Falling Back on the Concept of (Moral) Panic:

Questioning Significance, Practicality, and Costs

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What was shown to inspire was branded your own,
A method you shared with those who were wronged
And qualified in the tone of another.
Yet timing sways but the heard.
And you have the learned to fear.
With callused hands I wonder:
Is there but panic on the way to Grace?

For So

And all the beautiful people you have been

Abstract

For over 40 years, the term *moral panic* and concept to which it is adjoined have been used throughout the socio-criminological literature as a means of describing collective overreactions to perceived wrongs. Since the 1980s, the concept has also been criticized for its inability to adapt to differing moral viewpoints and research paradigms. To address these criticisms and question the significance of moral panic's continued use, this paper works to redefine the concept from its theoretical foundation to practical employment.

A contextual-constructionist/post-positivist approach is, first, used to weigh claims of fact against an imperfect understanding of 'the truth'. Moral panic is then defined as a means of describing collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem. To test and further nuance this definition, the Parliament of Canada's decision to pass four bills that introduced or amended section 172.1 (*luring a child*) of the *Criminal Code of Canada* is deconstructed.

Using a Historical Dialectic-Relational Approach to analyze the transcripts of House of Commons and Senate debates and committee meetings related to bills C-15A, C-277, C-2, and C-10, the concept of moral panic is found to be an appropriate means of describing certain forms of collective behaviour. An outline of how members of parliament spoke, during the legislative process, of the media, expert witnesses, Internet child lurers, and victims of child sexual abuse provides additional context. The paper concludes by arguing that the moral panic concept can be mobilized in a way that is theoretically justifiable, adaptable to differing moral viewpoints, and of practical use.

Résumé

Depuis plus de 40 ans, le terme *panique morale* et le concept auquel il renvoie ont été utilisés dans la littérature sociologique / criminologique en tant que moyen pour décrire les réactions collectives excessives à des menaces perçues. Depuis les années 1980, le concept a régulièrement été critiqué pour son incapacité à prendre en compte les différents points de vue moraux et paradigmes de recherche. Cette recherche constitue une mise à l'épreuve théorique et empirique du concept de panique morale afin de répondre aux critiques formulées sur le concept et questionner sa pertinence.

Une approche contextuelle-constructiviste / post-positiviste est mobilisée, laquelle permet de concevoir les revendications des acteurs comme étant des compréhensions imparfaites de « la vérité ». Le concept de panique morale est alors défini en tant que moyen pour décrire le comportement collectif, à visée réparatrice, comme étant basé sur une croyance irrationnelle qui exagère la menace posée par un problème social. Afin de mettre à l'épreuve cette définition, les décisions du Parlement canadien d'adopter quatre projets de loi créant ou modifiant l'article 172.1 (*leurre*) du *Code criminel du Canada* sont déconstruites.

En utilisant une approche historique dialectique relationnelle pour analyser les débats de la Chambre des communes et du Sénat de même que ceux des comités concernant les projets de loi C-15A, C-277, C-2 et C-10, le concept de panique morale se révèle être un moyen approprié pour décrire certaines formes de comportement collectif. Afin de contextualiser davantage nos conclusions, un aperçu de la façon dont les membres du parlement présentent les médias, les témoins experts, les abuseurs d'enfants sur Internet et les victimes d'abus sexuels pendant le processus législatif est ensuite fourni. Cette recherche montre finalement que le concept de panique morale peut être mobilisé d'une manière à le rendre théoriquement pertinent, adaptable à différents points de vue moraux et opérationalisable empiriquement.

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. . . and Dakota (the Jack Russell who thought himself a bear)

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Acronyms

CCC = *Criminal Code of Canada*

CDA = Critical Discourse Analysis

CSA = Child Sexual Abuse

CSA* = The sexual abuse of persons 14 and/or 15 years of age

HD-RA = Historical Dialectic-Relational Approach

ICL = Internet Child Luring

ISP = Internet Service Provider

Two Technical Notes

1) This dissertation was defended on the 17th day of December 2015 at the University of Ottawa's Hagen Hall.
2) The charts presented throughout the following pages were developed from Microsoft Office 2011 templates and with the technical assistance of a person who wishes to remain anonymous.

Contents

A Beginning

Nearing the end of *His Story*, University of Toronto Professor Dan Allman (2014) writes

> it is not sufficient to fall back only on familiar narratives for explanations of social facts. Were we only to use a single lens to describe the subjectivities of men who sell sex in Canada – victim, criminal, deviant, labourer (Corriveau and Greco, 2014; Vanwesenbeeck, 2013) – we would run the risk of repeating ourselves and repeating each other. Unfortunately, against the context of male sex work in Canada – not just across cities and risk factors, but across histories also – such reification remains the norm. (p. 225)

While the following pages have little, if anything, to do with male sex work, Allman's (2014) argument highlights what is at the core of this project's aim: an attempt to 'fall back' on a lone familiar narrative as a means of explaining certain social facts.

The idea that we must move away from established or aforesaid means of describing the things we, as social scientists, study is an argument I find troubling. It advances the idea that the value of research is rooted not in the identification of a truth, the truth, or recognition of something as relevant, but in the ability to describe something new. For authors who aim not to file their work under literary sub-categories of fiction, the approach seems wrongheaded. It also appears to evoke a position of privilege—perhaps indicative of the audience for whom we often write—in which little value is attributed to 'yet another' article equating racial discrimination with the economic poverty of blacks, or sexism with the workplace inequality of women, or other 'problems of the 1980s and 90s.'

Though there are advantages to thinking beyond "la 'bouteille à mouches'" (Watzlawick as cited in Pires, 1998, p. 7), attempts at doing so have, in some areas of social research, materialized at the cost of relevant lenses/narratives being overlooked or discarded. In the rush to appear modern—to coin our relevance through descriptions of what is new—we have developed a scholarly terrain awash in redundant, underdeveloped terminology that is more likely to retard than advance our awareness of the phenomena being studied. This, I would argue, has been the fate of our sociological understanding of moral panic.

Introduced in the 1964 (McLuhan, 1964), if not earlier, the moral panic term and concept to which it is adjoined have become exceptionally popular. Over the last half-century, politicians, journalists, and academics (a lot of academics) have made use of both as means of explaining the collective behaviour of others. Often, at least in educational settings, these exercises involve S. Cohen's (1972, 2002) or Goode and Ben-Yehuda's (1994b, 2009) definition of moral panic acting as a checklist against which authors attempt to match observable behaviour. Little attention is given to those who point to conceptual flaws, persons for whom Waddington (1986) may be seen as a pioneer:

> *Conceptually, the notion of a "moral panic" lacks any criteria of proportionality* [emphasis added] without which it is impossible to determine whether concern about *any* crime problem is justified or not . . . . [The] way in which the term . . . is used to describe official and media concern about specific crime problems suggests that it is a *polemical rather than an analytical concept* [emphasis added]. It seems virtually inconceivable that concern expressed about racial attacks, rape, or police misconduct would be described as a "moral panic". This is because the term has derogatory connotations: it implies that official and media concern is *merely* a "moral panic" without substance or justification. If official reaction to crime and

> deviance is to be analysed adequately perhaps it is time to abandon such value-ladened terminology. (p. 246 & 258)

After "arguing that some of the concept's subtlety and power has been lost as the term has become popular," Garland (2008, p. 9) makes a similar claim:

> While the sociologist can find solid ground – or something close to it – when measuring rates of conduct, the extent of material damage, or even the size of a risk, it is more difficult to assess the validity of the moral judgments made by others. *When someone describes an episode as a moral panic, it is always possible to suppose that he or she is simply refusing to take seriously the moral viewpoint of those who are alarmed. What the analyst sees as a hysterical overreaction may be seen by the participants as an appropriate response to a deeply troubling moral evil* [emphasis added]. (p. 22)

The likeness of the two critiques—their questioning of how proportionality is to be measured when accounting for the moral viewpoint of others—and the thirty-two year gap between them highlights what can be seen as a failure of those, myself included, who have written of moral panics. Instead of addressing issues relating to the problem of proportionality or conflicting moral viewpoints we have, for the most part, chosen to ignore or work around them by inventing new terms, new concepts. We 'modernized' and, with our new lenses, diminished our ability to see clearly. Having to now squint through a minefield of terminology—*flexipanics* (Barker, 1984), *mini-moral panics* (deYoung, 1998; Surette, 2015), *synthetic panics* (Jenkins, 1999), *virtual panics* (Payne, 2008), *amoral panics* (Waiton, 2008), *consensual*, *conflict*, *stillborn moral panics* (Maneri, 2013)[1]—perhaps it is time to change course and fall back on a lone familiar narrative.

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[1] See also Boëthius (1995), Springhall (1998), Drotner (1992, 1999), S. Cohen (2002), Shevory (2004), Critcher (2013), and Staksrud and Kirksæther (2013) on *media panics*; Irvine (2009) on *sex panics*; Herdt (2009) on *sexual panics*; Klocke and Muschert (2010, 2013) on *consumer panics*;

In five chapters, the following work tests the appropriateness of this approach by 'falling back' on moral panic's descriptive lens to see if the concept can be reworked in a way that is theoretically justifiable, adaptive to differing moral viewpoints, and of practical use. The first (*Theoretical*) chapter provides the foundation on which the moral panic concept will sit. Positivist and constructionist research paradigms are introduced and the realist assertions of both worked through. Contextual-constructionism is eventually equated with post, contemporary, or neo-positivism and the shared platform used to allow claims of fact to be weighed against an imperfect understanding of the truth.

Building off of the first, the second (*Conceptual*) chapter works to define moral panics as collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem. Spector and Kitsuse's (2001/2009) work introduces a discussion on social problems, which ends with the assertion that social problems are conditions, phenomena, or behaviours defined by a substantial number of persons as problematic or a threat to something or someone of value. A substantial number is explained as one which is able to encourage, force, or motivate the implementation of (one or more) corrective measures available to and in the name of the, potentially wider, collective.

Following the above social problem work and a generalization of Young's (1971/1982) and S. Cohen's (1972, 2002) moral panic, Smelser's (1962/1967)

Lancaster (2011) on *economic panics*; Shafir and Schairer (2013) on *political moral panics*; Thompson and Williams (2014) on *descriptive* and *generic panics*.

definition of panic guides a redefining of the moral panic concept that is meant to address the concerns of its critics. The argument that all panics involving a significant number of persons are moral panics is then put forth, along with an introduction to the concept's practical application.

So as to test and further nuance the arguments in chapters 1 and 2, chapter 3 (*Practical*) outlines a method and methodology for assessing whether members of the Parliament of Canada were in a state of moral panic when passing four bills related to section 172.1 (*luring a child*) of the *Criminal Code of Canada*. Transcripts of House of Commons and Senate debates and committee meetings relating to bills C-15A, C-277, C-2, and C-10, as well as copies of the statutes in draft (at first reading) and when assented to, are analysed using a Historical Dialectic-Relational Approach (HD-RA). A moral panic is found to be an appropriate means of describing the royal assent of one bill: Bill C-15A. The details of the analytical process are outlined in the *Empirical* chapter, chapter 4.

Chapter 5 (*Contextual*) is split in two halves and presents information on matters not directly related to moral panic's assessment. The first (5.1. *From News Media . . .*) outlines how members of parliament spoke of the media, expert witnesses, Internet child lurers, and victims of child sexual abuse (CSA) during the legislative process. This leads to the suggestion that, when introducing Bill C-15A, members attributed an economic worth to children that was of lesser value than Canada's Internet service provider industry (5.2. *The Economics of Inaction*). The

paper comes to an end by arguing that the moral panic concept can be reworked in a way that is theoretically justifiable, adaptive to differing moral viewpoints, and of practical use. The argument is also made that the concept and analyses to determine situations that meet its definitional requirements serve a sociological role that is of 'sufficient' importance: They make "latent . . . problems manifest" (Merton, 1971, p. 807).

Before moving from what has been a beginning of this work, it is worth noting that assessments of moral panic's relation to forms of CSA have been explored by others (Bandes, 2007; Critcher, 2002, 2008; deYoung, 2004; Doyle & Lacombe, 2003; Grometstein, 2008; Jenkins, 1998; 2009; Jewkes & Wykes, 2012; Lancaster, 2011; Neuilly & Zgoba, 2006; Ost, 2002; Smart, 1989; Smith & Cole, 2013; P. Schultz, 2008; Victor, 1998; West, 2000; Wortley & Smallbone, 2012; Zgoba, 2004). Considering Jewkes' (2010) claim "that paedophilia constitutes the moral panic of our age" (p. 93), and McLaughlin's (2014) follow-up that "the 'paedophile' has become the most feared and reviled of late modern folk devils" (p. 429), this is perhaps of little surprise. I have, however, not come across a single text that references the moral panic concept when recounting the Parliament of Canada's reaction to the threat posed by CSA or forms of CSA[2]. Most researchers who write of moral panics have more ambitious aims (e.g. proving a "moral panic among both Catholics in particular and the American public in general"; P. Schultz, 2013, p. 120).

[2] CSA should here be interpreted broadly, so as to include what are traditionally referred to as acts of 'child sexual abuse' (contact sexual offences, such as anal intercourse) and 'child sexual exploitation' (sexual acts that, like child pornography, need not involve a physical contact).

Research on Internet child luring (ICL)—the use "of a computer system . . . for the purpose of facilitating the commission of" (*Criminal Code of Canada,* section 172.1) a sexual offence against a child—is also rare:

> As I have mentioned, most of the research on online sexual offending has focused on child pornography offenders. Yet a comparable, if not greater, concern for many parents, educators, and policymakers is the risk posed by adults who use Internet technologies—social networking sites, chat rooms, instant messaging, e-mail—to approach children and youth and solicit them to engage in activities such as sexual chat, exchange of sexually explicit images, or to meet in person so that a contact sexual offense can be committed . . . (Seto, 2013, p. 71)[3]

The rarity of ICL-focused research, and assumption that "anything that touches upon the protection or socialization of children can serve as the stuff of panic" (Lancaster, 2011, p. 27), made the former an ideal focal behaviour to work with. Claims that "child protection is such a politically appealing theme that it is surprising to find eras when it is not at the forefront of public debate," (Jenkins, 1998, p. 18) encouraged a focus on those who are *at the forefront of public debate*.

[3] The term ICL was chosen so as to be consistent with parliament's labelling of the phenomenon to be examined. There are, however, a number of alternative terms that have been used to refer to the same behaviour: *grooming* (Kierkegaard, 2008); *online grooming* (Berson, 2003; Martellozzo, 2012; Webster et al., 2012); *online child grooming* (Choo, 2009); *online sexual grooming* (Shannon, 2008); *cybergrooming* (Wachs, Wolf, & Pan, 2012); *online solicitation* (Seto, 2013); *online sexual solicitation* (Baumgartner, Valkenburg, & Peter, 2010; Bergen et al., 2014); *computer luring* (Fortin & Corriveau, trans. 2015); *computer-mediated sexual grooming* (Williams & Hudson, 2013).

1. Theoretical

Because moral panic will eventually be defined as *collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem*, it makes sense to begin with an explanation of social problems[4]. The more dated concept is both a principle component of my moral panic definition and, like the moral panic concept itself, has been weighed down by a number of differing and at times contradictory interpretations. So as to clarify my use of both terms, the following chapter first provides the theoretical foundation upon which they are here grounded.

After presenting Schurr's (2007) simplified *Range of Research Paradigms*, constructionism is divided, at the suggestion of Best (1993), along two different readings of John I. Kitsuse's work, exposing its soft and strict extremes. The former's use of ontological gerrymandering is then discussed and positivism and post-positivism presented. In spite of the post-positivist's assumption of an objective reality, the argument is made that her position is synonymous with that of the soft-constructionist. The social problem concept is then reintroduced and discussed at length. Alessio's (2011), Fuller and Myers' (1941a), Heiner's (2002), Merton's (1971), Nisbet's (1971), and Spector and Kitsuse's (2001/2009) definition of the concept is used to navigate the literature, and argue in favour of describing

[4] This definition of moral panic is similar to one found in an earlier Canadian Sociological Association conference presentation abstract (Greco, 2015). I have not put quotations around the above definition here because that abstract and the presentation to which it was adjoined were of an earlier version of this work.

social problems as conditions, phenomena, or behaviours defined by a substantial number of persons as problematic or a threat to something or someone of value.

The above writing of social problems leads to discussions about claims-making, or the competitive process through which potential problems become collective accomplishments, and the related tactic of labelling things, persons, or behaviours deviant. A few comments are then made on constructions of CSA. Szasz's (1970/1997) work helps make the argument that it was people who believed in CSA, sexual abusers, and the sexually abused who created, constructed, invented or manufactured them from biased, limited, and yet persuasive 'facts'. The chapter concludes with a brief review and clarification of the paradigmatic lens through which the following work should be read.

1.1. Mixing Paradigms

Writing of relationship development in the *Journal of Business & Industrial Marketing*, Schurr (2007) simplifies and differentiates three research paradigms along seven characteristics. The result is as follows:

Table III The range of research paradigms

Paradigm characteristic	Positivism (objectivism)	Post-positivism (critical realism)	Constructivism
Ontology	Reality can be known and observed – at least as an approximation	Reality exists independently of our knowledge of it	Reality is relative – local, with deep underpinnings that are context embedded
Epistemology	We come to know reality through objective findings that are true and founded in internal and external validity	We come to know reality by going beyond concepts of truth and falsification to seek deeper, possibly subjective understanding	We come to know reality through subjective reasoning and insights
Methodology	Falsificationist, using quantitative methods that test hypotheses; experimental manipulations	Weighs internal and external validity yet creating substantive raw data that enables description and interpretation	Descriptive; using interpretation, discussion, and reasoning
The nature of knowledge	Verified or non-falsified hypotheses	Empirical methods check and enhance our understanding. Effectiveness in informing and explaining is not by accident (Easton, 2002)	Individual reconstructions coalescing around consensus
Type of narration	Scientific report	Combined description, interpretation, and scientific report	Interpretive case studies
Investigator's posture	Neutral, dispassionate	Involved yet actively planning to reduce sources of bias	Involved, cognizant of biases and values
Inquiry goal	Explanation, production, and control	Understanding with control	Understanding and reconstruction

Note: Based in part on Lincoln and Guba (2002) and following Easton (2002, p. 104)

(Schurr, 2007, p. 166)

Because ontology or how one understands "the nature of" (Schurr, 2007, p. 161) reality may be viewed as the most fundamental characteristic of paradigm development—it is to this understanding that all other characteristics should subsequently align—it makes sense that Schurr (2007) uses the characteristic as his lead. How reality comes to be known (epistemology), the investigator's posture and/or the goal(s) of inquiry are questions that must be framed within an identified or assumed ontological posture. That said, it is possible, when differentiating research paradigms, to over-emphasize ontological disparities and make post-positivism and (variations of) constructionism appear at unnecessary odds[5].

[5] Before expanding on this point it is worth noting that Schurr (2007) does not mean for the above three research paradigms to be an exhaustive representation of all possible alternatives. Instead, "Table III simplifies the range of theory into three categories." (p. 165) Writing on *Pragmatic Controversies, Contradictions, and Emerging Confluences*, Guba and Lincoln (2005) consider five: positivism, post-positivism, critical theory et al., constructivism, and participatory. For the purpose of this paper, Schurr's (2007) simplified range is sufficient. It allows me to orient, within the social

Constructionism, social constructionism, and constructivism refer to a research paradigm that "describes knowledge not as truths to be transmitted or discovered, but as emergent, developmental, nonobjective, viable constructed explanations by humans engaged in meaning-making in cultural and social communities of discourse." (Fosnot, 2005, p. ix)[6] What one knows about the world, its inhabitants and rules, is therefore but the result of internal constructs; individual readings of facts that are themselves "the result of perspective." (Schwandt, 1994, p. 125; see also Guba & Lincoln, 2004; Potter, 1996) While the roots of this idea can be traced to the work of Piaget (von Glasersfeld, 2005) and Vico (von Glasersfeld, 1989), the current paradigm has two sides that Best (1993) equates to two differing ways of reading the work of John I. Kitsuse: strong and weak.

According to Best (1993), a strong or strict-constructionist reading "is radically phenomenological; it calls into question all commonsensical assumptions about deviant labels, official statistics, social problems and the like." (p. 109) Put simply, objective reality is, if not ignored or dismissed as a positivist concern, seen as unattainable because it simply does not exist. There is no 'true truth' or position of pure knowledge against which one is able to assess or judge the "accuracy, credibility, or reasonableness of what . . . [others] say and do" (Kitsuse & Schneider, 1989, p. xii; see also Best, 1989a, 1993; Miller & Holstein, 1993). There are only equal and perhaps differing perspectives about which to write. Forfeiting this

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science literature, the frameworks with which I am here concerned: post-positivism and constructionism.

[6] See also Phoenix et al. (2013) or Lincoln and Guba (1985) on interpretativism or naturalistic inquiry.

analytically pure position (Best, 1989a) so as to imperfectly weigh the 'correctness' of claims, a soft, moderate, contextual, or weak reading of Kitsuse's work allows one to do what the strict-constructionist cannot: make use of ontological gerrymandering[7].

Ontological gerrymandering refers to an act whereby researchers "assume the existence and (objective) character of underlying conditions around which [their] definitional claims have been made." (Woolgar & Pawluch, 1985, p. 217) Perhaps more clearly presented, the term refers to an analytical approach whereby, in attempting to study how a particular phenomenon is socially constructed, an objective reality of surrounding issues is assumed. Spector and Kitsuse (2001/2009) provide what is perhaps the most well referenced example:

> At a latter date, marijuana was removed from the addiction classification, and the medical literature no longer referred to the pot smoker as an addict . . . . We presume that it is not the case that during the 1930's marijuana was addictive, but psychological changes occurred sometime during the 1960's to alter its effect on body chemistry . . . The nature of marijuana remained constant throughout the interval and, therefore, an explanation of the variation in definition must come from another source. (p. 43)[8]

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[7] The use of *contextual* as a synonym for *weak* should not be confused with Sarbin and Kitsuse's (1994) equating of the term *contextualism* with the strict-constructionist approach described by Best (1993, 1995b), who introduce me to Sarbin and Kitsuse's text and the terms' similarities (1995b). I should also note that Best (1989a) presents a view of constructionism that some may argue is at odds with the dichotomy shown here. In the afterword of *Images of Issues*, strict-constructionism and "those sociologists who treat constructionism as a synonym for debunking [the claims of others]" (p. 246) are presented as opposing extremes of the constructionist paradigm. Contextual-constructionism is presented as a "middle ground" (p. 246). However, within this depiction, those ('vulgar-constructionist'; Best 1995b) who adhere to the debunking version "assume that the analysis knows the actual nature of objective reality." (Best 1989a, p. 246) That being the case, I side with what Best (1989a) presents as a strict-constructionist argument: "that debunking should not be considered a form of constructionism, that it is objectivist sociology" (p. 246). For persons still interested in the categorization of differing versions of constructionism, see Pollner (1993).

[8] Woolgar and Pawluch (1985, p. 216) also make use of the above quote.

While some have pointed to and/or encouraged ways around ontological gerrymandering (Ibarra & Kitsuse, 1993; Kitsuse & Schneider, 1989; Troyer, 1992), others (soft-constructionists) have embraced the analytical compromise for its practical utility (Best, 1995c; Goode & Ben-Yehuda, 1994b; Loseke, 2003; Silver, 2008); its ability to allow subjective claims to be calculated, credited, or discredited against that "in which we can have reasonable—but not absolute—confidence" (G. Miller, 2003, p. 241). For soft-constructionists, the politics adjoined to this "entrepreneurs de réalité" (Chaumont, 2012, p. 5) role are important to consider. One should, in keeping with Becker's (1967) suggestion, know whose side they are on when making use of "a rhetoric of science" (Best, 1989b, p. 3) or when accepting or refusing to accept an existing "hierarchy of credibility" (Becker, 1967, p. 242). Though the positivist is not excused from this process of reflexivity, their dealings in 'pure knowledge' alter its emphasis by allowing one to side with the truth[9].

Having come to light during the Age of Reason, positivism embraces the scientific positioning of 18th century Europe (Phoenix et al., 2013). The assumed existence of a "single, tangible reality" (Greenfield, Greene, & Johanson, 2007, p. 45) and universal social laws accompanied a "quest for reliable, cumulative knowledge about *the* world" (Onuf, 2013, p. 27) that would go relatively unchallenged until the 1970s (Onuf, 2013). While constructionism emerged from the limitations of positivism and the wider Enlightenment project (Onuf, 2013), it was not the only paradigm to do so.

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[9] As defined by Guba and Lincoln (2005), reflexivity "is the process of reflecting critically on the self as researcher" (p. 210).

Post-positivism, contemporary, or neo-positivism "holds that only partially objective accounts of the world can be produced, for all methods for examining such accounts are flawed." (Denzin & Lincoln, 2005, p. 27; see also Phoenix et al., 2013)[10] Here the intangibles—such as values and beliefs—dismissed by positivist researchers are incorporated in a belief structure that continues to promote the existence of an, albeit unattainable, objective reality. Hampered by their own subjectivity, yet assuming the existence of pure knowledge (true truth), post-positivists, like the above mentioned soft-constructionists, operate within and make claims about a constructed world in which rigor is prioritized and the correctness of opposing claims may be weighed. Moreover, and to expand on this point of paradigm comparison, it may even be argued that if it were not for or, to take the argument further, in spite of the post-positivist's assumption of an objective (and unattainable) reality, the terms post-positivism and soft-constructionism may be treated as synonyms.

Before expanding on this claim, two things must be made clear. First, although the soft-constructionist embraces the art of ontological gerrymandering, the paradigm allows the researcher to make assertions of fact, while denying the existence of true objectivity, by comparing the claims of others against what she presents as her own reality—a subjective construction that, for the purposes of her research, is treated as objective. This position is different from that of the post-

[10] Denzin and Lincoln's (2005) use of the phrase *partially objective* is problematic. Something cannot be, at the same time, both objective and not (i.e. subjective). Despite this confusion, I have use the quote because it conveys what I believe to be an appropriate image of the post-positivist ambition to construct a reality that is itself not constructed.

positivist, who assumes the existence of pure knowledge while weighing claims against a bias or subjective version of it.

The second clarification I must here make involves my assertion that within the soft-constructionist paradigm objective reality does not exist. I would not find it surprising if one were to suggest that, instead of denying the existence of an objective reality, the soft-constructionist simply ignores or dismisses the topic altogether. While I earlier presented such a possibility—with the intent of returning to it now—it seems there is no practical difference in research that claims the absence of objective reality and that which treats it as irrelevant; to dismiss objective reality is to treat it as though it as not relevant.

So as to further contextualize the above point, it is important to note that when writing of the constructionist, I am not referring to an individual that exists outside of the work being assessed. The label is not representative of who the author is, but of the position they assume when making a particular claim. Since an adopted orientation need not transcend a particular argument, it makes little sense to differentiate between the constructionist who claims objective reality does not exist and the one who privately assumes and publicly ignores its existence. Again, it is not the entirety of a person's ideas or beliefs that determine the appropriateness of the soft-constructionist (post-positivist, et cetera) label, but the paradigm they adopt within the confines of a particular work.

Putting aside the included claim that if it were not for the post-positivist's assumption of an objective (and unattainable) reality the terms post-positivism and soft-constructionism may be treated as synonyms, the assertion that the terms may be treated as synonyms in spite of this difference can now be more clearly addressed. The implied claim that soft-constructionists assume/treat objective reality as though it does not exist is more pronounced. Therefore, with both post-positivists and soft-constructionists viewing research as biased, facts as subjective, and yet comparisons or the weighing of correctness possible, it is only their treatment of objective reality that is at odds. This disagreement is, however, not as sharp as it may appear for there is a problem with the soft-constructionist claim. Cruickshank (2012) refers to it as the contradiction of *judgemental relativism*:

> If I was a member of group A, all I could know would be the norms of group A and I would be unable to step outside those and make the *universal* truth claim that truth is *relative* to the different norms of different groups, with groups A, B, C and so on, all having their own truths . . . . So, if judgmental relativism was true, one could not state it and so stating it entails contradiction. (p. 78)

By stating or treating objective reality as relative, the soft-constructionist position is analogous to that of the post-positivist: both paradigms claim the existence of a reality independent of our (biased and contextually-based) knowledge of it, and, beyond this general/foundational claim or treatment, no two post-positivist or soft-constructionist positions need be identical. There exists a plethora of ways in which realism may be nuanced to suit the needs/desires of individual researchers. To borrow from Patomäki and Wight (2000), "the question becomes not whether one should be a realist, but of what kind" (p. 218): "Every theory of

knowledge must . . . logically presuppose a theory of what the world is like (ontology) for knowledge (epistemology) to be possible." (p. 223)

Focusing on how social problems are defined, Best (1995b) may disagree with my adjoining of post-positivism and soft-constructionism: "By defining social problems in terms of claimsmaking, constructionists set a new agenda for those who would study social problems; constructionist research addresses a distinct set of questions about the nature of claims, those who make claims, and so on." (p. 338)[11] Though Best (1995b) goes on to present what a traditional (positivist) approach might focus on, the suggested areas of paradigm interest are not as mutually exclusive as he seems to suggest. That is, while the constructionist may be uninterested in comparing claims of truth and preoccupied with the process of claims-making (or claimsmaking)—a concept that I will address shortly—the positivist may adopt the same orientation; her objective, neutral, or dispassionate research may focus on how individuals present what they believe to be true, the facts they source, and so on. The 'flawed' research of the post-positivist is equally malleable and able to define social problems, as (strict-constructionists) Spector and Kitsuse (2001/2009) do, "in terms of claimsmaking" (Best, 1995b, p. 338). Even if I argue no one should.

[11] Part of this statement is reinforced in Best's (1995b) later claim that "constructionism shifts the analyst's focus from social conditions to members' claims about those conditions. It is the claims, not the condition that are at issue" (p. 340).

1.2. A "Sociology of Social Problems"[12]

In *Constructing Social Problems*, Spector and Kitsuse (2001/2009) "define social problems *as the activities of individuals or groups making assertions of grievances and claims with respect to some putative conditions*." (p. 75)[13] This understanding represents what Best (1989d) describes as a constructionist interpretation of social problems: defining social problems as "claims-making activities" (p. xviii)—activities meant to advance the construction of a condition as problematic or harmful—and not the harmful conditions to which they refer. According to Best (1989d), the advantage of this definition is that it allows the researcher to circumvent two limitations, which he believes characterize studies that equate social problems to harmful conditions: "[1] they fail to recognize that the identification of any condition as a social problem is inevitably subjective; and [2] they cannot guide our thinking about social problems because the conditions identified have so little in common." (p. xvii) I disagree. Definitions of social problems may, while being general enough to encompass competing calculations of danger (threat, et cetera) and specific enough for the term to have meaning, embody the concept's subjective nature without having to equate social problems to claims-making activities. Take, for example, the work of Nisbet (1971), Heiner (2002), or Horton, Leslie, and Larson (1991).

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[12] The title is taken from the summary of a graduate seminar as written in Spector and Kitsuse's *Constructing Social Problems* (2001/2009, p. ix).

[13] Spector and Kitsuse (2001/2009)

> used the word [*putative*] to emphasize that any given claim or complaint is about a condition *alleged* to exist, rather than about a condition whose existence we, as sociologists, are willing to verify or certify. That is, in focusing attention on the claim-making process, we set aside the question of whether those claims are true or false. (p. 76)

On *The Study of Social Problems* Nisbet (1971) writes that for social problems to exist "large numbers of people" (p. 3) must regard some behaviour as "repugnant to moral consciousness" (p. 3)[14]. According to Heiner (2002), "sociologically, *a social problem is a phenomenon regarded as bad and undesirable by a significant number of people, or a number of significant people who mobilize to eliminate it*." (p. 3) Horton, Leslie, and Larson (1991) suggest that "a formal definition might read: *A social problem is a condition affecting a significant number of people in ways considered undesirable, about which it is felt something must be done through collective social action*." (p. 2) While these interpretations recognize that social problems are "inevitably subjective" (Best, 1995d, p. 5)—defined by the standards or norms of a specific group—and, via this subjectivity, share a central unifying or identifying feature, they are not dependent upon claims-making activities. Referring to the social problems definitions of Fuller and Myers (1941a) and Merton (1971), Spector and Kitsuse (2001/2009) make a similar acknowledgement, before identifying what they see as another harmful drawback: the requirement that problems involve "numbers of persons" (p. 32)[15].

For Spector and Kitsuse (2001/2009) the trouble with Fuller and Myers' (1941a) definition—and Heiner's (2002), Horton, Leslie, and Larson's (1991), and

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[14] The complete quote reads as follows: "But unless the way behavior is defined as a violation of some norm, unless it is regarded by large numbers of people as being repugnant to moral consciousness, it cannot be termed a social problem; not, that is, within the social order concerned." (p. 3)

[15] While a slightly different version of Fuller and Myer's social problem definition is presented later on, the authors write that "a social problem is a condition which is an actual or imagined deviation from some social norm cherished by a considerable number of persons." (Fuller & Myers, 1941a, p. 25) Merton (1971) writes: "The first and basic ingredient of a social problem consists of a substantial discrepancy between widely shared social standards and actual conditions of social life." (p. 799)

Nisbet's (1971) may be included here as well—is the ambiguity concerning just how many people must regard, define, or be effected by a condition for it to be appropriately labelled a social problem; what constitutes "a considerable number of persons" (Fuller & Myers, 1941b, p. 320)? In Merton's (1971) case, trouble arises from the phrase "widely shared" (p. 799): "How widely shared must the standard be? Which and how many people must share it to meet the condition 'widely shared'?" (Spector & Kitsuse, 2001/2009, p. 32) For Spector and Kitsuse (2001/2009) such questions are insoluble and "any definition of social problems that begins 'social problems are those conditions . . .' will lead to a conceptual and methodological impass [*sic*]" (p. 74). Their solution, already noted, is to suggest a definition of social problems that equates the term to claims-making activities: "The question, then is: if social problems cannot be conditions, what are they? Most succinctly, they are the activities of those who assert the existence of conditions and define them as problems." (p. 74) Alessio (2011) suggests a different approach—a play on the term *social*.

Also pointing to the troubles of requiring social problems to involve large or significant numbers of people, Alessio (2011) defines the concept as "*a condition that involves harm to one or more individuals and/or one or more social entities, has at least one social cause and/or at least one social effect, and consequently has one or more social remedies*." (p. 3) Ignoring for the moment the definition's objectivist stance—its requirement that social problems involve harm, as opposed to being defined as harmful—Alessio's (2011) portrayal of social problems as possibly

involving one person or, to use his language, victim is premised on an interpretation of the term 'social' that is here unique:

> Rather than define the existence of a social problem in terms of the numbers of people suffering some particular condition, it would seem to make more sense to focus on the circumstances that lead to certain conditions . . . . If the circumstances that lead to the individual's undesirable condition are social in nature (consequences of some characteristic(s) of social arrangements) then one must conclude that, indeed, a social problem exists . . . . If a social problem has a social cause, it would seem that the social cause should also be considered a social problem. (pp. 7-8)

Differing from social problem definitions that use the term *social* to highlight the problem's shared understanding or breadth of harm, Alessio's (2011) substantiates his use of the term by referencing what he describes as a critical and contemporary sociological argument: To define social problems by a measure of public recognition is to bound sociologists "to accept, as given, social problems proclaimed by those who have the power to do so." (p. 7) Because it is my belief that all social relationships harbour power dynamics (Hobbes, 1651/1985), that it need not be the goal of social scientists to study a world devoid of these dynamics, and because I find Spector and Kitsuse's (2001/2009) course of action confusing[16], I propose a different solution: to describe social problems as conditions, phenomena, or behaviours defined by a substantial number of persons—i.e. a number of persons, determined by the socio-political formation of the group(s) being studied as large enough to encourage, force, or motivate the implementation of (one or more)

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[16] The following quote can be used to exemplify the troubles of defining "*social problems as the activities of individuals or groups making assertions of grievances and claims with respect to some putative conditions*" (Spector & Kitsuse, 2001/2009, p. 75): "Since we consider the activities [claims-making activities] themselves to be the subject matter of social problems [claims-making activities], we direct our attention to the forms of those activities [claims-making activities]." (p. 82)

corrective-intended measures available to and in the name of the potentially wider collective—as problematic or a threat to something or someone of value[17]. In this way, social problems are defined not by the researcher but by the claims, processes, and activities of a studied group operating within its own socio-political framework. The 'numbers game' that Spector and Kitsuse (2001/2009) suggest has no place in the definition of social problems continues to have a role here. Yet, again, it is a game that is played-out by and within a group that both constructs and administers its operational rules. Starting with a brief explanation of the shared or collectively defined nature of my proposed solution, I will explain.

When I speak of a *substantial number of people* (collectively) defining a condition, phenomenon, or behaviour as problematic, it is not to suggest that they all view the condition, phenomenon, or behaviour in exactly the same way. Each person will construct their own understanding of the social problem and these understandings are not likely to be exact copies of one another. With this in mind, and following von Glasersfeld's (2005) advice, Cobb's (1991) and Cobb, Stephan, McClain, and Gravemeijer's (2001) "taken-as-shared" (p. 119) expression may here be used to nuance my understanding of a collective definition and highlight the notion that although individual understandings may vary, the shared or collective impression of a social problem may still be written of.

[17] Though they are presented in their singular form, the threat may be to things (as opposed to something) or persons (as opposed to someone) of value.

Operationalizing the above view, expressions or signs of a taken-as-shared orientation can be used to make the argument that a substantial number of persons have defined a condition, phenomenon, or behaviour as problematic or a threat to something or someone of value[18]. While these expressions/signs are likely to vary amongst groups, the use of a voting process—however organized—can serve as a tentative example. Should the result of the vote favour one reading of reality over others, then that reading may be taken-as-shared. Even if a large number of persons within the collective disagree with the vote's result, the reading may still be taken-as-shared because it emerged from the group's own socio-political process. It is with such an example in mind that a *substantial number of persons* was here defined as a number of persons able to encourage, force, or motivate the implementation of (one or more) corrective-intended measures available to and in the name of the, potentially wider, collective[19]. So as to be clear, I am not suggesting that all persons (within or outside of the studied group) will view the internal socio-political process as fair or giving equal weight to the opinions of all group members. However, assuming the collective does not dissolve or split into opposing fractions as a result, the decision of group members to remain united following the vote may be taken as an indication of their continued commitment to the existing—albeit perhaps flawed—social contract and the decisions it produces or readings it supports.

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[18] Some may argue that social problem definitions should require a condition, behaviour or phenomenon to be both *defined* or regarded as bad, wrong or undesirable and *treated* as such (see Heiner, 2002). Because to define something a social problem *is* to treat it as a social problem and because I do not see the importance of trying to weigh the significance of additional, perhaps remedial actions beyond this initial point, I have excluded mention of (additional) treatment.

[19] This view can be seen as building upon Harris' (2013) claim that "to be a 'real' social problem, an issue *needs to be legitimated by enough people* [emphasis added]. And it's not just the number of people: some individuals and groups (i.e. those with resources or power) can validate an issue more effectively than others can." (p. 5)

Emphasizing the need for social problems to involve an objective threat, Fuller and Myers (1941b) would disagree with my definition. A social problem, they write,

> is a condition which is defined by a considerable number of persons as a deviation from some social norm which they cherish. Every social problem thus consists of an objective and a subjective definition. The objective condition is a verifiable situation which can be checked as to existence and magnitude (proportions) by impartial and trained observers . . . The subjective definition is the awareness of certain individuals that the condition is a threat to certain cherished values . . . The objective condition is necessary but not in itself sufficient to constitute a social problem. (p. 320)

While Spector and Kitsuse (2001/2009) suggest that how one reads the above quote depends on their interpretation of the term *awareness*—that the term's contextual use does not require or prevent social problems from being understood as the product of two independent components, as opposed to a subjective definition and an implied objective condition—Fuller and Myers' (1941b) assertion that *the objective condition is necessary, but not in itself sufficient to constitute a social problem* seems to clarify their position: The objective condition is not implied by the subjective definition and may exist in its absence. This reading is later reinforced within the same work and a second text published in 1941. Both are referenced by Spector and Kitsuse (2001/2009):

> Sociologists must, therefore, study not only the objective condition phase of a social problem but also the value-judgements of the people involved in it which cause them to define the same condition and means to its solution in different ways . . . (Fuller & Myers, 1941b, p. 321);

> Every social problem has both an objective and a subjective aspect. The objective phase consists of a verifiable condition, situation, or event. The subjective phase is the awareness or definition of certain people that the condition, situation, or event is inimical to their best interests, and a consciousness that something must be done about it. Conditions do not

> assume a prominent place in a social problem until a given people define them as hostile to their welfare. (Fuller & Myers, 1941a, p. 25)

For Blumer (1971), Fuller and Myers' position is problematic. Writing "on the side of sociological theory" (p. 305) he notes that

> *knowledge of the objective makeup of social problems is essentially useless* [emphasis added]. It is useless because, as I have sought to show, social problems do not lie in the objective areas to which they point but in the process of being seen and defined in the society. (pp. 305-306)

I agree with Blumer (1971) on this point: *The objective makeup of social problems is essentially useless*. Their existence is dependent but on society's acceptance that something or someone is—things or persons are—a problem. Having made this point, I do not mean to suggest that social problems cannot be based on what a group considers to be 'objective facts'. They may. These facts should, however, be understood as working within the constructions of the social group. That is, like social problems, their existence is not dependent on a form of empirical validation that is itself not "talked into being" (Heritage, 1984, p. 290) or "negotiated in talk." (L. Miller, 1993, p. 154) Both are collective accomplishments obtained through the competitive process of claims-making, "social problems work" (Holstein & Miller, 1993, p. 134), or "moral enterprise" (Thompson & Williams, 2014, p. xii)[20].

