Prostitution and sex crimes,
jus5101

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Syllabus on prostitution and sex crime

• Finstad, Liv (1990): “Sexual offenders out of prison”.

• The definition of sex (sexual act and sexual relation)
  – More difficult than one would think
    • Strip club rules
  – Definition has changed over time
    • Male same-sex sexual relations prohibited until 1972 in Norwegian law
  – Definition in Norwegian law and case law
    • Vaginal, anal or oral intercourse (not only penetration by penis, but also objects) and “intercourse-like” acts, including touching/sucking of breasts, clitoris, anus, penis or contact close to the areas above
What are sex crimes?

• Crimes against the sexual self-determination of others
  – Rape, incest, sexual exploitation/misuse of power or position, sex with someone under the age of consent, public indecency, indecent exposure, pimping/procuring, the purchase of sex (in some countries also the sale of sex), commercial sexual relations with a minor, pornography, documentation of sexual abuse of children
• The thresholds and definitions changes over time and between jurisdictions
  – Prostitution, age of consent, rape
• Intrinsically linked to issues of gender, age, kinship, power
• Debates over victimhood, the responsibility of the offender and what policies to apply is symbolically charged
How should society approach sex crimes?

- Answer differs with
  - how the state-citizen relationship is approached
  - trends in criminal justice and social welfare approached
  - Neoliberal modes of self-responsibilisation
  - Adults or minors
Finstad’s article

• Knowledge from victimology and criminology
• What effects does prison have?
• Does punishment help the victims?
• Is it possible to promote dialogue in the case of sex crimes where power differences often are an inherent part of the crime? Gender, age, position of power
  • Reoffending
  • Public indictment
• Do we see and treat victims of sex crimes different from other victims?
What is prostitution?

• Commercial sexual relations
• Definition in Norwegian law:
  – A person has sexual relations or engage in a sexual act with another person for remuneration (not only cash)
• Different from pornography and striptease
How is prostitution experienced?

- Prostitution debut
- Life in prostitution
- Risk
- Exit

- Høigård and Finstad, Skilbrei and Tveit
The regulation of prostitution

• The history of the regulation of prostitution
• Define or not define prostitution as societal problem
• Criminal justice/legislation
• Social work
The relationship between the prostitution market, experience and legislation

• What do we know?
• Law in the books, law in action
• Symbolic implications
• Practical consequences
Trafficking for the purpose of prostitution

• In Norway a crime against personal liberty, not a sex crime

• UN Convention against Transnational Organized Crime from 2000
  – Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
  – Protocol against the Smuggling of Migrants by Land, Sea and Air
A complex definition

• § 3

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
• Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

• Consent irrelevant.
Forced to start and forced to stay on

• Lack of other options than to become involved
• Lack of possibilities to quit

• What constitute vulnerability?
  – Structurally
  – Culturally
  – Individually
To sum up

• Through a focus on sex crimes, including prostitution and human trafficking, it is possible to approach central topics in law and criminology