having extensively interviewed and surveyed rapists, pedophiles, and others along with control groups of persons with no history of sex offenses about their use of pornography, found that sex-offender and sex deviate groups not only have had less experience with pornography but when they do come across it “...report a higher incidence of masturbation in response to erotic materials than the controls.” They go on to conclude that “the erotic materials are much more significant in producing masturbatory reaction in the users compared with the controls than in inducing sexual relations.”

It is also noteworthy that the number of paraphilias (e.g., indecent exposure) decreased significantly following the ready availability of SEM. Usually such activities are considered relatively refractive to change. Here again, we believe potential infractions in this regard were prevented by the simple expedient of masturbation. We believe our findings support the displacement function of pornography for potential sex offenders.

Issues surrounding child pornography and child sex abuse are probably among the most contentious in the area of sex issues and crime. In this regard we consider instructive our findings for the Czech Republic that have echoed those found in Denmark (Kutchinsky, 1973) and Japan (Diamond & Uchiyama, 1999) that where so-called child-pornography was readily available without restriction the incidence of child sexual abuse was lower than when its availability was restricted. As with adult pornography appearing to substitute for sexual aggression everywhere it has been investigated, we believe the availability of child porn does similarly. We believe this particularly since the findings of Weiss (2002) have shown that a substantial portion of child sex abuse instances seemed to occur, not because of pedophilic interest of the abuser, but because the child was used as a substitute subject.

We do not approve of the use of real children in the production or distribution of child pornography but artificially produced materials might serve. As it is, with restrictions on even materials for the scientific study of the phenomenon forbidden to all but police enforcement agencies, these real life studies are the only way to begin to understand the phenomenon. Unfortunately, we do not have a breakdown by age of the perpetrators or victims of sex abuse. With the new Czech Republic law against child pornography, however, analysis of findings over the next 5–10 years could show if this new prohibition against child pornography is correlated with an increase or decrease in sex crimes against children or without any noticeable effect.

Important to note are recent findings by Swiss investigators that viewing child pornography does not seem to be a risk factor for future sex offenses (Endrass et al., 2009). These investigators checked recidivism rates for “hands on” child sex-offenders with porn-viewing-only offenders and concluded “Consuming child pornography alone is not a risk factor for committing hands-on sex offenses....The majority of the investigated consumers had no previous convictions for hands-on sex offenses. For those offenders, the prognosis for hands-on sex offenses, as well as for recidivism with child pornography, is favorable.”

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