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[20] While a definition of claims-making is provided in text, Holstein and Miller (1993)

> suggest that *social problems work* [emphasis added] be more broadly understood to include any and all activity implicated in the recognition, identification, interpretation, and definition of conditions that are called "social problems." It is any practice contributing to the practical construction or definition of an instance of a social problem. (p. 134; see also Holstein & Miller, 2003, p. 73)

Thompson and Williams (2014) write the following of moral enterprise:

> When we use the term in this volume, we are alluding to any act by any social or interest group that promotes its values by engaging in political activity designed to secure/exploit government support for their preferred social policy agenda. (p. 279)

1.2.1. Claims-making

In simplistic terms, claims-making, social problems work, or moral enterprise can be understood as "an act of communication" (Best, 1989b, p. 1) in which persons encourage others—and at times themselves (Nelson-Rowe, 1995)—to adopt a specific version (account) of the truth. Often this begins "with dramatic examples" (Best, 1989b, p. 1; 1995a, p. 13), impressive assertions that aim to highlight the abnormal and, in so doing, attract the attention and support of others. When this work originates from outside of the media (news media) and/or mass media, their 'powers' are often sought (Best, 1989b). For in a world where the "social problems marketplace" (Best, 1990, p. 15) is small/competitive and time and energy are resources others spend cautiously (Silver, 2008), the modern claims-maker has learned that these forms of communication are among her more powerful weapons, her more profitable vehicles of rhetoric (Schwartz, 1983).

If claims-making is an act of communication, the language that claims-makers use to describe (frame) conditions is of particular importance; "indeed a growing body of work shows that rhetoric affects the results of claimsmaking" (Luckenbill 1995, p. 306; see also Best, 1990). Assuming the artful use of language has such an effect, the success of claims may be attributed to the ability of claims-makers to describe a particularly displeasing truth or one that will resonate with the concerns

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Lastly, Gubrium (1993) notes, "as the authors [Ibarra and Kitsuse] make abundantly clear, to think of social problems as accomplishments implies that the problems are not objective conditions but are bound to the rhetorical claims-making activities of those who clarify, redefine, or counter the status of putatively objectionable conditions in society." (p. 55)

or fears of others (Lowney & Best, 1995)[21]. Frequently this resonance or displeasure is accomplished through what Best (1990; see also Gamson, Croteau, Hoynes, & Sasson, 1992; Nichols, 1995) calls *piggybacking* and Kunkel (1995) *domain expansion*—the "process whereby established problems form the basis for related claimsmaking to construct new problems." (p. 240) In many ways, this frequent interaction between established and emerging social problems is similar to the dialectical relationship that both have with the society in which, from which, and/or for which they are produced (Holstein & Miller, 1993). A slight reworking of Berger and Luckmann's (1966) discussion of identity and social process may here be of assistance:

> Once crystallized, *social problems are* maintained, modified or even reshaped by social relations. The social processes involved in both the formation and the maintenance of *social problems is* determined by the social structure. Conversely, the *social problems* produced by the interplay of organism, individual consciousness and social structure react upon the given social structure, maintaining it, modifying it, or even reshaping it. Societies have histories in the course of which specific *social problems* emerge; these histories are, however, made by men with specific *problems in mind*.[22]

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[21] Emphasizing fear's relation to claims-making, Furedi (2005) describes the former as "the common currency of claims" (p. 130), "deployed as a political weapon [a means of gaining consensus, et cetera] by the ruling elites." (p. 132) Though he may not be a 'ruling elite', a quote from Harris' *Studying the Construction of Social Problems* (2013) may serve as an appropriate example: "It is in your interest to become a critical thinker about social problems. Otherwise, people may find it all too easy to influence or even manipulate you by playing to your fears, sympathies, and outrage." (p. 2)

[22] The original quote reads as follows:

> Once crystallized, it [identity] is maintained, modified or even reshaped by social relations. The social processes involved in both the formation and the maintenance of identity are determined by the social structure. Conversely, the identities produced by the interplay of organism, individual consciousness and social structure react upon the given social structure, maintaining it, modifying it, or even reshaping it. Societies have histories in the course of which specific identities emerge; these histories are, however, made by men with specific identities. (p. 159)

Effected by and affecting the societies in which they exist, social problems have, are the result of, and are expressions of power. Their threat and the possibility of their control or diminishment may be used to justify policy or sway votes, and their existence is the result of persuasive discourses and marketing initiatives that construct, as social problems, the threats they touch on. While the power of media (*the* and *mass*) and the use of written text or articulated sounds can and (again) often do feed into this power-loop of compromise and struggle, it is not uncommon for the re-telling of events to extend beyond what many would/could consider accurate (Blumer, 1971): "Given the importance of facts in social problems debates, it should come as no surprise that they are often exaggerated or distorted" (Perrin & Miller-Perrin, 2011, p. 3038) when, at least for definitional purposes, they need not be.

In *The Myth of Moral Panics*, Thompson and Williams (2014) quickly inform the reader that "disproportionality is innate to public claims-making (Best, 1989[c])" (p. 5). Several pages later the claim is reiterated:

> The booster's [Goode & Ben-Yehuda, 2009] attempt to separate moral panics from moral enterprise by pointing to the former's display of disproportionate claims-making is immediately undermined by *the simple fact that moral entrepreneurs invariably exaggerate problems for publicity purpose* [emphasis added] (Best, 1989[c]). (p. 8)[23]

To claim that all forms of public claims-making or moral enterprise exaggerate problems—assuming, of course, the accurate retelling of events is possible—seems short-sighted; it is not clear how one would appropriately exclude or re-categorize

[23] Although disproportionality is not always an exaggeration of the facts—as understatements may be equally disproportional—such is the case when reading the above quotes.

claims that appear accurate or proportional to that which is known. Equally confusing is Thompson and Williams' (2014) use of Best's (1989c) *Dark Figures and Child Victims* to validate or perhaps simply corroborate their claims-making claim[24]. For authors who spent much of their 2014 text attacking the academic rigor of others, these miscalculations are troublesome, unless (of course) one were to employ Thompson and Williams' (2014) definition of a public claim.

My rejection of the position taken in *The Myth of Moral Panics*—that disproportionality is innate to public claims-making—is not meant to diminish the use of exaggeration as a marketing tool. Instead, I hope only to differentiate between that which is a definitional qualification and a profitable multi-varied claims-making tactic, of which the labelling of things as deviant is a related other.

1.2.2. Labelling Deviance

Also the product of power relations (Becker, 1963/1968; Spitzer, 1975) and negotiation (Kelly, 1989), deviance may be understood "as a violation of a society's or a group's norms or rules that calls forth censure, condemnation, or a punishment for the violator." (Goode & Ben-Yehuda, 2009, p. 110; see also Spector & Kitsuse,

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[24] My reasoning here is simple: Best (1989c) never suggests "disproportionality is innate to public claims-making" (Thompson & Williams, 2014, p. 5). What Best (1989c) does say is that "claims-makers' estimates often cannot bear close inspection" (p. 22), "[missing children] claims-makers continue to use frightening language and horror stories to typify the problem" (p. 31), and

> the history of the missing children problem reveals three rules of thumb for claims-makers' statistics. First, because they are more dramatic, *big numbers are better than little numbers* . . . . Second, *official numbers are better than unofficial numbers* . . . . The third principle can be derived from the first two: *big, official numbers are best of all* . . . . Big estimates often play a central role in claims-making. (p. 32)

2001/2009, p. 24)[25] While Goode and Ben-Yehuda (2009) differentiate between types of deviance, they note that "the important point is, to the sociologist, the characteristic of deviance is defined not by the quality of the act but by the nature of the reaction that the act engnders [*sic*] or is likely to engender." (pp. 114-115)

I agree with part of Goode and Ben-Yehuda's (2009) statement: "The important point is . . . the nature of the reaction that the act engnders [sic]" (pp. 114-115), not the act itself. Deviance is a concept rooted in relativity; there is no one act or group of persons that have proven to be simply or continuously deviant or, for that matter, righteous. It is with this important point in mind that I find the latter section of Goode and Ben-Yehuda's (2009) claim confusing: If the important point centres around the subjective understanding of those who define the act as deviant, why (or perhaps how) is a third party's expectation of a group's reaction of equal importance? In *Outsiders*, Becker (1963/1968) can be read to have similar concerns: "Whether an act is deviant, then, depends on how other people [those being studied] react to it**.**" (p. 11) Three pages later he continues:

> *We must recognize that we cannot know whether a given act will be categorized as deviant until the response of others has occurred* [emphasis added]. Deviance is not a quality that lies in behavior itself, but in the interaction between the person who commits an act and those who respond to it. (p. 14)

[25] Like Becker (1963/1968), I am not here interested in statistical definitions of deviance that are unrelated to rule breaking and define the concept as "anything that varies too widely from the average." (p. 4) Also, and unlike the claims of Lofland (1969) and Pires and Acosta (1994), crime—which may here be equated to deviance—is not the name of a "conflict game" (1969, p. 14) or "the relationship between a way of acting and an institutional way of defining, acting upon, or resolving a problematic situation." (1994, p. 21) It may, however, be understood as the result of such a relationship or game.

Becker's (1963/1968) support for the above position is, within his definition of deviance, read into the exclusion of third party influence. It is those who believe themselves to be affected by the act that determine its nature (Szasz, 1970/1997). By including, within his meaning of *an act*, the threat of future acts, Becker's (1963/1968) explanation of deviance also does a better job of addressing what I surmise to be Goode and Ben-Yehuda's (2009) attempt to add, within their definition of deviance, a group's reaction to the possible occurrence of acts believed to be threatening. Because I believe this inclusion to be useful, if not necessary, I propose the following revision to Goode and Ben-Yehuda's (2009) description: Deviance should be defined not by the quality of the act but by the nature of the reaction that the act's occurrence or threat of occurrence engenders. Much of the time, this reaction is (in large part) shaped by understandings of who are the aggressors, outsiders, or responsible parties, and who is seen/perceived to suffer[26]. Becker's (1963/1968) language is more direct: "The degree to which an act will be treated as deviant *depends* [emphasis added] also on who commits the act and who feels he has been harmed by it. Rules tend to be applied more to some persons than others." (p. 12)

When compared to Becker (1963/1968), my thinned or more flexible stance is meant to include instances within individual societies where, regardless of the doer's status, certain acts are never legitimate—where even divine monarchs can

[26] The term *outsider* is used by Becker (1963/1968) to denote both persons who are identified as having broken societal rules and those who the rule-breakers identify as having judged them outsiders. It is the term's former use and *true outsiders*—persons who are identified as having committed serious infractions; Becker, 1963/1968—that are here of interest.

exceed the threshold of human tolerance (see Smith, 2012, on the trial and execution of England's Charles I). That said, impressions of 'the responsible' are of importance when persons or groups of persons consider whether an act is deviant or a condition, behaviour, or phenomenon problematic. The greater our dislike or distrust of, or dissociation from, others the more willing we seem to define their doings as deviant or problematic. (White) America's criminalization and policing of drugs "linked to particular racial and ethnic groups" (Schneider, 1998, p. 434; see also Chambers, 2011; Marable, 2007) can be used to substantiate this claim, most notably when the assumed harm is perceived to befall 'persons of value':

> The primitive Negro field hand, a web of strong, sudden impulses, good and bad, comes into town or settlement on Saturday afternoon and pays his fifty cents for a pint of Mr. Levy's gin. He absorbs not only its toxic heat, but absorbs also the suggestion, subtly conveyed, that it contains aphrodisiacs. He sits in the road or in the alley at the height of his debauch, looking at that obscene picture of a white woman on the label, drinking in the invitation which it carries. And then comes—opportunity. There follows the hideous episode of the rope or the stake. (Irwin as cited in Provine, 2007, p. 41)

Before expanding on how the value of those perceived to be harmed affects claims of deviance, there is a related issue that should first be clarified. In contrast to Loseke's (1993) assertion that the harm around which social problems are based "might be to nonhumans (such as the environment, the economy, or nature)" (p. 208), I propose that all social problems and deviant acts require humans to be harmed. By this I mean that, within a paradigm that views social problems and deviance as social constructions, the materialization of either is dependent upon the ethics, morals, and/or worldviews of some persons—those who define the condition, behaviour, or phenomenon as problematic or the act as deviant—being

offended and, by consequence, causing the same persons to be harmed. Put differently, it is possible for something to unfairly offend everything, but the (valued) ethics, morals, and/or worldview of claims-making humans and not be considered a social problem or act of deviance as defined here.

Beyond this harm requirement, and similar to the aforementioned role of character, the construction of social problems and/or deviant behaviour is not dependent on persons other than those who claim their existence to be seen as harmed. Just as the problems of ozone depletion, global warming, and/or deviant middle and upper class delinquency, do not require the construction of an accompanying 'bad person' type, they do not require non-claims-making persons or things to be seen as harmed. That said, and as noted above, when deviant and/or social problem claims are constructed around the 'right' other the likelihood of their success appears to increase (see Best, 1990, on *blameless victims*; Corriveau, 2006, on the problem of sexuality and moral order in circa 19th century France).

Returning to *Constructing Conditions, People, Morality, and Emotion*, Loseke (1993) writes of a scale of *sympathy–worthiness* in which certain people and/or things are more deserving of "'sympathy' and its behavioural expression of 'help'" (p. 210). This assertion should be of little surprise to Canadians who find their government "announcing travel bans and economic sanctions against Russian and Ukrainian officials . . . [it] believes are responsible for the ongoing crisis in Ukraine" (The Associated Press, 2014, para. 1), after only calling for peaceful dialogue in

Nicolas Maduro's Venezuela (Foreign Affairs, Trade and Development Canada, 2014). Just as the ethics, morals, and/or worldviews that underline the scale's functioning fluctuate with time and location, so does the value or sympathy-worthiness of individuals, groups of persons, and countries. In modern day Canada, the sexually abused child is perhaps the most sympathy-worthy of victims.

1.2.3. A Construction of Sexually Abused Children

Due to the moral panic focus of this work, there is no need for me to here present, as many writing of a history of CSA do, an exhaustive review of persons harmed by its occurrence. It makes little sense to outline a perception of those harmed—or for that matter of those who harm, their relationship, et cetera—that may not be aligned with the views of the parliamentarians of whom I will write. Therefore, I have but a few comments, related to the construction of sexually abused children and CSA, to make before moving to my moral panic aims.

Many authors, some of whom appear to write from a soft-constructionist or post-positivist perspective, refer to child abuse and/or CSA as problems or acts of deviance that were 'discovered' or discovered (A. Adler, 2001; Heiner, 2002; Kitzinger, 2006; Pfohl, 1977)[27]. To refer to the discovery of some condition,

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[27] Although Jenkins (1998) affirms that "all concepts of sex offenders and sex offences are socially constructed realities" (p. 4), the same text contains a sub-chapter titled *Discovering Sex Crime, 1935-1940*. Also, and in fairness to Pfohl (1977), *The "Discovery" of Child Abuse* author does, in a later article, write that his

> point was not that there really was something, which today we call child abuse, and that certain things prevented it from being seen before 1960. Mine was a story, not of things, but of the constructionist effect of a shifting web of powerful social practices that once inhibited

phenomenon, or event as a social problem or act of deviance is to imply that the condition, phenomenon, or event existed as a problem or form of deviance prior to a group's characterization of it as such. To refer to the 'discovery' of the same is to encourage questions about the appropriateness of the term in quotations (Woolgar & Pawluch, 1985). Considering how social problems and acts of deviance have here been defined, to write of their 'discovery' would be to confuse my definitional approach. To write of discovery would be to undermine the included position that it was people who believed in CSA and in sexually abused children who created, constructed, invented, or, to borrow from Szasz (1970/1997), *manufactured* them from biased, limited, and yet persuasive facts. Writing of witches and witchcraft, Szasz (1970/1997) makes a similar though, for the modern reader, perhaps less dramatic point:

> Men who believe in witchcraft created witches by ascribing this role to others, and sometimes even to themselves. In this way they literally manufactured witches whose existence as social objects then proved the reality of witchcraft. To claim that witchcraft and witches did not exist does not mean, of course, that the personal conduct exhibited by alleged witches or the social disturbances attributed to them did not exist . . . . The point is that *these* witches did not choose the role of witch; they were defined and treated as witches . . . in short, the role was *ascribed* to them. (p. xxiv)

And, like constructions of CSA and the role ascribed to those who abuse children (Jenkins, 1998; Jewkes & Wykes, 2012; West, 2000; Zgoba, 2004), the role of witches and constructions of witchcraft has at times been said to be exaggerated (Goode & Ben-Yehuda, 1994b, 2009).

> and later invited a reading of broken childhood bones and bodies as matters of parental pathology. The difference is important. (1985, p. 230)

1.3. From Soft-Constructivism or Post-Positivism to Moral Panic

The goal of this chapter was threefold. It first aimed to provide a paradigmatic framework through which the work that followed/follows should be read. Soft-constructionism and post-positivism were presented as synonyms to describe a paradigm in which facts are understood as biased social constructs that may be assessed for their correctness and emerge from a world in which there is truth (true truth) beyond contextually based knowledge. Because there was no need to expand on what this truth may be, I did not. The presented soft-constructionist/post-positivist paradigm provided the necessary paradigmatic framework to move forward, devoid of positivism's analytic certainty and strict-constructionism's sense of equality—of which one last point should be made.

When considering the moral panic focus of this work, one may be tempted to argue that the strict-constructionist paradigm is a better or more appropriate fit; does the moral panic concept not allow analysts to write of but equally valid, though perhaps differing, perspectives? Theoretically one could answer yes—the moral panic concept does allow analysts to write exclusively of equally valid though perhaps differing perspectives. Practically speaking, however, the act of comparing claims ensures that, where the ability to write of objective truth is denied, one makes use of ontological gerrymandering. Assumptions of "the existence and (objective) character of underlying conditions around which definitional claims have been made" (Woolgar & Pawluch, 1985, p. 217) must be made and "by default, all constructionist analysis becomes a form of contextual constructionism." (Best,

1995b, p. 348) Though all claims may be equal, the process of analysis ensures that some "are more equal than others" (Orwell, 1946, p. 112).

The section's second goal was to clarify my use of the social problem concept. After discussing the work of Spector and Kitsuse (2001/2009), Alessio (2011), and others, social problems were described as conditions, phenomena, or behaviours defined by a substantial number of persons—a number of persons, determined by the socio-political formation of the group(s) being studied as large enough to encourage, force, or motivate the implementation of (one or more) corrective-intended measures available to and in the name of the potentially wider collective—as problematic or a threat to something or someone of value. This description/discussion led to others concerning claims-makings and deviance and, eventually, a construction of sexually abused children.

The section's third goal was to explain the absence of an exhaustive review of CSA's history—the persons harmed by its occurrence, et cetera—and further situate the phenomenon within the adopted soft-constructionist/post-positivist framework. Talk of CSA's 'discovery' and discovery was dismissed and the argument that it was people who believed in CSA who created, constructed, invented, or manufactured it put forth. The same can be said of the social problems around which moral panics develop.

2. Conceptual

Serviced by British authors in the 1970s (S. Cohen, 1972; Hall, Critcher, Jefferson, Clarke, & Roberts, 1978; Young, 1971/1982), talk of moral panic has, since the 1980s, rarely ceased[28]. During the 1990s, "serious and positive reappraisal of the concept within sociology"(Thompson, 2011, p. viii) saw attempts to adjoin it with other, more wide ranging descriptions of social facts. By the turn of the century, the term *moral panic* had expanded to vernaculars beyond the research community and, like *panic* before it (Clarke & Chess, 2008; Janis, Chapman, Gillin, & Spiegel, 1955; Quarantelli, 1964; Turner & Killian, 1957), its use began to elicit more questions than answers.

While some have argued in favour of "open and contested" (David, Rohloff, Petley & Hughes, 2011, p. 215) interpretations of the moral panic concept, the existing lack of definitional clarity has led others to avoid its use. Adding to the ambiguity caused by multiple, at times contradictory definitions, many writers have confusingly presented the concept as a theory (Buckingham & Jensen, 2012; S. Cohen, 2011; Cornwell & Linders, 2002; David et al., 2011; deYoung, 2004; Flinders, 2012; Fox, 2013; Hunt, 2011; Jenkins, 1992, 1998; Jewkes & Wykes, 2012; Ferrell, Hayward, & Young, 2008; Grometstein, 2008; Luzia, 2008; Noble, 2012; Shafir &

[28] See, for example, Davis (1980), Parton (1981), Golding and Middleton (1982), Barker (1984), Ben-Yehuda (1985), Waddington (1986), Sindall (1987), Watney (1988), Rocheron and Linné (1989), Ben-Yehuda (1990), Richardson, Best, and Bromley (1991), Jenkins (1992), Goode and Ben-Yehuda (1994a), McRobbie and Thornton (1995), J. Adler (1996), Jones (1997), Thompson (1998), Best (1999), Goode (2000), Ungar (2001), Critcher (2002), Doyle and Lacombe (2003), Rothe and Muzzatti (2004), Barron and Lacombe (2005), Critcher (2006), Feeley and Simon (2007), Garland (2008), Rowe (2009), Bonn (2010), Best (2011), Chaumont (2012), Fahs, Dudy, and Stage (2013b), O'Grady (2014), Slavtcheva-Petkova, Nash, and Bulger (2015).

Schairer, 2013; Springhall, 1998; Thompson & Greek, 2012; Thompson & Williams, 2014; Lashmar, 2013; Waiton, 2008; Warner, 2013; Watney, 1987, 1989; Welch, 2006, 2012; Yeomans, 2013; Young, 2007; Zajdow, 2008)[29]. Kinloch (1977) explains the difference:

> The primary function of a theory is to attempt to explain or *account for* [emphasis added] a particular phenomenon in terms of some other phenomenon which is viewed as explanatory. It is this *explanatory function* which distinguishes a theory from related but nonexplanatory concepts. (p. 10)

In other words, concepts can be said to simply describe something, allowing for it to be discussed. While Blunden (2012) paradoxically calls "this type of *concept* [emphasis added] . . . a 'pseudoconcept'" (p. 4), it is by embracing the above understanding of the term that I, and seemingly others (Garland, 2008; Patry, 2009), am able to talk of moral panic as a concept. Albeit "a concept of great theoretical power and resonance." (Young, 2007, p. 53) Goode (2000; see also Pearce & Charman, 2011) agrees:

> Some . . . fabricate an imaginary orientation they refer to as moral panics "theory." In contrast to this fantasy, let's be clear about this: There is no moral panics "theory." The moral panic is a sociological *phenomenon*, an analytical concept much like stratification, interaction, deviance, and social movements . . . . And *all* sociological concepts are social constructs. (p. 551)[30]

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[29] On this point, Jewkes' (2010) work serves as an appropriate example:

> The concept of "moral panics" has been widely criticized for its perceived limitations, yet it is a theory that just refuses to go away. A fundamental difficulty with moral panics is not the concept itself, but the way that it has been embraced by the generations of writers, researchers, journalists and students who have been applying it uncritically ever since its inception in 1971 . . . (p. 85)

[30] For persons interested in exploring the reasons behind moral panic's occurrence, Goode and Ben-Yehuda (1994b, 2009) present *Three Theories of Moral Panics* or three "theories that have been advanced to explain moral panics." (1994b, p. 124)

With the aim of providing a theoretically justifiable definition of the moral panic concept that is adaptive to differing moral viewpoints and of practical use, the following chapter discusses the literature surrounding the concept's development. Following a brief introduction, the chapter is split into two sections (*2.1. Falling Back (I)* and 2.2. *Falling Back (II)*), the former being subsequently halved (2.1.1. Moral *Panic* and 2.1.2. *Moral* Panic). The first of the resulting subsections is divided into nine parts that work to define moral panic as *collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem* and a process abridged by the occurrence of two unique stages or successively occurring attributes.

In comparison to the number of pages devoted to Moral *Panic*, those relating to *Moral* Panic are fewer; the argument put forth is equally significant, yet comparatively straightforward. Working off of Young's (2007) claim that "you cannot have a moral panic unless there is something morally to panic about" (p. 60), and Hier's (2011a) understanding of morality, the argument is made that all panics involving a significant number of persons are moral panics. The chapter concludes by summarizing the claims made in both subsections.

2.1. Falling Back (I)

Although he may not have been the first to write of moral panic, McLuhan (1964) has been credited with introducing the term to Young and S. Cohen (S.

Cohen, 2002; Welch, 2006; see also McLaughlin, 2014)[31]. The introduction is, however, brief and undeveloped:

> Our Western values, built on the written word, have already been considerably affected by the electric media of telephone, radio, and TV. Perhaps that is the reason why many highly literate people in our time find it difficult to examine this question without getting into a *moral panic* [emphasis added]. (McLuhan, 1964, p. 82)

Writing of *The Role of Police as Amplifiers of Deviancy, Negotiators of Reality and Translators of Fantasy*, Young (1971/1982) takes the concept further: Moral panic involves a "social reaction against deviants which is phrased in terms of a stereotyped *fantasy*, rather than an accurate empirical knowledge of the behavioural and attitudinal *reality* of their lifestyles." (p. 38)[32] A year later, S. Cohen (1972) elaborates:

> Societies appear to be subject, every now and then, to periods of moral panic. A condition, episode, person or group of persons emerge to become defined as a threat to societal values and interests; its nature is presented in a *stylized* [emphasis added] and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnoses and solutions; ways of coping are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible. (p. 9; see also 2002, p. 1)

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[31] In an online article titled *The British Moral Panic Creation Myth Is Bust*, Sutton (2012; see also Fahs, Dudy, & Stage, 2013a) traces the history of the moral panic phrase to the year 1830.

[32] I should note that Young (2011) may later be read to contest this definition of moral panic:

> Moral panics are often thought of as mistakes, as public irrationality often spurred on by media misinformation . . . . As I have argued elsewhere (Young, 2005, 2009), this ignores the sources of energy, the actual conflicts of culture which occur and the tectonic plates of structural and normative change which underlie them . . . . In this reading, then, the targets of moral panics are not arbitrary and the passions they stir up understandable once seen in the wider context. There would be no panic if there wasn't something to panic about. (p. 253)

Though interesting, his latter view pushes the concept towards the realm of theory, leaving behind a conceptual gap which it initially and, I would argue, more appropriately filled.

Despite differing in length and depth, the two descriptions are nonetheless compatible. Moral panics—*crazes* (Critcher, 2011; Whitlock, 1979) or *scares* (Béland, 2011; Johnson, 2004; Reinarman & Levine, 1989; Ungar, 1992)—may be generalized as collective, corrective-intended behaviour based on an irrational belief of the threat posed by a social problem. The context in which Young (1971/1982) and S. Cohen (1972) present their definitions suggests the noted irrational belief must exaggerate the threat, posed by a social problem, to something or someone of value[33]. Pointing to the subjectivity inherent in validating such a claim, Garland (2008) notes

> when someone describes an episode as a moral panic, *it is always possible to suppose that he or she is simply refusing to take seriously the moral viewpoint of those who are alarmed* [emphasis added] . . . . Perhaps this is why one reads of very few instances of "moral panic" analysis being applied to episodes where the underlying moral concern appears to be shared by the sociologists who invoke them. (p. 22)[34]

Though *it is always possible to suppose*, Garland's (2008) critique should be read cautiously; claims of moral panic need not be rooted in disagreements over the prioritization of moral codes or values. They may, alternatively, revolve around conflicting elucidations of fact, visible from the panicking group's own moral viewpoint. I shall explain.

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[33] This generalization is comparable to Bonn's (2010) understanding of the concept: "A moral panic is the public and political response to an exaggeration or distortion of the threat posed to society [or a segment, group or category within it] by some allegedly threatening group or condition" (p. 6).

[34] Hunt (1999) has also criticized the moral panic concept for "its tendency to import a negative normative judgment" (p. 19). In *Fractious Rivals?* (2011) he points out that

> moral panic carries with it a tendency to commit analysts in advance to political disapproval or normative judgment about the issue under consideration. This tendency goes unnoticed because both the author and the reader are assumed to accept the same normative stance. When allegations of satanic ritual abuse or kidnapping of humans by aliens are under examination, it is all too easy to agree on the panic because author and reader agree that such allegations involve unacceptable negative stereotypes. (p. 56)

To identify a condition or event a moral panic is, without a doubt, to assume a moral viewpoint. It is to claim that something is right and something else wrong. What determines the appropriateness of this claim lies, therefore, in the ability to have one version of events supersede others in a game of reasonableness, in which the claimant and her target audience set the rules—the weight to accord certain facts, et cetera. Although in practice researchers often abandon the moral viewpoint of the group being studied in favour of their own, the tactic is not necessary. (Biased) Analytical frameworks can be set to incorporate the moral viewpoint(s) of others.

To illustrate this point, imagine people aboard a ship panicking because they believe (claim to believe or express belief that) their vessel is sinking. If one finds little or no evidence to support claims that the boat is taking on water or sufficient proof to buoy-up its counterclaim—that the boat is not going down—she may be tempted to conclude that the people aboard the ship are indeed overreacting. Her analytical framework, and its adjoined moral viewpoint, may have convinced her of this. Yet if her approach does not take into account the elements of proof and/or logic sourced by the assumed to be panicking group (e.g. their confidence in the claims of a seer, his reading of the waves and assurances of safety or doom), she is likely neglecting their moral viewpoint; the persons they perceive as experts, the facts they present and reasons for their relevance are presumably undervalued. If, however, these persons, facts, and reasons are used to form the basis of her analytical approach, if the seer is considered an expert, it is possible to assess the

appropriateness of a group's reaction without having to, at this level of analysis, choose an alternative moral viewpoint and, as Garland (2008) suggests, step "outside our role as sociologist" (p. 22). Put differently, the stated reason(s) for action can be disconnected from the evidence on which they are said to be based, allowing for the group to misinterpret the seer's warnings and have their reaction appropriately labelled an overreaction by others working from the same moral viewpoint or prioritizing the same facts, evidence, and/or claims of fact.

The question that now seems most appropriate to answer is *what does it mean to panic*?

2.1.1. Moral *Panic*

Titled *The Panic*, chapter VI of Smelser's (1962/1967) *Theory of Collective Bahaviour* contains the following paragraph:

> We define panic as *a collective flight based on a hysterical belief*. Having accepted a belief about some generalized threat, people flee from established patterns of social interaction in order to preserve life, property, or power from that threat. This definition covers many concrete settings in which panic occurs – the battlefield, the sinking ship, the burning building, the money market, and so on. (pp. 131-132)[35]

Though a good introductory explanation of what it means to panic, Smelser's (1962/1967) description is at points problematic and overly restrictive. In an attempt to address some of these points and, in so doing, provide a clearer

[35] The context of Smelser's (1962/1967) definition suggests that the accepted "belief about some generalized threat" (p. 131) is exaggerated and the collective reactionary behaviour is intended to correct—in whole or in part—an existing situation or problem.

understand of moral panic, the following section is divided into nine parts, commencing with the requirement that panics be based on a hysterical belief. The obligation that panics involve flight, that they be collective, as well as the role of the media, folk devil, and the belief of threat are addressed consecutively. The issue of disproportionality is left until the end.

A 'Hysterical' Belief

Expanding on his aforementioned definition, Smelser (1962/1967) writes that for a group of individuals to panic, they must perceive their ability to escape an identified threat as "limited and possibly closing." (p. 139) Should the routes of escape be perceived open, panic, according to Smelser (1962/1967), is impossible. If the routes of escape are perceived to be closed, "reactions such as terror or infantile regression can occur . . . but not panic" (p. 136), for, unlike terror and infantile regression, panic is said to denote a sense of action, flight. To highlight this and panic's definitional requirement of *limited and possibly closing* exits—both of which I will return to—Smelser (1962/1967) presents six examples of what he terms "'classic' panic situations" (p. 137). People piling "up at doorways in theatre, night club and school fires when it appears that these escape routes are closing" (p. 137) characterizes the first of these situations. For Tester (2013) "this example of people fleeing a burning building highlights one of the problems of Smelser's approach: he identifies panic with a 'hysterical belief'." (p. 7)

The crux of Tester's (2013) critique lies in his belief that the burning building example does not depict hysterical behaviour, for "to try and flee a burning building is actually a very sensible thing to do." (p. 7) While I would not dispute the latter part of Tester's (2013) claim, acceptance of it does not exclude the possibility that persons within a burning building may overreact or act in a hysterical or irrational manner by basing their mode or method of flight on a hysterical or irrational belief[36]. The reason for this qualifier is that Smelser's (1962/1967) panic is itself based on a belief of fact. While this is made clear in his definition of panic and understanding of collective behaviour as "guided by various kinds of *beliefs* [emphasis added]—assessments of the situation, wishes, and expectations" (Smelser, 1962/1967, p. 8), Quarantelli (1954) is hesitant to equate the term with irrational behaviour:

> To state that panic flight involves a degree of awareness on the part of participants is not to suggest in any way that it is highly rational activity. It certainly does *not* involve the weighing of alternative lines of action . . . . On the other hand, panic flight does not involve irrational thought if by that is meant anything in the way of faulty deductions from certain premises. From the position of an outside observer this may appear to be the case but, from a participant's viewpoint, given his limited perspective of only certain portions of the total situation, no such interpretation of irrationality can be made. For the fleeing person, his actions appear to him quite appropriate to the situation as he perceives it at that time. (p. 272)

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[36] Smelser (1962/1967) defines *hysterical belief* as "a belief empowering an ambiguous element in the environment with a generalized power to threaten or destroy." (p. 84) While this definition does not necessarily equate a hysterical belief with an irrational one, I am in agreement with Tester's (2013) assertion that "to call something hysterical is to imply an irrationality about it." (p. 7) The same can, and I would argue should, be said for panic: "panic is . . . irrational." (Brown, 1954/1959, p. 858; see also Clarke & Chess, 2008, p. 995; Fekete, 1994, p. 24; Thompson, 1998, p. viii) The term "implies that the response to some social problem is an over-reaction or exaggerated." (Hunt, 1999, p. 19; see also Jenkins, 1998, pp. 6-7) Again, this can be determined by incorporating the moral viewpoint of the reacting, responding persons.

For the soft-constructionist/post-positivist paradigm adopted here, Quarantelli's (1954) claim is problematic. Simply because the panicking individual views his action(s) to be "appropriate to the situation as he perceives it at that time" (p. 272) or fails to consider its consequences does not prevent others from prioritizing the same facts and concluding, with a relatively high degree of confidence, that the behaviour was hysterical or irrational (i.e. was based on a hysterical or irrational belief). Quarantelli's (1954) understanding of panic behaviour as involving a definitive purpose or goal helps substantiate this position by joining behaviour and a set of beliefs: "Panic flight is not random or helter-skelter; the participants do not run every which way but instead take their general orientation for flight from the threatening situation." (p. 269) The "extreme focalization" (1964, p. 77) he later uses to exclude panic from rational/irrational consideration is of similar use[37].

Returning to Smelser's (1962/1967) example of persons fleeing a burning building, for panic to take place those involved need only believe they are in danger, that their exits are "limited and possibly closing" (p. 139). By differentiating belief and fact—even within a soft-constructionist/post-positivist paradigm—Smelser (1962/1967) allows for the possibility of miscalculation and hysterical or irrational behaviour. For Freud (1922) it is this miscalculation that characterizes states of panic: "It is the very essence of panic that it bears no relation to the danger that

[37] Quarantelli (1964) explains that "*the panic participant is nonrational* [emphasis added], not because of a failure to think or because of illogical thinking but simply because of *the extreme focalization of his thought* [emphasis added] and consequent overt activity to remove himself from the threatening area." (p. 77)

threatens" (p. 46). While I will revisit this comparison of fact and belief, allow me to present the above argument in a slightly different way.

Looking into the possible conflict between individual and cooperative or group behaviour, Mintz (1951) notes that

> at a theater fire, if everyone leaves in an orderly manner, everybody is safe, and an individual waiting his turn is not sacrificing his interests. But if the cooperative pattern of behavior is disturbed, the usual advice, "keep your head, don't push, wait for your turn, and you will be safe," ceases to be valid. If the exits are blocked, the person following this advice is likely to be burned to death. In other words, if everybody cooperates, there is no conflict between the needs of the individual and those of the group. However, the situation changes completely as soon as a minority of people cease to cooperate. (p. 151)

Exaggerating the immediacy of the threat, those who initially decide to not cooperate can, in the above case—where all persons are assumed to assess the fire's threat by prioritizing the same facts—be seen as acting hysterically or irrationally. Again, this determination is not based on the likelihood that uncooperative behaviour will allow the few who initially decided to 'push' to exit the theater faster than they would have otherwise. Their actions may very well ensure this. Instead, they are seen as acting hysterically or irrationally because they are basing their decision to not cooperate on a hysterical or irrational belief—a misinterpretation of the facts they prioritized—that exaggerates the fire's threat or the risk attributed to something or someone of value being—in terms of frequency, location, and/or degree—damaged or harmed[38].

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[38] Noting that the term panic "has been used to refer to so many different kinds of behavior – ranging from a wild outburst of flight to paralysis of action" (p. 1), Janis et al. (1955) reserve the term to explain "highly emotional behavior which is excited by the presence of an immediate severe threat,

Tester (2013) sidesteps the issue of a hysterical or irrational belief by focusing his analysis of Smelser's example on the assumed collective desire to flee a burning building and a 2001 publication by Quarantelli:

> Despite what Smelser might lead us to expect, panicking crowds often consist of individuals who seek to cooperate with one another (Quarantelli 2001: 9). Contrary to Smelser's definition panic does not necessarily involve flight from "established patterns of social interaction". (p. 7)[39]

While I agree that panic need not involve the abandonment of *established patterns of social interaction*, the possibility that some persons may—sourcing the facts they perceive to be important—misinterpret the situation and overreact or base their goal oriented behaviour on a hysterical or irrational belief allows for this aspect of Smelser's (1962/1967) panic definition to be retained. Groups of people can behave hysterically or irrationally when part of a larger crowd. However, when they do, their behaviour does not always take the form of flight.

More than 'Flight'

Also reviewing Smelser's work, Mawson (2007) notes that the author's

> definition of panic as "collective flight" is too restrictive since it does not include the range of behavior customarily associated with the term. Panic can be expressed in aggression or rage as well as flight, not to mention intense affiliative behaviour. (p. 156)

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and *which results in increasing the danger for the self and for others rather than in reducing it*." (p. 1) This reliance on behaviour's result(s) in determining whether the panic label is appropriate I find problematic, for it is possible to stumble upon an exit while running blindly through a labyrinth. I will return to this point in *The Existence of Moral Panic* part of this subsection.

[39] Tester's (2013) use of Quarantelli's (2001) work is here interesting, for in an earlier publication Quarantelli (1954) defines "panic as the very *antithesis of organized group activity* [emphasis added]—as an acute fear reaction marked by loss of self-control which is followed by nonsocial and nonrational flight." (p. 267)

Though Quarantelli (1954; see also Brown, 1954/1959; Foreman, 1964; McDougall, 1920; Quarantelli, 1964; D. Schultz, 1964a, 1964b) also identifies panic with *flight*—the antithesis of an "overt attempt to deal directly with the danger itself" (p. 270)—I agree with Mawson's (2007) critique. It seems unnecessary and problematic to equate panic solely with flight or for that matter its attempt.

