
Comment

The Politics of Pornography Research

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In his review essay on three recent books on pornography, harms, and politics in *Law & Society Review*, Steven Childress (1991) has transmitted false information about my criminological research on pornography. Since such misinformation is, in part, responsible for considerable confusion about the outcome of aggregate studies of the effects of pornography on sex crimes, redress is necessary. Misinformation about crucial pornography research may have serious consequences for pornography politics and makes one wonder about the politics of pornography research.

I

Reviewing *The Question of Pornography, Research Findings and Policy Implications* by Donnerstein, Lintz, and Penrod (1987), Childress writes: "Following on the Denmark studies, which found large and lasting drops in crime rates after pornography became widespread, researchers measured similar correlations worldwide" (pp. 186–87). Both the "Denmark studies" and the "researchers" refer to my research on the development of sex offenses in Denmark and elsewhere (Kutchinsky 1971, 1973, 1985—all referred to by Donnerstein et al.).¹ Childress does not mention my name or publications.

In the next sentence we are told: "Some, notably Court (1984), have pointed out the weaknesses of the earlier studies, especially their focus on reported rates of some decriminalized sex offenses" (p. 187; my emphasis). Childress then goes on to men-

¹ Ben-Veniste (1971) published a brief report on pornography and sex crime in Denmark. This report, which, of course, could not deal with the long-term developments of crime rates, was in accord with and prepared under the same contract as my own original research for the U.S. Commission on Obscenity and Pornography.

tion Court's own studies that "conclude that increased pornography correlates with increased crime in other countries" (*ibid.*). He mentions criticism of Court's "nonrandom studies" and that he "misuses statistics" but hastens to add that "it should be noted that the Denmark studies seem to share similar flaws" (*ibid.*).

Childress is thus able to discard both Court's studies and mine as unreliable and the evidence concerning real-life causality between pornography and sex crime as inconclusive. This enables him to pursue the leitmotif of his essay, namely, that the potential harm of (violent) pornography is in the violence rather than the sex. This conclusion, which appears consistent with the laboratory studies by Donnerstein and many others on the effects of violent pornography, is also strongly supported by Downs (1989) and, more reluctantly, by Hawkins and Zimring (1988), the two other books reviewed in Childress's essay. It is a viewpoint any liberal-minded social scientist will intuitively sympathize with—a fact Childress seems to count on in his emotional prologue. Unfortunately, it is based on the premise that the correlation studies on crime rates are inconclusive. They are not.

II

Childress has been misled about both Court's and my studies by Donnerstein et al. (1987), by Downs (1989:171) who refers only to Court's research, and presumably by his own reading of Court's article in the 1984 collection by Malamuth and Donnerstein.² There are certain differences in the ways criticism of my work is expressed by Donnerstein et al. and Court on the one hand, and Childress on the other, the latter, in his brief recount, being rather more sharp and categorical than his sources. Donnerstein et al. write that "critics have argued that the decrease stems from the decriminalization of many sexual offenses once considered more serious" (p. 61). The term "dcriminalization" is used here in an exceptional way, referring to offenses that are considered less serious ("less criminal") than before, whereas Childress presumably applies the usual meaning, the removing of offenses from the statute book. Childress may understandably have failed to notice Donnerstein et al.'s exceptional use of the term, but in Court's article (1984:154), which he directly refers to, he would have found some, albeit rather vague, support for the assumption that in

² Childress might have become more inclined toward my research, at Court's expense, after reading Hawkins and Zimring (1988:91–94), but he fails to recognize the very same Dr. John Court as the one "excoriated" by the Williams Committee (Childress 1991:199, n. 22).

my research I had disregarded legal changes.³ Basically, however, they are all wrong.

Neither my early studies nor the later ones were “flawed” in the way mentioned. I did *not* base my analyses of sex crimes in Denmark (or elsewhere) on “some decriminalized sex offenses” and made that very clear in my reports:

The statistics [showing strong decreases of six categories of heterosexual sex crimes in Copenhagen from 1959 to 1969] do not cover sections of the criminal code which have been amended during the period in question. (Kutchinsky 1971:265)

During the period in question [1959–70] and concerning the crimes in question [eight categories of heterosexual sex crimes] there were no legislative changes . . . which could have excluded any act, earlier included, from being registered. (Kutchinsky 1973:167)

As to the Donnerstein et al. version of “dcriminalized” offenses (i.e., some types of offenses being considered less serious and therefore less often reported), this explanation of the decrease was in fact my main hypothesis and was borne out in all cases of decreased sex crimes except peeping and physical sex offenses against children. This, of course, could not have been shown without “a recognition of the limits of crime rates” (Childress 1991:187).

I also studied rape rates and pointed out that they neither increased nor decreased during the period when pornography became easily available and for several years afterwards (Kutchinsky 1985). Continued monitoring and analysis of reported rape in Copenhagen and all Denmark, as well as in Sweden, Germany, and the United States, have shown that reported rapes never increased more than nonsexual violent crimes, that in Europe rape rates increased far less than nonsexual violent crimes, and that in West Germany rape rates did not increase at all (Kutchinsky 1986, 1988, 1991).

