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## **Pornography and Prostitution as Interrelated Phenomena that Demoralize our Society (Criminological Aspects)**

*Sex industry is an important area of the economy both for developing countries, where it is the main source of income of foreign currency to the state treasury, and for industrialized countries. We cannot say that this method of income was always topical, but as a result of the latest technologies' development people engaged in the sex industry found a new sphere of a profit. But the main problem is that the sex industry has profits mostly illegally, and the related activities contradict morality. There are two main directions of the sex industry: 1) prostitution, which includes the direct exchange of sexual favors for money and other means of economic compensation; 2) pornography, which is to perform sexually-oriented tasks, sometimes involving two or more people engaged in photography, film, video products in theaters and nightclubs, with the exception of direct sexual services, which are paid by a client. The boundary between prostitution and pornography is not very clear, because sometimes prostitutes perform only erotic actions or dance for private clients, and some workers engaged in sex industry such as strippers and dancers of nightclubs have coitus with the audience after the show.*

*There is a problem of spreading sex industry in our society. Of course, one can have a large income being engaged in these activities, but we should remember that we are people and should follow established standards of morality.*

*The authors would like to conclude that in general, the concept of prostitution is unexplored social phenomenon, which status is difficult to determine, because of the differences in attitudes towards it by the society. But anyhow the negative side of prostitution prevails. It's really a big problem in our society, which is obviously has to be urgently solved. In this case, we must use a variety of methods, not excluding even the legalization of this phenomenon, since no one knows which of the preventive options would be faithful and effective.*

**Keywords:** *pornography, prostitution, erotica, morality.*

Sex industry is an important area of the economy both for developing countries, where it is the main source of income of foreign currency to the state treasury, and for industrialized countries. We can not say that this method of income was always topical, but as a result of the latest technologies' development people engaged in the sex industry found a new sphere of a profit. But the main problem is that the sex industry has profits mostly illegally, and the related activities contradict morality. There

are two main directions of the sex industry: 1) prostitution, which includes the direct exchange of sexual favors for money and other means of economic compensation; 2) pornography, which is to perform sexually-oriented tasks, sometimes involving two or more people engaged in photography, film, video products in theaters and nightclubs, with the exception of direct sexual services, which are paid by a client. The boundary between prostitution and pornography is not very

clear, because sometimes prostitutes perform only erotic actions or dance for private clients, and some workers engaged in sex industry such as strippers and dancers of nightclubs have coitus with the audience after the show.

The issue of combating prostitution and pornography is studied in the works of many domestic scholars such as N.A. Averena, Yu.V. Aleksandrov, Yu.M. Antonian, M.I. Arseneva, O.M. Bandurka, S.I. Bushmin, A.L. Habiani, Ya.I. Hilinskyi, I.M. Danshin, A.I. Dolhov A.P. Diachenko, A.A. Zhizhilenko, A.N. Ihnatov, I.I. Karpets, N.F. Kuznetsova, V.N. Kudriavtsev, N.S. Leikin, P.I. Liublinskyi, V.I. Lebedenko, V.V. Lysenko, S.F. Miliukov, H.M. Minkovskyi, V.O. Navrotskyi, E.F. Pobehailo, Yu.E. Pudovochkin, O.P. Riabchynska, N.A. Struchkov, V.S. Ustinov, M.D. Sharhorodskyi, I.V. Shmarov, D.A. Shestakov, A.M. Yakovlev, S.S. Yatsenko and others.

There is a problem of spreading sex industry in our society. Of course, one can have a large income being engaged in these activities, but we should remember that we are people and should follow established standards of morality.

What is actually meant by the term “morality”?

Nowadays there are many interpretations of this concept, but its essence remains the same. Thus, morality is principles of interaction between people in the society, in other words it is a set of rules of proper and acceptable behavior of an individual in the society. It covers the goals and motives of behavior and relationships, holding the line between good and bad, acceptability and unacceptability, compassion and cruelty, etc. Morality provides examples of acceptable behavior for a society.