For Mawson (2007), "'fight' and 'flight' responses are not incompatible with each other; both are manifestations of intense stimulation-seeking" (p. 139), whereby persons act to change the situation in which they find themselves or trade one set of circumstances for another. Because attempts to achieve this goal can take on a plethora of differing behaviour—including remaining still or motionless—my suggestion is similar to that of the *Mass Panic and Social Attachment* author: "The search for an explanation of panic as a distinct phenomenon (that is, distinct from other kinds of . . . behavior) is illusory" (Mawson, 2007, p. 113)[40]. The only definitional constant is that the behaviour is intended to correct, in whole or in part, what the panicking group believes to be a threatening situation or social problem. This understanding allows for panic to be redefined as *collective, corrective-intended behaviour based on a hysterical or irrational belief that exaggerates the threat posed*

[40] The full quote reads as follows: "The search for an explanation of panic as a distinct phenomenon (that is, distinct from other kinds of highly emotional behavior) is illusory" (p. 113). The phrase *highly emotional behavior* was removed to expand the scope of the statement and better situate it within the surrounding arguments.

by a social problem[41]. When discussing moral panics, it is the collective component of this definition that is of particular importance.

A Collective Response

Continuing with his critique of Smelser's (1962/1967) work, Tester (2013) stresses what I too see as an important facet of his predecessor's approach: "He sees it [panic] as *a form of collective behaviour and not as an individual trait*. In other words for Smelser panic is sociological and not psychological." (p. 5) In other words you cannot panic alone.

Many authors, particularly those in medical and psychological fields of research, write of panic as an individual, non-communal experience, attack, disorder, or disturbance (Gray, 1988; Moynihan & Gevirtz, 2001; Schmidt & Keough, 2010; Zuercher-White, 1998). There are also a considerable number of persons who, like Smelser (1962/1967), refer to panic as a collective—albeit perhaps individually motivated and/or uncooperative—response (Foreman, 1964; Freud, 1922; Lang & Lang, 1961; LaPiere, 1938; McDougall, 1920; Mintz, 1951; D. Schultz, 1964b, 1965). When referring to the concept of moral panic it is the latter of these approaches that is in play, for moral panics are not meant to describe the hysterical or irrational response of a lone or insubstantial number of individuals to an

[41] This reading is similar to the above generalization of Young (1971/1982) and S. Cohen's (1972, 2002) moral panic. It also reinforces the position that the panics to which I am referring are collective, involve conscious purposive behaviour, and are—at least initially—not physiological (i.e. situations in which bodies, void of conscious thought, respond to what they perceive as threatening).

exaggerated threat (S. Cohen, 2002; Critcher, 2003, 2006; Garland, 2008; Goode & Ben-Yehuda, 1994a, 1994b; Hall et al., 1978; Welch, Price, & Yankey, 2002; Young, 1971/1982). Instead, they refer to the panicked reaction of "a substantial number of the members of a given society" (Goode & Ben-Yehuda, 2009, p. 35). What constitutes a *substantial number* is, however, a point of debate.

Using game theory as his theoretical backdrop, Brown (1965) provides a very specific answer to the question: How many persons are required for panic to take place?

> "How large a crowd does it take to make panic possible?" The answer is precise but not the kind of answer we might have expected; it is not a fixed number. The answer is: "It takes a crowd big enough to produce the Entrapment Dilemma in the given situation." (p. 743)[42]

That number need not be greater than two.

In a system comprised of, for example, three persons, a compelling argument could be made that two individuals constitute a substantial number; 67 percent of a population is hardly insubstantial, and each categorization is mutually exclusive—something is or is not substantial. While the two-person minimum will, when coupled with this logic, pose problems in larger (more populated) societies, Brown's (1965) portrayal of panic as but the possible outcome of competition amongst humans is perhaps a more helpful point to address.

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[42] The *Entrapment Dilemma* Brown (1965) refers to is adopted from Luce and Raiffa's (1957) *Prisoners' Dilemma*. Simply put, it refers to a situation whereby an individual and the remaining members of his group must choose between (possibly contradictory) behaviours that have an effect on their safety and the safety of the other party.

Supporting Lang and Lang's (1961) description of panic as a "collective retreat from group goals into a state of extreme 'privatisation'" (p. 83) and Turner and Killian's (1957) notes on panic as a collective reaction, Brown (1965) calls for the term to be "reserved for cases . . . when the social contract is thrown away and each man single-mindedly attempts to save his own life at whatever cost to others." (p. 737) This requirement, that panic involve competition, may also be read into Smelser's (1962/1967) claim that "panic is possible only when exits are limited and possibly closing." (p. 139)

Again agreeing with Mawson (2007), I find the above competitive requirement too limiting. Surely people can panic—base their collective, corrective-intended behaviour on a hysterical or irrational belief that exaggerates the threat posed by a social problem—in situations where they are not pitted against one another, where the interests of the individual are aligned with the interests of the group or, as Mawson (2007) points out, where the situation is not defined by those within it as competitive. While Mintz (1951) convincingly argues that unstable reward structures are responsible for persons defining situations as competitive and placing their individual needs over those of the group, I would propose that the same unstable structures can, where communication is possible and the path towards (even) the most egotistical goals is less than certain, unite individuals. An example of such a situation would be one in which members of a group behave irrationally when confronted by what they believe to be an identifiable, yet well concealed threat (e.g. homosexuality, paedophilia, HIV/AIDS). Whether individuals

are concerned for the safety of others or, as Freud (1922) suggests, solely with their personal welfare, a competitive nature need not take root. Even if an existing pattern of collaborative group behaviour is disturbed by the selfish acts of a few, the group need not deteriorate into a collective of self-absorbed individuals. A "poisoned solidarity" (Lancaster, 2011, p. 21) may keep them united, but not prevent them from panicking[43].

So, how many people must behave irrationally for moral panic to occur? What is a substantial number if competition is unnecessary? While I am not able to provide a numerical answer, if one were to compare the evolution of moral panics as described in some of the concept's most prominent works (S. Cohen, 1972, 2002; Critcher, 2003; Goode & Ben-Yehuda, 1994b, 2009; Hall et al., 1978; Young, 1971/1982) and borrow from my above noted social problem definition, a substantial number may be characterized as one which is able to encourage, force, or motivate the implementation of (one or more) corrective measures available to and in the name of the, potentially wider, collective. By this I mean that the belief of threat expressed by a number of persons will lead to a reaction, by the collective or an organization or grouping of its members that represents and defends the collective interest and will, which is meant to correct—in whole or in part—what the panicking persons believe to be a threatening situation or social problem. For this process to take place the media and/or mass media need not be involved.

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[43] Lancaster (2011) explains *poisoned solidarity* as a "fear of others" (p. 21) or "inversion of the usual norms of social solidarity . . . [in which] an 'I' and a 'you' are connected negatively, by mutual suspicions." (p. 21)

Media's Exclusion

The media and/or mass media are commonly described as playing a crucial/central role in the development of moral panics (S. Cohen, 2002; Goode & Ben-Yehuda, 2013; Hall et al., 1978; Halvorsen, 2006; Klocke & Muschert, 2010, 2013; T. Miller, 2006; Rothe & Muzzatti, 2004; Schinkel, 2008; Siltaoja, 2013; St. Cyr, 2003; Ward, 2002). Rodger's (2008) description of the concept may be used to exemplify this centrality: The term moral panic "relates to the process whereby private troubles are given a societal dimension through the actions of the mass media and the voices of those opinion formers deemed to be authoritative and credible by the mass media." (p. 176) Yet, even if mass and/or news media commonly play an important role in moral panic development, unlike the public, their involvement is not mandatory. Moral panics can take place without them, even if Critcher (2003) suggests otherwise:

> The moral panic model has been criticized because "it tends to attribute to the mass media considerable power to manipulate public opinion" (Rocheron and Linné 1989: 417) and "fails to distinguish between . . . what the papers s*ay* and what the public *thinks*" (Hunt 1997: 645 original emphasis). The criticisms are justified. The claim is invalid, the distinction unnecessary . . . . In practice, it does not matter whether the "public" do become concerned about the issue . . . . In moral panics support from the public is a bonus not a necessity. In any case it can be constructed, largely by the media. (pp. 137-138; see also Maneri, 2013, p. 185)[44]

[44] The introductory sentences of Springhall's (1998) writing on moral panic are also supportive of an implied or constructed public concern:

> "Moral panic" *occurs when the official or press reaction* [emphasis added] to a deviant social or cultural phenomenon is "out of proportion" to the actual threat offered. *It implies that public concern* [emphasis added] is in excess of what is appropriate if concern were directly proportional to objective harm. (pp. 4-5)

While writings of potential moral panics seem to support some of Critcher's (2003) claims (e.g. moral panic researchers routinely fail to appropriately poll public perception; David et al., 2011; Irvine, 2009; Ungar, 2001; see also Barron & Lacombe, 2005; deYoung, 1997; Jenkins & Maier-Katkin, 1992; Neuilly & Zgoba, 2006; Sindall, 1987; Smart, 1989; Zgoba, 2004), to assume that the concept should allow for the public's exclusion and require the/mass media's involvement is misleading and inconsistent with Critcher's (2003) own assertion that "modern moral panics are unthinkable without the media, *though medieval witch trials managed without them* [emphasis added]." (p. 131)[45] The logic upon which I support this claim is rooted in an understanding of *public* that differs from Critcher's (2003) more narrow use of the term. It is also borrowed from a contradiction in Goode and Ben-Yehuda's (2009) work.

Differing from claims made in their book's first edition[46], Goode and Ben-Yehuda (2009) write the following:

> The first thing we should know about moral panics is that when the media expresses fear or concern about a threat or supposed threat, that *constitutes* or *is a measure* of a moral panic; that is, in a media panic, the expression of media fear and concern *is itself* a moral panic. In other words, *even if the media do not generate or stir up fear, concern, or hostility in the public*

[45] Goode and Ben-Yehuda (2009) also support the latter part of this statement:

> Moral panics began as far back as the existence of organized society itself . . . . As we saw, the Renaissance witch craze, which repeatedly exploded hundreds of years before we developed the modern mass media of communications, was a genuine *moral panic*. (p. 89)

Pointing to others who talk of moral *panics* occurring "in the mid-19th century and before" (p. 14), Garland (2008) goes on to suggest that "perhaps an effective channel of collective communication is all that is needed" (p. 14).

[46] In *Moral Panics* (1994b) the authors claim "if the media is infused with hysteria about a particular issue or condition which does *not* generate public concern, then we do not have a moral panic on our hands." (p. 26)

> [emphasis added], the media's expression of that fear, concern, or hostility is *itself* a moral panic – a *media panic*, but a moral panic nonetheless. (p. 91)

When compared to their claim that, for a state of moral panic to exist, concern "must be fairly widespread, although the proportion of the population [the public] who feels this way need not be universal or, indeed, even make up the literal majority" (p. 38), the former quote appears to require the media be considered or be seen to represent a segment of the public. This reading is re-emphasized one page later:

> To sweep public concern under the rug as an irrelevant criterion of the moral panic or a reflection of the interests of the ruling elite is either to fail to recognize a key ingredient in this crucial process or to make a seriously mistaken assumption about its dynamics. (p. 39)

Assuming this more inclusive understanding of the—and, I would add, mass—media, what Goode and Ben-Yehuda (2009) describe as *media panics* are themselves moral panics not because news media is or can construct the wider public's opinion, but because it is—like members of the Ottawa Police Association, the House of Commons, or the Child Poverty Action Group—an element or segment of the public, albeit one that the rest of us often rely on to identify who and/or what we should fear.

Hostility and the 'Folk Devil'

In keeping with my habit of referencing the work of Goode and Ben-Yehuda (2009), the authors write that for moral panic to take place

> there must be an increased level of *hostility* toward the group or category [of persons] regarded as engaging in the behavior or causing the condition in question . . . . That is, not only must the condition, phenomenon, or behaviour be seen as threatening [to "touch off" a moral panic], but a clearly identifiable

> group in or segment of the society must be seen as *responsible* for the threat. (p. 38; see also 1994b, p. 33)[47]

Putting aside—for the moment—the requirement of increased hostility, Goode and Ben-Yehuda are not alone in their insistence of a personified enemy to target the ill will of 'good folk' (Anitha & Gill, 2015; Burns & Crawford, 1999; Klocke & Muschert, 2010, 2013; Rothe & Muzzatti, 2004; Welch, Price, & Yankey, 2002). Before opting for a less rigid reading of the concept's requirements, Zajdow (2008) shares a similar view: "There are three important actors, or groups of actors, involved in producing a moral panic. [First] There are those whose actions are deemed to cause the moral panic, and around which the panic swirls—the *folk devils* [emphasis added]" (p. 642)[48]. Four pages later he writes "the folk devil at the center of the [moral] panic [around deaths related to the overconsumption of heroin] was not the heroin user, but the drug itself and the overdose deaths that accompanied it." (p. 646)

Zajdow's (2008; see also Critcher, 2003; Levi, 2009; Best, 2011; deYoung, 2011; Collins, 2013) expansion of the folk devil term to allow for the inclusion of objects and events—as well as actors or persons who act—is more appropriate than its before mentioned alternative. It seems unnecessarily rigid and problematic that

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[47] These points are later reiterated:

> The key ingredient in the emergence of a moral panic is the creation or intensification of hostility toward and denunciation of a particular group, category, or cast of characters. The emergence or the reemergence of a deviant category characterizes the moral panic; central to this process is the targeting of new or past "folk devils." (2009, p. 116; 1994b, p. 74)

[48] The other two actors, according to Zajdow (2008), are moral entrepreneurs,

> who consider it is up to them to bring to the greater populace's notice the damage done by the first group and, finally, there is the media, which carries to the greater public the message of the panic and the concerns of the moral entrepreneurs. (p. 642)

one would have to develop another set of words to describe what would otherwise be a moral panic in which the folk devil is not personified—where, for example, the act of CSA and not the sexual abuser is believed to be a threat. My position here is not new. It is taken from S. Cohen's (1972) description of moral panic as an event occurring when "*a condition, episode, person or group of persons* [emphasis added] emerge to become defined as a threat to societal values and interests" (p. 9; 2002, p. 1)[49]. Leading to a conceptual void that her own concept then fills, Moore (2013) reads S. Cohen's work differently:

> Nonetheless there was one very important criterion that the media coverage of DFSA [drug-facilitated sexual assault] lacked for it to be judged a moral panic: there was no discernable, fully fleshed-out "folk devil", no person, *condition or episode* [emphasis added] (as Cohen's original formulation had it) that was being put forward as the repository of public concern . . . . In short, it was not male deviant behaviour that was being marginalized here, but rather female behaviour associated (erroneously, often) with an increased risk of victimization. I used the term "cautionary tale" to capture this dimension of media coverage . . . (pp. 36-37)

Without quoting S. Cohen or presenting a concept to occupy the resulting void, Goode and Ben-Yehuda (2009) justify the rigidness of their focus on timing and our limited understanding of moral panics:

> Certain conditions may cause anxiety, concern, or fear but in the absence of folk devils or evildoers do not touch off *moral* panics. Some observers argue that sociologists should shift their agenda away from moral panics to these broader, more amorphous supposed threats . . . We disagree and believe that the implications of moral panics have barely begun to be understood,

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[49] Flinders (2012) provides an equally supportive definition, describing the folk devil as "an object of fear or contempt which becomes the focus of a citizen backlash and some form of external intervention" (p. 4). This is, of course, where "the *object* of a particular feeling or reaction is . . . the thing or person that it is directed towards." (Sinclair, 1987, p. 989) Soulliere's (2010) description of Harry Potter, a fictional character created by J.K. Rowling, "as the primary 'folk devil'" (para. 9) in "a moral panic created by Christian Rights groups and leaders" (para. 9) may also be read to support this claim.

> suggesting that the subject needs a great deal more attention and nuance, not less. (p. 42)[50]

While I would agree that the moral panic concept is likely to benefit from more clearly defined parameters, I would be careful not to equate *nuance* or *attention* with *clarity*. It is possible to pay great attention to or further nuance a concept without clarifying its meaning, particularly if the attention and added nuance work against a concept's wide-ranging utility. That said, and in the absence of a valid means of differentiating personified and non-personified threats (e.g. homosexuals from homosexuality, child molesters from child molesting, black muggers from muggings by black men) or substantiating a base level of hostility against which short or longstanding fluctuations may be measured, Goode and Ben-Yehuda's (2009) assertion that moral panics must involve an increased level of hostility towards a personified folk devil remains unnecessarily rigid and problematic. Depending on how one defines *hostility*, simply directing it towards some identifiable threat may suffice.

If hostility is used to describe "behaviour which is unfriendly or aggressive" (Sinclair, 1987, p. 704) and *behaviour which is unfriendly* includes acts that are meant to distance oneself (physically and/or otherwise) from what is believed to be threatening, then moral panics may be said to include hostility. Although this

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[50] In the same work, Goode and Ben-Yehuda (2009) define the folk devil as

> a "suitable enemy," the agent responsible for the threatening or damaging behavior or condition. To actors caught in the coils of the moral panic, folk devils are the *personification of evil* [emphasis added] . . . . Child molesters are terrific and instantly recognizable candidates for the role of folk devils. (p. 27)

portrayal of hostility is quite different from how Goode and Ben-Yehuda (1994b, 2009) present it, I would argue that such a reading of the term is required for it to be considered a characteristic of the moral panic concept presented here. Hostility cannot only be associated with the 'othering' of persons or groups of persons defined as evil or poorly behaved. And while this aspect of Goode and Ben-Yehuda's (1994b, 2009) more nuanced approach may be, to a certain extent, preserved, not all of their essential criteria are equally salvageable.

In both the first and second edition of *Moral Panics*, Goode and Ben-Yehuda present "five crucial elements or criteria" (1994b, p. 33; 2009, p. 37) that characterize the existence of moral panic: concern, hostility, consensus, disproportionality, and volatility. Because the elements of *consensus* and *hostility* have already been discussed, and a discussion on the criteria of *concern* seems to be an appropriate lead-in to *disproportionality*, which is addressed in a latter subsection, it may be now best to approach the topic of *volatility*. And so I shall[51].

On Volatility and Length

> By their very nature, moral panics are *volatile*; they erupt fairly suddenly (although they may lie dormant or latent for long periods of time, and may reappear from time to time) and, nearly as suddenly, subside . . . . Likewise, if a given fear is a more or less constant and abiding element in a society, it lacks the element of volatility; according to this criterion, therefore, it does not qualify as a moral panic. (Goode & Ben-Yehuda, 2009, pp. 41-42)

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[51] Jewkes (2010) presents a different set of "five defining features of the [moral panic] model" (p. 77). I have here chosen to focus on those of Goode and Ben-Yehuda since, to date, their work has occupied a more central role in moral panic's conceptual development and its surrounding academic discussion.

Although it is presented as one of Goode and Ben-Yehuda's (1994b, 2009, 2013) crucial elements, *volatility* or the notion that moral panics must be volatile is seemingly undeveloped. The above quote, and slightly differing versions of the same claim, makeup the majority of the authors' discussion of the criterion and invoke a number of poorly answered questions: How is one to differentiate between a dormant moral panic (or *'low-grade' panic*; Ungar, 2011) and a dead one? If "volatility is a matter of degree" (Goode & Ben-Yehuda, 1994b, p. 41; 2009, p. 42), how is it to be measured? How does one establish a standard? Little explanation is given. Yet Goode and Ben-Yehuda's positioning is firm and unambiguous: Moral panics are not constant or abiding happenings. Instead, "much like fads, they erupt suddenly and usually unexpectedly, and, in a like manner, fairly swiftly subside and disappear" (Goode & Ben-Yehuda, 1994b, pp. 52-53; see also 2009, p. 48).

To support their positioning, Goode and Ben-Yehuda (2013) later point to S. Cohen's description of moral panic as a spasmodic "sputter of rage which burns itself out (2002, p. xxx)." (p. 27)[52] While S. Cohen (2002) is a good candidate for sourcing[53], unless the person who popularizes a concept is able to dictate the parameters of its appropriate use, I fail to see why moral panics must be volatile,

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[52] It is worth noting that although Goode and Ben-Yehuda present *volatility* as one of five defining components of the moral panic concept, their 2013 claim is slightly and confusingly less direct: "and fifth: *volatility*: moral panics *tend to be* [emphasis added] outbreaks, temporary episodes of exaggerated concern; they come and go like a fever" (2013, p. 27); "and fifth, by their very nature, moral panics *are* [emphasis added] *volatile*; they erupt fairly suddenly . . . and, nearly as suddenly, subside." (1994b, p. 38; 2009, p. 41)

[53] One could also have cited Mawson's (2007) work on panics or Boëthius (1995) on moral panics: "It is the suddenness and intensity of the behavior that evokes the label 'panic'" (2007, pp. 139-140); "events should take place rapidly and intensively – following the pattern Cohen outlined. In my opinion, only if these criteria are satisfied can one actually refer to a moral panic." (1995, p. 42)

particularly when the practical implications of this requirement are so problematic[54]. The same argument can be made in response to attempts to nuance the concept by restricting it to panics of a particular length.

Length is not one of the five elements that Goode and Ben-Yehuda (1994b, 2009, 2013) identify as crucial in differentiating moral panics from other social happenings. However, in their writings of *volatility*, length is presented as a characteristic to consider:

> The fever pitch that characterizes a society during the course of a moral panic is not typically sustainable over a long stretch of time . . . . In fact, one or another moral panic which seems to have been sustained over a long period of time is almost certainly a conceptual grouping of a series of more or less discrete, more or less localized, more or less short-term panics. (Goode & Ben-Yehuda, 1994b, p. 39; 2009, pp. 41-42)

An extended version of S. Cohen's (2002) above quote may be used as a literary crutch: "The notion of a 'permanent moral panic' is less an exaggeration than a oxymoron. A panic, by definition, is self-limiting, temporary and spasmodic, a sputter of rage which burns itself out." (p. xxx)

S. Cohen (2002) is not alone in his description of moral panics as but short-term overreactions. Best (2011), for example, writes that such a restriction "makes more sense" (p. 45) than its alternative, but provides little explanation as to why. It is due to the absence of any convincing rational and universal agreement as to the length of time a hysterical or irrational action must endure (Jewkes, 2010) that I fail

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[54] Though he writes of theory and not concept, A. Cohen (1965) is likely to oppose such a monopoly: "Whatever the intention or vision of the author of a theory, it is the task of a discipline to explore the implications of a theoretical insight, in all directions." (p. 5)

to see why long-term, even permanent (Surette, 2015), overreactions must be categorized differently[55]. Though perhaps with less enthusiasm, Young (2007) may be read to agree:

> The notion of "permanent moral panic" may well be something of an oxymoron, but the time of transient panic is long past. Here, in the fibrillating heartlands of the first world, images of the excluded . . . visit us daily, the intensity dropping and peaking like tremors, but never vanishing nor presenting temporary relief. (p. 63)

The attributes of volatility and length have not proven to be conceptually or practically beneficial; their inclusion as definitional requirements has led to a plethora of unanswered questions. Still, some have found use in their presence. Maneri (2013), for example, argues that "*volatility* can be used to distinguish moral panics from moral crusades and campaigns" (p. 183). Hunt (2013) makes a similar argument using length:

> It might be helpful to state my view on the relationship between moral regulation and moral panic. I treat moral panics as more- or less-intense variants of projects of moral regulation that are generally of short duration. In contrast, moral regulation projects not only may persist over longer periods, but then also tend to recede only to re-emerge at some later point, often in slightly changed form. (p. 55)

While I have no intention of providing an exhaustive comparison of moral panics, regulations, campaigns, or crusades, perhaps, so as to further situate the moral panic concept within the wider 'academic' literature, a few words are in order.

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[55] Some authors have provided what they perceive to be an appropriate timeframe or range: "A moral panic is an incident of widespread social fear that appears seemingly out of nowhere and that grows in the space of a few months or years, then fades to nothing" (Jenkins, 1999, p. 4); "the classic moral panic doesn't last long – a few weeks, maybe a year or so" (Best, 2011, p. 39); "moral panics tend to leap up, prevail for a time, and fade out within a matter of months or a few years" (Goode & Ben-Yehuda, 2009, p. 49), "although the time span cannot be designated with precision." (Goode & Ben-Yehuda, 2013, p. 27) On the subject of panic, Smelser (1962/1967) writes that "the actual panic may be completed in a matter of minutes, or it may take days or weeks to run its course." (p. 10)

In *Conceptualizing Moral Panic Through a Moral Economy of Harm*, Hier (2002a) presents moral panics as short-lived and volatile forms of moral regulation, a term which he first attributes to the work of Corrigan and Sayer:

> Moral regulation refers to a ". . . project of normalizing, rendering natural, taken for granted, in a word, 'obvious,' what are in fact ontological and epistemological premises of a particular and historical form of social order" ([Corrigan & Sayer, 1985,] p. 4) . . . . That is, as a mechanism of state legitimation, moral regulation serves to facilitate the consolidation of state power by having certain epistemological social arrangements appear to the citizenry as both natural and inevitable. (p. 324; see also Critcher, 2008, 2009, 2011; Hier, 2011b; Hier, Lett, Walby, & Smith, 2011; Hunt, 2011)[56]

In many ways, the above reading of moral regulation is similar to Furedi's (2005) *politics of fear*—the idea "that politicians self-consciously manipulate people's anxieties in order to realize their objectives." (p. 123)[57] With fear as the "currency of claims" (p. 130), moral panics can become tools or weapons of persuasion, for those able to incite them, during periods of hegemonic unrest (Young, 2009)[58]. They may "work to legitimize a state of crisis and claims for a certain course of action" (Siltaoja, 2013, p. 64) or become "forms of ideological consciousness by means of which a 'silent majority' is won over to the support of increasingly

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[56] So as to further clarify the differences between moral panics and moral regulation, Hier (2002a) draws attention to what he considers to be two key points of divergence. First, unlike moral regulation, moral panics "do not involve any character reformation of moral deviants" (p. 329) or adjustments to their ethic. Instead, they are aimed at limiting the agency of others (folk devils), so as to secure the inclusive community (good folk), "when the subjectification of the Other is deemed to be in a state of 'crisis' or . . . is not possible." (p. 329) Hier's second point is that the loosely focused normalization processes involved in moral regulation stands in contrast to moral panic's immediate targeting of a specific tangible object.

[57] See also Bauman (2007) on *the capital of fear*.

[58] Although Castel (2003) does not use the term moral panic, he also talks of the state's use of fallacious constructions as means of maintaining social equilibrium and generating political and legal compliance through exaggerated expressions of fear.

coercive measures on the part of the state" (Hall et al., 1978, p. 221)[59]. When talking about moral campaigns or crusades, the description of moral panics as short term and volatile representations of a longer and less capricious process is echoed, albeit less clearly: Though "a moral crusade is not *necessarily* a moral panic" (Goode & Ben-Yehuda, 1994b, p. 19), "the two concepts overlap" (2009, p. 125) and moral panics may be said to "take the form of moral campaigns (crusades)" (Thompson, 1998, p. 3), even if they seem "more spontaneous, more episodic, and shorter lived." (Best, 2011, p. 38)

By assuming that moral panics are similar to/take the form of spontaneous, episodic, and shorter-lived moral crusades, one is able to emphasize the role and importance of volatility and length in differentiating the two events. However, due to the empirical problems associated with the measurement of both qualities, any such emphasis is of little practical significance. Again, there are no established or, to my knowledge, proposed means of measuring the length or volatility of a moral panic, and no standard of volatility or agreed upon length against which to gauge the appropriateness of a moral panic claim.

Instead of treating moral panics as projects of moral regulation that are of short duration or using volatility to distinguish panics from crusades, it is perhaps

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[59] As cited in Gilbert (1958), the comments of Nazi Party leader Hermann Goering provide an example:

> "Of course the people don't want war," he said. "Not in America, nor in Germany, nor in Russia, nor in any place else; but when the leaders want them to go to war, they can drag them along. All you have to tell them is that they are being attacked and throw the pacifists into concentration camps for being unpatriotic, and you have the whole country behind you for a preventive war." (p. 159)

more advantageous to differentiate the terms by their most deep-seated disparity: Their implied relationship to the issue of disporportionality. In other words, to call something a moral panic is to imply "that the response to some social problem" (Hunt, 1999, p. 19) is based on a hysterical or irrational belief that exaggerates the threat posed by the social problem. To call something a moral campaign, crusade, or project of moral regulation does not necessitate a comparable claim; the belief(s) that support them need not be hysterical, irrational, or exaggerate the threat posed by the adjoined social problem.

My suggestion to focus on the issue of disproportionality, as a means of differentiating moral panic from other sociological concepts, is not likely to go unchallenged. Questions around the ability to determine what is and is not a (dis)proportionate reaction have accompanied the concept's rise in popularity (Cornwell & Linders, 2002; Waddington, 1986) and some of its most prolific writers have moved their discussions away from the issue (Rohloff, 2011a). Rohloff (2011a), for instance, suggests "rather than assessing proportionality per se, we could instead assess how effective proposed measures will be, or have been, in addressing the problem" (p. 635).

Rohloff's (2011a) proposal is interesting. There is value in assessing whether proposed reactionary measures have or are likely to be effective in addressing social problems. Yet, to suggest that the reworking of the moral panic concept should come at the expense of having to ignore or circumnavigate the trait

"most commonly associated with the term" (Rohloff, Hughes, Petley, & Critcher, 2013, p. 21) seems misplaced[60]. Whether moral panics are portrayed as forms of hegemonic warfare, moral/social regulation, some decivilizing process, or a particular type of social problem (Barker, 2013; Critcher, 2008, 2009, 2011; Drotner, 1992, 1999; Hier, 2002a, 2002b, 2008, 2011b; Hier et al., 2011; Hunt, 2011; Jenkins & Maier-Katkin, 1992; Lacassagne, 2013; Lancaster, 2011; Lett, Hier, Walby, & Smith, 2011; Luzia, 2008; Patry, 2009; Rohloff, 2008, 2011a, 2011b, 2013; Rohloff & Wright, 2010), the notion of panic and its implied irrationality should not be lost.

In making the above claim, I must acknowledge that the moral panic literature dedicated to the issue of disproportionality is presently underdeveloped. And so, as promised, I will try to clarify the issue by building upon, borrowing from, and rejecting the work of others. To aid this discussion, I will first take some time to clarify what is considered out of proportion when disproportionality is claimed. My use, at times through quotes, of the term *concern* and phrase *belief of threat* may have caused some confusion as to disproportionality's focus. I argue it is the latter around which any picture of moral panic must be framed.

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[60] Expanding on the importance of disproportionality, when talking of moral panic, Goode and Ben-Yehuda (1994b) note "the concept of the moral panic *rests* on disproportionality. If we cannot determine disproportionality, we cannot conclude that a given episode of fear or concern represents a case of moral panic." (p. 38; 2009, p. 41) Similarly, Piper, Garratt, and Taylor (2013) write that "typical of any moral panic is the exaggeration of the issue." (p. 585)

Concern, Fear, Anxiety, Worry, & the Belief of Threat

In keeping with their requirement that folk devils be personified, Goode and Ben-Yehuda (1994b) note that for moral panic to exist "first, there must be a heightened level of *concern* over the behaviour of a certain group or category [of persons, folk devils] and the consequences that that behavior presumably causes the rest of the society."(p. 33; see also 2009, p. 37)[61] As indicated in the above writing on *hostility*, Goode and Ben-Yehuda's understanding of folk devils should here be reworked, expanded so as to include non-personified threats. It is, however, how the authors' notion of *concern* is linked to *fear* and a *belief of threat* that is now of interest.

On page 37 of their 2009 text, Goode and Ben-Yehuda write that, during moral panics,

> the concern felt by the public does not always manifest itself in the form of fear, although both fear and concern have at least one element in common: both are seen by those who feel them to be a reasonable response to what is regarded as a very real and palpable threat.

For Goode and Ben-Yehuda (2009; see also Best, 1990), fear and concern are therefore dissimilar emotions that share at least one common element: Both appear, to the persons experiencing them, to be reasonable. Even if one agrees with this position, the lack of an explanation as to the differences between the terms and their

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[61] Similar statements, referring to concern are found throughout Goode and Ben-Yehuda's work: "When the moral concern felt by segments of the society or the community is disproportionate to the threat or harm, sociologists refer to them as 'moral panics" (2009, p. 17); "a moral panic is the outbreak of moral concern over a supposed threat from an agent of corruption that is out of proportion to its actual danger or potential harm" (2013, p. 26); "in short, the term moral panic conveys the implication that public concern is in excess of what is appropriate if concern were directly proportional to objective harm." (2009, p. 40)

at times interchangeable use should be discomforting: "If we cannot determine disproportion, we cannot conclude that a given episode of fear or concern represents a case of moral panic" (Goode & Ben-Yehuda, 2009, p. 41); "one of the essential defining aspects of the moral panic is an exaggerated fear" (Goode & Ben-Yehuda, 2009, p. 137)[62].

In spite of their shared element and at times interchangeable use, fear and concern are, as Goode and Ben-Yehuda (2009) suggest, different. Or rather, they refer to or represent the occurrence of different reactions. Fear, for example, "is championed as 'the strongest emotion of which the mind is capable of feeling'" (Mieszkowski, 2012, p. 102). It is able to pull men apart and together chain them to Leviathan (Hobbes, 1651/1985). Concern, on the other hand, "is worry [emphasis added] that people have about a situation" (Sinclair, 1987, p. 288). Its effect on the mind is less strong, its presence less influential.

Working from these understandings of concern and fear, use of the terms as synonyms for one another would be a mistake. Their differences are apparent and drastic. Yet, at their core, fear, concern, and—I would add—worry all denote a sense of discomfort or uneasiness (*The Oxford English Dictionary*, 1933/1961). Looking back at Goode and Ben-Yehuda's (2009) use of fear and concern, perhaps it is but this shared sense of unease or discomfort that is required for moral panic to

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[62] On at least one occasion, *hostility* is included here as well:

> The *moral panic* is a scare about a threat or supposed threat . . . The word "scare" implies that the concern over, fear of, or hostility toward the folk devil is *out of proportion* to the actual threat that is claimed. (2009, p. 2)

take place and for the two terms to be used interchangeably. Smelser (1962/1967) would disagree.

In his writings on panic, Smelser (1962/1967) explains that anxiety is not the same as fear, that "it [anxiety] is a vague and incomprehensible uneasiness about some unknown threats" (p. 89), and that for panic to occur anxiety "must be transformed into a fear of a specific threatening agent." (p. 147)[63] Smelser's (1962/1967) understanding of panic as involving collective flight from a perceived threat supports his positioning here. In order to flee from something individuals must know, if only in very broad terms, the thing they are fleeing from. If, however, flight is no longer part of panic's definitional requirements, as is also the case here, fear's necessity begins to erode. Assuming that, in states of collective fear or anxiety, groups of people are equally able to identify what they are afraid of or uneasy for, Smelser's (1962/1967) claim is worn down completely. Fear is not necessary for panic to occur. Anxiety—or the sense of uneasy or discomfort which underline it, fear, concern, and worry—will suffice. According to some of the

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[63] To further explain their differences and fear's relationship with panic, Smelser (1962/1967) borrows from Quarantelli's *The Nature and Conditions of Panic*:

> Fear, rather than anxiety, is the affective component of the panic reaction. . . . The fear-stricken individual perceives some highly ego-involved value greatly endangered. The threat is something that can be labelled, localized in space, and therefore potentially can be escaped from. The threat is specific. . . . Not only do panic participants know what they are immediately afraid *for* (which is their own physical safety), but they also are aware of what they are afraid *of*. The fear that is experienced in panic is of something specific, of something which can be designated. The covert reaction of the individual in panic is never in regard to the unknown or the incomprehensible as such. It is always of a specific threat, the particularization of which may be arrived at individually or through social interaction. (Quarantelli as cited in Smelser, 1962/1967, pp. 90-91)

Bourke (2005) provides a similar, abbreviated explanation: "The uncertainty of anxiety can be whisked away by processes of naming an enemy (it might be a plausible or implausible enemy), converting anxiety into fear." (p. 190)

existing literature, the same is perhaps true for moral panic[64]. I would, however, argue that it is how these reactions are adjoined to or distinguished from a belief of threat that is key.

In its most simplistic form, concern (fear, anxiety, or worry) is an emotion divisible by its presence or absence: Something is or is not of concern. What often determines or explains the presence or absence of this sense of discomfort is whether or not something or someone of value is believed to be at risk of being—in terms of frequency, location, and/or degree—damaged or harmed; it is the belief of threat that often explains, justifies, and/or motivates the emotion of concern. Viewed in this way, differing levels of concern (being, for example, less or more concerned) may be attributed to the acceptance of differing assessments of threat (being less or more threatened). The alternative is, however, also possible. Emotions—states that need not be the result of conscious or deliberate assessment—may have no connection to beliefs.

With regard to the study of moral panics, the possibility of a disconnect between emotions and beliefs is especially important. Assuming that panics are defined as *collective, corrective-intended behaviour based on a hysterical or irrational belief that exaggerates the threat posed by a social problem*, concern (fear, anxiety, or

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[64] Krinsky (2013) also presents a number of interchangeable reactions upon which moral panics may be based. He, however, uses the term *anger* in place of *worry*:

> A moral panic may be defined as an episode, often triggered by alarming media stories and reinforced by reactive laws and public policy, of exaggerated or misdirected public *concern, anxiety, fear, or anger* [emphasis added] over a perceived threat to social order. (p. 1)

Goode and Ben-Yehuda (2013) use fear, concern, and outrage. Furedi (2007) would likely add *risk*.

worry) need not be high for panic to take place. In fact, it may be quite low. While I believe a scenario in which the belief of threat is high and concern is low to be rare, its possibility suggests that the concern, fear, anxiety, or worry often attributed to panics and moral panics is unnecessary and confusing.

According to what I have already written, panic takes place when collective, corrective-intended behaviour is based on a hysterical or irrational belief that exaggerates the threat posed by a social problem. The belief is hysterical or irrational because the facts (evidence or claims of fact) the panicking group perceives to be important do not support it; the threat posed by a social problem is exaggerated. Although concern (fear, anxiety, or worry) is often read into threat's mention, its presence or reading in should not be seen as a definitional requirement of panic or moral panic. Again, Smelser (1962/1967) and Goode and Ben-Yehuda (1994b, 2009) would oppose this assertion, but their own work may be used to support it. Smelser's (1962/1967) definition of panic, for example, makes no reference to a sense of discomfort, concern, fear, anxiety, or worry and, despite presenting a "heightened level of *concern*" (Goode & Ben-Yehuda, 2009, p. 37) as an essential or defining characteristic of moral panic, the *Moral Panics* authors quickly confuse measures of concern with claims of threat and harm:

> They [critics of the moral panic concept] argue, there cannot be any such thing as a "panic," since we cannot determine the seriousness of the objective threat against which concern we may measure subjective concern . . . We strongly disagree, and believe that *some* features of threat and harm can be measured against claims, and during certain periods of emotional intensity, will be found wanting. (p. 40)

This confusion is continued in the *Criteria of Disproportion* section of their work (1994b, pp. 43-45; 2009, pp. 44-46).

In short, those who use the moral panic concept are likely better served by clearly and consistently aligning their goals with the means by which they hope to attain them. For most, this will involve moving away from discussions of or references to emotion (concern, fear, anxiety, worry, et cetera), of which the "moral panic literature is filled" (Hier, 2011a, p. 13), towards ones based on belief—a term which, expanding on Smelser's (1962/1967) "kinds of beliefs" (p. 8), is here understood as the acceptance of assessments, wishes, expectations, perceptions, and/or claims[65]. This shift away from discussions of emotion will also require a slight reworking of Smelser's (1962/1967) already reworked panic definition. Due to its association with emotional excitability or excess, the term hysterical is now best excluded and panic understood as *collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem*.