In West Germany, in fact, rape rates have remained at a steady level of about 11 cases per 100,000 population from 1959 to 1983. Since then the rape rate has been decreasing steadily until, in 1989, it reached 8.0 cases per 100,000, that is, a 27% decrease in the last six years (*Polizeiliche Kriminalstatistik 1989* 1990:195). The 1989 level was the lowest ever to be recorded in the history of West Germany. Moreover, from 1971 to 1989, the most serious type of rape, in the form of attack by a stranger, decreased by 38% from 2,453 to an all-time low of 1,511 cases per year, while group rapes decreased by no less than 57% from 577 to 246 cases. The fact that the most serious types of rape, which no doubt have the highest reporting

³ Elsewhere, however, Court (1976:140) more explicitly claims: “Some of Kutchinsky’s data apparently were influenced by legislative changes.”

frequencies, decreased most rules out the possibility that these decreases are mere artifacts created by lowered reporting readiness. In any case, no one reasonably can claim that *increases* of real rape could be hiding behind these figures. For comparison, nonsexual violent crimes increased by no less than 79% from 1971 to 1982 but have since then been on the decrease.

In 1973 pornography was legalized in West Germany, and there is not the slightest doubt that, during the period we have studied, the availability, the variety, and the quantity of pornography throughout the country grew from extreme scarcity to abundance, increasingly during recent years in the form of video and television. This material includes so-called violent pornography (although officially there are certain restrictions on the most extreme forms), which may not have grown in proportion to all pornography, but no doubt grew in absolute quantity and availability (cf. Kutchinsky 1991:58-60).

In Denmark and Sweden rape rates remained steady until 1978 and 1975, respectively (despite Court's claims (1976, 1984); see later); that is, several years after pornography of all varieties had been legalized (in 1969 and 1970, respectively). After that, rape rates in both countries grew somewhat, amounting to about a 50–60% increase during the 20-year observation period from 1964 to 1984. During the same period nonsexual violent crimes increased 165% in Denmark and almost 200% in Sweden.

In Denmark rape rates have since remained steady at this somewhat higher level. In Sweden reported rape rates have continued to grow, particularly for the past four years, in 1989 reaching a level 115% above the 1964 level. During the same period, however, nonsexual violent crimes grew 261%. Moreover, it can be shown that the entire increase of rape rates since 1975 falls in one particular category, namely, completed indoor rapes. All other forms of reported rape (completed and attempted outdoor rapes and attempted indoor rapes) have remained steady throughout the period (Dolmén 1990:50). That the increase falls exclusively in a category which has very high "dark figures" (the category includes mate rape and date rape) is a strong indication that the increase may be due to an increased tendency of victims to report such cases to the police and by the police to accept and register such cases. Such a tendency should be expected as a result of growing awareness of the rape problem, as well as expansion of the subjective definition of rape, especially among women and police (Kutchinsky 1985:323).⁴

⁴ A similar tendency toward increased reporting of a form of coercive sex crime with a presumably high proportion of unreported cases and an uncertain definition was also seen in West Germany (Kutchinsky 1991:57). "Sexual coercion," which includes various forms of sexual assault short of rape and attempted rape, was the only form of

In the United States rates of forcible rape known to the police increased until 1980 at exactly the same pace as aggravated assault (cf. Kutchinsky 1991) but have since remained steady, while nonsexual violent crimes have continued to increase (Flanagan & Maguire 1990:365). Even more remarkably, annual victimization figures on rape in the United States have *decreased* considerably, reaching an all-time low in 1988, no less than 35% below the 1974 level (ibid., p. 222). The comparison between crime report data on rape cases known to the police and crime survey data on rape victimization therefore suggests that the increase of reported cases during the latter half of the 1970s was due primarily to an increased readiness to report and register such cases (cf. Kutchinsky 1983:1084; 1985:322; and 1991:51–52).⁵ It is generally agreed that nearly all forms of pornography, including sadomasochistic forms, have been easily available in the United States since the mid-1970s, primarily because prosecutions had stopped (cf. *New York University Law Review* 1977).

In sum, in the four countries I have studied during a period when all forms of pornography, including aggressive varieties, became easily available, there is no indication whatsoever that this led to a substantial increase in rape. On the contrary, rape never increased more than nonsexual violent crimes, and there was an overall tendency toward stagnating or even decreasing rape rates in precisely those years when pornography became more pervasive than ever through videos and cable or coded television.

III

How does this conclusion tally with Court's claim that increased pornography correlates with increased rape rates in various countries? The answer is that it does not. The fact is that Court not only "misuses statistics," as pointed out by several authors (cf. Childress 1991:187), he also misreports them. His most egregious errors occurred in his 1984 article in the Malamuth/Donnerstein collection.

The bulk of this article is seven "propositions for an association between rape and porno-violence" (Court 1984:157ff.). Proposition 1 proclaims: "Rape reports have increased where pornography laws have been liberalized" (p. 157). To prove

sex crime in West Germany to increase between 1974 and 1983 but has since been decreasing.