Therefore, we can say that to provide sexual services and to expose own body to the public for a certain fee is acceptable to the society. There is a close relationship between prostitution and pornography, especially significant for involved persons. Pornography often becomes a kind of promotion for these individuals.

According to the Law of Ukraine [1] “On public morality” pornography is vulgar and naturalistic, cynical, obscene fixation of coitus, deliberate, special demonstration of genitals, anti-moral scenes of coitus, sexual perversions, sketches from nature that do not meet the moral criteria, offends human honor and dignity, encouraging unworthy instincts. Pornography demoralizes

society, leads to dissolution and degradation. Nowadays pornographic materials are available to the general audience. That is also children can easily watch fornication simply turning on the TV or taking advantage of the global network.

On this basis, we can conclude that pornography is a peculiar kind of prostitution that has occurred under the influence of scientific and technological revolution in the present times. Demonstration of coitus is often contained in pornographic materials, where the “actors” are paid. Women and men in this case have sex for money in order to display the process to the public. Of course, in this case, there are some difficulties in distinction of prostitution and pornography. The difference is the fact that in the first case payment for sexual services is made from the client to the person, who provided the services, and in the second – reward can be made from the third party. The subjects in the pornography business should be separated according to their roles and performed functions. The organizers and perpetrators are, of course, the basis of such relations, for example – the producer and actors of porno film. But there are also consumers, who pay for getting this kind of products. Therefore, they are also involved in the circular motion and are part of the public relations in the field of pornography business.

Shpakov A.Ye. defines prostitution as a socially negative phenomenon, which includes a set of immoral administrative and criminal manifestations associated with obtaining profit from coitus with different persons for a predetermined fee [2, p. 7].

According to N.A. Averina, prostitution is a social phenomenon that is the system of acts of satisfaction of sexual needs of men by women for profit and to meet own material needs, as well as behavior associated with these acts [3, p. 12]. Therefore, it can be concluded that prostitution is a kind of services that are paid. However, N.A. Averina considers only women as subjects of sex industry. The issue of male prostitution remains aloof.

However, it is difficult to address the issue of delimitation of pornography and eroticism while criminal proceedings for commission of an offense under the Art. 301 of the Criminal Code of Ukraine [4, p. 142-143].

National Expert Commission on Public Ethics published the text of the draft of criteria for

defining erotica and pornography. Thus, there was the differentiation between these two concepts. The draft is elaborated by NEC specialists jointly with the members of Scientific Advisory Board and representatives of the State Research Forensic Center of the Ministry of Internal Affairs of Ukraine, scientists from the Institute of State and Law named after Koretskyi of the National Academy of Sciences of Ukraine and National University of the State Tax Service of Ukraine.

The criteria, which characterize pornographic materials: (1) naturalistic, deliberate demonstration of genitals, natural and unnatural coitus; (2) demonstration of details and relish of an act of sexual violence, where there is a visual interaction of genitals, demonstration of genitals, genitals mocking; (3) images (demonstration) of sexual deviations; (4) image, demonstration or description of children abuse; (5) creation pornography with children participation (child pornography), use of children or children's image in creating any sexual or erotic product; image (demonstration) topless, naked children (or those persons, who are typed as children) in an erotic context; deliberate demonstration (or partial demonstration) of children genitals (or those persons, who are typed as children); image (demonstration) of any sexual actions by children (or those persons, who are typed as children) or imitation of such actions; image (demonstration) of any sexual acts involving children (or those persons, who are typed as children) or imitation of such actions; image (demonstration) of any sexual acts by children with sexual products and other objects used for sexual arousal or sexual gratification; (6) characters act as representatives of impersonal sexual satisfaction, do not have character and personality, which are replaced by sexual temperament, reduced to the appearance and / or grossly typed; (7) lack of artistic value and / or scientific and / or educational goal of materials [5].