The Issue of (Dis)Proportionality

I have written that at the heart of the panic concept is the notion that people behave irrationally, that they base their behaviour on an irrational belief which exaggerates the threat posed by a social problem. While the idea that panic is

[65] The word *acceptance* is not meant to imply some knowledge of fact or truth beyond the information available to the researcher. Because of this, some may argue that the word *apparent* should appear ahead of acceptance. To do so would not be incorrect. However, whenever one is speaking of the beliefs of others, from a soft-constructionist/post-positivist epistemological stance, the clarifying term is implied: We may only speak of the appearance of facts or truths; "we are permitted only degrees of confidence." (Goode & Ben-Yehuda, 1994b, p. 38)

irrational behaviour is consistently reiterated in texts devoted to the concept, those who make use of the term have not agreed on a standardized means of differentiating a rational (or proportional) response from an irrational (or disproportional) reaction. Because the same can be said of those who write about moral panic, Waddington (1986) suggests the polemic value-laden term be abandoned:

> Without some clear criteria of proportionality, the description of publicly expressed concern, anxiety or alarm as a "moral panic" is no more than a value judgement. It simply says that the person using the term does not belief that the particular problem is sufficiently serious to warrant these expressions of concern or actions designed to remedy the problem. (p. 257)[66]

Though, by equating irrational beliefs to misinterpretations of what the studied group identify as fact, I hope to have gone some way in delineating a *criteria of proportionality*, my position could be further clarified and perhaps more appropriately situated in the related literature.

If irrational beliefs are misinterpretations of fact, (dis)proportionality can be determined by assessing a group's interpretation of the evidence (facts or claims of fact) they allege or are perceived to have based their behaviour on. Should a group claim or be found to have based their beliefs on a poor or inaccurate reading of the evidence they source, their beliefs may be said to be irrational. While this approach

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[66] In the introduction to the third edition of *Folk Devils and Moral Panics*, S. Cohen (2002) broadly addresses the issue of proportionality:

> It is surely not possible to calibrate exactly the human costs of crimes, deviance or human rights violations. The shades of intentionally inflicted suffering, harm, cruelty, damage, loss and insecurity are too complex to be listed in an exact, rational or universally accepted rank order of seriousness. But some disparities are so gross, some claims are so exaggerated, some political agenda so tendentious that they can only be called something like, well, "social injustice". (p. xxxiv)

allows one to work from the moral viewpoint of the group being studied, it does not and should not be seen to prevent individuals studying potential states of panic or moral panic from interpreting the identified facts in a way that differs from the studied group. As aforementioned, ontological gerrymandering is innate to the practical application of the theoretical paradigm within which panic and moral panic have here been grounded, and thus the mere analysis of other's views and the facts they source will require assumptions about "the existence and character of underlying conditions" (Woolgar & Pawluch, 1985, p. 217)—e.g. the meaning of certain words—to be made that the studied group may disagree with. And this is okay, for to acknowledge the possibility of a different reading of the same valued facts is not, when referring to (strict or soft-)constructionist or post-positivist analytical work, to fail or refuse "to take seriously the moral viewpoint of those who are alarmed." (Garland, 2008, p. 22)[67] Spector and Kitsuse (2001/2009) are likely to find this aspect of my approach within reason:

> It is one thing to study the process of buttressing an argument and to observe how participants decide what the factual bases are, but quite another to stipulate that, apart from these definitional activities, the sociologist might or must make an independent assessment. For example, how could the sociologist decide that flying saucers *in fact* do not and never have existed? (Or witches, or extrasensory perception?) The sociologist of social problems could only examine how participants gather evidence and present claims about unidentified flying objects. The persistent effort to affirm the existence of objective conditions in social problems denies the significance *in their own right* of the conditions participants claim to exist, how participants interpret and evaluate those conditions, and how they organize their actions. (p. 53)[68]

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[67] Again, to assume the moral viewpoint of others is to adopt their prioritization of the evidence (facts or claims of fact).

[68] Clarke and Chess (2008) can also be read as supportive:

> The "perceived risk-real risk" dichotomy has been abandoned by scholars (but not consultants) for several reasons, the most important being that it is a thinly-veiled justification for privileging expert opinions and institutional interests in controversial

Goode and Ben-Yehuda (2011) view things differently.

To varying degrees in line with Barker's (2013) *simple truth* that "in many cases we [as researchers closely examining the evidence and the records] *do* know better" (p. xiv), Goode and Ben-Yehuda (2011) construct their calculation of disproportionality around a number of indicators that are similar to those they describe in 2009 and 1994(b). When taken together the list may be written as follows: (1) the problem/threat posed by the problem is exaggerated or (2) fabricated; (3) implausible causal mechanisms are assumed; (4) rumours/conspiracy theories of harm are invented and believed; (5) the attention paid to a specific problem changes without a corresponding shift in its objectiveness seriousness; and (6) other conditions of equal or potentially greater harm are accorded less attention. Though specific and broad in scope, Goode and Ben-Yehuda base their indicators on the researcher's ability to access and make use of a superior (objective) viewpoint and, in so doing, prioritize a set of facts that differs from the one put forth by the studied group[69]. In addition to the annoyance this is likely to

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> situations (e.g., where to locate a nuclear waste depository, how to clean up oil spills, whether genetically modified foods are acceptable, etc.). (p. 997)

[69] This point is repeatedly made clear throughout their work: "In short, the term moral panic conveys the implication that public concern is in excess of what is appropriate if concern were directly proportional to objective harm." (Goode & Ben-Yehuda, 1994b, p. 36; 2009, p. 40); "there is the implicit assumption in the use of the term *moral panic* that the concern is out of proportion to the nature of the threat" (Goode & Ben-Yehuda, 1994a);

> while we agree with Ungar (1992, p. 497) that with *some* conditions "it is impossible to determine the nature of the objective threat" – and therefore, for those conditions, to measure the dimension of disproportion – this is most decidedly not true for many, possibly most, conditions. (Goode & Ben-Yehuda, 1994b, p. 43; 2009, p. 44)

cause Garland (2008), there are other difficulties with the above listing. Perhaps the most striking is the authors' claim

> if the attention paid to a given condition at one point in time is vastly greater than that paid to it during a previous or later time without any corresponding increase in objective seriousness, then, once again, the criterion of disproportionality may be said to have been met. (Goode & Ben-Yehuda, 1994b, p. 44; 2009, p. 46)

To base one's claim of a disproportionate (irrational or over)reaction solely on an increase in the attention paid to a perceived threat seems both theoretically and methodologically awkward. Simply spending more time, money, energy, et cetera, addressing or attempting to address a specific social problem is by no means indicative that group behaviour has reached a point "above and beyond what a realistic appraisal could sustain" (Goode & Ben-Yehuda, 2009, p. 40). Goode and Ben-Yehuda's (2011) *Grounding and Defending the Sociology of Moral Panic* reads more cautiously: The attention paid indicator is reformulated as a "*clue* [emphasis added] that a moral panic may be brewing." (p. 29) This reformulation also seems appropriate when comparing a group's reactions to two or more social problems (number 6 of the above indicators). The mere fact that more attention is paid to what the evidence shows to be an equal or less threatening phenomenon is not more than a clue that a group may be overreacting.

In addition to these oversimplifications, it would be equally inappropriate to support claims of disproportionality solely on a group's acceptance of and reaction to rumours or conspiracy theories of harm, unless rumours and conspiracy theories

(number 4 of Goode and Ben-Yehuda's indicators) are—as implausible causal mechanisms and fabricated harms (numbers 3 and 2) should be—equated to an exaggerated threat (number 1). While Goode and Ben-Yehuda present the four indicators separately, all revolve around misinterpretation and, when referring to panic and moral panic, the overstatement or exaggeration of some perceived threat. Therefore, they are best viewed jointly, plainly as a single indicator characterized by an exaggerated threat. That is, of course, where the threat, found to be exaggerated, is identified by the group whose behaviour is under study.

Insisting that "the conditions for a moral panic are created by the moral panic" (p. 251), Young (2011) would consider both of the above approaches to be inadequately developed:

> If one of the core questions in determining if we have a moral panic or not is whether the social reaction is significantly disproportionate to the problem, as it presents itself at the present moment, we have to make allowances for the fact that the past reaction may have contributed greatly to the size and severity of the problem. Thus the question of disproportionality must always be phrased as: is the reaction disproportionate to the problem if there had been no such social reaction in the first place? If we do not know this, the answer will always be corrupted by the question; the world of appearances will dominate reality. (pp. 251-252)[70]

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[70] Buckingham and Jensen (2012) would, for other reasons, disagree with my measure of disproportionality. In *Beyond Moral Panics* they write that

> the claim of disproportionality requires researchers to prove that such reactions are indeed disproportional (or "panicky") *and to explain why this mismatch occurred* [emphasis added] . . . [Since] it is assumed that "moral entrepreneurs" are irrational or hiding their real motives, researchers are bound to look for these real motives in contexts that lie beyond the immediate debate. (p. 426)

Because I believe the latter part of Buckingham and Jensen's (2012) requirement to be unnecessary for the development and/or use of the moral panic concept, it is, other than its mention here, ignored.

Passing over the confusing—or perhaps just poorly worded—argument that moral panics creates the conditions that allow them to exist[71], Young's (2011) assertion that to claim disproportionality one must determine whether the reaction is *disproportionate to the problem if there had been no social reaction in the first place* seems misplaced. The reason for this is that to use the term panic is only to state that a group's behaviour appears to be based on a misinterpretation of the facts or evidence they perceive as important, resulting in an exaggeration of the threat posed by a social problem. While our past experiences, decisions, and anxieties may very well influence or corrupt how we interpret and respond to our present environment, it is not necessary for those making the panic or moral panic claim to hypothesize on how persons would have reacted to a different set of circumstances. Even if one could confidently identify the social reaction that would have been if the

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[71] Returning to a 2009 publication, Young's argument is perhaps more clearly laid out. Describing "the criminological discourse around moral panic as an act of advocacy" (p. 13), he adds

> the third area of advocacy introduces an important and more subtle dimension. For it interests itself not in the *static* assessment of deviance as a social problem, but the extent to which intervention actually *generates* a disproportionate problem. That is where, although the primary harm of a particular problem is acknowledged, the secondary harm occurring from intervention is seen as making matters considerably worse. Nowhere in the labelling theory/constructionist literature is this better illustrated than in the use of drug control (e.g. Duster 1970). Thus, the "inherent" harm of, say, heroin, is contrasted with the secondary harm of the punitive interventions set up in order to control its use. (p. 14)

Writing about collective panics, Smelser (1962/1967) presents a similar argument:

> Even for those persons not immediately affected by the original threat, precipitate flight creates a new set of determinates for panic. In this way panic compounds from a real into a derived phase. The second phase is so-named because people develop a hysterical belief when they observe others in flight. The determination of *their* behavior can be accounted for in terms of the same conditions as the behavior of those who joined the panic because of the original threat. In this way panic, created by one set of conditions, constitutes another set of conditions for further panic . . . . [However, the] *"contagious" or "imitative" aspects of panic are simply repetitions of the same value-added process which gave rise to the initial panic reaction*. Thus to introduce a new emotional state or special type of interaction to account for panic behavior is unnecessary. Both the initial flight and the panic derived from the flight itself can be explained in terms of the same set of determinants. (pp. 154-155; see also S. Cohen, 2002, on *exploitative culture* and the amplification of deviance or *deviance amplification*; Hall et al., 1978, on *amplification spirals* and *signification spirals*)

social reaction that was was not, little can be gained by basing claims of (dis)proportionality on unobserved reactions and visible social problem constructions. Placing such a restriction on moral panic's use would be to again mistakenly present the concept as a theory—instead of using theory to explain the concept—and focus the latter on an objective truth.

When paired with Goode and Ben-Yehuda's (2009) conceptualization of moral panic, Young's (2009, 2011) argument presents another practical problem: If "at no *exact* point are we able to say that a panic exists" (Goode and Ben-Yehuda, 2009, p. 39; see also 1994b, p. 34), how is one to determine the point at which persons reacted in a way that was not affected by a previous social reaction? While I will not attempt to answer this question, as Young (2009, 2011) provides little direction on how to implement his suggestion within moral panic analysis and I fail to see the necessity of such an addition here, Goode and Ben-Yehuda's (2009) quote seems deserving of closer examination[72].

The Existence of Moral Panic

I have, in the subsection on moral panic's collective requirement, already presented a claim at variance with Goode and Ben-Yehuda's (2009) contention that we are unable to identify the exact point at which moral panic exists. A summary of

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[72] And so, a more complete representation of that quote may be in order:

> At no *exact* point are we able to say that a panic exists; however, if the number [of concerned persons] is insubstantial and measured in the heightened emotion and beliefs of scattered individuals, clearly, *as a sociological phenomenon*, a moral panic does not exist. (Goode & Ben-Yehuda, 2009, p. 39)

that claim reads as follows: If moral panic refers to collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem, it may be said to come into existence when a collective of persons, potentially via a smaller grouping of its members that represent and defend the collective interest and will, act or behave with the intent to correct—in whole or in part—a social problem where the threat posed is exaggerated[73]. By identifying a point (act or behaviour) that signifies the acceptance of and corrective action against a threat exaggerating belief, and a forerunning period—however long—in which such a belief is developed, moral panics may be referred to as a two-stage process. Should the panic's disappearance or submergence be included, this process may be expanded to three stages, each of which finds support in some of the literature's most sourced texts (see *Chart C.1*).

[73] Providing little in the way of follow-up, Best (2011) writes that

> once a claim leads to some sort of institutional apparatus assuming ownership – an inquisition to ferret out witches, a presidential declaration of war on drugs or terror – the dynamics of making claims and maintaining concern are sufficiently different that the term moral panic no longer seems useful. (p. 45)

Because, according to my definition of moral panic, an understanding of concern is no longer useful and the dynamics of making claims seem unable to affect the usefulness of the moral panic concept, I disagree.

Chart C.1
(*The Three Stages of Moral Panic*)

	1. The Exaggeration of the Threat Posed by a Social Problem	2. Implementation of (one or more) Collective, Corrective-Intended Measures			3. Disappearance/Submergence	
S. Cohen's (1972, 2002) moral panic	A defined threat emerges	Its/their nature is stylized and stereotyped by the mass media, evoking public concern	Right thinking persons man moral barricades	Experts diagnose the threat and suggest solutions	Coping mechanisms evolve and (similar to the stages above) an amplification spiral may begin	The threat disappears, submerges or deteriorates, possibly leaving behind long term effects
Young's (1971/1982) moral panic	Social segregation results in a dependence on second hand information	The media emphasize the atypical and confirm public prejudice and stereotypes	Inaccurate portrayals of an identified threat fan public indignation	Corrective action is demanded	Control culture responds and an amplification spiral may begin or (if in existence) continue	Anxiety and interest in the threat deteriorates, possibly leaving behind new social control mechanisms
Hall et al.'s (1978) post-1970 moral panic	Social-control apparatuses and the media are sensitized to the possibility of a threat	Control apparatuses respond to minor forms of dissent (invisible)	A dramatic event focuses 'public' attention/anxiety on inaccurate perceptions of the threat and (if not already present) a signification spiral is produced	Control apparatuses intensify their response (visible)	The problem deteriorates or appears to deteriorate	Sensitivity to the perceived threat increases
Goode & Ben-Yehuda's (1994b & 2009) moral panic	Organizational activists focus on an identified threat	Perceptions of the threat are exaggerated, disseminated to, and supported by wider (public) audiences—a feedback loop or signification spiral typically develops	Strategies to address or be seen to address the threat are worked out	'Corrective' strategies are implemented	The threat deteriorates or appears to deteriorate	Concern/anxiety is reduced, possibly leaving behind new social control mechanisms (an institutional legacy)
Critcher's (2003) moral panic	An issue comes to be perceived as a symbolic threat	The media stylize, stereotype and exaggerate the threat	Claims makers (organized groups) *may* support media portrayals	Experts and elites are not seen to oppose the above portrayals or (to a significant degree) one another	Coping strategies are developed and implemented by the state	The threat deteriorates, fades away or loses impetus, possibly leaving behind long-term effects (a legacy)

Note: Though none of the noted authors present six definitive stages of moral panic progression identical to the ones noted above—Critcher (2003) presents eight, Young (1971/1982) only briefly discusses the concept as part of his chapter on *Deviancy Amplification in Industrial Societies*, and the six stages noted in S. Cohen's (1972, 2002) introductory paragraph are somewhat dissimilar—their writings were re-worked to highlight key points. Because possible feedback loops (amplification and signification spirals) were also excluded, the above individual processes should, like Spector and Kitsuse's (1973) four stage "natural history model for the analysis of social problems" (p. 141), "be taken as an ideal type . . . [A] simplified version designed to highlight various aspects of the model, rather than to serve as an exact empirical description of any specific social problem." (p. 148) For a comparable outline see Drotner's (1999) three phases of media panic progression and/or Klocke and Muschert's (2010, 2013) three stage *Hybrid Model of Moral Panics*.

Having used the above texts to present moral panic as a three-stage process, some clarifications are in order. First, as already noted, only the first two stages (*The Exaggeration of the Threat Posed by a Social Problem* and *Implementation of (one or more) Collective, Corrective-Intended Measures*) are required for moral panic

to take place[74]. The third stage (*Disappearance/Submergence*) merely signals the panic's apparent end. Also aforesaid, within this framework (dis)proportionality is determined by assessing whether the belief upon which the reaction is based exaggerates the threat posed by a social problem. This note is of particular importance, for whether the reactionary (corrective) behaviour is or is not appropriate for addressing the threat perceived by the studied group is irrelevant. It is not a group's technical competence, their ability to design and/or implement strategies that compliment their aims, which is of interest. The mere fact that the reaction was meant to respond to an irrational *belief*—i.e. the acceptance of an irrational assessment, wish, expectation, perception and/or claim—which exaggerated the threat posed by a social problem, satisfies the concept's definitional requirements.

The final clarification I would like to make involves my portrayal of Goode and Ben-Yehuda's (1994b, 2009) moral panic as a process and not, as it has earlier been, an identifiable set of attributes.

In his work on moral panics, Critcher (2003, 2013) differentiates between two conceptual models: a processual model, where moral panics are characterized by progressive stages, and an attributional model, where they are identified by the

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[74] Though, like Smelser's (1962/1967) *flight* requirement, Lancaster's (2011) inclusion of punitive measures is limiting, his work may be read to emphasize this point:

> "Moral panic" can be defined broadly as any mass movement that emerges in response to a false, exaggerated, or ill-defined moral threat to society and proposes to address this threat through punitive measures: tougher enforcement, "zero tolerance," new laws, communal vigilance, violent purges. (p. 23; see also Bonn, 2010, p.6)

occurrence of certain phenomena. Likely in line with Goode and Ben-Yehuda's (1994b, 2009) aims[75], Critcher (2003) categorizes their understanding of the concept under the latter label. And, considering only Goode and Ben-Yehuda's (1994b, 2009) stated aims, so would I. However, what allows for their portrayal of moral panic to be presented as a process is how they write of the concept in other sections of their 1994(b) and 2009 texts—particularly pp. 124-143 and 51-72, respectively—and the problems inherent with a processual/attributional dichotomy[76]. With moral panic described by the occurrence of two or three sequential stages, each of which is characterized by a specific happening, further similarities between it and Smelser's (1962/1967) panic may be drawn (see *Chart C.2*).

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[75] For example, Goode and Ben-Yehuda (2009) write that, "as we have seen throughout this book, moral panics make up a diverse collection of events. We do not find that they go through specific, predetermined stages, with a beginning, middle, and a predictable end." (p. 247)

[76] The problems with a processual/attributional moral panic dichotomy are twofold: (1st) even processual models have what may be considered essential characteristics, phenomena or occurrences which characterize a particular stage; and (2nd) the defining features around which attributional models are constructed are not perceived as emerging at the same time. Goode and Ben-Yehuda (2009) seem to agree:

> From time to time, societies are seized by a "wave of indignation" about nonexistent or relatively minor threats . . . . This indignation may remain at the level of the expression of feelings and opinions, or it may manifest itself in overt action, such as legislation, escalating arrests, the appearance of stories in the media, letters to the editor of newspapers and magazines, and/or pickets, protests, and demonstrations. In extreme cases, angry crowds have exploded into riots and lynchings. Sociologists refer to such episodes as moral panics.
>
> We can characterize the moral panic by at least five criteria or indicators . . . (p. 48)

In short, essential criteria or indicators are not meant to exist independent of a developmental—in this case three-stage—process, nor is such a process intended to be understood independent of the essential criteria that differentiate its stages. When talking of moral panic or the reaction to an exaggerated threat, models of the concept are also sequential.

Chart C.2
(*Shared Stages of Panic & Moral Panic Progression*)

	1. The Exaggeration of the Threat Posed by a Social Problem	2. Implementation of (one or more) Collective, Corrective-Intended Measures			3. Disappearance/Submergence	
S. Cohen's (1972, 2002) moral panic	A defined threat emerges	Its/their nature is stylized and stereotyped by the mass media, evoking public concern	Right thinking persons man moral barricades	Experts diagnose the threat and suggest solutions	Coping mechanisms evolve and (similar to the stages above) an amplification spiral may begin	The threat disappears, submerges or deteriorates, possibly leaving behind long term effects
Young's (1971/1982) moral panic	Social segregation results in a dependence on second hand information	The media emphasize the atypical and confirm public prejudice and stereotypes	Inaccurate portrayals of an identified threat fan public indignation	Corrective action is demanded	Control culture responds and an amplification spiral may begin or (if in existence) continue	Anxiety and interest in the threat deteriorates, possibly leaving behind new social control mechanisms
Hall et al.'s (1978) post-1970 moral panic	Social-control apparatuses and the media are sensitized to the possibility of a threat	Control apparatuses respond to minor forms of dissent (invisible)	A dramatic event focuses 'public' attention/anxiety on inaccurate perceptions of the threat and (if not already present) a signification spiral is produced	Control apparatuses intensify their response (visible)	The problem deteriorates or appears to deteriorate	Sensitivity to the perceived threat increases
Goode & Ben-Yehuda's (1994b & 2009) moral panic	Organizational activists focus on an identified threat	Perceptions of the threat are exaggerated, disseminated to, and supported by wider ('public') audiences—a feedback loop or signification spiral typically develops	Strategies to address or be seen to address the threat are worked out	'Corrective' strategies are implemented	The threat deteriorates or appears to deteriorate	Concern/anxiety is reduced, possibly leaving behind new social control mechanisms (an institutional legacy)
Critcher's (2003) moral panic	An issue comes to be perceived as a symbolic threat	The media stylize, stereotype and exaggerate the threat	Claims makers (organized groups) *may* support media portrayals	Experts and elites are not seen to oppose the above portrayals or (to a significant degree) one another	Coping strategies are developed and implemented by the state	The threat deteriorates, fades away or loses impetus, possibly leaving behind long-term effects (a legacy)
Smelser's (1962/1967) panic	Some danger of unknown and uncontrollable proportion emerges	Anxiety is converted into hysteria by the appearance of a significant event	The threat is exaggerated and fixed on some destructive agent	A direction of flight is identified	Action is mobilized, usually under a primitive form of leadership	Collective flight occurs and the treat is believed to disappear

2.1.2. *Moral* Panic

When compared to the above Moral *Panic* discussion, *Moral* Panic's will be considerably shorter. This difference in length is not because the issue of morality is less important than that of panic, but due to the relative straightforward nature of the argument I will put forth: All panics involving a significant number of persons are moral panics[77].

[77] Though I will restate it on the following page, it seems appropriate to again make note that the panics to which I am here referring are collective, involve conscious purposive behaviour, and are—

In his later writings on moral panic, Young (2007) notes "you cannot have a moral panic unless there is something *morally* [emphasis added] to panic about" (p. 60). If "morality represents a set of culturally inscribed codes that exist external to any single individual" (Hier, 2011a, p. 11) and dictates what is to be considered right and wrong, then I would agree with Young's (2007) claim: "You cannot have a moral panic unless there is something morally to panic about" (p. 60)[78]. I would, however, add that, when referring to conscious, purposive, and—at least initially—not physiological reactions, it is equally impossible for a group of individuals to panic unless there is a moral wrong to panic about.

Waiton's (2008) introduction of the *amoral panic*, in *The Politics of Antisocial Behaviour*, can be read to oppose my addition to Young's (2007) claim. So as to position his concept in relation to the existing (moral panic) literature, Waiton (2008) contends that "in the new 'tolerant' age" (p. 116), where "it is far from clear who 'we' are and what 'we' believe in" (p. 115), secular concerns about safety have replaced "the conservative concerns about the dangers of too much individual

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at least initially—not physiological (i.e. situations in which bodies, void of conscious thought, respond to what they perceive as threatening).

[78] Hunt (2013) sees "morals as involving all instances in which the values and practices that, irrespective of any consequences that they give rise to, are deemed to be wrong to a degree that justifies condemnation." (p. 55) Because there is no set of moral codes (or morality) to which we all subscribe, because within each moral framework there exists a complex valuing of at times competing moral conduct, and because the likely and intended consequences of a wrong act can—if aimed to prevent, reduce or stop the effects of a greater moral injustice—be re-categorized as right, I find Hier's (2011a) definition of morality a more compelling point of departure. Depending on how one interprets Hunt's use of the term *intrinsically*, his 1999 definition of *the 'moral' element in moral regulation* may also prove more useful than his later claim: "The 'moral' element in moral regulation involves any normative judgment that some conduct is intrinsically bad, wrong or immoral." (p. 7)

freedom" (p. 116). As evidence of this shift, he summarizes a panic about binge drinking as follows:

> The framework within which this panic . . . has taken place is both one of a general sense of disorder in society and a concern about the *safety* of those young people drinking and the *safety* of those they come into contact with. Moral ideas about "sobriety and hard work" are at best secondary within this debate . . . . It is a now, very typical "tolerant", amoral panic and one that has few opponents. (Waiton, 2008, p. 123)

Three pages later, he continues:

> Rather than an absolute set of moral values having a dynamic in society and laying the basis for norms and panic reactions when these norms are seen to be threatened, the trend today is the opposite. Morals themselves are extraordinary today—by being moral or holding absolute values today you are an "outsider". (p. 126)

If one were to accept, for argument sake, that "it is far from clear who 'we' are and what 'we' believe in" (Waiton, 2008, p. 115), how collective concern about safety may appropriately be categorized amoral is a mystery likely to stump the most imaginative Baker Street intellectual. What Waiton (2008) seems to suggest is that morality is limited to traditional conservative ideas and that the adoption of "therapeutically oriented language" (p. 129) acts to exclude or remove what otherwise would have been the moral basis of claims. This argument is difficult to accept. Simply stating that binge drinking is problematic because it threatens the safety of a particular group of people, does not exclude the inherent moral factors that underline the claim. At some point, perhaps far down the chain of reason, concern about safety rests on a belief that the harm or threat of harm is "simply bad or wrong" (R. S. McLennan, personal communication, June 4, 2013)—something or someone of value is, considering the circumstance, seen as being inappropriately

damaged or harmed. Interestingly, in the latter part of his text, Waiton (2008) shows signs of accepting a more open and yet contradictory understanding of morality:

> The new "morality of safety" filled the vacuum of traditional morals and politics and now the demand was for "crime to be taken seriously", for "victims' rights" to be recognized, or for "community safety" to be prioritized. Reflecting broad social and political trends, the emergence of *this new "morality" or amorality* [emphasis added] was encouraged by claimsmakers and campaigners from the left . . . . Despite being unconventional, this "morality" is not purely "new age" but also incorporates a number of traditional conservative themes . . . Unlike traditional morality, however, that prescribed a "single answer" to moral questions, the new etiquette of safety is more individualistically oriented and is therefore more able to relate directly to the contemporary experience of individuation . . . (pp. 133-134)

Rohloff (2013) approaches the issue of morality in a slightly different manner. In *Moral Panics over the Environment?* she argues against the claim that, because it relates directly to notions of risk and not morality, the threat of climate change cannot fit within a moral panic framework. To help support her argument, S. Cohen is cited:

> In his introduction to the third edition of *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*, Cohen (2002: xxxvi) argues that technical risks can be transformed into moral panics when the risk "becomes perceived as *primarily* moral rather than technical (the moral irresponsibility for taking this risk)." While the issue of climate change has been informed by science, and carries with it elements of technical risk, I wish to argue that it has become increasingly moralized over time. (Rohloff, 2013, p. 404)

While it may be true that frank or direct talk of morality has become increasingly evident in discussions on the risk posed by climate change, I would argue that such a shift is unnecessary for the phenomenon to fit appropriately within moral panic's conceptual framework. If the risk (or threat) discussed prior to this shift involved

objects or persons of value being wronged, then, whether overtly proclaimed or not, morals or particular moral viewpoints would have always framed the discussion. The same argument can be used to excuse the following claim:

> Before proceeding further, it is important to draw attention to ambiguity in the way in which the "moral panic" concept has come to be used. A significant number of circumstances that have been classified as moral panics have had little if anything to do with morals or morality. Many controversies that have been labeled "moral panics" have been anxieties associated with risks, in particular with technology or medical risks. Anxieties over AIDS in the 1980s and more recently over SARS and H1N1 (swine flu) are better described as "medical anxieties." (Hunt, 2013, p. 55)

There is one last position on the issue of morality that I would like to quickly address and excuse. According to Clarke and Chess (2008), "moral panics are over-reactions to putative conditions, but where that which is actually threatened is not physical well-being – the usual case in disaster studies – but values or a sense of propriety." (p. 996) They "are about threats to power, authority, legitimacy, and values" (p. 1009)[79]. In their discussion of a circa 1980s "classic moral panic" (Jenkins & Maier-Katkin, 1992, p. 55) about satanic or occult crime, others disagree:

> Satanic or occult crime (the terms were used with little distinction) was apparently associated with numerous acts of vandalism and juvenile delinquency, but also with heinous offences like serial murder and mass child abuse. The victims might run into many thousands each year, with children especially likely to be mutilated and sacrificed. (p. 55; see also deYoung, 1998, p. 261)

[79] An earlier publication of Clarke's (2002) work supports this position: "There are overreactions to scares about witches, drugs and sex. Scholars dub such phenomena 'moral panics,' or overreactions that are governed by people's moral sensibilities rather than actual threat." (p. 25)

Much like Goode and Ben-Yehuda's (2009) call to restrict or nuance the applicability of the moral panic term, Clarke and Chess' (2008) approach seems unnecessarily limiting. Why must or, better, how is it possible to separate notions of power, authority, legitimacy, and values—all of which are also rooted in morality—from threats to physical well-being? Clarke and Chess (2008) do not provide, nor could I suggest, an adequate answer to this question and therefore their position is here excused. To do otherwise would risk exposing oneself to the possibility that they are "refusing to take seriously the moral viewpoint of those who are alarmed." (Garland, 2008, p. 22) For other reasons, Thompson's (1998) take on moral panics seems in danger of doing just this:

> The reason for calling it a *moral* panic is precisely to indicate that the perceived threat is not to something mundane – such as economic output or educational standards – but a threat to the social order itself or an idealized ('[*sic*]ideological) conception of some part of it. (p. 8)

2.2. Falling Back (II)

Near the start of *The Problems with Moral Panic*, Best (2013) writes of the difference between '*moral* panics' and 'moral *panics*'. *Moral* panics, he suggests, are best linked to a British equation of the term moral panic with "a moral critique" (p. 69) of group behaviour: "If people other than the conservative elite were panicking, it was not a moral panic, and a new term was needed." (p. 70)[80] Conversely, moral *panics* refer to an American focus "on the panicky, emotional, irrational nature of the reaction" (p. 69), where the issue of disproportionality is key.

[80] See Ungar (2011) for a different perspective.

My above use of *moral* panic and moral *panic* is different than that of Best (2013). Although I too emphasized words within the moral panic term, so as to highlight what some consider to be the concept's divisible parts, my argument is not that moral panic can be cleanly split into two halves (moral and panic) but that each half is—whether or not the focus of discussion—tethered to the other. That is, it does not matter whether there is, as Best (2013) suggests, disagreement about where the accent belongs, for all panics involving a significant number of persons are moral panics. They are all rooted in moral reasoning and, therefore,— along with *moral* panics and moral *panics*—may be defined as *collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem*[81].

In making the above claim, Smelser's (1962/1967) panic definition was introduced and repeatedly amended. Panic was eventually defined in accordance with what was first introduced as a generalized understanding of Young's (1971/1982) and S. Cohen's (1972, 2002) moral panic (see *Chart C.3*). The term *irrational* was equated to a misinterpretation of the facts as prioritized by the group being studied and *belief* to the acceptance of an assessment, wish, expectation, perception, and/or claim. Though no fixed numerical figure was provided, the substantial number of persons required to meet moral panic's collective requirement was identified as a number larger enough to encourage, force, or

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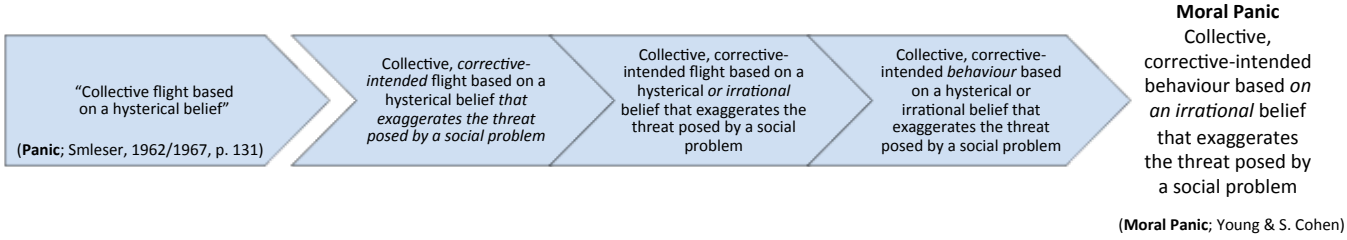
[81] In making this claim, I do not mean to equate morality with collectivity per se. One is not a synonym for the other. However, when referring to moral panics, panic is collective—it involves a significant number of persons. When writing only of panic, this is not always so.

motivate the implementation of (one or more) measures—meant to correct, in whole or in part, what the panicking persons believe to be a threatening situation or social problem—available to and in the name of the potentially wider collective. The mass and/or news media were not seen as having to be involved in this or other aspects of moral panic development and folk devils were not required to be personified. Claims that moral panics be volatile and short-lived were described as conceptually and analytically problematic. Along with assertions that the concept be tied to states of emotional discomfort (concern, fear, anxiety, and/or worry), these claims were dismissed.

Chart C.3
(*Definitional Impressions*)



Note: Changes are italicized

Finally, moral panics were described as processes comprised of three unique stages or by the successive presence of three key attributes—*The Exaggeration of the Threat Posed by a Social Problem*; *Implementation of (one or more) Collective, Corrective-Intended Measures*; *Disappearance/Submergence*—of which only the first two are required for a claim of moral panic to be considered appropriate. These

stages or attributes were then compared to a portrayal of Smelser's (1962/1967) depiction of panic[82].

[82] My recounting of the section is intentionally out of order when compared to the arrangement of arguments as found within the body of this section. I have done this so as to provide, what I believe to be, a more concise re-telling of the key arguments.

3. Practical

To test the practical applicability and, in so doing, further nuance aspects of moral panic's above conceptualization, the following four sections outline the method and methodological approach used to assess whether members of the Parliament of Canada were in a state of moral panic when passing bills C-15A, C-277, C-2, and C-10—bills that introduced or amended section 172.1 (*luring a child*) of the *Criminal Code of Canada* (*CCC*). Put differently, the following sections outline the approach used to assess the transcripts of House of Commons and Senate debates and the minutes and evidence of committee meetings related to the above bills so as to determine whether their royal assents are appropriately described as collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem.

Following this brief introduction, my approach is positioned in relation to the linguistic turn (*3.1. Navigating the Linguistic Turn*). Content and discourse analysis, or "the study of language in use" (Nunan, 1993, p. 7), are then introduced as methods capable of adapting to differing epistemological and ontological orientations (*3.2. Between Methods & Methodologies*). The argument is made that, when studying potential moral panics, it is better to mix aspects from both methods than employ what Best (1989a) considers a purist approach (*3.3. CDA*). Eventually, a variant of critical discourse analysis is worked around a soft-constructionist or post-positivist stance and the writings of Fairclough (1992, 2001a, 2001b, 2009)

and Reisigl and Wodak (2009)—*3.4. HD-RA*. The chapter ends with a review of the approaches' limitations and a foreshadowing of the study's results.

3.1. Navigating the Linguistic Turn

Although discourse may be defined as the use of language in ways that "enact a particular sort of socially recognizable identity" (Gee, 2005, p. 21), this definition is by no means universal. Discourse is after all "a slippery word" (Critcher, 2003, p. 167) that "is rarely defined with any accuracy or consistency" (p. 167). Still, and I will again quote Critcher (2003), "all variants of discourse analysis reject the view that language is simply the vehicle for the expression of ideas. Language is a system with its own rules and constraints, which structure how we think and express ourselves." (p. 167)[83]

Considering the above descriptions, it would seem problematic to use discourse analysis as a means to study moral panic's existence. How can language, with all its limitations, be the appropriate mirror of a group's acceptance of assessments, wishes, expectations, perceptions, and/or claims? Those who make the linguistic turn—who see language as a retelling of events drowned in the preconceived ideas of individual authors and not a "discernible, retrievable historical 'reality'" (Canning, 1994, p. 369)—are likely to suggest that it is not, take

[83] Fowler (1991), writing of the *language in newspapers*, is supportive of these points:

> News is a representation of the world in language; because language is a semiotic code it imposes a structure of values, social and economic in origin, on whatever is represented; and so inevitably news, like every discourse, constructively patterns that of which it speaks. News is a representation in this sense of construction; it is not a value-free reflection of "facts". (p. 4)

issue with my paring of *language* and *belief*, and argue in favour of yet another reworking of moral panic's definition: That moral panic should, for example, refer to collective, corrective-intended behaviour based on irrational language that exaggerates the threat posed by a social problem. While the aforementioned soft-constructionist/post-positivist positioning lends itself to this directional change, I argue it is best to maintain course and continue writing of belief[84].

My use of belief—as an appropriate term in the description of moral panic—should not have been read as suggesting a faultless ability to get inside the mind of the persons studied. It has, here, always referred to conclusions drawn from observable indicators of a group's understanding of things. And while to question the term's appropriateness—particularly in light of my claim that those who use the moral panic concept are likely better served by clearly and consistently aligning their goals with the means by which they hope to attain them—is understandable, I have kept it so as not to limit moral panic analysis to narrow definitions of language and to emphasize that, when referring to moral panic, it is the (apparent) acceptance of assessments, wishes, expectations, perceptions, and/or claims that is key. In the case of parliamentarians' reaction to the phenomenon of ICL, written recordings of oral communications happen to be the most appropriate of available means for determining the belief upon which members have publically based their behaviour. Even if, as an analytical lens, the results may be somewhat limited.

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[84] i.e. defining moral panics as collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem.

3.2. Between Methods & Methodologies

Hardy, Harley, and Phillips (2004) introduce discourse analysis as "a methodology for analysing social phenomena that is qualitative, interpretative, and constructionist." (p. 19) Though I consider discourse analysis a *method* to which slightly differing ontologies and epistemologies may be adjoined—forming, potentially competing, *methodologies*—the approach is certainly an interpretative endeavour that requires the researcher to locate discourse "historically and socially" (p. 20)[85]. The University of Melbourne and Cambridge authors present content analysis differently: "Most importantly, it adopts a positivistic approach – the fundamental activity is hypothesis testing using statistical analysis . . . . [and] as a mode of textual analysis is characterized by a concern with being objective, systematic, and quantitative . . ." (p. 20; see also Berelson, 1952).

For Hardy et al. (2004) the "objective, systematic, and quantitative" (p.20) focus of content analysis is concentrated on "the text itself" (p. 20) and not "its relation to its context, to the intentions of the producer of the text, or of the reaction of the intended audience." (p. 20) In short, where discourse analysis expands to concern itself with measures of validity, content analysis contracts to divide and identify—via reliable, replicable, and generalizable coding schemes (Neuendorf, 2004)—the "patterns in documents, . . . content units (words, themes, stories and the like) and their clustering" (Laffey & Weldes, 2004, p. 29).

