



Appropriating the rights of women: Moral panics, victims and exclusionary agendas in domestic and cross-border sex crimes



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ARTICLE INFO

Available online 27 September 2013

SYNOPSIS

In this article we focus on moral panic driven publicity and policy surrounding female victims of sexual assault and sex trafficking in Australian and international contexts. The case studies comprise a series of racialised gang rapes in Sydney, Australia between 2000 and 2004, and anti-sex trafficking campaigns around major sporting events including the 2006 World Cup in Germany and 2012 London Olympics. While heightened public awareness around the sexual victimisation of women is welcome, we also critique the sort of attention that these cases and their victims receive, questioning whether increased publicity and knee-jerk policies around certain sex crimes is genuinely based on the realities of women's victimisation. We seek to demonstrate that moral panic driven attention for victims neither eases their suffering nor necessarily bolsters their rights while interrogating who does come to benefit from such "feminist" causes, and how we should begin to re-think our engagement with women's victimisation.

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Introduction

In a recent collection on contemporary moral panics, Stan Cohen (2011) expressed a concern to distance the politics of moral panic from its negative associations with conservative hysteria over relatively routine events or disempowered minorities. In seeking a less judgemental delineation of the concept, Cohen (2011: 240) referred to the possibility of 'good' alongside 'bad' moral panics, suggesting that the former bring to our attention legitimate and justifiable topics of concern, issues with which we, as 'sociological critics of moral panics', should sympathise. While the notion of a 'good moral panic' may seem paradoxical to some (Cricher, 2011; David, Rohloff, Petley, & Hughes, 2011), it does raise some significant questions around which social issues are judged as 'worthy' of moral outrage, who judges them to be so, and whether social scientists can really claim to be disinterested observers equipped with the ability to label some displays of heightened moral outrage to be

overreaction. When we, as social scientists, call some social reactions a 'moral panic' we politically distance ourselves from the 'moral entrepreneurs' – such as the popular media, politicians, law enforcement and other criminal justice agencies or indeed, any agent we hold responsible as fanning the 'hysteria' – while at the same time leaving unquestioned a self-proclaimed right to label such reactions as hysterical. This has led Cohen to ask "whose side" we are on when we judge society's responses as melodramatic and reactionary. This certainly seems a pertinent question in the context of highly politicised moral outrage to cases of violent group sexual assault, sexual exploitation and cross-border crimes such as sex trafficking. Should we not be outraged about the sexual abuse and exploitation of women? Indeed, as feminist scholars, we welcome heightened awareness around the sexual victimisation of women in its various forms and eschew any moral panic analysis that may inadvertently circumvent the genuine suffering of victims. Yet we question the sort of attention that these cases and their victims receive, interrogating not only the forces that drive the sudden

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spike in public awareness and its practical, policy driven effects, but also whether the heightened publicity around some sex crimes is based on the realities of women's victimisation. We seek to demonstrate that the increased attention that some victims receive through moral panic neither eases their suffering nor necessarily bolsters their rights; on the contrary, such attention may sometimes be harmful for those we 'ought to protect'. In this article we question who does come to benefit from this increased attention, and how we should begin to re-think our engagement with women's victimisation.

With these points in mind, we focus here on what we and others (Ho, 2007; Lee, 2011; Milivojevic & Pickering, 2008; Poynting, Noble, Tabar, & Collins, 2004; Segrave, Milivojevic, & Pickering, 2009) describe as moral panic driven publicity and policy interventions surrounding female victims of sexual assault and sex trafficking in Australian and international contexts. The case studies comprise a series of racialised 'Muslim' or 'Middle Eastern' gang rapes in Sydney Australia between 2000 and 2004, as well as a series of anti-sex trafficking campaigns related to some major sporting events, namely the 2006 football World Cup in Germany and the 2012 London Olympics. Through critical scrutiny of the victims' rights campaigns in response to these cases, led by conservative media, victims' lobby groups and populist politicians, this paper argues firstly that women's bodies and allegedly feminist agendas have been used to promote conservative interests that revolve around punitive criminal justice and exclusionary immigration policies. Secondly, we observe that conservative appropriations of feminist agendas are more than just disingenuous; they also function to jeopardise women's rights (and human rights more broadly) by legitimising and further entrenching common misconceptions about women's victimisation. We argue that the harmful effect of such interventions outweigh the potential and potentially spurious benefits of heightened public awareness. Throughout, this paper will also critically examine the role of feminists in promoting these exclusionary interventions (see Okin, 1999; cf Kapur, 2002), before reflecting on why we need to reconsider our engagement with, and approach to issues around gendered violence and crime.