In turn, erotica criteria are: (1) image (demonstration) of topless and / or naked people demonstrating pubis, seats, breasts; (2) image (demonstration) of people in the sexually frank underwear that has aesthetic direction and corresponds photo and art image; (3) visual image of coitus and / or its imitation (except of penal offences) back in perspective without imaging interaction of genitals if sex scenes are integral part of the artistic image and composition of the work that has artistic value and / or scientific and / or educational purpose;

(4) text (verbal and / or written) description of sexual coitus without its detailing, if sex scenes are integral part of the artistic image and composition of the work that has artistic value and / or scientific and / or educational purpose; (5) the presence of the main storyline of the work that reveals the complexity and depth of human experience, where scenes of sexual actions is a continuation, proof of the depth of emotional experience of the characters [6].

Thus, we have reasons to believe that pornography is a form of prostitution. So the definition of prostitution can be formulated as follows: prostitution is a systematic provision of sexual services for remuneration and other actions associated with them. No matter whether the following services are provided by women or men. Under sexual services we should understand all actions aimed at satisfying sexual passion, physiological needs of a man and doing sexual freaks of a partner. So it is not necessary to be engaged in coitus, caress of naked genitals on camera and receiving appropriate remuneration for this should also be equated to prostitution. In other words, it is proposed to extend the content of the concept of prostitution, including to its subspecies the term pornography as a result of scientific and technological revolution. As prostitution is considered one of the "oldest professions" because its roots reach far into the past, but the pornography itself is a relatively new way of satisfying sexual passion or rather acts aimed at fomentation the latter.

The presence of systematic character in providing sexual services also has an important meaning. The practice of the Supreme Court of Ukraine defines systematic character as commission of a certain kind of conduct three or more times [7, p. 213]. That is, when the provision of sexual services occurs three or more times, it becomes systematic.

Compensation for sexual services is provision of property, the right for property, any actions of material nature and any services. Thus, one can not only pay for sexual services by money, but also provide, for example, promotion at work, voucher to travel abroad and other benefits.

In other actions we should understand demonstration of genitals, debauchery with them, being naked in front of a client, incitement to sexual arousal and enhance of sexual instinct.

In general, the concept of prostitution is unexplored social phenomenon, which status is

difficult to determine, because of the differences in attitudes towards it by the society. But anyhow the negative side of prostitution prevails. It's really a big problem in our society, which is obviously has to be urgently solved. In this case, we must use a variety

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### References

1. On Protection of Public Morality : the Law of Ukraine [Online resource]. // the Official Bulletin of the Verkhovna Rada of Ukraine. – 2014. – Access : <http://zakon4.rada.gov.ua/laws/show/1296-15> - title screen.
2. Shpakov A. E. Prostitution as an Object of Criminological Study : Synopsis of a Thesis for a Candidate of Juridical Sciences : 12.00.08 / A. E. Shpakov. – Rostov-on-Don, 2003. – 24 p.
3. Averina N. A. Criminological Studies and Prevention of Prostitution by Internal Affairs Agencies : Synopsis of a Thesis for a Candidate of Juridical Sciences : 12.00.08 / N. A. Averina. – Moscow, 1994. - 20 p.
4. Criminal Code of Ukraine (with Amendments and Alterations dated March 2, 2015). – Kh. : Odisseus, 2015. – 232 p.
5. Criteria of Referring Printed, Audiovisual, Electronic and Other Products as well as Sent and Received Messages and Materials by Communications to Pornography. [Online resource]. – Access : <http://www.moral.gov.ua/documents/25/>
6. Draft of Criteria of Referring Printed, Audiovisual, Electronic and Other Products as well as Sent and Received Messages and Materials by Communications to Erotic Products [Online resource]. – Access : <http://www.moral.gov.ua/documents/24/>
7. Collection of the Decrees of the Supreme Court of Ukraine on Criminal Cases (1973-2012) 6 dated June 1, 2013 / Compilers : Yu. M. Hroshevyi, O. V. Kaplina, V. I. Tiutiuhin. – Kh. : Pravo, 2013. – 456 p.