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[85] My differentiating of methods or techniques and methodology is taken from Fierke (2004): "Methodology refers to those basic assumptions about the world we study, which are prior to the specific techniques adopted by the scholar undertaking research. Methodology includes both ontology and epistemology." (p. 36)

With content and discourse analysis presented as polar opposites, neither approach seems appropriate for studying the possible occurrence of moral panic; each method, in its general or typical incarnation, excludes important aspects addressed by the other. While some have focused on these differences (Hopf, 2004), others have begun breaking down the rigidness of the two methods. Fierke (2004), for example, argues that content analysis has evolved beyond the mere counting of words to embrace "the greater complexity of analyzing clusters of relations" (p. 38)[86]. Schreier (2012) presents qualitative content analysis as "a suitable method for describing material that requires some degree of interpretation" (p. 2), where the goal is "to go beyond individual understandings" (p. 6)[87]. And Krippendorff (2013), after questioning "the validity and usefulness of" (p. 22) their distinction, presents discourse analysis as one of content analysis' qualitative approaches. Though the semantics of their paring are debatable, the idea that both methods are malleable or able to adopt characteristics from the other increases their suitability here. Hardy et al.'s (2004) *Table 1* is simply too divisive:

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[86] He also challenges the subjective/objective divide:

> It is no more subjective to identify a grammar based, for instance, on a system of relationships between prisons, liberation, escape or destruction, than to quantify the number of times a word or cluster of words occurs in texts relating to deterrence . . . . My point is that the distinction between objective quantification and subjective interpretation begins to blur when the analysis covers a large number of texts . . . (p. 37)

[87] This, she contends, is distinct from the quantitative content analysis that emerged during early (seventeenth century) communication studies, although "there is no sharp line dividing quantitative and qualitative content analysis." (p. 15; see also Holsti, 1969, on *qualitative content analysis* and/or Riffe, Lacy, & Fico, 2014, on *quantitative content analysis)*.

Table 1: Differences between Discourse Analysis and Content Analysis

	Discourse Analysis	Content Analysis
Ontology	Constructionist - assumes that reality is socially constructed	Realist - assumes that an independent reality exists
Epistemology	Meaning is fluid and constructs reality in ways that can be posited through the use of interpretive methods	Meaning is fixed and reflects reality in ways that can be ascertained through the use of scientific methods
Data Source	Textual meaning, usually in relation to other texts, as well as practices of production, dissemination, and consumption	Textual content in comparison to other texts, example over time
Method	Qualitative (althought can involve counting)	Quantitative
Categories	Exploration of how participants actively construct categories	Analytical categories taken for granted and data allocated to them
Inductive/Deductive	Inductive	Deductive
Subjectivity/Objectivity	Subjective	Objective
Role of context	Can only understand texts in discursive context.	Does not necessarily link text to context
Reliability	Formal measures of reliability are not a factor although coding is still justified according to academic norms; differences in interpretation are not a problem and may, in fact, be a source of data	Formal measures of intercoder reliability are crucial for measurement purposes; differences in interpretation are problematic and risk nullifying any results
Validity	Validity in the form of "performativity" i.e., demonstrating a plausible case that patterns in the meaning of texts are constitutive of reality in some way.	Validity is in the form of accuracy and precision i.e., demonstrating that patterns in the content of texts are accurately measured and reflect reality
Reflexivity	Necessarily high - author is part of the process whereby meaning is constructed.	Not necessarily high - author simply reports on objective findings.

(p. 21)

In highlighting the difference between discourse and content analysis, Hardy et al. (2004) also present the two methods as methodologies. The ontological and epistemological orientations that are said to divide discourse from content analysis are, however, easily inversed or watered-down: Positivists, post-positivists, or realists may rest their understandings of "how we come to know reality" (Schurr, 2007, p. 166) on a discourse analysis framework and content analysis is accepting of constructionism's (traditional) ontological and epistemological approaches (see the *Mixing Paradigms* section of this work). *Table 2* of Hardy et al.'s (2004) *Discourse*

Analysis and Content Analysis goes some way in supporting this and other above mentioned points:

Table 2: Using Content Analysis within a Discourse Analytic Approach

Dealing with Meaning	There is no inherent meaning in the text; meanings are constructed in a particular context; and the author, consumer, and researcher all play a role. There is no way to separate meaning from context and any attempt to count must deal with the precarious nature of meaning.
Dealing with Categories	Categories emerge from the data. However, existing empirical research and theoretical work provide ideas for what to look for and the research question provides an initial simple frame.
Dealing with Technique	The categories that emerge from the data allow for coding schemes involving counting occurrences of meanings in the text. Analysis is an interactive processs of working back and forth between the texts and the categories.
Dealing with Context	The analysis must locate the meaning of the text in relation to a social context and to other texts and discourses.
Dealing with Reliability	The results are reliable to the degree that they are understandable and plausible to others i.e. does the researcher explain how s/he came up with the analysis in a way that the reader can make sense of?
Dealing with Validity	The results are valid to the degree that they show how patterns in the meaning of texts are constitutive of reality.
Dealing with Reflexivity	To what extent does the analysis take into account the role that the author plays in making meaning? Does the analysis show different ways in which this meaning might be consumed? Is the analysis sensitive to the way the patterns are identified and explained.

(p. 21)

Whether discourse analysis is a variation of content analysis or whether it can work within it, the merging of characteristics from both methods is more appropriate for moral panic analysis than either lone approach. Studies that hope to draw "conclusions about some aspect of human communication from a carefully selected set of messages" (Neuendorf, 2004, p. 33) are better served by mixing qualitative and quantitative considerations and allowing the data to help guide the analytical process and make sense of the context from which it derived. Remembering, all the while, that it is an intersubjectivist anchor that grounds moral panic claims[88].

[88] The term intersubjectivist is taken from Neuendorf's (2004) *intersubjectivity*:

Considering the previously noted points, and with moral panic defined as collective, corrective-intended behaviour based on an irrational belief that exaggerates the threat posed by a social problem, the most appropriate method for this study would be a discourse analysis approach that leans towards content analysis or a content analysis approach that leans towards discourse. Due to the aforementioned importance of moral and contextual relativity, the former approach was adopted and discourse analysis worked around a soft-constructionist or post-positivist stance and aspects of content analysis that helped ensure my findings were not mere manifestations of stereotypes[89]. A consideration of power encouraged the adoption of a critical tilt.

If one can excuse the following quote's length, Foucault (trans. 1978/1990) draws an interesting connection between sex, power, the law, and discourse:

> Power is essentially what dictates its law to sex. Which means first of all that sex is placed by power in a binary system: licit and illicit, permitted and forbidden. Secondly, power prescribes an "order" for sex that operates at the same time as a form of intelligibility: sex is to be deciphered on the basis of its relation to the law. And finally, power acts by laying down the rule: power's hold on sex is maintained through language, or rather through the act of discourse that creates, from the very fact that it is articulated, a rule of law. It speaks, and that is the rule. The pure form of power resides in the function of the legislator; and its mode of action with regard to sex is of a juridico-discursive character. (p. 83)

> Some researchers . . . have acknowledged the unattainable nature of objectivity in measurement, and have opted instead for a *goal of intersubjectivity*—i.e., such clear and publicly proclaimed assumptions and methods as to assure fully shared meaning among researchers. (p. 35)

[89] This final point is also supported by Hopf's (2004) claim that "all discourse analysts should act . . . with an eye to both replicability and competitive validity of their findings." (p. 32)

For Foucault (trans. 1978/1990) sex, power, law, and discourse are intertwined; we cannot talk or write of sex, the law, or discourse without also talking or writing of power. Because my focus here will be on parliamentary discourse or "meaningful symbolic behaviour" (Blommaert, 2005, p. 2) relating to the construction of criminal law, because I am in agreement with Foucault's (trans. 1978/1990) adjoining of the concepts, and because critical discourse analysis (CDA) "is concerned with the ways in which the power relations produced by discourse are maintained and/or challenged" (Locke, 2004, p. 38; see also Fairclough, 2001a, 2009; Kincheloe & McLaren, 1994; Peräkylä, 2005; Wodak, 1989), CDA was chosen as the variant of discourse analysis from which to proceed. Support for this position can also be found within the statements of members of parliament: "We daily use the power of communication here [in the House of Commons]. We use words to express ourselves. Words can be very powerful . . . . [They] motivate us and they teach us."[90]

Before expanding on my method of analysis, there is one last argument I would like to put forth. In their overview of CDA, Lê and Lê (2009) write

> the main mission of CDA is to examine social injustice which manifested in various social practices and to take a stance against social abuse, racism, social prejudice and discrimination against dominated or marginalised people with less power. (p. 4)

This is said to be the 'critical' (tilt) in CDA (Lê & Lê, 2009). I, however, disagree. To be critical does not require that something be categorized a social injustice. Nor does it necessitate the taking of a stance against something one perceives as wrong.

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[90] Regan, J. (Lib.). (2001-10-18). House of Commons Debates, *Edited Hansard 137*(97). 37th Parliament 1st Session, pp. 6353-6354.

To be critical may be but to carefully examine or inspect a phenomenon, idea, et cetera. In the context of CDA, what is carefully examined or inspected is "the ways in which the power relations produced by discourse are maintained and/or challenged" (Locke, 2004, p. 38). Judgement beyond this point is unnecessary; critical discourse analysts need not assume a political stance—and in so doing oppose another—in excess of that which is innate to all methods and methodologies. Therefore, when reading what follows, it is important to remember that my goal is to examine the possible existence of moral panics related to the royal assent of bills C-15A, C-277, C-2, and C-10 (i.e. to determine whether or not the claims of persons identified, by members of parliament, as experts support what members believed to be the threat posed by ICL or (if presented as part of a wider issue) CSA)[91]. I care not to judge the odiousness of ICL or CSA. While this is not to say that I am undisturbed by these acts, it is to oppose Critcher's (2006) claim that "moral panic is inherently a label of disapproval" (p. 16) and Best's (2011) reassurance that "to call something a moral panic is to diminish its legitimacy as an object of concern" (p. 42).

In response to affirmations similar to Best's (2011) and Critcher's (2006) understanding of the concept, some researchers have differentiated moral panics as either 'good', where the values of the panicking group are seen as positive, or 'bad', where the values are seen as negative (S. Cohen, 2002, 2011; see also Altheide,

[91] The expansion of the study's focus to CSA—a grouping of behaviours that include ICL and other sexual acts in which children are victimized—is in anticipation of situations where ICL is, in large part, discussed in the context of the more wide ranging issue (e.g. in parliamentary discussion involving raising the age of sexual consent, Bill C-2).

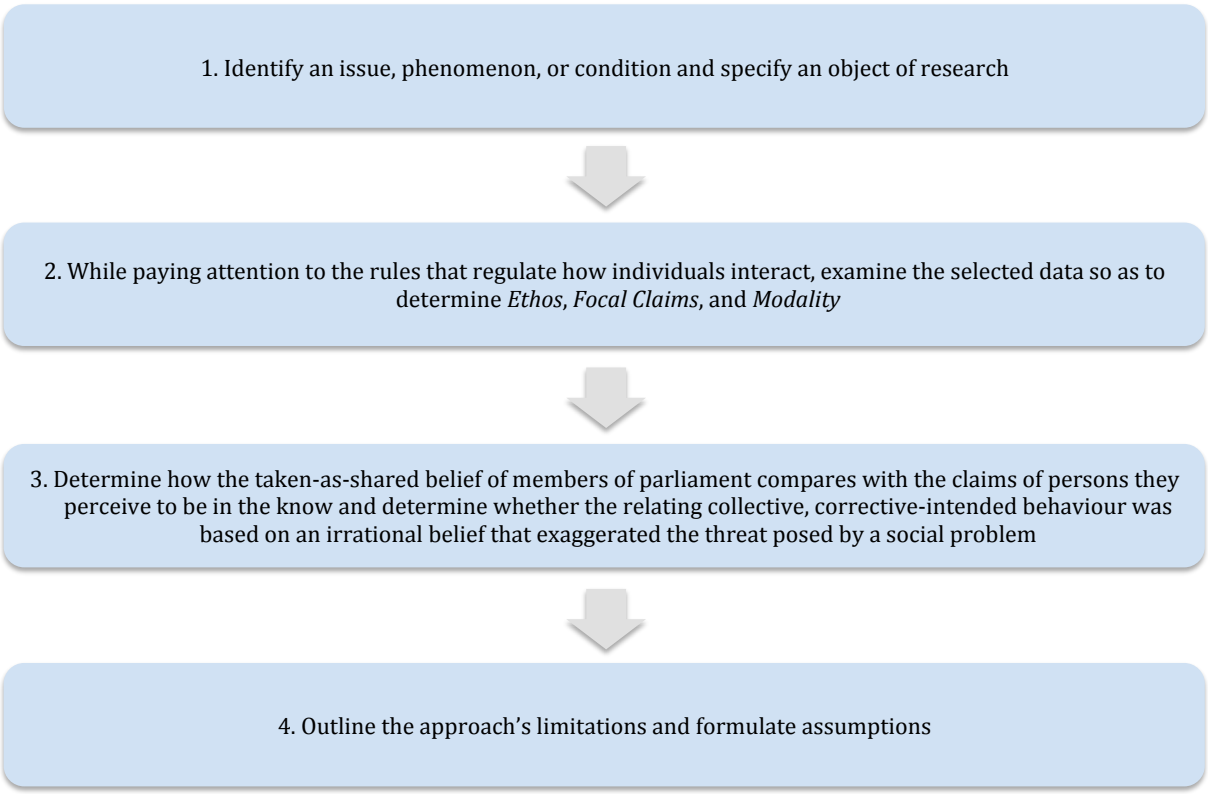
2009; Furedi, 2005, on *good lies*; Furedi, 2006, on *moral panic with a happy ending*). Though S. Cohen (2011) suggests that "the ones we study are invariably bad" (p. 237), I propose that those who study the moral panic concept and its relation to various social phenomenon are equally interested in potentially good scares, where the costs of miscalculations may be equally steep—see Jenkins, 1998, on *panic legislation*; Zgoba, 2004, or Neuilly and Zgoba, 2006, on *feel-good legislation*—or, to assume Critcher's (2006) accounting of CSA, where "the focus on 'stranger danger'" (p. 16) has directed "attention away from the home as the most likely location of abuse and the male relative as the most likely perpetrator." (p. 16)

3.3. CDA

The above understanding of CDA ensures the method cannot be restricted to a single academic discipline. Even in simplistic forms, the analysis of discourse is entangled in sociological, historical, and political considerations (Fairclough, 2001a; Lee & Otsuji, 2009; Reisigl & Wodak, 2009). It effects and is affected by a mass of circumstances, participant decisions, and the limitations of available communication mediums (Johnstone, 2008). However, beyond its interdisciplinary nature, influence, and influences, it is difficult to accurately define the technique. Like discourse analysis (Peräkylä, 2005) and qualitative content analysis (Schreier, 2012), it exists as a somewhat cluttered array of differing versions or derivatives best viewed as frameworks to be broken down and reassembled in a manner that meets the researcher's needs. In order to meet my needs, or those of this study, Reisigl and Wodak's (2009) Discourse-Historical Approach and Fairclough's (2009)

Dialectical-Relational Approach are collapsed, reworked, and adjoined to parts of three additional CDA-based texts (Fairclough, 1992, 2001a, 2001b). The criterion used to select these five works was one of necessity. Each chapter helped improve some aspect of the study's analytical goal. The resulting framework is outlined below:

Chart C.4
(*HD-RA*)



Note: As stated in text, HD-RA was developed by collapsing, reworking, and adjoining Reisigl and Wodak's (2009) Discourse-Historical Approach and Fairclough's (2009) Dialectical-Relational Approach to parts of three additional CDA-based texts (Fairclough, 1992, 2001a, 2001b).

3.4. HD-RA

3.4.1. Step 1: The Identification of an Issue

For the reasons outlined in this paper's introduction, the focus of moral panic's practical assessment revolves around Parliament's reaction to the threat posed by ICL or (if presented as part of a wider issue) CSA. And, thus, the study's aim is two-fold:

1) Using the officially reported transcripts of House of Commons and Senate *debates*, statutes in draft (at first reading) and when assented to, and the *evidence* and *minutes of proceedings* of related parliamentary committee meetings, determine how the threat of ICL or (if presented as part of a wider issue) CSA has been constructed by members of the Parliament of Canada when implementing and/or amending section 172.1 (*luring a child*) of the *CCC*[92];
2) Using the statements of persons identified by members of parliament as in the know (i.e. those called to testify during committee meetings for bills C-15A, C-277, C-2, and C-10), ascertain whether the above collective, corrective-intended behaviour was based on an irrational belief that exaggerated the threat posed by ICL or CSA[93].

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[92] So as to be clear, committee meeting *evidence* refers to the edited, translated, and publically available version of the Blues or unofficial and unrevised verbatim transcripts ("Committees: Practical Guide," 2014). *Minutes of proceedings* refer to "the official record of business that occurred during a meeting of the committee" (e.g. a listing of persons present and/or the time of the meeting's commencement) ("Committees: Practical Guide," 2014, p. 7).

[93] Though it was not here noted, the debates, evidence, and minutes of proceedings related to, and first reading of, Bill C-15 were also examined. Bill C-15A was the result of Bill C-15's division, by members of the House of Commons, following its second reading and, thus, both bills represent one united and complete process. See *Evidence, Minutes of Proceedings, & Debates* below and subsection *4.1.1. Legislative Summary* of this text for a more detailed description of the evolution of Bill C-15A.

While both objectives are, later, individually addressed, the dataset through which they are undertaken is shared.

Evidence, Minutes of Proceedings, & Debates

The offence of *luring a child* was introduced to the *CCC* on the 4th day of June 2002. The government bill that introduced section 172.1 was Bill C-15A (*An Act to amend the Criminal Code and other Acts*, 2001)[94]. Originally part of omnibus Bill C-15, which, due to its paring of CSA, firearms regulation, and animal cruelty, was split into C-15A and C-15B, the introduction of section 172.1 has—as of the 19th day of June 2014—been followed by three *CCC* amendments[95]: Bill C-277 (*An Act to amend the Criminal Code (luring a child)*, 2006), assented to on the 22nd day of June 2007; Bill C-2 (*An Act to amend the Criminal Code and make consequential amendments to other Acts*, 2007), assented to on the 28th day of February 2008; and Bill C-10 (*An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts*, 2011), assented to on the 13th day of March 2012.

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[94] The term *government* should here be understood as referring to the political party with the greatest number of elected representatives (i.e. members of parliament) 'sitting' in the House of Commons.

[95] June 19, 2014 was chosen as an end date because it was during that day the dataset was amassed. After having gather these files, section 172.1 was amended on at least two other occasion: Bill C-36 (*An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v. Bedford and to make consequential amendments to other Acts*) assented to on the 6th day of November 2014; Bill C-26 (*An Act to amend the Criminal Code, the Canada Evidence Act and the Sex Offender Information Registration Act, to enact the High Risk Child Sex Offender Database Act and to make consequential amendments to other Acts*) assented to on the 18th day of June 2015.

With the exception of the subsequently divided Bill C-15 and Bill C-15A, each of the above bills passed through Canada's House of Commons, Senate, and a review committee of both. The transcripts of these committee meetings and chamber sittings are publically available via LEGISinfo, an online "research tool" (LEGISinfo: *Introduction*, n.d., para. 1) and "collaborative effort of the Senate, House of Commons and the Library of Parliament" (para. 3), which, among other things,

> provides information on all bills considered by the Senate and the House of Commons since the start of the 37th Parliament in 2001 . . . . a quick overview of the last stage a bill has completed in the legislative process . . . . access to all printed versions of the bill . . . . the *Debates of the Senate* and the *Debates of the House of Commons* for the dates when the bill was debated . . . . speeches delivered in the Senate and the House of Commons at second reading by the bill's sponsor and the opposition critics or lead speakers from each recognized political party . . . ("LEGISinfo: Frequently asked questions," n.d., paras. 18-27)

So as to produce a list of bills relating to *CCC* section 172.1, the *Table of Public Statutes and Responsible Ministers*, on the Government of Canada's Justice Laws Website, was used to ascertain the section, chapter, and sessional volume of statutes that have in some way shaped the *luring a child* offence. These identifiers were then used to navigate the same website's *Annual Statutes* page and link section, chapter, and sessional volume with the related act or assented to bill, required for running searches through LEGISinfo[96]. The research tool or search engine provided access to first reading and assented to versions of bills C-15A, C-277, C-2, and C-10[97]. The

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[96] The *Table of Public Statutes and Responsible Ministers* list and *Annual Statutes* page are, respectively, located at the following web addresses:
http://laws-lois.justice.gc.ca/eng/TablePublicStatutes/C.html;
http://laws-lois.justice.gc.ca/eng/AnnualStatutes/index.html

[97] The first reading of Bill C-15 was accessed using the same method.

officially reported transcripts of related House of Commons and Senate chamber sittings and the evidence and minutes of proceedings of pertinent committee meetings were similarly accessed. The result was a large dataset, whose relevance I will substantiate via an outline of Canada's legislative process.

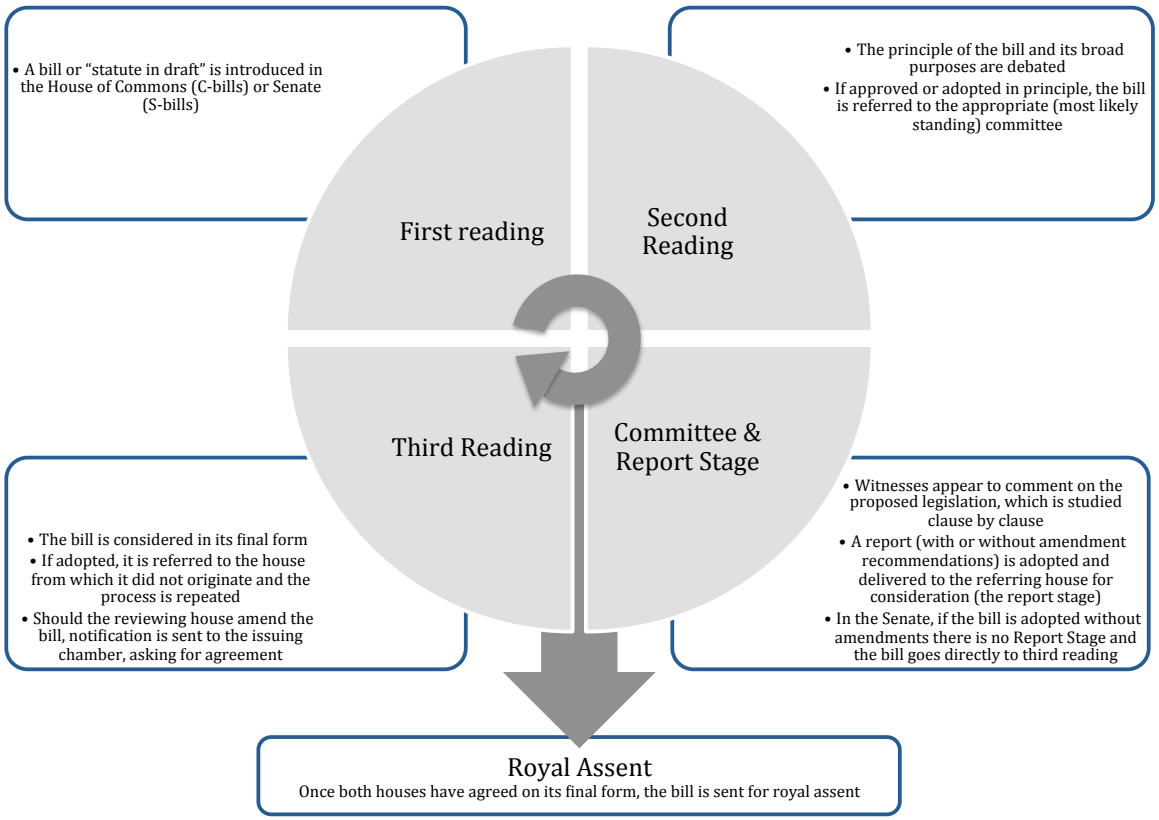
From First Reading

Canada's legislative system can be divided into three distinct yet interdependent branches: the Queen or Governor General, lower house or House of Commons, and upper house or Senate (Émond & Lauzière, 2005; Laundy, 1977). To amend the *CCC*, legislation must move through each of these branches, after having been initially introduced in either of the latter two. *Chart C.5*, found on page 111, presents a simplified drawing of this process.

The bill that introduce section 172.1 and those that later amended it were born in the House of Commons. Bills approved in this elected lower house are, following their third reading, sent to the appointed Senate for a "sober second thought." (Sir. John A. Macdonald as cited in Bejermi, 2000, p. 25) While members of the upper house can propose legislation, their role is "to counterbalance representation by population in the House of Commons" ("Senate of Canada: About the Senate," n.d., para. 2) and ensure that landowning persons appointed by the Governor General (*The Constitution Act, 1867*, sections 23 & 24) are able to trump

what the voices of "the common herd" (Rousseau, trans. 1968/2004, p. 47) express desire for[98].

Chart C.5
(*Canadian Parliamentary Bills: First Reading to Royal Assent*)



Note: The above chart was developed using quotes from Laundy (1977), Bejermi (2000), and the Parliament of Canada websites "The Senate Today: Making Canada's Laws" (n.d.) and "Senate of Canada: Fact Sheet: The Senate and Legislation" (n.d.), as well as information from Beaudoin (2004), the "Committees: Practical Guide" (2014), and "LEGISinfo: Frequently Asked Questions" (n.d.).

If adopted at second reading, bills in Senate are referred to a committee of Senators charged with reviewing the legislation clause-by-clause ("Guide to

[98] Bejermi (2000) presents, what some may consider, a less cynical reading of the Senate:

> The establishment of a Senate was seen as a means of protecting the less-populated of the three main areas that were to become Canada in 1867. Since representation in the House of Commons was to be based on population, the less populated areas felt that their needs would not be looked after in a House dominated by representatives from the more heavily populated areas. The Senate, therefore, was created to represent the various regional interests in Canada in the process leading to the enactment of federal laws. (p. 23)

Participating," 2012; "Senate of Canada: Fact Sheet: Senate," n.d.). To assist in their review, witnesses are called to present, orally and/or in writing, their understanding of "the legislation and its potential impact." ("Senate of Canada: The Senate's Work," n.d., para. 2) Although witnesses are divided into several categories—lobbyists, public servants, et cetera—of which one is "experts" ("Guide to Participating," 2012), the committee's ability to decide from who it will hear ensures that those given voice are perceived by members of the Senate to be "knowledgeable about or skilful in a particular area" ("Expert," 2014, para. 1; see also Thatcher, 1980, p. 310), or experts. The same can be said of witnesses called to attend committee meetings at the House of Commons: "For each study, the committee may decide how long it will spend hearing witnesses, how many witnesses it wishes to hear and which specific witnesses will appear before it." ("Committees: Practical Guide," 2014, p. 5)

Those who are called to appear before House of Commons' committees are often invited to give a brief, topic related, oral synopsis of their views or those of the group for whom they speak ("Compendium of Procedure, House of Commons: Committees: Witnesses," 2006; see also "Committees: Practical Guide," 2014). This introductory period is followed by one in which lower house representatives may direct questions to witnesses who are *obliged to reply*:

> There are no specific rules governing the nature of questions that may be put to witnesses appearing before committees, beyond the general requirement of relevance to the issue before the committee. *Witnesses must answer all questions that the committee puts to them* [emphasis added]. A witness may object to a question asked by an individual committee member. However, if the committee agrees that the question be put to the witness, he or she is

> *obliged to reply* [emphasis added]. ("Compendium of Procedure, House of Commons: Committees: Testimony," 2006, para. 3)

In view of this study's aim, the responses and statements of committee witnesses are of particular importance. They represent the claims of experts—persons members of parliament perceive to be in the know—and thus serve as appropriate indicators of a reality against which assertions of fact may be judged. In keeping with this logic, (dis)proportional beliefs were determined by comparing the claims of committee witnesses against what (in *Step 2: The Examination of Textual Data*) will be identified as the focal claims of members of parliament—persons who were, at times, invited to speak (as members) before reviewing committees[99].

The goal of the committee process is to prepare and submit a report— with or without amendments to the proposed bill—to the referring house, which is under no obligation to accept the position taken by the committee ("Committees: Practical Guide," 2014; "Fundamentals of Senate Committees," 2013). In cases where amendments are suggested, the report is presented and its content voted upon (House of Commons, 2008). Reports submitted without amendments "proceed immediately to third reading" (House of Commons, 2008, p. 6; see also "Fundamentals of Senate Committees," 2013) and, if adopted there, to royal assent. At this final stage of the legislative process, the Governor General is asked to sign

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[99] When invited or allowed to address and/or answer questions of a committee on which they do not formally sit, members of parliament were not here categorized as experts. They instead retained their member of parliament status. This decision was based in part on an understanding that it is customary for some members (e.g. the sponsor of a bill) to be allowed to appear before a reviewing committee, so as to defend the reasons for which the bill was put forward.

'popular' statutes into law. Though the request may be denied, Laundy (1977) writes "it is inconceivable in these days that it would be refused." (p. 107) Senator John Lynch-Staunton (Quebec) elaborates:

> Royal assent, in effect, although perhaps not in law, is meaningless. It is simply the recognition by the Crown, through a symbolic nodding in this chamber, that legislation passed democratically by both Houses can now become law and be proclaimed. What Governor General or representative will ever dare refuse a nod? If ever that happened, he or she would not last long in the position.[100]

Whether it is a mere mechanical formality or the result of a meticulous weighing of arguments, the act of giving assent represents Parliament's decision to behave in a particular manner; to use its decision making power, and that which flows naturally from it, to (try to) correct a perceived wrong. When examining the behaviour of parliamentarians as a whole, it is this final step that represents the most appropriate point at which to argue the existence of a taken-as-shared belief. The "democratic" system has spun through the entirety of its gears and produced a law that is endorsed by a majority of its voting members. Considering this study's two-fold aim and moral panic's above noted sequential stages, panic's existence will be calculated as follows:

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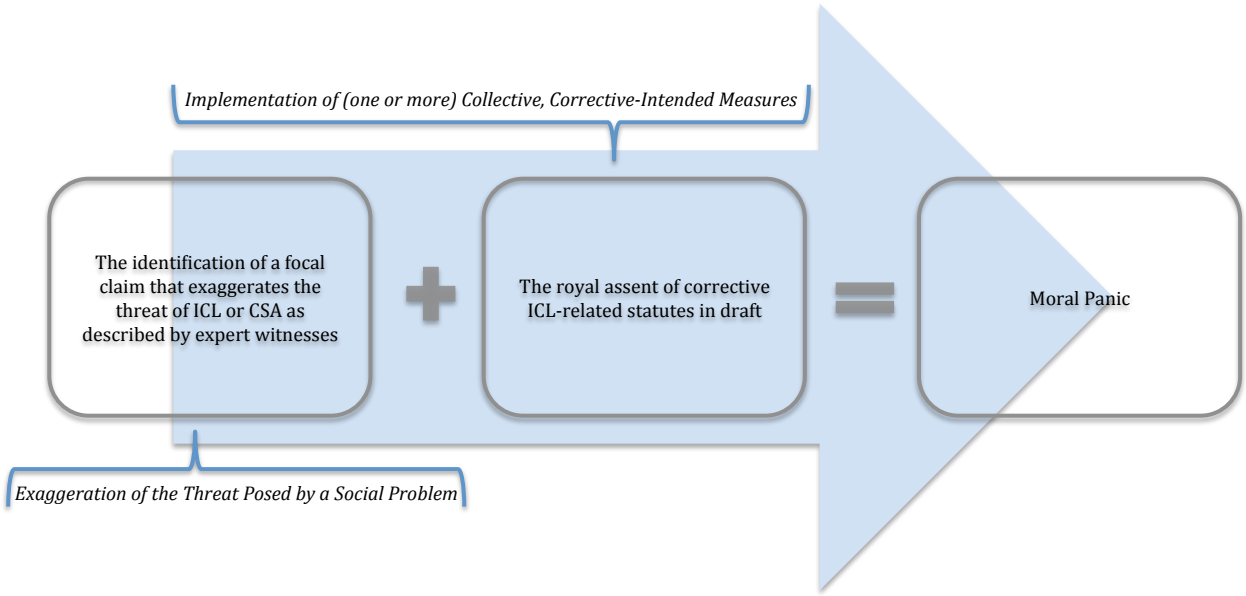
[100] Lynch-Staunton, J. (P.C.). (2002-03-12). Debates of the Senate, *Edited Hansard 139*(95). 37th Parliament 1st Session, p. 2375. For a somewhat different opinion see Cools, A. C. (2007-12-12). Debates of the Senate, *Edited Hansard 144*(23). 39th Parliament 2nd Session, pp. 526-527.

Chart C.6
(*A Calculation of Moral Panic*)



3.4.2. Step 2: The Examination of Textual Data

Much like the wider method in which it is here framed, there is no analytical grid against which all forms or genres of texts aptly apply. Instead, the techniques of others are best broken down and reassembled in ways that account for the uniqueness of a particular study. In this case, aspects of Fairclough's (1992, 2001a, 2001b, 2009) and Reisigl and Wodak's (2009) work were adapted and House of Commons and Senate transcripts assessed with regard to three interrelated categories: Ethos, Focal Claims, and (the subcategory of) Modality.

Ethos pertains to how experts and members of parliament constructed/projected an identity of themselves and/or those persons, groups, or organizations they spoke of (their roles, responsibilities, capabilities, et cetera).

While much of this information is not directly linked to moral panic analysis, it was gathered to better contextualize the results and help provide a more complete picture of the persons involved (see chapter 5, *Contextual*). The preparatory or pre-analysis list of Ethos categories read's as follows: members of parliament, child/children, Internet child lurers. Additional categories were developed in order to, for example, group claims by the speaker's political affiliation. This particular category was, however, not addressed in the study's final analysis.

Focal Claims refer to how experts and members of parliament spoke of the threat attributed to persons or things of value being damaged or harmed as a result of ICL or (if presented as part of a wider issue) CSA[101]. Claims that, for example, Internet child lurers 'pose a danger to Canadian children' or that ICL is an 'widespread phenomenon' were identified and assessed for Modality (discussed below). A computer program, designed for facilitating qualitative research, was used to track and maintain the contextual integrity of claims until the time of assessment.

The last category, Modality, may be viewed as a subcategory of Ethos and Focal Claims that refers specifically to the force/tone with which claims adjoined to the above two categories were presented. For instance, how were metaphors, pronouns, and adjectives used to emphasize or deemphasize the innocence of

[101] It will be important to remember, it is the threat directly related to ICL or CSA's occurrence—not the threat reactions to the phenomenon are perceived to cause—that is of interest in determining moral panic's existence.

children, Parliament's moral duties, or the threat of ICL? Were claims presented as assertions of fact or questions of probability?

Like Ethos and Focal Claims, Modality will be displayed primarily through transcript excerpts that heavily decorate the *Empirical* chapter of this text. While numerical figures play an important role in moral panic's assessment (see *4.5. A Quantitative Lean*), these numbers are dependent upon a qualitative approach that aims to compare the arguments recorded in parliamentary reports and, where possible, identify the taken-as-shared position of parliamentarians. The aim is to determine if a single focal claim can be spoken of or, put differently, to retrace the lines of argumentation found in the development or enduring steadiness of individual bills and identify one unopposed focal claim—or, following royal assent, taken-as-shared belief—to compare against the focal claims of expert others[102].

3.4.3. Step 3: The Matter of *Claim v. Claim(s)*

Moral panic analysis is invariably the assessment of one taken-as-shared position or claim against the claim(s) of an identified other. It is to point to a disparity between what two groups of persons, or a lone individual and a group, assert to be the truth. So as "to take seriously the moral viewpoint of those who are alarmed" (Garland, 2008, p. 22), the group assumed to be or have been in a state of

[102] Restated in yet more practical terms, the goal is to identify an assertion of ICL or (if presented as part of a wider issue) CSA's threat that is unopposed and/or supported by all other related focal claims attributed to members of the Parliament of Canada. This argument can be adjoined to Critcher's (2003) assertion that "moral panics are distinctive in their production of singular, consistent and incontestable discourses." (p. 173) In instances where the reasoning behind a behaviour can be identified with greater clarity, these "distinctive" qualities may vary.

panic must identify the person or persons (experts) whose claims represent that which will be treated as the truth. With parliamentarians identified as the group assumed to have panicked, the means of determining their taken-as-shared belief reviewed, and their experts identified, all that appears to be missing is an explanation as to how the beliefs of those perceived to be in the know were assessed.

> On page 16 of Hall et al. (1978) *Policing the Crisis* one finds the following:
>
> > When the official reaction to a person, groups of persons or series of events is *out of all proportion* to the actual threat offered, when "experts", in the form of the police chiefs, the judiciary, politicians and editors *perceive* the threat in all but identical terms, and appear to talk "with one voice" of rates, diagnoses, prognoses and solutions, when the media representations universally stress "sudden and dramatic" increases (in numbers involved or events) and "novelty", above and beyond that which a sober, realistic appraisal could sustain, then we believe it is appropriate to speak of the beginnings of a *moral panic*.

I have already distanced myself from some of these claims and provided support for others, and while I see no need to review these arguments now, the authors' contention that it is appropriate to speak of the beginnings of a moral panic only if and after experts *perceive the threat in all but identical terms, and appear to talk with one voice* is of relevance to the present discussion. It has also not yet been sufficiently addressed.

The Marxists lens through which Hall et al. (1978) approach their work can be said to support their narrowing of the term experts; and, in any case, Garland's (2008) critique would come much later. Their description of the media's power,

autonomy, and dependence, primary and secondary definers, Becker's *hierarchy of credibility*, and description of moral panic as an exercise in hegemony also goes some way in accounting for reasons as to why their identified experts could and would "appear to talk with one voice" (Hall et al., 1978, p. 16). Yet when applied to a social, political, and economic reality different from the one Hall and his colleagues describe, the necessity of unity among expert claims becomes clouded. Is it not enough that some experts present a behaviour, condition, or phenomenon as risky or possible that, when confronted with differing aspects of a specific problem, one group's perception of those most in the know shifts?

In situations where multiple experts are identified and invited or allowed to speak during, for example, parliamentary committee meetings, it would not be surprising to find that they do not all agree. Even in matters relating to CSA, the beliefs of experts have been known to differ (Finkelhor, 1990). Due to this possibility and in the absence of a more refined categorization of persons in the know, no attempt was made to find a common voice amongst the identified witnesses—persons who were under no obligation to reach an agreement that could be taken-as-shared. Instead, if it was found that the focal claim(s) of any of the identified experts supported the focal claim or (taken-as-shared) belief of members of parliament, a moral panic was not said to have taken place[103]. Alternatively, if the focal claim used by parliamentarians to justify their behaviour was found to have

[103] A similar strategy would be used in instances where, in the absence of a more refined classification of the importance attributed to individual focal claims, an expert presented contradictory arguments. Should one of two or more focal claims made by an expert be found to support the belief of members of parliament, a moral panic was not said to have taken place.

exaggerated the focal claim(s) of experts, a moral panic was said to have existed. This approach requires two clarifications.

First, each bill was assessed separately. Because of shifts in argumentation, the composition of Parliament, and the identification of different expert witnesses, the passage of each bill was evaluated as an independent act or behaviour adjoined to a unique rationale. What this study is therefore proposing is the assessment of four potential moral panics, related to the ICL provisions of bills C-15A, C-277, C-2, and C-10. Second, and so as to comply with Garland's (2008) critique of moral indifference, no expert reading was favoured over another. Members of parliament were allowed to 'pick and choose' from what, in the absence of additional information, they presented as equally valid claims. Again, I am not comparing or hoping to compare a phenomenon's objective threat against the threat perceived by a specific group. No attempt is being made to assess whether members' "reaction to a person, groups of persons or series of events is *out of all proportion* to the *actual threat offered* [emphasis added]" (Hall et al., 1978, p. 16) or, for that matter, to explain the causes or reasons for the emergence of their concerns. Instead, my aim is to adopt an empirical approach that locates the study of moral panic within the "wider societal process" (Hunt, 2011, p. 58) of the group under review[104]. And, like all approaches of a similar aim, this one has its limitations.