Creating fictions about 'ideal victims': sex, gender and moral panic

The credibility of female victims and complainants in sexual assault cases has traditionally been evaluated through reference to a woman's sexual history or reputation, the circumstances surrounding the attack and her responses to it, visible physical injuries on the victim's body and whether or not she was in an existing relationship with the offender. While not exhaustive, this list provides a cursory overview of the conservative gendered norms that prevail in popular and legal narratives on sexual victimisation. Historically, these factors have been cited as necessary for differentiating between genuine victims and those who are seen to 'invite' sexual violence or, worse still, make vexatious complaints against unsuspecting men (Allen, 1990).

Constructions of 'genuine' as opposed to 'blameworthy' victims entangled with beliefs about what constitutes 'real rape' have also dominated the early disciplinary contexts of criminology and victimology. Victimology reflects its positivist,

conservative and male-centric origins through reference to gendered ideas of 'victim proneness' via engagement in 'risky' lifestyles, noting that such factors underscore non-random patterns of victimisation and hence 'victim precipitation'. Early victimologists, for example, squarely attributed moral responsibility for a crime – particularly of a sexual nature – to the victim (cf. Amir, 1971; Mendelsohn, 1956; Miers, 1989; Von Hentig, 1948). Feminists have confronted victim blaming, while also seeking to dismantle some of the broad myths referring to the alleged infrequency of sexual violence and, where acknowledged, the dominant paradigm of stranger rape (Kelly, 2008).

The success of robust feminist activism and advances in policy and criminal justice practices has been variable, with popular media, legal and criminal justice discourses still largely embracing positivist myths and conservative gendered assumptions around rape and trafficking (see Benedict, 1992; Ehrlich, 2001; Meyers, 1997; Moorti, 2002). In addition, as Kapur (2002) notes, female victimisation and the 'hegemonic victim subject' were staged as the centrepiece of the international human rights framework in the early 1990s. However, Kapur argues that such constructions "cannot accommodate [the] multilayered experience" (Kapur, 2002: 2) of female victimisation, leading to the simplified, stereotypical narratives that are exemplified in public dialogue around sexual violence and sex trafficking. Parallels can also be drawn between gendered myths around sexual victimisation and Nils Christie's (1986) seminal concept of the 'ideal victim'. Popular constructions around the ideal victim of sexual assault and trafficking adhere to Christie's abstract ideal that locates an unsuspecting innocent in the wrong place at the wrong time: a victim who is visibly and brutally harmed by a deviant stranger or opportunistic trafficker who becomes the ideal offender positioned in stark moral contrast to the victim. This makes social and legal recourse for most victims of sex crimes only remotely possible, as victims of sexual violence commonly know their attackers and have had previous sexual encounters with them, while victims of trafficking commonly have experience in the sex industry. Furthermore, victims of sexual abuse are often not attacked or exploited by what society perceives as deviant monsters. These realities around sexual victimisation firmly subject most women to moral judgement through salacious media reporting and legal conjecture around their sexual reputation, provided that their victimisation is reported and receives any public or criminal justice attention in the first place. Similarly in trafficking, many feminist scholars have engaged in debunking myths about 'sex slave' narratives, noting that the majority of women trafficked for the purpose of sexual exploitation do not fit into the stereotype of 'kidnapped, chained sex slaves' and are consequently stripped of their rights and deported to their country of origin (Lee, 2011; Segrave et al., 2009).

When sexual assault goes to trial, the legal framing of sexual violence presents difficulties as it operates on patriarchal beliefs and gender norms which subscribe to broader social paradigms of 'real rape' involving strangers, sometimes multiple offenders and force – in the face of which the victim, as is the case with every ideal victim, must provide active and unequivocal resistance (Estrich, 1987). Prosecutorial decision-making reflects this, hinging on stranger perpetrated complaints, the presence of physical harm on the complainant's body (commonly correlated with resistance by the complainant to the attack) (Fileborn,

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