⁵ Although it has been discussed whether or not the National Crime Surveys are able to pick up all cases of rape victimization (cf. Brannigan & Kapardis 1986), this question would not seem to affect a comparison of NCS results in different years. Besides it is difficult to imagine any development in the 1980s that would have made survey respondents who were rape victims increasingly *less* inclined to admit their victimization.

his points Court presents a table giving data for four countries and two cities where the “availability of pornography has undoubtedly increased, as has porno-violence” (p. 158). The table presents rape reports to police in 1964 and 1974 per 100,000 population; in all places there are considerable increases “consistent with the observation that liberalization of pornography laws corresponds to an increase in rape reports” (p. 158).

The two cities mentioned are Copenhagen and Stockholm. The Copenhagen figure, according to the table, increased from 8.88 per 100,000 population in 1964 to 16.32 in 1974, an increase of 84%. While the 1964 figure is correct, the 1974 figure is false. The correct 1974 figure, according to official statistics, is 8.51 or just about the same as in 1964.⁶ This is true, of course, also about the all-Denmark figures, which were 5.5 and 5.7 in the two years (one wonders why Court does not use the all-Denmark figures which are much more readily accessible and representative). I do not have the Stockholm figure from 1964, but the all-Sweden figures show no increasing tendency either, with rape rates in the two years of 7.7 versus 8.4 per 100,000 population—an “increase” of 8% as against Court’s postulated 41% for Stockholm.

These errors, of course, are fatal, since they are the basis for Court’s entire speculation about pornography being causal to rape. For example, his Proposition 2: “Areas where porno-violence is not liberalized do not show a steep rise in rape reports,” is exemplified by the situation in Singapore where “the government has taken a firm stand against permissiveness, and pornography is controlled” (p. 159). In Singapore, rape reports for 1964–74 increased “only” by 69%. During the same period in South Africa and in Queensland, both tough on pornography according to Court, rape figures increased “only” 28% and 23%, respectively.

In other words, with correct figures from Denmark and Sweden, Court would have had to conclude that the only two countries in the world that had legalized all forms of pornography, including “porno-violence,” had less increase in rape rates, that is, none at all, than several countries which maintained a restrictive pornography control! The article would hardly have been completed.

I pointed out Court’s fatal error in an article (Kutchinsky 1985:327–28; see also Brannigan & Kapardis 1986:265), which also contains some information about the stability of rape rates in Denmark and Sweden (as well as in West Germany and the United States). However, although Donnerstein et al. (1987:61ff.) refer to this article, cite some of its conclusions

⁶ Sex crime statistics issued by the Copenhagen police in 1978.

correctly, and in fact reproduce two of my figures, they nevertheless devote much more space to Court's "criticism" of my work and to a discussion of "the most important" of Court's propositions. They reproduce (on p. 64) Court's table without casting the slightest doubt on its validity, thus ignoring both my general information about rape rates in Denmark and my direct exposure of the error in reporting the 1974 Copenhagen data.

After a critical but also occasionally admiring discussion of Court's propositions, which are described as "compelling" and "interesting" although insufficiently underpinned, Donnerstein et al. (1987) end up by concluding, as reported by Childress, that the research outside the laboratory is inconclusive: Court's findings are "basically uninterpretable for numerous reasons," Kutchinsky's, while "methodologically speaking, on sounder footing, . . . [are] necessarily limited to Danish society" (p. 73).

This conclusion by Donnerstein et al., although unacceptable from a scientific point of view, is understandable. Had they reached the only correct conclusion from the available evidence, they would have had to concede that more than a decade of laboratory research on the effects of violent pornography was not supported by at least a temporal correlation between growth in violent pornography and growth in rape rates. While such a correlation was taken for granted by the new wave of pornography researchers (e.g., Donnerstein & Berkowitz 1981:710), it clearly did not exist in Europe, and even in the U.S.A. rape victimization figures were decreasing year by year while these experiments were carried out. Without this correlation, the researchers would either have to suggest that porno-violence as a cause of rape, which they professed to demonstrate in the laboratory, had somehow *replaced* earlier causes of rape, or they would have to admit that their findings had no real-life relevance.

I am not suggesting that Donnerstein et al. deliberately concealed these devastating facts, but I maintain that they were unduly biased and selective in their reading and interpretation. Childress's own bias—suggested in his introduction—led him to further reification of the false inconclusiveness verdict on the criminological pornography research.

IV

When Childress watched the bloody and violent scenes in *Robocop II*, he got very upset. He observed a child scared and sobbing in the row behind him and "cringed at the thought of finding that kid behind me in a dark alley in 2001. Or what might this film do to me?" (p. 178).

Actually we know what this film did to him: "I suddenly realized I wanted my child never to see this. I didn't want the grade school kid in the row behind me . . . seeing this. Hell, I didn't want me seeing this" (ibid.). In other words, the violent film did not make him want to go out and rape women, it made him want censorship of violent films. This candid recognition of an emotional basis for a demand for censorship should perhaps have made him more cautious in his subsequent analysis of the evidence and politics of harm (cf. Randall 1989).

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