[104] Hunt (2011) seems to be fond of approaches that share this aim: "I do not wish to detract from the value of moral panic studies, but rather suggest that the most valuable are those that locate their study within a wider societal process." (p. 58)

3.4.4. Step 4: The Outline of Limitations and Assumptions

> In *Beauchesne's Parliamentary Rules & Forms*, section 1117 reads:
>
> The debates of the House of Commons are reported verbatim, recording correctly what is said by each Member in the House. Slight verbal alterations are allowed to be made by a Member in order to make the meaning more precise and accurate; however, no words or phrases may be inserted to effect material changes in the meaning of what was actually said in the House . . . (Fraser, Dawson, & Holtby, 1989, pp. 300-301)

Similar claims are more recently noted:

> The *House of Commons* Debates, commonly known as "Hansard", are the official edited verbatim report of the proceedings . . . . "Hansard" does not then merely record the speeches of members in debate; it also records other comments and remarks made by Members in the Chamber . . . . Members [who spoke] may suggest minor alterations to the text, which are confined to clarification and correction of errors, however, they may not make material changes in the meaning of what was actually said in the House. ("Compendium of Procedure, House of Commons: Parliamentary Publications," 2013, pp. 1-2)

That members of the House of Commons are permitted to make *slight verbal alterations* to the official report of proceedings can be seen as troubling, even if those alterations are done with the aim of making the document *more precise and accurate*. Repetitious words may be removed, purposeful pauses ignored, and the once verbatim text becomes, like the transcripts of Senate debates and most upper and lower house committee meetings, one written in extenso[105]. While this style of transcription is less than ideal, it is not inherently problematic.

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[105] In some cases it is possible to request access to verbatim transcripts. These documents are, however, provided only in the language in which the meeting was held. It is also requested that, when citing passages of the verbatim transcript, persons "obtain the consent of the person who spoke." ("Senate Committees," n.d., para. 2) For these two reasons they were not seen as a viable source of analysis.

Allowing House of Commons and Senate members to have a say in the editing process can provide a more accurate representation of the speaker's intent, particularly when descriptions of other (perhaps non-verbal) means of communication are lacking. Because members of parliament and, where applicable, witnesses are also able to speak in either of Canada's official languages and because the official reports are unilingual, these corrective allowances may also help minimize the loss of nuance through translation.

The above said, nearly all attempts to analyse past parliamentary debates must work within these imperfections, for there are rarely suitable alternatives. The in extenso transcripts are the only complete, publicly available textual records of House of Commons and Senate debates. And, therefore, if only by default, they here stand as the most appropriate texts for analysing Parliament's construction of the ICL or (if presented as part of a wider issue) CSA phenomenon. In accepting this assertion as true, another limitation or clarification requires some attention: the subjectivity inherent in reading text.

Having already positioned my approach in relation to the linguistic turn and adopted a methodological orientation that does not allow one to be "a neutral observer of . . . phenomenon" (Siltaoja, 2013, p. 80), the analysis of discourse is here dependent on stereotypes or biases that limit the range and novelty of interpretation (Siltaoja, 2013). Embracing the impossibility of objective comprehension does not, however, make it acceptable to be led by bias. Even the

most subjective and/or politically oriented research designs can be judged on the coherence of their decisions, conclusions, and faculty to help seek out a truth[106]. While some have questioned the ability of perspective adaptable research to provide meaningful analysis (Tyrwhitt-Drake, 1999), one should be careful not to equate adaptability with an inability to produce meaningful work.

On the topics of *Intention and Interpretation* Johnstone (2008) writes "it is possible to know exactly what someone said and still not understand it." (p. 231) Persons may, particularly when placed in an unfamiliar context, misunderstand acts of communication and, for example, interpret assertions as suggestions or required formality as mockery. So as to help defend against such failure here, the administrative and in chamber rules and procedural regulations of the lower and upper house, as well as those that govern the formation, management, and authority of House of Commons and Senate committees, were reviewed and detailed notes kept for on-going consultation. The rules pertaining to the transcription of chamber sittings and committee meetings were treated in a similar manner. Lastly, and so as to help further contextualize the transcribed discussions and ensure against possibly misleading editorial headlines and notes, all identified in chamber and committee meetings relating to the formation and amendment of *CCC* section 172.1 were read in their entirety. The system of in-text notification, used by report editors

[106] It may be useful to re-state the theoretical orientation and accompanying ontological and epistemological views adopted for moral panic's portrayal here. Put simply, the concept is to be understood as operating within a post-positivist or soft-constructionist framework that assumes the existence of a reality independent of our (biased and contextually-based) knowledge. It is, however, against this imperfect understanding of the world that differing claims can be judged or weighed for correctness.

to assist persons searching for specific topics, was largely ignored. At this point, the same can be said of another relatively wide ranging concern. I will phrase it as a question: How, despite the role of belief in moral panic's conceptualization, have I neglected to expand my field of analysis beyond what is in fact an incomplete assessment of a particular formal setting?

Using the official transcripts of House of Commons and Senate chamber sittings, the first reading and assented to versions of adopted bills, as well as the evidence and minutes of proceedings of related committee meetings, this study (again) seeks to determine whether parliamentarians based their decision to pass ICL-related legislation on a belief that exaggerated the threat described by those they perceived as in the know. Though the scope of this study produced a dataset of considerable size, it does not touch upon all useful, publically available material. For example, no effort was made to analyse the briefs submitted to committees tasked with reviewing the four bills. Because some experts will submit only a written brief, because appearing persons often do so beforehand ("Committees: Practical Guide," 2014), and because the information contained within briefs may be more detailed than any accompanying oral presentation, concern over their exclusion would seem justified. The reason for their omission is twofold, the first of which is time.

Excluding the analysis of submitted briefs, the project's dataset is large. Combined, the four bills equate to more than 70 chamber sittings and over 40 committee meetings. Due to the amount of time it takes to go through a single

document, the inclusion of witness briefs within the study's dataset would push this project's completion date well beyond the allotted timeframe. While this would, in and of itself, be reason to exclude written statements, there is another, less administrative, argument.

By restricting the study's analysis to adopted bills and transcriptions of chamber sitting and committee meetings, I am able to ensure that the arguments put forth by witnesses were communicated directly to members of parliament who, in turn, were given the opportunity to openly question, clarify, support, or refute those arguments. Stated differently, to include witness briefs, as part of the study's dataset, would be to dilute the clarity and richness gained through the assurance that, whether misinterpreted or not, the expert's message reached its intended audience via a publically accessible medium. Support for this position can also be found in Senator David Angus' (Quebec) claim that it is at times "unruly"[107] to read submitted briefs and a lower house policy that "any individual or organization may submit a brief to a committee of the House of Commons" ("Guide for Submitting Briefs," 2014, para. 1).

In focusing on a communication medium that is publically accessible and (if not listened to) heard by the studied group, I do not mean to suggest that the beliefs and/or behaviour of members of parliament is not influenced by factors beyond the described legislative process. It may be that, for reasons not publically shared,

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[107] Angus, D. (Senator). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 28.

members came to accept certain ICL or CSA claims. *Exploring the Role of Legislators in Canada*, Blidook (2010) suggests a similar possibility:

> By debating and voting in what is often a highly party-oriented, collective manner, MPs [members of parliament] are seen as doing little more than lending democratic legitimacy to decisions that have been made elsewhere, or perhaps simply refining those decisions . . . (p. 32)

While I recognize the role external factors may play in influencing the decisions of members of parliament, my interest in these factors is negated by the fact that I am most concerned with how members of parliament talked of ICL or (if presented as part of a wider issue) CSA when exposed to the purview of those for whom they must appear accountable. In addition to this interest, the reason(s) why members adopted a specific interpretation of the threat posed by the ICL or CSA phenomenon is not necessary for a determination of moral panic to here be made. Although, admittedly, such information would make for an interesting read, it is best left to others. Speculating on the results of this project is, however, my responsibility.

Assuming CSA has become one of the most disturbing and feared personal and social affronts (Zgoba, 2004), that its social and health costs are perceived as substantive (Easton, 2013; Maier, Mohler-Kuo, Landolt, Schnyder, & Jud, 2013; Wilson, 2010; Yampolsky, Lev-Wiesel, & Ben-Zion, 2010), its portrayal in the news is often misleading (Greer, 2003), and "that many people, including policymakers, . . . derive their understanding of child sexual abuse (CSA) from the news" (Mejia, Cheyne, & Dorfman, 2012, p. 470; see also Jewkes & Wykes, 2012), it would seem that members of the Parliament of Canada are likely to believe ICL or (if presented as part of a wider issue) CSA to be a social problem deserving of considerable

attention. Yet, in the face of what a review of the academic literature would suggest is a longstanding CSA panic, it seems unlikely that members of parliament will be found to have been in a state of moral panic when passing legislation to introduce or amend section 172.1 of the *CCC*. My reasoning is simple: In an age where "the child molester often stands out as a sort of meta-criminal, the worst of among various evils" (Doyle & Lacombe, 2003, p. 290; see also Zgoba, 2004), I find it hard to assume that members of parliament or their experts will speak of ICL or (if presented as part of a wider issue) CSA as anything other than a widespread and increasing threat.

4. Empirical

This *Empirical* chapter is divided into five sections, one for each of the four ICL-related bills (C-15A, C-277, C-2, and C-10) and a few concluding words on the study's quantitative breakdown. Each of the first four sections are split into two subsections that outline the bill's legislative summary and present a comparison of claims, respectively. The latter of these subsections is comprised of three parts that attend to the focal claims of members of parliament, those of their witnesses, and, where applicable, the identification of a phenomenon as a social problem and behaviour a moral panic.

Though some may question the order in which I have here presented the final subsection's parts—presenting the claims of members of parliament before the claims of their experts—this decision was taken to ensure that the following description is inline with my reworking of the moral panic concept. To put it another way, the decision was taken to ensure that, where applicable, the irrational taken-as-shared belief or (prior to a specific bill's royal assent) focal claim upon which the behaviour of members of parliament was based is presented before the expert claims against which it is assessed[108]. The second reason for this particular ordering is rooted in the legislative process itself. The statements of members of parliament, their interpretations of ICL or (if presented as part of a wider issue) CSA

[108] Two reminders are deserving of note: 1st) moral panics are, again, here defined as collective, corrective-intended behaviour based on an irrational belief that exaggerated the threat posed by a social problem; 2nd) it is the royal assent of individual bills that is used to identify the belief of members of parliament, the existence of a social problem, and, where applicable, the occurrence of a moral panic.

are introduced before experts are given the opportunity to speak (see *Chart C.5*). Because members are the first of the analysed groups to make their views known, because these views are likely to have influenced who is and is not considered an expert[109], and because the same views will be used to later shape threat's measurement (see subsection 4.1.2.'s *Social Problem to Moral Panic*), it seems appropriate that they be presented first. Considering the intent, nature, and tone of this work, my continual amending of the moral panic concept is also befitting.

In view of the fact that my primary interest in this practical exercise is to test and further nuance the above defined moral panic concept, several method-related issues that arose during my analysis of parliamentary documents are identified and worked out in the following pages. I did not return to this work's *Conceptual* or *Practical* chapters to address the issues that are presented here. Possibly unconventional, this decision was made so as to highlight issues that arose in operationalizing the moral panic concept and provide an accurate portrayal of my own thought process.

In keeping with the above aims, the *Empirical* chapter is intentionally saturated with quotes. As much as possible, I tried to use the words of individual actors to support my interpretation of their arguments. The approach also makes it easier for readers to challenge my conclusions. When coupled with the continual reworking of the moral panic concept, this use of quotes gives the following pages a

[109] This point may also be used to further support my before mentioned hypothesis that findings of moral panic are, in this study, unlikely.

descriptive tilt, which is to be expected of studies that move from a theoretical or conceptual orientation to an empirical one. Exploratory endeavours that are interesting, but not directly related to the concept's calculation, are presented in the first half of the following chapter.

4.1. Bill C-15A

An Act to Amend the Criminal Code and to Amend Other Acts or *Criminal Law Amendment Act*, 2001

4.1.1. Legislative Summary

When introduced to the House of Commons, Bill C-15 aimed to amend "the *Criminal Code* by . . . adding offences and other measures that provide additional protection to children from sexual exploitation, including sexual exploitation involving use of the Internet" (*Bill C-15*, 2001, p. ii). According to then Minister of Justice Anne McLellan, the bill's CSA provisions were an attempt by the government "to safeguard children from criminals on the Internet"[110], "ensure that children are protected from those who would prey upon their vulnerability"[111], "respond to a consensus of ministers responsible for justice . . . to create an offence of Internet luring"[112], and "address what has been reported as a growing phenomenon not only

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[110] McLellan, A. (Lib.). (2001-05-03). House of Commons Debates, *Edited Hansard 137*(54). 37th parliament 1st Session, p. 3581.

[111] McLellan, A. (Lib.). (2001-05-03). House of Commons Debates, *Edited Hansard 137*(54). 37th parliament 1st Session, p. 3581; see also Pearson, L. (Senator). (2001-11-01). Debates of the Senate, *Edited Hansard 139*(66). 37th parliament 1st Session, p. 1609; McLellan, A. (Lib.). (2001-12-05). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 20 - Evidence*, paras. 9-18.

[112] McLellan, A. (Lib.). (2001-05-03). House of Commons Debates, *Edited Hansard 137*(54). 37th parliament 1st Session, p. 3581.

in our country but globally."[113] While the proposed bill would introduce four new child pornography-related offences, its criminalization of Internet luring was perhaps the most important:

> There is no question that there are some good provisions in the bill. *Most important* [emphasis added], the legislation contains long overdue laws against luring children over the Internet for the purposes of committing a sexual offence. I commend these initial efforts to protect children from criminals using the Internet.[114]

As presented in clause 14, the proposed *luring a child* addition to *CCC*'s section 172 (Corrupting Children) would criminalize the act of using a computer system "to communicate . . . with a person under a certain age, or a person whom the accused believes to be under a certain age, for the purpose of facilitating the commission of certain sexual offences in relation to children or child abduction." (Goetz & Lafrenière, 2001, p. 4) Persons found to have committed such an act would be subject "to imprisonment for a term of not more than five years; or an offence punishable on summary conviction." (*Bill C-15*, 2001, p. 9) While this was perceived as stuff for which "we can only be in favour of"[115], there were problems with some of the things adjoined to the "good stuff"[116].

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[113] McLellan, A. (Lib.). (2001-05-03). House of Commons Debates, *Edited Hansard 137*(54). 37th parliament 1st Session, p. 3581.

[114] Toews, V. (Can. Alli.). (2001-05-07). House of Commons Debates, *Edited Hansard 137*(56). 37th parliament 1st Session, p. 3644.

[115] Laframboise, M. (B.Q.). (2001-09-20). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5367; see also Bellehumeur, M. (B.Q.). (2001-10-18). House of Commons Debates, *Edited Hansard* 137(97). 37th Parliament 1st Session, p. 6315.

[116] Lunney, J. (Can. Alli.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5385.

Bill C-15 was an omnibus bill. And, "as omnibus bills before it, Bill C-15"[117] aimed to address "a number of diverse elements."[118] Issues relating to CSA were joined to a redefining of animal cruelty and reworking of the Firearms Act. For some, the paring of these issues was "inappropriate"[119]: "There is no way, even for the purposes of amending the criminal code, that cruelty to animals and cruelty to children can be considered on the same footing."[120] Others used stronger language:

> It is *totally undemocratic* [emphasis added] to include in legislation things that cannot be opposed.
>
> Everyone has said that we would *look pretty stupid* [emphasis added] opposing the protection of children against sexual abuse, for example. No one wants to oppose it. We all agree with that part of the bill.[121]

So as to avoid 'looking stupid', some members of parliament asked "the [justice] minister to consider introducing a motion to split this legislative package into several bills."[122] Separating the more controversial issues (e.g. the provisions relating to animal cruelty) from CSA legislation was argued as allowing members to "quickly pass the part having to do with children, the part on which there is consensus and examine in greater depth the rest of the bill, which is the subject of

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[117] McLellan, A. (Lib.). (2001-05-03). House of Commons Debates, *Edited Hansard 137*(54). 37th Parliament 1st Session, p. 3581.
[118] McLellan, A. (Lib.). (2001-05-03). House of Commons Debates, *Edited Hansard 137*(54). 37th Parliament 1st Session, p. 3581.
[119] Bellehumeur, M. (B.Q.). (2001-05-07). House of Commons Debates, *Edited Hansard* 137(56). 37th Parliament 1st Session, p. 3647.
[120] Bellehumeur, M. (B.Q.). (2001-09-20). House of Commons Debates, *Edited Hansard* 137(82). 37th Parliament 1st Session, p. 5328.
[121] Gagnon, M. (B.Q.). (2001-09-20). House of Commons Debates, *Edited Hansard* 137(82). 37th Parliament 1st Session, p. 5384.
[122] Toews, V. (Can. Alli.). (2001-05-07). House of Commons Debates, *Edited Hansard* 137(56). 37th Parliament 1st Session, p. 3646.

disagreement and debate."[123] Though persons in government argued "that the practice of introducing criminal amendments through an omnibus bill is a longstanding practice and one that has served the criminal justice system well"[124], and a motion to split the bill at its second reading was voted down, calls for the divide were loud:

> We asked for a split in this bill to ensure speedy passage of those amendments dealing with child luring and child pornography over the Internet, leaving the more controversial part, that is the section dealing with cruelty to animals, for further review and debate. Government members voted against our motion. *As a result, this summer more children fell prey to sadistic pedophiles, hunting them down via the computer* [emphasis added].[125]

Eventually, "after much kicking and screaming,"[126] the bill was split along the stated lines of contention:

> Mr. Speaker, I will keep my remarks brief today as I think we all want to see the bill move forward without unnecessary delay. I would once again like to thank the minister for consenting to split the bill, a move which has enabled the House to adopt quickly the relatively noncontentious provisions of the bill while allowing the more contentious provisions now found in Bill C-15B to be debated at greater length. Most important, now that the bill has been split we can get down to the business of protecting children from sexual predators on the Internet, something that members of the Canadian Alliance have been supporting from the beginning.[127]

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[123] Brien, P. (B.Q.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5390.

[124] McLellan, A. (Lib.). (2001-05-03). House of Commons Debates, *Edited Hansard 137*(54). 37th Parliament 1st Session, p. 3581.

[125] Sorenson, K. (Can. Alli.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5333; see also Bellehumeur, M. (B.Q.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5378.

[126] Mackay, P. (P.C.). (2001-10-18). House of Commons Debates, *Edited Hansard 137*(97). 37th Parliament 1st Session, p. 6317.

[127] Toews, V. (Can. Alli.). (2001-10-18). House of Commons Debates, *Edited Hansard 137*(97). 37th Parliament 1st Session p. 6314; see also Blaikie, B. (N.D.P.). (2001-10-18). House of Commons Debates, *Edited Hansard 137*(97). 37th Parliament 1st Session, p. 6316.

Like its predecessor, Bill C-15A was presented as providing the state with "another tool . . . to make sure that we will keep protecting our children."[128] With regard to ICL specifically, and returning to statements made during Parliament's review of Bill C-15, this tool was understood as "long overdue because it is not as if the Internet just showed up yesterday."[129] While it may be that "this problem [ICL] has been with us for a long time"[130], Pat Martin (Winnipeg Centre, NDP) reminded the lower house that this is not the first time it was presented with ICL-related bill:

> The one example that everyone cites first is the luring of children on the Internet for the purposes of sexual exploitation. That has been around in the form of private members' bills since I came to parliament. Chris Axworthy, the former member for Saskatoon—Rosetown—Biggar, had a private member's bill dealing with that subject *as early as 1989* [emphasis added].[131]

In any case, and despite Bill C-15A being called "a step in the right direction,"[132] some members of parliament found it wanting:

> As I have already noted, Bill C-15A's proposed reforms that would provide children with increased protection from sexual exploitation have been very much welcomed by all members of the House. I do recognize, however, that some hon. Members have said that *these do not go far enough and that we need to do more to protect our children*. [emphasis added][133]

Calls to increase the age at which a person may consent to sexual activity were the most common criticism. Without such an increase, it was argued, "the new luring

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[128] Cauchon, M. (Lib.). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10562.
[129] Blaikie, B. (N.D.P.). (2001-05-07). House of Commons Debates, *Edited Hansard* 137(56). 37th Parliament 1st Session, p. 3651.
[130] MacKay, P. (P.C.). (2001-10-18). House of Commons Debates, *Edited Hansard* 137(97). 37th Parliament 1st Session, p. 6331.
[131] Martin, P. (N.D.P.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5388.
[132] Skelton, C. (Can. Alli.). (2002-04-23). House of Commons Debates, *Edited Hansard 137*(174). 37th Parliament 1st Session, p. 10735.
[133] Owen, S. (Lib.). (2001-10-18). House of Commons Debates, *Edited Hansard 137*(97). 37th Parliament 1st Session, p. 6313.

offence will not protect all children."[134] On the 4th day of June 2002, Bill C-15A received royal assent to, using the above logic, protect but a few.

4.1.2. Claim v. Claim(s)

In keeping with the calculation of moral panic outlined in the above chapter, members of the Parliament of Canada were assessed as to whether or not they were in a state of moral panic by comparing, where possible, their focal claim or taken-as-shared belief against the focal claim(s) of their identified experts. Should members be found to have exaggerated the threat posed by the ICL phenomenon, the first component (i.e. *Exaggeration of the Threat Posed by a Social Problem*) of *Chart C.6*'s moral panic calculation will have been met. The second component, the *Implementation of (one or more) Collective, Corrective-Intended Measures*, is ensured by the bill's royal assent. The persons of value identified, in the Summary of Bill C-15 and C-15A (*Bill C-15*, 2001; *Bill C-15A*, 2001; *Statutes of Canada*, 2002) and their adjoining debates and committee meetings, as under threat were 'children'[135].

The identification of children as the valued persons threatened by ICL's occurrence should not be read to deny claims that other persons or things of value were also seen as threatened. Parents, for example, were presented by some members of parliament as deserving "a greater measure of assistance and

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[134] Pearson, L. (Senator). (2001-11-01). Debates of the Senate, *Edited Hansard* 139(66). 37th Parliament 1st Session, p. 1609.

[135] An exact definition of persons here defined as children is difficult to provide. The ongoing age of consent debate continuously tested the boundaries of childhood. That said, children may still be appropriately, if somewhat cautiously, defined as persons under the age of sexual consent.

protection from these [child luring] predators."[136] However, because the threat to parents can appropriately be considered a secondary threat or a threat that is directly attributed to the harm or damage the phenomenon is perceived to cause other (in this case) persons of value, they were not included in moral panic's calculation[137].

Member Claims

When talking about ICL, not one member of parliament described, however briefly, the phenomenon's trend as decreasing and/or it being a behaviour that is not prevalent. Instead, they did the opposite:

> With the rapid rise of Internet use an *awful lot of children have been inadvertently getting sucked into a trap by pedophiles* [emphasis added] . . . . Pedophiles are extremely intelligent at using the right words and terminology to entice our children into these traps. There are far too many examples where children of all ages have been sucked into that trap and dire consequences have been the result;[138]

> law enforcement agencies and child care agencies regularly advise the public through the media or otherwise that predators frequently use the Internet, mask their identities and pretend to be children or young adults in order to lure children into a situation where they could be sexually abused. *These situations are becoming more common* [emphasis added] and I am relieved to see that the government has finally recognized the great need to amend the law.[139]

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[136] Toews, V. (Can. Alli.). (2001-05-07). House of Commons Debates, *Edited Hansard 137*(56). 37th Parliament 1st Session, p. 3645.

[137] I realize that, in making this claim, I have assumed a position on what is essentially a "chicken or egg" dilemma: Is the threat to children secondary to the assumed morals of Parliament or is the threat to Parliament's morals a secondary threat to that faced by children? Because the latter position would, in any and all assessments of moral panic, focus on the morality of the studied group, as opposed to assuming their moral position, the alternative was chosen.

[138] Stoffer, P. (N.D.P.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5353.

[139] Toews, V. (Can. Alli.). (2001-05-07). House of Commons Debates, *Edited Hansard 137*(56). 37th Parliament 1st Session, p. 3644.

Confronted with these claims, Chuck Cadman (Surrey North, Canadian Alliance) was the only member to question the necessity of Bill C-15A's ICL provision. A provision that he nevertheless supported. Because of the uniqueness of this stance, Mr. Cadman's comments deserve to be quoted at length:

> *I support the luring of a child provisions of the bill but will those provisions really do anything to protect children?* [emphasis added] This new offence refers to a number of already illegal actions. An offence is created if someone lures a child by means of a computer system, presumably via the Internet, for the purpose of facilitating any number of criminal offences such as sexual assault, sexual touching or indecent act, et cetera.
>
> How will it be proven that the luring was for the purpose of facilitating any one of those criminal offences? We have not been particularly successful in getting into the minds of offenders as to their intentions. We usually have to impute intent from the acts of the offenders. When the offender commits sexual assault he or she can be tried for that sexual assault. There seems to be little added benefit of having this luring a child offence.
>
> There is not even added punishment for using the Internet to entice a child to meet for those nefarious purposes. In fact most of the maximum punishments are reduced should the crown decide to proceed under the luring provision rather than the substantive offence. Luring has a maximum of five years when most of the offences referred to have a maximum of a 10 to 14 year range.
>
> *To me, all this government propaganda to publicize its actions to prevent child luring over the Internet is as Shakespeare said, "Much ado about nothing". Again, it is truly amazing* [emphasis added].[140]

Mr. Cadman would not return to his criticism of the government's actions. Instead, as co-chair to the Standing Committee on Justice and Human Rights charged with reviewing Bill C-15, his position would change completely:

> Thank you, Mr. Chairman. I don't anticipate there's going to be as much discussion on this as on the last ones.
>
> This merely provides for a consecutive sentencing on a luring conviction. I go to the reasons for change in our binder that said this would deal more specifically with the problem of luring on the Internet. It would send a strong message to those who would use the Internet for child sexual exploitation purposes.

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[140] Cadman, C. (Can. Alli.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5332.

> I think we really want to put some teeth into this [luring provision], because we know that many of these people who do these things are repeat offenders—they do it over and over again—and I think we have to put deterrence there. So I'm suggesting that we go with consecutive sentencing on conviction.[141]

The suggestion was voted down in committee.

That there was little in the way of opposition to the proposed ICL legislation and/or claims that the ICL phenomenon was prevalent and increasing is perhaps not surprising. ICL fits well within what was described as "legislation that our constituents would never want to oppose, such as laws aimed at protecting children."[142] Even appointed upper house representatives were "pleased with the clauses seeking to protect children from predators on the Internet"[143]. In both locations the prevalent and/or increasing trend narrative was unopposed—allowing for the establishment of a focal claim—and, excluding Chuck Cadman's comments, so too was the ICL provision's necessity. The same can be said of the narratives members adopted when discussing other forms of CSA, most notably online child pornography or the material used, "as the police say, to groom children, to break down inhibitions so that those children can be used as sexual objects"[144]:

> Let us face it: there is a growing number of perverts. We are not immune to everything that relates to perversity. We cannot think about all the things that these people can imagine. But today, with these amendments, we can

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[141] Cadman, C. (Can. Alli.). (2001-10-04). Standing Committee on Justice and Human Rights, *Evidence*, 1230h para. 15 - 1235h para. 1.

[142] Toews, V. (Can. Alli.). (2001-05-07). House of Commons Debate, *Edited Hansard* 137(56). 37th Parliament 1st Session, p. 3644.

[143] Pearson, L. (Senator). (2001-11-01). Debates of the Senate, *Edited Hansard 139*(66). 37th Parliament 1st Session, p. 1613.

[144] Toews, V. (Can. Alli.). (2002-04-23). House of Commons Debates, *Edited Hansard 137*(174). 37th Parliament 1st Session, p. 10702.

> give some powers to people in positions of authority, so that, at last, child pornography on the Internet can be monitored more closely.[145]

Expert Claims

In total, members of parliament heard from seven experts who spoke about the issue of ICL. The names of these experts, their organizational affiliation, and the committees before whom they appeared, are identified in *Chart C.7,* found below. Though, when grouped, the seven experts can be seen to voice the concerns and/or opinions of several different organizations, their portrayals of the ICL provision were similar. Whenever an expert spoke of "the provision against using a computer system in the luring of a child"[146] they did so in a manner that supported its intent[147] or construction as "an important and worthy measure that will help protect our children in an area where they have proven vulnerable."[148] A few, however, would have liked the legislation to have gone further:

> We do . . . have some additional suggestions about this provision.
>
> First, we are somewhat concerned by the hierarchy of ages found in the subsection. This may create practical investigative and prosecutorial problems. Second, we wonder whether the definitions are broad enough to capture intranet or internal e-mail and computer systems that are now common in both the public and private sectors. Finally, the provision fails to capture those adults who facilitate the commission of those offences targeted

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[145] Girard-Bujold, J. (B.Q.). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10572; see also Hearn, L. (P.C./D.R.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5354.

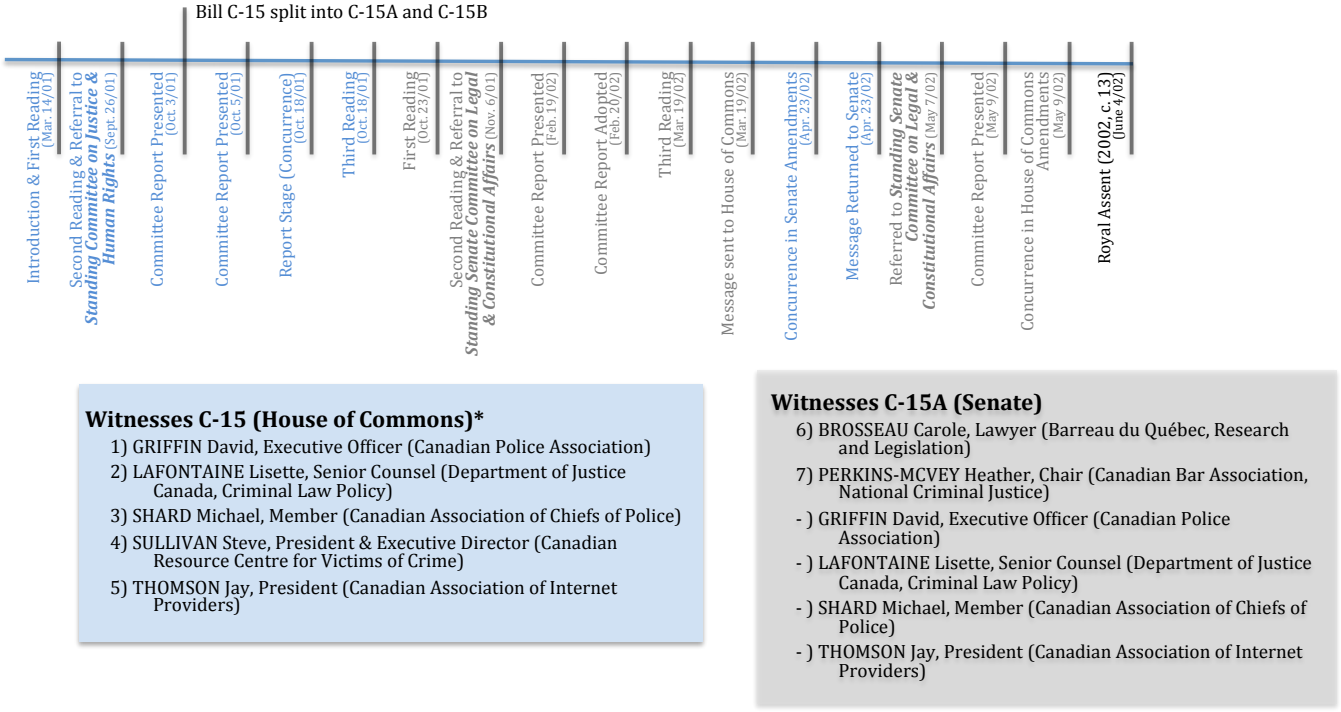
[146] Shard, M. (Canadian Association of Chiefs of Police). (2001-12-05). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 20 - Evidence*, para. 364.

[147] See, for example, Perkins-McVey, H. (Canadian bar Association). (2001-12-12) Standing Senate Committee on Legal and Constitutional Affairs, *Issue 22 - Evidence*, para. 38; Shard, M. (Canadian Association of Chiefs of Police). (2001-10-03). Standing Committee on Justice and Human Rights, *Meeting 23 - Evidence,* 171h paras. 15-18; Thomson, J. (Canadian Association of Internet Providers). (2001-12-12). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 22 - Evidence*, para. 145.

[148] Shard, M. (Canadian Association of Chiefs of Police). (2001-12-05). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 20 - Evidence*, para. 364.

in the section. This occurs when one adult asks another to help lure a child for sexual purposes, for example, and would assist our undercover officers in their investigations.[149]

Chart C.7
(*Bill C-15(A): Overview*)



***Witnesses** are here defined as persons who spoke about ICL.
Note: This chart was made using information and quotes from LEGISinfo;
the titles, occupational or other, here attributed to witnesses are those found in the relating *minutes of proceedings* and/or the heading, as recorded in *evidence*, that precedes the first transcribed words of each witness.

Despite calls for additional protections, and much like the ICL-related claims of members of parliament, when discussing the possible threat ICL posed to children the appearing experts only presented the phenomenon as increasingly common:

[149] Shard, M. (Canadian Association of Chiefs of Police). (2001-12-05). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 20 - Evidence*, para. 348; see also Griffin, D. (Canadian Police Association). (2001-10-03). Standing Committee on Justice and Human Rights, *Evidence*, 1705h paras. 4-5.

> We support those amendments, particularly the issue of luring.
>
> As you know, the Internet now allows sexual predators to come into our homes and talk to our children. They don't have to go to the parks or the school grounds. They don't have to join the Boy Scouts any more. They can come right into our homes. And parents don't know about that. It's a growing area of concern, certainly. *The Criminal Intelligence Service of Canada has noted a growth of the problem in Canada* [emphasis added].
>
> We've seen a parallel growth around the world, particularly in the United States, which takes a much more proactive law enforcement approach to this, puts more resources into it. The growth there is phenomenal.[150]

Measurements of the extent to which the ICL was taking place were difficult to come by:

> As you may know, the trade in distribution of child pornography prior to the Internet was pretty much under control by police, but with the Internet, it has grown to an unprecedented amount. It's being traded quite easily with the click of a button, not to mention the risks our children face by predators in chat rooms.[151]

Social Problem to Moral Panic

Along with the above outlined legislative summary and members' claims that "the purpose of [Bill C-15A's ICL provision] . . . is to protect our children from pedophiles who use the Internet to lure them into dangerous situations"[152], Bill C-15A's royal assent can be seen to have signified ICL as a social problem; the phenomenon or behaviour was defined by a number of persons—large enough to encourage, force, or motivate the implementation of (one or more) corrective measures available to and in the name of the, potentially wider, collective—as a

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[150] Sullivan, S. (Canadian Resource Center for Victims of Crime). (2001-10-04). Standing Committee on Justice and Human Rights, *Evidence*, 0910h paras. 7-9.

[151] Sullivan, S. (Canadian Resource Center for Victims of Crime). (2001-10-04). Standing Committee on Justice and Human Rights, *Evidence*, 0910h para. 10.

[152] Allard, C-M. (Lib.). (2002-04-23). House of Commons Debates, *Edited Hansard 137*(174). 37th Parliament 1st Session, p. 10732.

threat to persons of value. This finding is important when working from the moral panic definition I have here presented, for without a social problem there can be no exaggerated threat, no moral panic.

Reflecting on this study's dataset, I realized that I assumed an understanding of measuring threat's (dis)proportionality that I failed to note. Realization of this error, again, came by way of a question: How, when faced with the inability to examine all possible characterizations of threat, am I to determine what characterization(s) to measure? How one responds to this question is of significance; a group may be found to have exaggerated one measure of threat (e.g. the degree of physical damage) but not another (e.g. the frequency of the phenomenon's occurrence). That said, having to choose between differing characterizations does not mean that there is an inherently right or wrong choice to be made. Correctness is here dependent but on the clarity with which one presents their decision and recognizes its limitations.

What was assumed but not aforesaid was that I had, for the purpose of this study, equated or limited my understanding of threat to measures of the phenomenon's *Rate* (i.e. the extent to which it is said to take place) and *Trend* or direction of development. These were the measures of threat I first encountered when reading on Parliament's portrayal of ICL and which subsequently helped establish my approach. Therefore, to facilitate this understanding of measurement, claims of Trend were classified as either *increasing* (in frequency), *decreasing*, or

remaining *constant*. Claims identifying a phenomenon's Rate were categorized as *occurring* or *not occurring* or, where members provided a more refined claim, *prevalent* or *not prevalent*[153]. Together these categories, classifications, or systems of measurement allowed for nine situations in which a moral panic may be said to exist. *Chart C.8* provides a visual representation:

Chart C.8
(*Situational Classifications: Measures of Threat*)

Rate *(of occurrence / of prevalence)*

Members Focal Claim*			***Expert Focal Claims*** Prevalent	N/A (Silence)[+]	Not Prevalent	Occurring	N/A (Silence)	Not occurring
Prevalence	Prevalent		No moral panic	**Moral panic**	**Moral panic**			
	Not Prevalent		No moral panic	No moral panic	No moral panic			
Occurrence	Occurring					No moral panic	**Moral panic**	**Moral panic**
	Not occurring					No moral panic	No moral panic	No moral panic

Trend

Members Focal Claim*	***Expert Focal Claims*** Increasing	N/A (Silence)	Constant	Decreasing
Increasing	No moral panic	**Moral panic**	**Moral panic**	**Moral panic**
Constant	No moral panic	**Moral panic**	No moral panic	**Moral panic**
Decreasing	No moral panic	No moral panic	No moral panic	No moral panic

* *Members Focal Claim* refers to the consistent and singular or unopposed focal claim that emerged from the review and grouping of all focal claims made by members of parliament (see *From First Reading* in subsection 3.4.1.).
** *Expert Focal Claims* identify the category of claim most supportive of a phenomenon described as prevalent, occurring, or increasing. The possible categories are presented in descending order (left to right) in the respective rows.
[+] *N/A Silence* refers to situations in which experts did not comment on the noted measure of threat.

[153] Because a phenomenon understood to be *prevalent* or *not prevalent* must also be understood as *occurring*, claims denoting a Rate (of prevalence) were considered more refined and, when discussed by members of parliament, to be assessed in place of statements that simply profess a Rate (of occurrence) or describe the noted behaviour as *occurring* or *not occurring*.

While my approach to threat's measurement is, again, not problematic, it does necessitate the following clarification: Whether or not members of parliament are here found to be in a state of moral panic, my conclusion is limited to the above reading of threat; it is specific to the characterizations for which it was tested. This specificity leads to another yet unanswered question: What is to be done if the group being studied is found to have exaggerated one of a threat's two measures? Because this situation relates to my assessment of Bill C-15A, I will address the question while making the argument that members of the Parliament of Canada can appropriately be said to have been in state of moral panic when enacting Bill C-15A.

If measures of threat are equated to measures of the phenomenon's Rate and Trend, then members of the Parliament of Canada can be found to have exaggerated ICL's threat to children when passing Bill C-15A. As aforementioned, members consistently described ICL as a phenomenon that was prevalent and/or increasing in frequency. With regard to the latter measure of Trend, experts did the same: The phenomenon was only described as increasing. If one were to look only at this second measure of threat, it would be appropriate to conclude that, when passing Bill C-15A, members of parliament were not in a state of moral panic related to the ICL phenomenon; members' focal claim or taken-as-shared belief that ICL's Trend is increasing is substantiated by the claims of their experts[154]. The same cannot be said with regard to the phenomenon's Rate. And it is atop of this measure of threat that my moral panic claim is rooted.

[154] In cases where a focal claim is identified in assented to legislation, it is here appropriate to equated that focal claim with a taken-as-shared belief.

Although experts characterized Bill C-15A's ICL provision or clause 14 as "an important clause . . . worthy of support"[155], not one witness clearly presented the phenomenon as prevalent[156]. The disaccord between what can be described as the second half of members' focal claim and the silence of their experts points to an exaggeration of the phenomenon's threat: The claim that ICL is prevalent presents the phenomenon as being of greater threat than can be supported by the available evidence (i.e. the claims of identified experts). This exaggeration of threat satisfies moral panic's disproportionality requirement and, in conjunction with the identification of children as persons of value and royal assent of Bill C-15A—a collective, corrective-intended behaviour—moral panic's definitional requirements are met. Despite members of parliament not having been found to exaggerate all of threat's measurements, when passing Bill C-15A they were in a state of moral panic[157].

Dichotomous assertions—that, for example, members of parliament were or were not in a state of moral panic—can, particularly in social science research, be risky. Many prefer to write of a spectrum, range, or scope of valid options so as to avoid allegations that their reasoning is naive. Dichotomous representations can, however, be both appropriate and advantageous when defining concepts, where the

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[155] Shard, M. (Canadian Association of Chiefs of Police). (2001-10-03). Standing Committee on Justice and Human Rights, *Evidence*, 1710h para. 15.

[156] I write *clearly* as to position myself in relation to the Steve Sullivan's (Canadian Resource Center for Victims of Crime) previously mentioned quote. It remains unclear as to whether 'risks' should be read as an indication of Rate. And so, in the absence of additional evidence, it was not seen to have done so.

[157] The collective and corrective-intended act of passing Bill C-15A's ICL provisions into law was based on an irrational belief that exaggerated the threat posed by a social problem.

validity of one's argument is often judged by its sensitivity or 'simplicity'. In the current context, the most sensitive/simple measure of belief would be to divide the acceptance of assessments into two opposing categories: (1) those that are supported by the available evidence and (2) those that are not. While there are beliefs that more or less accurately reflect the evidence on which they are alleged to have been based, these variations are dependent upon an understanding that an accurate belief is one that is supported by the facts. After that there are but degrees of inaccuracy, degrees of panic.

4.2. Bill C-277

An Act to amend the Criminal Code (luring a child), 2007

4.2.1. Legislative Summary

Between the royal assent of Bill C-15A and the introduction of Bill C-277, much had changed within the Parliament of Canada. The Liberal Party of Canada lost control of the lower house in early 2006 and the head of a newly formed conservative party sat as the country's 22nd Prime Minister. Though the political climate rocked from centre-left to right, changes in the argumentation relating to ICL legislation were less dramatic.

Ed Fast (Abbotsford, CPC) introduced Bill C-277, to the House of Commons, as "long overdue and . . . a significant first step in protecting our vulnerable children

against sexual predators."[158] More specifically, the bill was characterized as amending

> the Criminal Code of Canada to provide tougher penalties for persons who use the Internet to lure children for sexual purposes. The maximum penalty for this crime would increase from five years to 10 years imprisonment. If passed, together with our government's Bill C-9, it will ensure that people who use the Internet to sexually exploit our children will spend hard time in jail, not life in the comfortable surroundings of their home.[159]

The referenced Bill C-9 (*An Act to amend the Criminal Code (conditional sentence of imprisonment)*), aimed to ensure "that a conditional sentence will no longer be an option for anyone convicted of an offence prosecuted by indictment that carries a maximum prison sentence of 10 years or more."[160] A "defeated"[161] or "radically altered"[162] version of Bill C-9, which allowed for "the use of conditional sentences in appropriate cases of luring convictions"[163], would pass the Standing Committee on Justice and Human Rights in October 2006. It was assented to seven months later.

According to Ed Fast, the goals of Bill C-277 were—notwithstanding the above mentioned objectives—threefold[164]:

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158 Fast, E. (C.P.C). (2006-05-12). House of Commons Debates, *Edited Hansard 141*(22). 39th Parliament 1st Session, p. 1314.

159 Fast, E. (C.P.C). (2006-05-12). House of Commons Debates, *Edited Hansard 141*(22). Parliament 1st Session, p. 1314.

160 Boshcoff, K. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1789.

161 Ménard, R. (B.Q.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 5.

162 Comartin, J. (N.D.P.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 6.

163 Fast, E. (C.P.C.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 3.

164 While appearing before the Standing Committee on Justice and Human Rights, Fast would later talk of Bill C-277 achieving five desirable outcomes. A listing of those outcomes can be found on page three of the *Evidence* of the Standing Committee (2007-02-05). A similar, four point achievement

> First, it condemns in the strongest terms the sexual exploitation of our children. Second, it brings the maximum sentence for luring into line with other sexual offences. Third, it ensures that such offenders serve their sentences in jail, not in the comfort of their homes where they continue to have access to the Internet.[165]

These goals and footnoted achievements standing, it was the bill's message that could be seen to envelope all else. And "the message of Bill C-277 is very clear. Children are precious, they're vulnerable, and they're worthy of the highest protection."[166] In keeping with this message, its related objective (i.e. the protection of "our children"[167]), "and the need to seriously address this phenomenon of child luring"[168], Myron Thompson (Wild Rose, CPC) moved to amend Bill C-277 and expand the maximum sentence of imprisonment on summary conviction to 18 months. Suggested by Mr. Fast and seconded by Brian Murphy (Moncton-Riverview-Dieppe, Lib.), the motion would pass both houses in June 2007, the same month Bill C-277 received royal assent.

Though a substantial number of parliamentarians supported Bill C-277, some felt the bill could not achieve its stated objective(s):

> First, I do not feel I can support the member's bill and not because I do not support the objective of protecting children. However, it is not clear to me, and I will try to explain in the few minutes I have. The bill probably will not achieve the objectives . . . .

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plan, is discussed on pages 75-76 of the *Evidence* of the Standing Senate Committee on Social Affairs, Science and Technology (2007-05-31).

165 Fast, E. (C.P.C.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3459.

166 Fast, E. (C.P.C.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 3.

167 Fast. E. (C.P.C.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1795.

168 Thompson, M. (C.P.C.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 7.

> [Simply] doubling the penalty, if that were his [Ed Fast's] objective, with a view to ensuring that the convicted person would do hard time, does not in my view accomplish his objective.[169]

Others, often talking of the connected Bill C-9, questioned its "corrective" ideology. Réal Ménard (Hochelaga, BQ), for example, noted "there are no Canadian studies showing a correlation between sentencing and deterrence"[170]. He went on to suggest the proposed 10 year imprisonment maximum was "too long"[171] considering the objectives of the bill. While 10 years may be too long, it was Mr. Fast's follow-up to Mr. Ménard's suggestion that was most interesting:

> Well, I could certainly regale you with numerous [section 172.1] cases that have now been dealt with in the courts. Almost all of them, except for a very few, are first-time offences, which makes sense since this is a very recent legislative initiative.
>
> In terms of whether those cases or those [currently existing] sentences are having an impact, it's very difficult to say, because we don't have a long history on this offence. It's been in place only since 2002.[172]

The lower house's Abbotsford representative would later revisit these limitations before a House of Commons and standing Senate committee:

> *Just how prevalent is child luring over the Internet? Statistics are relatively hard to come by in Canada due to the short period during which the luring law has been in place.* [emphasis added] I can tell you that a November 2000 Ipsos-Reid study that surveyed 10,000 Internet users, aged 12 to 24, showed that 20% said they had actually met in person people who they had become acquainted with over the Internet . . . . Some of you may be aware of Cybertip, a program [online child sexual exploitation tipline] of Child Find Manitoba. It investigates incidents of Internet-related sexual offences. In its first two

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169 Lee, D. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1797; see also Demers, N. (B.Q.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, pp. 3452-3453.

170 Ménard, R. (B.Q.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1782; see also Demers, N. (B.Q.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3453.

171 Ménard, S. (B.Q.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 5.

172 Fast, E. (C.P.C). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 5.

> years of operation, it was inundated with over 1,200 reports that fell under the category of child sexual exploitation. Ten per cent, or some 120 cases of those, involved Internet luring.[173]

Despite or perhaps in spite of the claimed paucity of information, members of the government prided themselves on getting "tough on crime and tough on criminals."[174] An approach that, at the very least, "seniors in Moose Jaw and families in Regina"[175] were said to be supportive of. Hinting towards the practical benefits of getting tough "in the struggle to combat Internet luring"[176], Senator Donald Oliver (Nova Scotia) introduced Bill C-277's political lean:

> Most other nations, honourable senators will see, have much higher penalties for these types of offences. In the United Kingdom, for instance, the maximum sentence is 14 years in prison; in Australia, it is 15 years in prison. In the United States, federal legislation provides for a mandatory minimum of five years, with a maximum of 30 years.
>
> These examples are particularly useful either because the legal systems of these countries closely resemble our own or because, as is the case with the United States, we share a border that can be easily crossed by pedophiles who may want to meet with children they have contacted through the Internet. *Our penalties for luring a child are much less severe than they are in the other nations that are similar to ours. Some have argued that the result is that Canada is now viewed as "a pedophile haven"* [emphasis added].[177]

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[173] Fast, E. (C.P.C.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, 1; see also Fast, E. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, pp. 72-73.

[174] Batters, D. (C.P.C.). (2006-05-12). House of Commons Debates, *Edited Hansard 141*(22). 39th Parliament 1st Session, p. 1335.

[175] Batters, D. (C.P.C.). (2006-05-12). House of Commons Debates, *Edited Hansard 141*(22). 39th Parliament 1st Session, p. 1335.

[176] Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

[177] Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

The idea that it is "dangerous to play politics with the criminal justice system"[178] or that parliamentarians should not "play politics with the Criminal Code"[179] was noted several times throughout the transcripts of Bill C-277. If good policy is "to be based on good facts"[180], the statement seems appropriate: Politicians should not use the *CCC* simply as a means to further their careers. That said, an argument can be made that parliamentarians "must respect their [the public's] tangible worries"[181] or risk a weakening of the chains that hold them/it/society in place (Rousseau, trans. 1968/2004). Phrased differently, "the question now is how to achieve the legitimate goals of the sentencing process while preserving the integrity of the judicial system in the eyes of Canadians."[182]

For some members of the Parliament of Canada, the judicial system's integrity could be preserved through increasingly punitive legislative provisions[183]. Here "political obstacles" (Beccaria, trans. 1992, p. 27) may be seen to fend off the "original state of barbarity" (p. 21) by reminding 'man' of the peace and security for which he "gave up his liberty" (p. 20). This recollection is, in turn, supported by an emphasis on the dictates of common sense when responding to calls to "see the

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178 Easter, W. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1783.
179 Boshcoff, K. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1790.
180 Easter, W. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1783.
181 Boshcoff, K. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1789.
182 Murphy, B. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1785.
183 See Fast, E. (C.P.C.). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 2.

empirical evidence and statistics to support the premise that an increase in penalties, a doubling of penalties, is warranted"[184]: "Common sense dictates that someone . . . will not commit these crimes as long as he is behind bars."[185] Should "the legitimate goals of the sentencing process"[186] be "to denounce unlawful conduct, deter the offender and others from committing offences, separate offenders from society where necessary, as well as to assist in rehabilitating offenders"[187] where possible, the introduction of Bill C-277 can be read as legitimate. There are, of course, other ways of reading the bill.

4.2.2. Claim v. Claim(s)

As was the case with Bill C-15A, members of the Parliament of Canada will be found to have been in a state of moral panic should they, when compared to the statements of committee witnesses, exaggerate the threat posed by the ICL phenomenon. With a slight adjustment, the second component of moral panic's calculation—the *Implementation of (one or more) Collective, Corrective-Intended Measures*—is again ensured by the bill's royal assent and its adjoined objective: the protection of children.

Unlike the official summaries of bills C-15 and C-15A (*Bill C-15*, 2001; *Bill C-15A*, 2001; *Statutes of Canada*, 2002), those of Bill C-277 (*Bill C-277*, 2006; *Statutes*

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184 Maloney, J. (Lib.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3452.

185 Fast, E. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8069.

186 Murphy, B. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1785.

187 Stratton, T. (Senator). (2007-06-14). Debates of the Senate, *Edited Hansard 143*(108). 39th Parliament 1st Session, p. 2692.

of Canada, 2007) do not clearly identify the protection of children as the bill's objective and, in turn, children as the valued persons under threat. Bill C-277's stated objective was, therefore, identified via the above comments of Ed Fast (the bill's sponsor) and others who routinely presented the legislation as a "very important initiative to protect children from sexual predators over the Internet"[188]. While support for this decision lacks an evidentiary component identified in Bill C-15A, it nevertheless assumes—as opposed to focuses on—the moral posturing of parliamentarians and is substantiated by the same ancillary logic: The threat to any and all other noted targets of value are secondary or directly attributed to the phenomenon's perceived threat to children. The measures of threat (Trend and Rate (of occurrence/prevalence)) stand.

Member Claims

During discussions of Bill C-277, members of the Parliament of Canada spoke of ICL as "an abhorrent behaviour"[189] and "serious crime"[190] that has "grown substantially over the last five years"[191]. So as to provide some context, Ed Fast talked of unnamed statistics which "show that in the past two years, luring of

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[188] Batters, D. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8070.

[189] Eggleton, A. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2334; see also Maloney, J. (Lib.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3451; Ménard, S. (B.Q.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3457.

[190] Fast, E. (C.P.C.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1795. See also Moore, R. (C.P.C.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1801.

[191] Eggleton, A. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2334.

children over the Internet has increased an astounding 1,200%."[192] Mark Warawa (Langley, CPC) supplied some additional numbers:

> Since 2002 it has been a crime in Canada to use the Internet to communicate with a child for the purpose of facilitating the commission of child sexual exploitation or abduction against a child. Because we criminalize this behaviour, we have to be able to track for the first time the prevalence of this type of activity.
>
> Over 600 Internet luring cases have been referred to the police by Cybertip since 2002. *The trend seems to show that it is becoming an increasingly more common problem*. [emphasis added][193]

In the end, not one member spoke of ICL's Trend as deceasing or remaining constant. When discussed, the phenomenon was only presented as a problem or criminal behaviour that "is becoming increasingly prevalent, which means that Canadian children are increasingly at risk."[194]

To claim that something *is becoming increasingly prevalent* or *increasingly more common* implies that the thing being discussed was first prevalent or widespread; one must first have something in order to have more of it. In such instances, claims of ICL's Rate (of prevalence) may be extrapolated from statements referring to the phenomenon's Trend or, perhaps less convincingly, from similar claims that appear to talk around the issue[195]: "Sadly, Internet luring is far more

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[192] Fast, E. (C.P.C). (2006-05-12). House of Commons Debates, *Edited Hansard 141*(22). 39th Parliament 1st Session, p. 1314.

[193] Warawa, M. (C.P.C.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3455.

[194] Warawa, M. (C.P.C.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3455.

[195] The term *around* is not intended to be read as derogatory or imply that members made a conscious effort to avoid the claim.

widespread than we would like to imagine"[196]; "the risk of physical contact between an adult and his or her victim is very real'[197]; "the gravity of this problem of luring cannot be understated"[198]. Others were more direct.

Though rare, when members of parliament spoke of ICL's Rate (of prevalence), the phenomenon was only presented in a manner that could be described as "a widespread problem in need of our attention"[199]. For some, "the prevalence of this criminal behaviour and the risk of physical contact have been two supporting factors for treating this crime more seriously."[200] Senator Jane Cordy's (Nova Scotia) "guess is that the statistics about the number of attempts at luring children is only the tip of the iceberg"[201] and Senator Donald Oliver's (Nova Scotia) comments can be seen to support this line of argumentation:

> According to an Ipsos Reid study from November 2000, 20 per cent of Internet users between the ages of 12 and 24 had face-to-face contact with people they had first met over the Internet. Another study of that year, from the United States, showed that 19 per cent of youths had been sexually solicited over the Internet. In my view, that is a shocking statistic. I repeat, honourable senators: 19 per cent of youths have been sexually solicited over the Internet.[202]

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196 Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

197 Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

198 Fast, E. (C.P.C.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1795.

199 Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

200 Warawa, M. (C.P.C.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, pp. 3455-3456.

201 Cordy, J. (Lib.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 77.

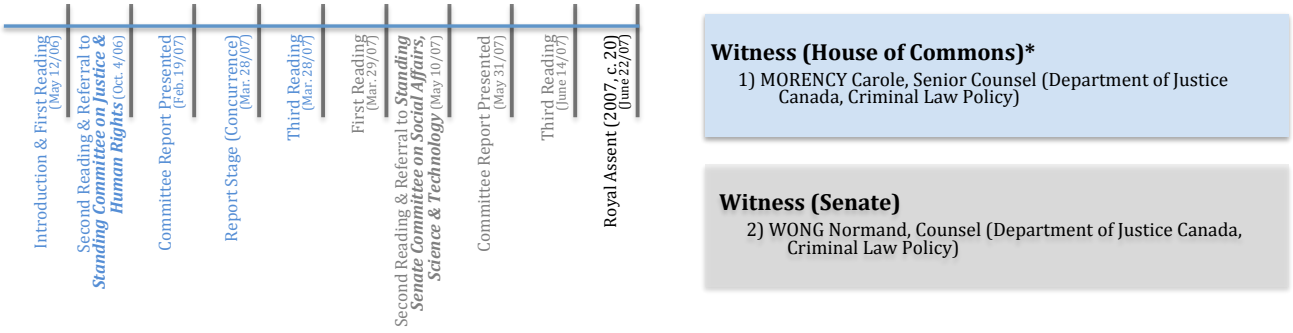
202 Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

Expert Claims

Throughout Parliament's review of Bill C-277, only two witnesses appeared before house committees (see *Chart C.9*). In both cases, they were employees of the Canadian government. And, in both cases, they noted,

> as Mr. Fast has said before, because the [ICL] offence came into effect only in 2002, there is not much statistical data relating to its use. However, the cases that we have seen confirm that section 172.1 is being used successfully to address Internet luring of children: Charges are being laid and convictions secured, including as a result of guilty pleas and with sentences of imprisonment.[203]

Chart C.9
(*Bill C-277: Overview*)



* ***Witnesses*** are here defined as persons who spoke about ICL.
Note: This chart was made using information and quotes from *LEGISinfo*;
the titles, occupational or other, here attributed to witnesses are those found in the relating *minutes of proceedings* and/or the heading, as recorded in *evidence*, that precedes the first transcribed words of each witness.

On the measures of threat that are of interest here—Rate (of prevalence) and Trend—the statements of Carole Morency (Department of Justice Canada) and

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[203] Wong, N. (Department of Justice Canada). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 77; see also Morency, C. (Department of Justice Canada). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, pp. 9 & 12.

Normand Wong (Department of Justice Canada) were of little use[204]. That is, while the two government employees spoke of ICL-related statistics and the limitations of those statistics, they did not provide an indication of how to read/interpret the numbers they presented. This, in turn, left members of parliament to determine the significance of "approximately 80 to 90 charges"[205] or, in the following case, *about 70*:

> Unfortunately, it is almost four years since we had this before us. It's not enough time to get statistics through the Canadian Centre for Justice Statistics, so the numbers not are [*sic*] really helpful in explaining how many cases.
>
> There are a handful of statistics from 2003-04, which are the most recent years available, that aren't very helpful. As I said, what I try to do is this. With our provincial counterparts, we're aware of about 70 charges that have been laid in Canada to this point in time. But that's not reliable, in the sense that it relies on some media accounts and some cases that have not been reported.[206]

Excluding Ms. Morency's claim that "what we are seeing is that more cases are proceeding, that the Internet use is not diminishing, and that the risks are higher"[207], the closest either witness came to indicating the phenomenon's Trend was to note, "keeping in mind that Canada remains one of the world's most plugged-

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[204] The categorization of statements by members of parliament under the more refined measure of Rate (of prevalence) ensures that the assessment of moral panic's existence goes beyond claims that merely support or refute ICL's occurrence.

[205] Wong, N. (Department of Justice Canada). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 81.

[206] Morency, C. (Department of Justice Canada). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 12.

[207] Morency, C. (Department of Justice Canada). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 11.

in countries, . . . the importance of section 172.1 will not diminish."[208] Both witnesses also reasoned that young persons would be better protected by increasing the age at which a person may consent to sexual activity:

> As well, Bill C-22, which is now before this committee and which proposes to increase the age of consent to sexual activity from 14 to 16 years, will also better protect youth against Internet luring, specifically 14- and 15-year-olds, who the recent research shows are most at risk for this type of exploitation.[209]

Social Problem to Moral Panic

While the stated objective of Bill C-277 was to "protect children from sexual predators over the Internet"[210], and its royal assent may be seen to signal ICL as a social problem, a comparison of the identified measures of threat is somewhat more complex.

As previously mentioned, when members of parliament referred to ICL's Trend, the phenomenon was presented only as "becoming increasingly prevalent"[211]. Witnesses were more vague in their assessments and generally stopped short of suggesting an increase:

> We are seeing reported cases and we can confirm that section 172.1 is being used successfully to address Internet luring of children. Charges are being

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[208] Wong, N. (Department of Justice Canada). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 77; see also Morency, C. (Department of Justice Canada). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 9.

[209] Morency, C. (Department of Justice Canada). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 10; Wong, N. (Department of Justice Canada). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 77.

[210] Batters, D. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8070.

[211] Warawa, M. (C.P.C.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3455.

> laid and convictions secured, including as a result of guilty pleas and with sentences of imprisonment. So we believe that section 172.1 is having a positive impact in safeguarding children and youth against such online sexual exploitation. And, of course, recognizing that Canada continues to be one of the world's most plugged-in countries, we know that the importance of section 172.1 in this regard will not diminish.[212]

The exception was a lone statement by Carole Morency. Quoted in part above, the following provides greater detail:

> At the time, the five years was seen as comparable to a sentence for an attempt to commit the sexual offence. An attempt will attract half of the maximum. *What we are seeing is that more cases are proceeding, that the Internet use is not diminishing, and that the risks are higher.* [emphasis added] So there is a very strong argument to be made to say yes, we're having some success with the Internet luring offence to this point. A higher maximum penalty underscores that we need to do more.[213]

The *proceeding* of more ICL cases to, what I assume to be, an appearance before a judge may be read to indicate an increasing direction of development or Trend. This is especially so if the term *proceeding* is understood to include a criminal conviction (i.e. more section 172.1-related charges are proceeding to sentencing). In either case, it seems appropriate to take Carole Morency's statement as supportive of members' focal claim that the phenomenon's Trend is increasing. The same conclusion is possible when discussing risk's second measure, Rate.

Whether the claims of witnesses are seen as supportive of the second half of members' focal claim is dependent on one's interpretation of the identified

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[212] Morency, C. (Department of Justice Canada). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 9.

[213] Morency, C. (Department of Justice Canada). (2007-02-05). Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 11.

numerical figures. Stated as a question, the choice is as follows: Is approximately 70, 80, or 90 ICL charges, over four or so years, indicative of "a widespread problem"?[214] If yes, the focal claim of a prevalent or widespread phenomenon is supported and, based on the employed measures of threat, a moral panic cannot be said to have taken place. The alternative is true if about 70, 80, or 90 charges is understood to be not prevalent or infrequent. To substantiate either decision would require one to employ a means of numerical interpretation external to the documents assessed and risk veering from the established "moral viewpoint of those who are alarmed." (Garland, 2008, p. 22) And so, I will suggest a different approach.

Because neither the experts nor members of parliament provide a means of classifying numerical data within a category of Rate that is here useful (i.e. *prevalent* or *not prevalent*), it seems best to conclude that there is insufficient evidence to determine this more nuanced classification of Rate. The absence of such information creates an analytical void that significantly limits one's ability to defend a reading of the data, especially considering the numbers presented do not always refer to similar acts (referrals from Cybertip, charges laid by the police, et cetera). In addition to confounding one's ability to interpret numerical information, this latter point points to a secondary issue that I will, again, phrase as a question: If members of parliament present numerical evidence that exaggerates, in the most minute of ways, the evidence presented by persons in the know, is the

[214] Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

disproportionality component of the moral panic label satisfied? The short answer is yes, it should. The answer is more complicated.

Where, for example, the numbers presented by the group assumed to have panicked and their experts are said to refer to the same thing (event, et cetera), an exaggeration of the group's numerical claim can be said to meet moral panic's (dis)proportionality requirement. A group that, for example, asserts there is one Gratton in the capital city of Santa-Banana would, according to moral panic's construction, be sufficiently greater than if the experts report none. In cases where such direct comparisons are not made—or a means of interpreting the numbers provided—numerical statements are best used to contextualize findings, not justify them. This decision is, of course, one of preference and persons opting for a different approach may do so while working within the above outlined moral panic framework. I simply elect not to base my conclusion on numerical claims that lack a direct means of comparison or defined means of assessment. Because I am also of the opinion that, in the absence of evidence supporting claims of their existence, moral panics cannot be assumed to exist, my inability to confidently measure Bill C-277's numerical data prevents me from concluding that members of the Parliament of Canada were in a state of moral panic when assenting to *An Act to amend the Criminal Code (luring a child)*. And, in this world of dichotomies, they therefore were not.

4.3. Bill C-2

An act to amend the Criminal Code and to make consequential amendments to other Acts or *Tacking Violent Crime Act*, 2008

4.3.1. Legislative Summary

Whereas bills C-15A and C-277 can be said to have addressed ICL directly—they contained provisions that were both specific and unique to *CCC* section 172.1—bills C-2 and C-10 approached the phenomenon differently. They reworked the *CCC*'s *luring a child* provision by addressing the broader issue of CSA. In the case of Bill C-2 that broader issue was an increase in the age of sexual consent and, thus, a redefining of CSA.

The general intent of Bill C-2 was to "make our society a safer place"[215] and, in so doing, "restore . . . confidence in our [justice] system"[216]. While the issues addressed in the proposed legislation touched on a number of "good provisions"[217], one of Rob Nicholson's (Minister of Justice and Attorney General of Canada, CPC) "favourites was the age of protection."[218] I will let him explain:

> One of my [favourite provisions] . . . is raising the age of protection from 14 to 16 years of age, to protect 14 and 15 year olds from adult sexual predators. Somebody said that we were trying to get laws into the 21st century. That is something that was left from the 19th century. This should have been changed a long time ago. It did not get changed in the spring but we are

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[215] Murphy, B. (Lib.). (2007-10-26). House of Commons Debates, *Edited Hansard 142*(9). 39th Parliament 2nd Session, p. 451.

[216] Nicholson, R. (C.P.C.). (2007-10-30). House of Commons Legislative Committee on Bill C-2, *Number 2 - Evidence*, p. 1.

[217] Nicholson, R. (C.P.C.). House of Commons Debates, *Edited Hansard 142*(23). 39th Parliament 2nd Session, p. 1277.

[218] Nicholson, R. (C.P.C.). (2007-10-30). House of Commons Legislative Committee on Bill C-2, *Number 2 - Evidence*, p. 7.

> absolutely committed and determined that it will get passed as part of this bill.[219]

Bill C-2's 'age of protection' or age of consent provision was seen as a reintroduction of child protective measures introduced in Bill C-22 (*An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act*)[220], which died on the Order Paper at Senate. Like Bill C-22, Bill C-2 sought "to better protect young people"[221] or "say no to adult sexual predators"[222] by raising the age of consent—"established in 1890"[223]—and implementing "a close-in-age exemption to prevent the criminalization of consensual sexual activity between teenagers"[224]. Though "a number of people" were believed to oppose the provision, Canadians or "the vast majority of Canadians" were characterized as supportive:

> There is strong support in the country to raise the age of consent from 14 to 16.
>
> As we see in the opinion polls and as a number of experts tell us, it is running at 70% to 75% support for this to be brought into law, to be brought into the modern age, really, and to bring us into line with a number of other

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[219] Nicholson, R. (C.P.C.). (2007-11-23). House of Commons Debates, *Edited Hansard 142*(23). 39th Parliament 2nd Session, p. 1277.

[220] See Ménard, R. (B.Q.). (2007-11-23). House of Commons Debates, *Edited Hansard 142*(23). 39th parliament 2nd Session, p. 1296; Nicholson, R. (C.P.C.). (2007-10-30). House of Commons Legislative Committee on Bill C-2, *Number 2 - Evidence*, p. 1.

[221] Nicholson, R. (P.C.). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 8.

[222] Stratton, T. (Senator). (2007-12-04). Debates of the Senate, *Edited Hansard 144*(19). 39th Parliament 2nd Session, p. 383.

[223] (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 16.

[224] Stratton, T. (Senator). (2007-12-04). Debates of the Senate, *Edited Hansard 144*(19). 39th Parliament 2nd Session, p. 383.

> jurisdictions. *I will not deny that a number of people are opposed to this, but in fact the vast majority of Canadians want it*. [emphasis added][225]

Notwithstanding the stated will of Canadians, some members of parliament were "particularly concerned about"[226] changes to the age of consent. Bill Siksay (Burnaby-Douglas, NDP), for example, felt that "the existing age of consent legislation is excellent"[227] and that Bill C-2 "would criminalize sexual activity for young people, especially those 14 or 15 years of age"[228]. Others pointed to differing legislative flaws[229] or the fact that, as far as saying "no to adult sexual predators who seek to sexually exploit young, vulnerable persons . . . we already did this"[230]:

> The bill we passed just two years ago, in 2005, significantly strengthened the protection for young people against exploitive sexual activity. In fact, our amendments applied to protect young people between 14 and 18 years of age, a wider ambit than that anticipated here . . . . Do we know already that those amendments do not provide adequate protection? What problems have there been, what conduct by sexual predators is not adequately addressed by the current code? Honourable senators, I am a father and a grandfather. Like you and all Canadians, I want to ensure our children, our young people, are strongly protected. However, I do not want to continue to pass laws, especially ones that criminalize innocent conduct.[231]

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[225] Comartin, J. (N.D.P.). (2007-11-27). House of Commons Debates, *Edited Hansard 142*(25). 39th Parliament 2nd Session, p. 1423; for scaled down examples of support see Vellacott, M. (C.P.C.). (2007-10-26). House of Commons, *Edited Hansard 142*(9). 39th Parliament 2nd Session, p. 450; Reid, S. (C.P.C.). (2007-11-23). House of Commons Debates, *Edited Hansard 142*(23). 39th Parliament 2nd Session, p. 1295; Nicholson, R. (C.P.C.). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 26.

[226] Carstairs, S. (Senator). (2008-02-13 & 2008-02-14). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 7 - Evidence*, p. 54.

[227] Siksay, B. (N.D.P.). (2007-11-26). House of Commons Debate, *Edited Hansard* 142(24). 39th Parliament 2nd Session, p. 1327.

[228] Siksay, B. (N.D.P.). (2007-11-26). House of Commons Debate, *Edited Hansard* 142(24). 39th Parliament 2nd Session, p. 1327.

[229] See Joyal, S. (Senator). (2008-02-13 & 2008-02-14). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 7 - Evidence*, pp. 39-40.

[230] Bryden, J. (Senator). (2007-12-12). Debates of the Senate, *Edited Hansard 144*(23). 39th Parliament 2nd Session, p. 486.

[231] Bryden, J. (Senator). (2007-12-12). Debates of the Senate, *Edited Hansard 144*(23). 39th Parliament 2nd Session, p. 486.

In addition to the "impossible"[232] or "ridiculous situation"[233] Bill C-2's age of consent amendments were perceived as leading towards, its grouping and reintroduction of five previously introduced bills was argued as an affront to the legislative process.

As was the case with Bill C-15, some members of parliament disagreed with what they viewed as Bill C-2 absorption of good and "bad things"[234]. The bill's grouping of "five bills that were introduced during the previous [parliamentary] session"[235] was argued as having resulted in an situation whereby members wanting to support certain 'positive' provisions also had "to vote for bad things."[236] While some argued that the reintroduction of previously discussed legislative amendments, particularly those relating to the age of consent provision[237], negates the "need to further debate these reforms"[238], others responded, according to Serge Ménard (Marc-Aurèle-Fortin, BQ), by "using every possible procedural means to prolong a debate."[239]

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[232] Milne, L. (Senator). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 97.

[233] Milne, L. (Senator). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 96.

[234] Bagnell, L. (Lib.). (2007-11-20). House of Commons Legislative Committee on Bill C-2, *Number 8 – Evidence*, p. 6.

[235] Ménard, S. (B.Q.). (2007-11-28). House of Commons Debates, *Edited Hansard 142*(26). 39th Parliament 2nd Session, p. 1464.

[236] Bagnell, L. (Lib.). (2007-11-20). House of Commons Legislative Committee on Bill C-2, *Number 8 – Evidence*, p. 6.

[237] Moore, R. (C.P.C.). (2007-10-26). House of Commons Debates, *Edited Hansard 142*(9). 39th Parliament 2nd Session, p. 431.

[238] Moore, R. (C.P.C.). (2007-10-26). House of Commons Debates, *Edited Hansard 142*(9). 39th Parliament 2nd Session, p. 430; see also Freeman, C. (B.Q.). (2007-11-26). House of Commons Debates, *Edited Hansard 142*(24). 39th Parliament 2nd Session, p. 1324.

[239] Ménard, S. (B.Q.). (2007-11-28). House of Commons Debates, *Edited Hansard 142*(26). 39th Parliament 2nd Session, p. 1464.

After attempts to divide Bill C-2 and expedite its less controversial provisions failed, Rob Nicholson was said to have "put a gun to our [Senators'] heads and threatened to pull the trigger if we do not adopt this bill by the end of this February."[240] In his own words, Mr. Nicholson indicated to members of the Standing Senate Committee on Legal and Constitutional Affairs

> that of course you will do whatever you believe is appropriate, but if it becomes impossible or if the Senate cannot or will not pass this bill by the end of February, I do not believe I would have any choice except to advise the Prime Minister that I believe that this is a confidence measure and I will put the matter in his hands.[241]

Resigned to the fact that the Senate "will obviously have to deal with some bills without much consideration, certainly not sober second thought"[242], the Standing Senate Committee on Legal and Constitutional Affairs passed Bill C-2, on division and without amendments, on the 26th day of February 2008. To 19 yeas, 16 nays, and 31 abstentions, the bill passed Senate a day later[243].

4.3.2. Claim v. Claim(s)

As aforementioned, the general intent adjoined to Bill C-2 was to help ensure that Canadians live and believe themselves to

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[240] Fox, F. (Senator). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 87; see also Fox, F. (Senator). (2008-02-27). Debates of the Senate, *Edited Hansard 144*(36). 39th Parliament 2nd Session, p. 859.

[241] Nicholson, R. (P.C.). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 11; see also Nicholson, R. (P.C.). (2008-02-06 & 2008-02-07). The Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, pp. 18-19.

[242] Baker, G. (Senator). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 26.

[243] For a detailed interpretation of Bill C-2's effect on *CCC* section 172.1, see Barnett, MacKay, and Valiquet (2007).

> live in a safe and secure community. That is why we are introducing Bill C-2, the tackling violent crime act.
>
> The measures in this legislation represent a clear and sustained commitment on the part of our government to deal with the crimes that weigh heavily on the minds of Canadians as they go about their daily lives.[244]

Also aforesaid was the intent of the age of consent provision: "to better protect young people against adult sexual predators."[245] Although this objective was not explicitly stated in Bill C-2's summary (*Bill C-2*, 2007; *Statutes of Canada*, 2008), it was clearly and recurrently presented by the bill's sponsor (Rob Nicholson) and other members of parliament who favoured its passage. At times, this was done with a slight and significant nuance.

The age of consent provision's protective aim occasionally focused on "the threats that Internet predators pose"[246]:

> I want to get at the fundamental principle here. We are not interested in interfering with the sexual activity of kids under the age of 16. Yes, kids are sexually active under that age and over that age. That is normal and healthy. It does not matter whether it is heterosexual or gay, in my view. What does matter is the sexual predator. That is who we are interested in. *This bill is intended to attack and go after those individuals who operate both on the Internet and through luring.* [emphasis added][247]

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[244] Moore, R. (C.P.C.). (2007-10-18). House of Commons Debates, *Edited Hansard 142*(3). 39th Parliament 2nd Session, p. 117.

[245] Nicholson, R. (P.C.). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, pp. 7-8; Bryden, J. (Senator). (2007-12-12). Debates of the Senate, *Edited Hansard 144*(23). 39th Parliament 2nd Session, p. 485.

[246] Poilievre, P. (C.P.C.). (2007-11-23). House of Commons Debates, *Edited Hansard 142*(23). 39th Parliament 2nd Session, p. 1300; see also Stratton, T. (Senator). (2008-02-27). Debates of the Senate, *Edited Hansard 144*(36). 39th Parliament 2nd Session, p. 847.

[247] Stratton, T. (Senator). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 42.

These ICL-focused characterizations were, however, less frequent than more generalized discussion of CSA or CSA*—the provision's most directed aim[248]. Due to its expanded, yet more direct, focus and inclusion of ICL, CSA* was chosen as the phenomenon to here follow. For reasons mentioned in the moral panic calculation of bills C-15A and C-277, children were identified as the valued persons under threat—any and all other noted threats were attributed to the harm or damage the identified phenomenon was perceived to cause this specific group of persons. The *Implementation of (one or more) Collective, Corrective-intended Measures*, the second component of moral panic's calculation and identifier of CSA*'s status as a social problem was, once more, ensured by the bill's royal assent.

Member Claims

In the case of Bill C-2, claims of CSA*'s Rate and Trend were rare, often anecdotal, and of limited analytical significance:

> Going back to the anecdotal evidence: There was an incident last week where a young girl was brought into an urgent care section of a hospital in Winnipeg by the police, in handcuffs. She was inebriated. She had been drinking and she was underage. I witnessed this. The police were talking to her. They had arrested her for underage drinking but also for assault of a police officer. What particularly bothered the arresting officer was the fact that she spit at the officer, which you just simply do not do today.
>
> She had been hanging around with this bad guy, and they were saying to her: ''Why do you hang around with this bad guy? Stay away from him.'' *It was my sense that had this legislation been in place the police could actually say to the guy, ''Stay away from that girl or we will come after you.''*
>
> *It is my own personal anecdotal evidence that this bill could be used effectively to prevent such a thing from occurring, a sexual assault* [emphasis added], or more important, what happens in Winnipeg, and I am sure in other centres, where young kids who are from dysfunctional families go out on the streets with their friends, get enticed by an older individual into using

[248] CSA* refers to the sexual abuse of persons 14 and/or 15 years of age.

> drugs, get hooked and then get put out as prostitutes to earn their keep and earn money for those bad guys . . . . I believe those two incidents support raising the age of consent.[249]

Among these claims and assurances that "the age of the predator is upon us"[250], members of parliament acknowledge "that older people are taking advantage of children"[251] and "that sexually active 14 year-olds are vulnerable to adults."[252] In the absence of a clear and more refined reading of CSA*'s Rate, these statements allow for the behaviour to be appropriately labeled/categorized as occurring. A measureable indication of Trend was not identified. The following statement highlights the problem of quantifying what was, until recently, a legal phenomenon:

> The Canadian Centre for Justice Statistics, a very respected organization, which has said that since 2003 sexual offences, other than exploitative offences—and we are talking about sexual offences that this particular piece of legislation is supposed to be dealing with—have increased some 6 per cent. The statistic that is rather disturbing to me is that girls aged 12 to 14 are the most vulnerable group for these offences. *Let me add that the survey was done only with kids under the age of 14. I do not know whether it was just girls. Furthermore, we do not know about the 15-year-olds as well as the 16-year-olds, because the survey was not done for that age group.* [emphasis added] They are talking about girls under the ages of 12 to 14, who are the most vulnerable for these offences. The most startling of statistics is that only 8 per cent of these crimes are reported. Multiply the numbers, and this is not just a small problem.[253]

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[249] Stratton, T. (Senator). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 34.

[250] Murphy, B. (Lib.). (2007-10-26). House of Commons Debates, *Edited Hansard 142*(9). 39th Parliament 2nd Session, p. 436.

[251] Andreychuk, R. (Senator). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 50.

[252] Andreychuk, R. (Senator). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 38.

[253] Di Nino, C. (Senator). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 46.

Expert Claims

Parliamentary committee members heard from 36 witnesses who spoke, however briefly, about CSA* and/or CSA (see *Chart C.10*)[254]. Of the 36, some suggested "that the age of consent aspect . . . , that is, raising the age of consent from 14 to 16, is one of those things you can do that looks good on paper but either has no effect or the opposite effect that is intended."[255] Included in 'the opposite effect' was the legislation's ability to act as a barrier between young people and "sexual health information, especially among marginalized youth who need it the most."[256] If accepted, the suggestion is only augmented by the claim that

> there is no evidence either in Canada or internationally that increasing the legal age of consent will, on its own, actually work in preventing exploitation of youth, nor that it will provide any other benefit sufficient to justify the intrusion into personal privacy and consensual activity of youth.[257]

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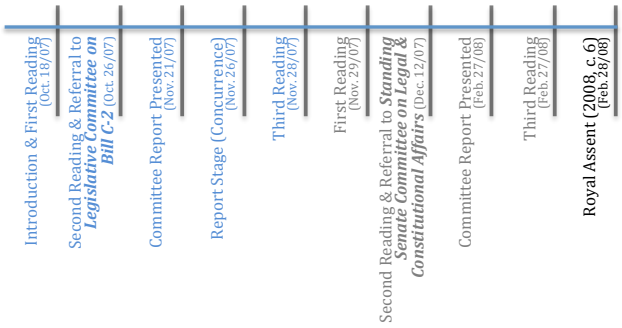
[254] Although this number represents all persons who spoke about the sexual abuse of children, only those statements that clearly referred to CSA* were considered when measuring threat.

[255] Dodds, N. (Age of Consent Committee). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 34; Dyck, R. (Egale Canada). (2008-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 94.

[256] Tousaw, K. (B.C. Civil Liberties Association). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 98; see also Dyck, R. (Egale Canada). (2008-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, pp. 80-82; Lamont, J. (Canadian Federation for Sexual Health). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 47; Downer, N. (Canadian AIDS Society). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 27; Dias, J. (Jer's Vision). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, pp. 38-39.

[257] Lamont, J. (Canadian Federation for Sexual Health). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 33; see also Tousaw, K. (B.C. Civil Liberties Association). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 98; Boyd, N. (Simon Fraser University, as an individual). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, pp. 6-7.

Chart C.10
(*Bill C-2: Overview*)



Witnesses (House of Commons)*
1) COOPER Terrance, Assistant Crown Attorney (Ontario Ministry of the Attorney General, East Region)
2) KANE Catherine, Acting Senior General Counsel (Department of Justice Canada, Criminal Law Policy)
3) PECKNOLD Clayton, Co-Chair (Canadian Association of Chiefs of Police, Law Amendments Committee)
4) PRIHODA Richard, Lawyer (Association québécoise des avocat(e)s de la défense)
5) MORENCY Carole, Acting General Counsel (Department of Justice Canada, Criminal Law Policy)
6) MUISE John, Director (Canadian Centre for Abuse Awareness (and Child Abuse))

Witnesses (Senate)
7) BARR-TELFORD Lynn, Director (Canadian Centre for Justice Statistics)
8) BOYD Neil, Professor, as an individual (Simon Fraser University)
9) COSTIGAN Angela (REAL Women of Canada)
10) DIAS Jeremy, Director and Founder (Jer's Vision)
11) DODDS Nicholas (Age of Consent Committee)
12) DOWNER Nichole, Program Consultant (Canadian AIDS Society)
13) DYCK Ryan, Youth Coordinator (Egale Canada)
14) EFFER Grant, Major (Salvation Army)
15) FRIZELL Mike, Staff Sergeant (Royal Canadian Mounted Police, National Child Exploitation Coordination Centre)
16) GRIMES Craig, Unit Head (Canadian Centre for Justice Statistics, Courts Program)
17) HANNEM Stacey, Member (Canadian Criminal Justice Association, Policy Review Committee)
18) HUDLER Richard, Administrator (Coalition for Lesbian and Gay Rights in Ontario)
19) HUTCHINSON Don, Acting Director (Evangelical Fellowship of Canada, Law and Public Policy)
20) ILLINGWORTH Heidi, Executive Director (Canadian Resource Centre for Victims of Crime)
21) JONCAS Lucie, Past President (Association québécoise des avocat(e)s de la défense)
22) JONES Craig, Executive Director (John Howard Society of Canada)
23) KISSNER Robert, Board of Directors (Canadian Association of Social Workers)
24) LABRIE Marco, Lawyer (Association québécoise des avocat(e)s de la défense)
25) LAMONT John, President (Canadian Federation for Sexual Health, Board of Directors)
26) LANGEVIN Ronald, Professor, as an individual (University of Toronto)
27) LAROCHELLE Dominique, Member of the Board (Canadian Association of Elizabeth Fry Societies)
28) MACKENZIE Ian, Chief (Canadian Association of Chiefs of Police, Abbotsford Police Department)
29) MILNE Cheryl, Staff Counsel (Justice for Children and Youth)
30) PATE Kim, Executive Director (Canadian Association of Elizabeth Fry Societies)
31) RADY André, Board Member (Canadian Council of Criminal Defence Lawyers)
32) RETI D.C. (Doug), Director General (Royal Canadian Mounted Police, National Aboriginal Policing Services)
33) SCANLAN Kim, Detective Sergeant (Toronto Police Service, Sex Crimes Unit, Child Exploitation/Special Victim)
34) STUEMPEL Time, Chair (Canadian Criminal Justice Association, Policy Review Committee)
35) TOUSAW Kirk, Chair (B.C. Civil Liberties Association, Drug Policy Committee)
36) TURNER John, Chief (Canadian Centre for Justice Statistics, Policing Services Program)
-) MORENCY Carole, Acting General Counsel (Department of Justice Canada, Criminal Law Policy)
-) MUISE John, Director (Canadian Centre for Abuse Awareness (and Child Abuse))

* ***Witnesses*** are here defined as persons who who spoke about CSA and/or CSA*.
Note: This chart was made using information and quotes from *LEGISinfo*;
the titles, occupational or other, here attributed to witnesses are those found in the relating *minutes of proceedings* and/or the heading, as recorded in *evidence*, that precedes the first transcribed words of each witness.

Contrasting the above claims, some witnesses argued that "raising the age of consent from 14 to 16 will protect youths"[258]—young persons "who are at a stage in life when they are flighty, have poor decision-making skills, are inexperienced and might be very flattered by an older man"[259]—from sexual abuse or, at the very least,

[258] Morency, C. (Department of Justice Canada). (2007-10-31). House of Commons Legislative Committee on Bill C-2, *Number 3 - Evidence*, p. 9; see also Muise, J. (Canadian Centre for Abuse Awareness). (2007-11-01). House of Commons Legislative Committee on Bill C-2, *Number 4 - Evidence*, p. 4.

[259] Langevin, R. (University of Toronto, as an individual). (2008-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 94.

provide "greater protection"[260]. At times, these arguments were adjoined to the notion that "our current low age of sexual consent, makes children vulnerable to exploitation from adults, especially from sexual predators, who may use the Internet to lure children"[261]:

> Again, raising the age of protection will better protect youth against that kind of conduct on the Internet [i.e. "using the Internet to try to lure young persons for the purposes of committing a sexual offence against them or exploiting them"].
>
> Some . . . witnesses did say that they have seen, through some of the exchanges the undercover police have seen, references to Canada's age of protection being lower. Perhaps that is an attraction for some predators from outside of the country. Certainly there have been reported cases where somebody has been coming from, say, the United States to meet up with someone they've met on the Internet to follow through on the Internet luring, and they've been caught at the border.[262]

Though "the Internet has opened up a whole opportunity for predators of all sorts to get to children"[263] and created what is described as the "rampant"[264] problem of luring, others suggested the focus misplaced:

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[260] Mackenzie, I. (Canadian Association of Chiefs of Police). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 63; see also Illingworth, H. (Canadian Resource Centre for Victims of Crime). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 15; Scanlan, K. (Toronto Police Service). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 78; Frizell, M. (Royal Canadian Mounted Police). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 66.

[261] Illingworth, H. (Canadian Resource Centre for Victims of Crime). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 12.

[262] Morency, C. (Department of Justice Canada). (2007-10-31). House of Commons Legislative Committee on Bill C-2, *Number 3 - Evidence*, p. 9; see also Langevin, R. (University of Toronto, as an individual). (2008-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 94; Hutchinson, D. (Evangelical Fellowship of Canada). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 59; Scanlan, K. (Toronto Police Service). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, pp. 64-65.

[263] Frizell, M. (Royal Canadian Mounted Police). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 81.

[264] Frizell, M. (Royal Canadian Mounted Police). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 67.

> The reality is that sexual exploitation primarily happens at home. Whether we like to admit it or not, most youth are assaulted by family members or friends or someone that they know, and it is really scary because we are not addressing the issue.[265]

Trying to address 'the issue', some witnesses called for Bill C-2 to go further or in different directions. A number of experts, for example, advocated "for an increase in the age of consent to age 18"[266] or found it disturbing

> that no mention is made in this proposed legislation to correct the inequity in the law for anal sex, for which the age of consent is set at 18, despite the fact that the law has been found to be unconstitutional in several jurisdictions.[267]

Others noted, as did some members of parliament[268], that

> with regard to the amendments dealing with the age of consent to sexual activity, there seems to be a contradiction between, on the one hand, the Young Offenders' Act that requires everyone to be accountable for his or her actions from the age of 14, and, on the other, the fact that a person of the same age is not able to consent to a non-exploitative sexual act.[269]

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[265] Dias, J. (Jer's Vision). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 38; see also Frizell, M. (Royal Canadian Mounted Police). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 78.

[266] Major Effer, G. (Salvation Army). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 63.

[267] Hudler, R. (Coalition for Lesbian and Gay Rights in Ontario). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 34; see also Lamont, J. (Canadian Federation for Sexual Health). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 35; Downer, N. (Programs Consultant, Canadian AIDS Society). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 27; Tousaw, K. (B.C. Civil Liberties Association). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 99.

[268] Carstairs, S. (Senator). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, pp. 48 & 73; Milne, L. (Senator). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 30.

[269] Prihoda, R. (Association québécoise des avocats et avocates de la défense). (2007-11-13). House of Commons Legislative Committee on Bill C-2, *Number 5 - Evidence*, p. 6; see also Rady, A. (Canadian Council of Criminal Defence Lawyers). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, pp. 73-74.

Perhaps more intrinsic to the age of consent provision, several witnesses suggested "being able to make an informed choice or give informed consent is not age related at all."[270] On this point—and for followers of William Edward Du Bois, el-Hajj Malik el-Shabazz, and/or the Poitiers born philosopher—Cheryl Milne's (Justice for Children and Youth) comments are of particular interest: "We acknowledge that using age is a proxy for exploitation . . . My difficulty is that we are saying that we have failed young people because we have not empowered them through information."[271]

Whether Bill C-2's age of consent provision was described as "a progressive and long-sighted improvement toward the betterment of Canadian society"[272] or categorized a "draconian"[273] or "band-aid solution"[274] to childhood vulnerability, readings of the Rate and/or Trend of CSA* were again difficult to attain[275]. When found, these readings were often troublesome to interpret:

> *How are 14- and 15-year-olds vulnerable? I would like to address this with you* [emphasis added].

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[270] Lamont, J. (Canadian Federation for Sexual Health). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 42; see also Dyck, R. (Egale Canada). (2008-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, pp. 90-91; Downer, N. (Programs Consultant, Canadian AIDS Society). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 28.

[271] Milne, C. (Justice for Children and Youth). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, pp. 49-50.

[272] Major Effer, G. (Salvation Army). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 64.

[273] Milne, C. (Justice for Children and Youth). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 43.

[274] Dodds, N. (Age of Consent Committee). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 52.

[275] For the purpose of moral panic's analysis, I could simply test for expert claims that describe or acknowledge CSA* as a form of behaviour that occurs or is occurring. Threat's measurement was, however, not immediate narrowed so as to provide greater detail.

There is an increased use and access to the Internet. Young people live in the world of the Internet and social networking, while most of their parents do not . . . . Sexual predators have an in-depth knowledge of computers and technology. They spend enormous amounts of time in the pursuit of their fantasy of having a sexual relationship with a young person. Sexual predators network with other like-minded individuals and are well-versed in successful grooming and luring techniques. These abilities lead to potential sexual abuse and exploitation.

Further evidence of the vulnerability of this age group has been provided to me by some of Canada's most experienced undercover officers. These officers, who represent several provinces, have spent years online posing as 12- or 13-year-olds. They report that Canada's low age of consent is openly discussed in peer-to-peer chatrooms by sexual predators. Canada has been identified as a sex tourism destination. Sexual predators have openly sought opportunities to meet and have sex with young Canadian teenagers, both boys and girls.

Undercover officers continue to report that almost 100 per cent of the time, *when online posing as a 12- or 13-year-old, conversations that are initiated with them move quickly to discussions about sex. Many times, this has occurred in less than one minute.*

Some predators who believed that they were actually talking to a 12- or 13-year-old boy or girl tried to maintain the relationship with the undercover officer for several months, waiting for the youth to reach the current age of consent, 14 years of age. [emphasis added]

Last year, I presented information to the House of Commons standing committee on the vulnerability and victimization rates for 14- and 15-year-olds using 2005 and 2006 data on reported sexual assaults and missing persons records. This is from the Toronto Police Service. For this presentation, I was able to add the statistics for 2007 as well.

The records indicate, when looking at all the victims under the age of 18 years combined, over 70 per cent of the offenders were adults. Fourteen- and 15-year-olds represent the largest proportion of all reported sexual assaults, and that is for all ages. [emphasis added] The next most significant age group represented was 13-year-olds . . . . *Fourteen- and 15-year-olds represent the largest age group for reported missing persons. At any given time, there are hundreds of vulnerable teenagers aged 14 and 15 who run away to large cities like Toronto. They fall prey to sexual predators that are eager to take advantage of them.* [emphasis added] Gang and organized crime members recruit runaway teens and get them involved in drug trafficking and the sex trade.[276]

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[276] Scanlan, K. (Toronto Police Service). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, pp. 64-65.

The problem with deriving a measure of threat from Kim Scanlan's (Toronto Police Service) portrayal of CSA* is that her statements are rooted in an interceded understanding of police work and time—which are not necessarily aligned to "the moral viewpoint of those who are alarmed" (Garland, 2008, p. 22)—as well as the acceptance of, what may politely be described as, an awkward mixing of statistical figures and equating of runaway/missing teenagers with organized sexual abuse. Although he mixes Canadian and American statistics, Neil Boyd's (appearing as an individual) portrayal of CSA* is slightly clearer:

> More to the point of the current legislation, approximately 25 per cent of females who engage in sex before the age of 16 do so with a partner who is more than five years older than they are. In other words, in every year, tens of thousands of young Canadian girls, about 6 per cent of all females under the age of 16, engage in sex with males who are more than five years older.
>
> The results of a recent survey in the United States indicate that the sex was unwanted for these young women in about 25 per cent of the cases. Obviously, that figure is too high.[277]

It is, however, Ronald Langevin (appearing as an individual) who provides the most straightforward indication of CSA*'s Rate: "It is not uncommon for 14- and 15-year-olds to be exploited by an older adult, someone in their 40s or 50s . . . . There is a lot of exploitation going on in that age group."[278] Lynn Barr-Telfords' (Canadian Centre for Justice Statistics) comments of *other sexual offences*, in turn, supply the most intelligible measure of the phenomenon's Trend:

> We will look at what we call ''other sexual offences.''
>
> In 2006 there were just under 3,000 of these. Other sexual offences include such offences as sexual interference, invitation to sexual touching, sexual exploitation, incest, anal intercourse and bestiality.

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[277] Boyd, N. (Simon Fraser University, as an individual). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 7.

[278] Langevin, R. (University of Toronto, as an individual). (2008-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 95.

> It is very important to recognize that given the secrecy that surrounds sexual offences, they are the least likely offence to come to the attention of the police. Our 2004 victimization survey showed that only 8 per cent of sexual offences are brought to the attention of the police. We suspect that reporting rates may be even lower for those who are younger than 15 years old.
>
> We cannot disaggregate in our data these offences by individual offence type, but we do know from our courts' data that about three quarters of these are likely sexual interference incidents.
>
> Let us take a look at what was happening in those offences. The rate of these other sexual offences dropped by 44 per cent between 1993 and 2003. You can see the overall downward trend here. In more recent years, the rate has increased by 6 per cent. It is up 6 per cent since 2003.
>
> We also know from our data that girls aged 12 to 14 are the most vulnerable group for these offences. We also know that half of all other sexual offences are committed by friends and acquaintances, and over a third by family members.[279]

Social Problem to Moral Panic

Whether or not the child protective measures included in Bill C-2 were "already . . . in place"[280], the intent of the bill's age of consent provision was to criminalize "any sexual activity between a 14- or 15-year-old and someone five or more years older"[281] and thereby "protect"[282] children. With children identified as the persons of value and the corrective measure of Bill C-2's royal assent confirming CSA*'s status as a social problem, there remains but the first component of moral

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[279] Barr-Telford, L. (Canadian Centre for Justice Statistics). (2008-02-13 & 2008-02-14). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 7 - Evidence*, pp. 79-80.

[280] Downer, N. (Programs Consultant, Canadian AIDS Society). (2008-02-20). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 8 - Evidence*, p. 27; see also Tousaw, K. (B.C. Civil Liberties Association). (2008-02-25 & 2008-02-26). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 11 - Evidence*, p. 98.

[281] Bryden, J. (Senator). (2007-12-12). Debates of the Senate, *Edited Hansard 144*(23). 39th Parliament 2nd Session, p. 486.

[282] Nicholson, R. (C.P.C.). (2007-11-23). House of Commons Debates, *Edited Hansard 142*(23). 39th Parliament 2nd Session, p. 1277.

panic's calculation—the *Exaggeration of the Threat Posed by a Social Problem*—to address[283].

In view of the finding that members of parliament did not do more than acknowledge "that older people are taking advantage of children"[284], and because at least one expert noted that "*it is not uncommon* [emphasis added] for 14- and 15-year-olds to be exploited by an older adult"[285], it seems appropriate to conclude that parliamentarians did not exaggerate the phenomenon's prevalence. The claim of at least one expert is found to support members' focal claim that CSA* occurs or is occurring[286].

Regarding CSA* Trend—threat's second measure—neither the experts nor members of parliament provided a clear indication as to whether the phenomenon was increasing, decreasing, or remaining constant. Persons, from either group, who spoke of CSA's Trend did so in a manner that did not address the sexual abuse of children within the targeted age group or focused exclusively on a particular behaviour or group of behaviours that represent a part of that which is CSA* (e.g.

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[283] Because a bill that receives royal assent is indicative of a situation in which a number of persons has encouraged, forced, or motivated the implementation of one or more measures (available to and in the name of the potentially wider collective) aimed at correcting an undesirable situation, the royal assent of Bill C-2 is indicative of CSA*'s status as a *social problem*: a condition, phenomenon, or behaviour that is defined by a substantial number of persons as problematic or a threat to something or someone of value.

[284] Andreychuk, R. (Senator). (2008-02-22). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 50.

[285] Langevin, R. (University of Toronto, as an individual). (2008-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 95.

[286] Ronald Langevin's before mentioned assertion that "there is a lot of exploitation going on in that age group" could have supported a focal claim in which CSA* was described as prevalent.

the luring of a child over the Internet). In view of this finding, members of parliament cannot be said to have exaggerated the Trend of sexual abuse involving 14 and 15-year-old victims.

4.4. Bill C-10

An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts or *Safe Streets and Communities Act*, 2012

4.4.1. Legislative Summary

Having borrowed reforms from the recently deceased *Protecting Children from Sexual Predators Act* (Bill C-54), Bill C-10 was marketed as a move "to quickly reintroduce law and order legislation to combat crime and terrorism"[287] or simply pass "common sense measures that are long overdue."[288] During the bill's second reading, then Minister of Justice and Attorney General of Canada Rob Nicholson (CPC) divided these measures into five parts, the second of which included "sentencing reforms that will target sexual offences against children"[289].

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[287] Nicholson, R. (C.P.C.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1297.

[288] Adams, E. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1598.

[289] Nicholson, R. (C.P.C.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1298.

Clauses 10 through 51 (Part 2) of Bill C-10 sought "to prevent the commission of sexual offences against children"[290] and "condemn all forms of child sexual abuse"[291] by imposing mandatory minimum sentences and criminalizing the act of providing "a child [with] sexually explicit material for the purpose of grooming that child for sexual exploitation"[292]. The act of using telecommunications (e.g. the Internet) "to agree or make arrangements with another person [other than the intended victim] to commit a sexual offence against a child"[293] was also argued to be inapt. Section 172.1 of the *CCC* was addressed via the induction of "a mandatory minimum penalty of one year [imprisonment] on indictment and 90 days on summary conviction."[294]

In addition to the above, Bill C-10 also sought to substitute "the word 'pardon' for the phrase 'record suspension'"[295], prevent "individuals convicted of sexual offences against minors"[296] from suspending their criminal records, enable

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[290] Nicholson, R. (C.P.C.). (2011-10-06). Standing Committee on Justice and Human Rights, *Number 4 - Evidence*, p. 2; Runciman, B. (Senator). (2011-12-08). Debates of the Senate, *Edited Hansard 148*(39). 41st Parliament 1st Session, p. 830.

[291] Nicholson, R. (C.P.C.). (2012-03-06). House of Commons Debates, *Edited Hansard 146*(90). 41st Parliament 1st Session, p. 5837; Findlay, K-L.D. (C.P.C.). (2011-12-02). House of Commons Debates, *Edited Hansard 146*(59). 41st Parliament 1st Session, p. 3907; LeBreton, M. (Senator). (2012-03-01). Debates of the Senate, *Edited Hansard 148*(56). 41st Parliament 1st Session, p. 1281; see also Mackenzie, D. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1584.

[292] Nicholson, R. (C.P.C.). (2012-02-01 & 2012-02-02). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 10.

[293] Opitz, T. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3757.

[294] Glover, S. (C.P.C.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1358.

[295] Wilks, D. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3752.

[296] Runciman, B. (Senator). (2011-12-08). Debates of the Senate, *Edited Hansard 148*(39). 41st Parliament 1st Session, p. 830.

"courts to impose conditions on suspected or convicted child sex offenders to prevent them from engaging in conduct that could lead to their committing another sexual offence against a child"[297] (e.g. "any unsupervised access to a young person or unsupervised use of the Internet"[298]), and allow "the minister to refuse an offender's transfer from a foreign prison back to Canada if there was any risk to the public and, in particular, to the safety of a child."[299] Together, these provisions were argued by members of the government as representing what the public wants: "harsher laws to deal with people who abuse our children."[300]

Whether or not they agreed with the CSA initiatives, members of the public were at times presented as being opposed to the "bill in its current [omnibus] form."[301] With constituents said to be claiming it "crudely bundles together too many pieces of unrelated legislation"[302] and "ignores proven crime prevention

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[297] Mackenzie, D. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1584.

[298] Opitz, T. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3757.

[299] Wilks, D. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3752.

[300] Galipeau, R. (C.P.C.). (2011-11-30). House of Commons Debates, *Edited Hansard 146*(57). 41st Parliament 1st Session, p. 3790; see also Goguen, R. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3713.

[301] Morin, I. (N.D.P.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3723; see also Crowder, J. (N.D.P.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3719; Eggleton, A. (Senator). (2012-03-01). Debates of the Senate, *Edited Hansard 148*(56). 41st Parliament 1st Session, p. 1302; Hsu, T. (Lib.). (2011-12-05). House of Commons Debates, *Edited Hansard 146*(60). 41st Parliament 1st Session, p. 3979.

[302] Hsu, T. (Lib.). (2011-11-30). House of Commons Debates, *Edited Hansard 146*(57). 41st Parliament 1st Session, p. 3791; see also Hsu, T. (Lib.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3698.

strategies in favour of [failed] ideological policies"[303], some lower house representatives found Bill C-10 "offensive"[304] and/or called for it to be "unbundled"[305]:

> I would like to ask the hon. parliamentary secretary if the government would give any consideration to allowing this House to consider these individual bills as individual bills and not as an omnibus bill. The omnibus bill does present difficulties for many of us who would like to see amendments to some sections, approval of others and so on.[306]

As the debates progressed, those for and against the bill accused each other of "playing politics"[307]; members of the government charged the opposition with filibustering, while many in the opposition called for the "child sexual offences part [to be] dealt with separately, and passed immediately."[308] Repentigny's NDP representative, Jean-François Larose, even denounced the government as hiding "behind pedophilia"[309]—that part of the bill that others felt could "be passed in a

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303 Cordy, J. (Senator). (2012-03-01). Debates of the Senate, *Edited Hansard 148*(56). 41st Parliament 1st Session, p. 1238.

304 Davies, L. (N.D.P.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1503.

305 Colter, I. (Lib.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1527; see also Caron, G. (N.D.P.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1363; Boivin, F. (N.D.P.). (2011-11-15). Standing Committee on Justice and Human Rights, *Number 11 - Evidence*, p. 9.

306 May, E. (G.P.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1312.

307 Shory, D. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1587; Cash, A. (N.D.P.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, pp. 1586-1587.

308 Harris, J. (N.D.P.). (2011-11-17). Standing Committee on Justice and Human Rights, *Number 12 - Evidence*, p. 8; see also Harris, J. (N.D.P.). (2011-11-15). House of Commons Standing Committee on Justice and Human Rights, *Number 11 - Evidence*, p. 1; Harris, J. (N.D.P.). (2012-03-09). House of Commons Debates, *Edited Hansard 146*(93). 41st Parliament 1st Session, p. 6020.

309 Larose, J-F. (N.D.P.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1587.

flash"[310] or "in 48 hours if the government would stop stalling."[311] Though not all members supported mandatory minimums for child sexual offences[312], Brian Mass (Windsor West, NDP) pushed the argument further:

> Madam Speaker, the Conservatives denied unanimous consent to move the child provisions of the bill. This is something that was done before when dealing with Karla Homolka as well as the Hell's Angels. I would like to hear the member's comments on that. We could have cracked down on this right away, but the Conservatives are refusing to do that. *Once again they are protecting those who would abuse children.* [emphasis added][313]

In the end, motions to divide and expedite sections of the bill were moved and voted down and the government, in turn, succeeded in its motions for closure. The *Safe Streets and Communities Act* or, as some preferred, "the overcrowded prisons, no crime prevention and overburden taxpayers with no results act"[314] was assented to on the 13th day of March 2012.

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310 Harris, J. (N.D.P.). (2011-11-17). Standing Committee on Justice and Human Rights, *Number 12 - Evidence*, p. 34.

311 Cash, A. (N.D.P.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1547.

312 See Lamoureux, K. (Lib.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1596; Blanchette-Lamothe, L. (N.D.P.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1330; May, E. (G.P.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3709; McCallum, J. (Lib.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3728.

313 Masse, B. (N.D.P.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1550.

314 Davies, D. (N.D.P.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1321.

4.4.2. Claim v. Claim(s)

In its most inclusive state, Bill C-10 was argued by members of the government as seeking "to safeguard Canadians and Canadian communities from coast to coast to coast."[315] With regard to the bill's CSA provisions, this inclusive aim can be divided or said to revolve around two more specific aspirations: (1) the desire "to protect"[316], "help protect"[317], or "better protect children and youth from sexual predators"[318] and (2) "to consistently and adequately condemn all forms of child sexual abuse"[319], by ensuring that the adjoined punishments reflect "the heinous"[320] or "reprehensible nature of"[321] these crimes. Within both of these aims, and for the reasons outlined in the above reviews of bills C-15A, C-277, and C-2, the persons of value said to be under threat are children. This would be the case even if one were to apply Jasbir Sandhu's (Surrey North, NDP) characterization of Bill C-10's goal (i.e. to stoke "fears among Canadians and . . . [play] up those fears for

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315 Mackenzie, D. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1583.

316 Goguen, R. (C.P.C.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1316; see also Seeback, K. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1580.

317 Hoeppner, C. (C.P.C.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1349.

318 Mackenzie, D. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1584; Allison, D. (C.P.C.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1364; see also Opitz, T. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3756; Carmichael, J. (C.P.C.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1527; Fantino, J. (C.P.C.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1542; Seeback, K. (C.P.C.). (2011-09-28). House of Commons Debates, *Edited Hansard 146*(22). 41st Parliament 1st Session, p. 1580.

319 Nicholson, R. (C.P.C.). (2012-03-06). House of Commons Debates, *Edited Hansard 146*(90). 41st Parliament 1st Session, p. 5837.

320 Nicholson, R. (C.P.C.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1298.

321 Leef, R. (C.P.C.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1550.

political gain"[322]) to the legislation's CSA provisions specifically. Mr. Sandhu may, however, disagree with this reading of his words:

> There are some measures in the bill, like provisions that toughen laws around child luring, sexual exploitation of children, that we as New Democrats fully support, but there are also those that will do nothing to make our streets and communities safer places.[323]

The adjoining of ICL with the exploitation of children or CSA, as a multi-dimensional or varied phenomenon, can, in the case of Bill C-10, be seen to have minimized discussion about the online luring of children. Although this specific variation of CSA was at times discussed, such occurrences were rare and often enveloped within the wider CSA debate. Even the *Summary* of Bill C-10 contains no mention of ICL; the related portion of Part 2 is presented as amending "the *Criminal Code* to (a) increase or impose mandatory minimum penalties, and increase maximum penalties, for certain sexual offences with respect to children" (*Statutes of Canada*, 2012, p. 2).

Due to the rarity of ICL's mention and its inclusion within a more macro understanding of CSA and reworking of the *CCC*, CSA is, again (see subsection 4.3.2. of this work), better identified as the social phenomenon to here follow. The above described aims of Bill C-10 and its royal assent can, in turn, be seen to signify CSA's

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[322] Sandhu, J. (N.D.P.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1314.

[323] Sandhu, J. (N.D.P.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 3754.

status as a social problem and the collective, corrective-intended behaviour required for a finding of moral panic.

Member Claims

When talking of crime in Canada, some members of parliament were quick to point out that "there is no epidemic of crime plaguing our streets"[324], that crime "has been in continuous decline for 20 years"[325], or that it is at its lowest point "in almost 40 years."[326] In line with these contentions, some questioned "why the government claims that its bill [Bill C-10] is needed now more than ever"[327]. Others simply accused the government of "basing its actions on fiction" [328], ideology, and fear:

> *It is a bill that plays on fear, not hope.*
>
> *It is a bill that ignores evidence and facts. It creates an illusion that crime is out of control and there is mass insurrection in the streets.* [emphasis added] . . . . We on this side of the House are partial to public policy based on evidence. However, despite the evidence the Conservatives, or should I say the horsemen of the apocalypse, would like us to believe that there is mass chaos in the streets . . . . *The only thing the government is tough on is the truth* [emphasis added] and it is Canadians who will suffer as a result . . . . I would point out that *this [legislation] absolutely flies in the face of evidence.*

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[324] Cowan, J.S. (Senator). (2011-12-13). Debates of the Senate, *Edited Hansard 148*(41). 41st Parliament 1st Session, p. 909.

[325] Tardif, C. (Senator). (2011-12-14). Debates of the Senate, *Edited Hansard 148*(42). 41st Parliament 1st Session, p. 956.

[326] Harris, J. (N.D.P.). (2012-03-09). House of Commons Debates, *Edited Hansard 146*(93). 41st Parliament 1st Session, p. 6017; see also Davies, L. (N.D.P.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1502; Valeriote, F. (Lib.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1353; Foote, J. (Lib.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1498.

[327] Lefebvre, R.D (N.D.P.). (2012-03-09) House of Commons Debates, *Edited Hansard 146*(93). 41st Parliament 1st Session, p. 6044.

[328] Caron, G. (N.D.P.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1360.

> [emphasis added] This is driven by ideology. This absolutely ignores the statistics that indicate that crime is going down.[329]

Of course, not all members agreed.

If crime, generally speaking, is to be understood as decreasing, some members of parliament argued that "it should not be forgotten that Bill C-10 addresses the types of crime that are on the increase in Canada."[330] This was especially so for crimes involving "the sexual predation of adults on minors, which is unfortunately far too common."[331] Robert Goguen (Parliamentary Secretary to the Minister of Justice, CPC) provides the statistics:

> People are saying that offences in general are down and while that may be true, there has been an increase in sexual offences. Pedophilia is up 36%, drug offences are up 11%, sexual offences are up 10%, and criminal harassment is up 5%. We are very happy that homicide has gone down, but it is a moving target among the issues of crime and this bill addresses those issues.[332]

Senator Mobina Jaffer (British Columbia) helps establish the context:

> Every year, there are 9,000 reported sexual assaults against children in Canada. Over 80 per cent of these child victims are girls.
>
> Considering that the overwhelming majority of sexual abuse goes unreported, this is exceptionally troubling. The sexual exploitation of children is an issue that demands our attention, as it is deeply rooted in our homes, in our families and in our communities. It is an issue that is not at the

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329 Casey, S. (Lib.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, pp. 1306-1307; see also Valeriote, F. (Lib.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1353.

330 Boisvenu, P-H. (Senator). (2012-02-24 & 2012-02-27). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 14 - Evidence*, p. 148.

331 Harris, J. (N.D.P.). (2011-11-22). Standing Committee on Justice and Human Rights, *Number 13 - Evidence*, p. 3.

332 Goguen, R. (C.P.C.). (2011-12-02). House of Commons Debates, *Edited Hansard 146*(59). 41st Parliament 1st Session, p. 3933; see also Runciman, B. (Senator). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, pp. 310-311.

> margins of our society, but rather at the very centre. It is happening to the children we know, by the men and women we know.[333]

In addition to or in spite of the numbers, Senator Jean-Guy Dagenais (Quebec) did "not want to go down in history for having rejected . . . provisions . . . which will make our laws on child pornography tougher and impose minimum sentences on child abusers."[334] He was not alone. Several members made note of their role "as a parent" [335], "as a mother and grandmother"[336], or "as a father"[337], and, for some, these relationships circumvented the need for statistics: "I do not have statistics, but I have an eight-year-old daughter."[338] When appearing before the Standing Committee on Justice and Human Rights, Rob Nicholson (Minister of Justice, CPC) also downplayed the importance of numerical data:

> I hear in discussions with my counterparts outside of Canada that this [sexual offences against children (i.e. "child pornography and other offences against children")] is increasingly becoming a problem.
>
> *A problem is a problem, and it's not just a question of statistics.* [emphasis added] We want to deal with this. It's the same thing with drug crimes: drug crimes are up in Canada.
>
> But, again, I always say we're not governing on the basis of statistics. *I'm not bringing these forward because of the latest statistics.* [emphasis added] We're bringing these forward because I believe they're the right thing to do.

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[333] Jaffer, M. (Senator). (2011-12-15). Debates of the Senate, *Edited Hansard 148*(43). 41st Parliament 1st Session, p. 995; Jaffer, M. (Senator). (2011-12-15). Debates of the Senate, *Edited Hansard 148*(43). 41st Parliament 1st Session, p. 997.

[334] Dagenais, J-G. (Senator). (2012-03-01). Debates of the Senate, *Edited Hansard 148*(56). 41st Parliament 1st Session, p. 1310.

[335] Findlay, K-L.D. (2011-10-06). Standing Committee on Justice and Human Rights, *Number 4 - Evidence*, p. 6.

[336] LeBreton, M. (Senator). (2012-03-01). Debates of the Senate, *Edited Hansard 148*(56). 41st Parliament 1st Session, p. 1280.

[337] Leef, R. (C.P.C.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1551.

[338] Frum, L. (Senator). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 38.

> To better protect children within the criminal law of this country, we should be making these changes and we should be bringing in the two new offences I just outlined for you. It's important to do that.
>
> But you are quite right, the incidence of these types of crimes is going up.[339]

To close this circular debate, those who favoured "evidence-based policy-making"[340] or felt it their "bounden duty"[341] to root legislative decision "in real facts"[342] found the above non-numerical argumentation problematic. That said, not one member of parliament challenged claims that CSA's Trend was increasing. One member opposed claims of its widespread prevalence:

> Yesterday, I read a report that said that 94% of Canadians felt safe in Canada. *The Conservatives make it sound as though there is a terrorist or a child rapist around every corner* [emphasis added]. I am not saying that terrorists or child rapists should not get what they deserve and I am not saying that we should not be cautious. But *the government needs to stop sounding the alarm and making people believe something that is untrue and that is not based on any facts* [emphasis added].[343]

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339 Nicholson, R. (C.P.C.). (2011-10-06). Standing Committee on Justice and Human Rights, *Number 4 - Evidence*, p. 7.

340 Cowan, J.S. (Senator). (2011-12-13). Debates of the Senate, *Edited Hansard 148*(41). 41st Parliament 1st Session, p. 909.

341 Banks, T. (Senator). (2011-12-14). Debates of the Senate, *Edited Hansard 148*(42). 41st Parliament 1st Session, p. 953.

342 Sandhu, J. (N.D.P.). (2012-03-09). House of Commons Debates, *Edited Hansard 146*(93). 41st Parliament 1st Session, p. 6045.

343 Boivin, F. (N.D.P.). (2011-12-02). House of Commons Debates, *Edited Hansard 146*(59). 41st Parliament 1st Session, p. 3911.

Expert Claims

The Standing Senate Committee on Legal and Constitutional Affairs "invited approximately 110 witnesses"[344] to speak and answer question concerning Bill C-10. Of these 110, 58 in some way spoke of CSA. At the lower house, the latter number was 19 (see *Chart C.11*). In both cases, the argument can be made that the number of witnesses is substantial; it is by far the greatest grouping of experts found in any of the aforementioned bills. It may also be argued that there should have been more:

> Because of an absolutely arbitrary election commitment [to pass Bill C-10 "within the new Parliament's first 100 days"], we have found ourselves, in this place, unable to do the complete and proper study that this bill requires. *Far too many eminent Canadians with deep knowledge of the issues in the bill could not be heard by our committee.* [emphasis added] . . . . Those witnesses who did appear had to present their submissions on this massive bill in five to seven minutes. How do you sum up views of all of these diverse parts, these far reaching provisions, in just five to seven minutes? . . . . There was no legitimate reason to restrict the witness list. *There was no valid reason for restricting the Senate from doing what it does best: engaging with Canadians through its committees* [emphasis added] . . . . Honourable senators, this is wrong. *This is not how laws should be made in this country. This is not what Canadians expect of their legislators. This is a bad day for all of us* [emphasis added].[345]

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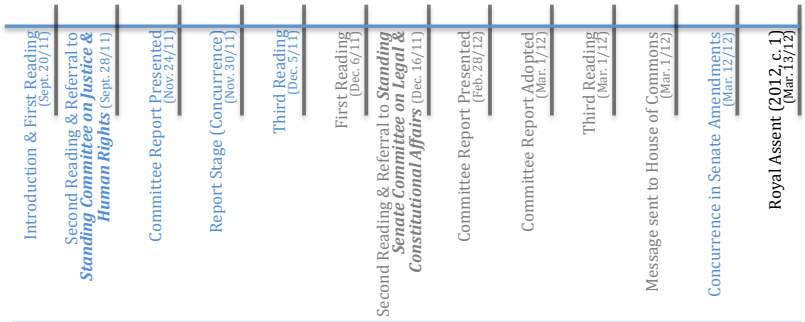
[344] Wallace, J.D. (Senator). (2012-02-01 & 2012-02-02). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 7; Wallace, J.D. (Senator). (2012-02-01 & 2012-02-02). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, p. 62.

[345] Cowan, J.S. (Senator). (2012-03-01). Debates of the Senate, *Edited Hansard 148*(56). 41st Parliament 1st Session, pp. 1240-1241; see also Cowan, J.S. (Senator). (2011-12-13). Debates of the Senate, *Edited Hansard 148*(41). 41st Parliament 1st Session, p. 912.

Chart C.11
(*Bill C-10: Overview*)



Witnesses (House of Commons)
1) BLAIS Marie-Claude, Minister of Justice and Consumer Affairs & Attorney General (Government of New Brunswick)
2) CAMPBELL Ellen, President & Chief Executive Officer and Founder (Canadian Centre for Abuse Awareness)
3) CHURNEY Daryl, Director (Department of Public Safety and Emergency Preparedness Canada, Corrections Policy)
4) FOURNIER Jean-Marc, Minister of Justice & Attorney General (Government of Quebec)
5) GILLESPIE Paul, President & Chief Executive Officer (Kids' Internet Safety Alliance – KINSA)
6) HEAD Don, Commissioner (Correctional Service of Canada)
7) KANE Catherine, Director General & Senior General Counsel (Department of Justice Canada, Criminal Law Policy Section)
8) KENNEDY Sheldon, Co-Founder (Respect Group Inc.)
9) LATIMER Catherine, Executive Director (John Howard Society of Canada)
10) MACKNIGHT Barry, Police Chief & Chair (Canadian Association of Chiefs of Police, Fredericton Police Force, Drug Abuse Committee)
11) MCFEE Dale, President (Canadian Association of Chiefs of Police)
12) OUIMET Gilles, Former President (Barreau du Québec)
13) ROSENFELDT Sharon, President (Victims of Violence)
14) ROY Joëlle, President & Representative, Laurentides Lanaudière (Association québécoise des avocats et avocates de la défense)
15) STAMATAKIS Tom, President (Canadian Police Association)
16) SULLIVAN Steve, Former Federal Ombudsman for Victims of Crime, as an individual
17) VANDERGRIFT Kathy, Chair (Canadian Coalition for the Rights of Children, Board of Directors)
18) WAMBACK Joe, Chair & Chief Executive Officer (Canadian Crime Victim Foundation)
19) WESTWICK Vince, General Counsel (Ottawa Police Service)

Witnesses (Senate)
20) ALLAN Mark, Director of Public Safety (Canadian Centre for Abuse Awareness)
21) BASQUE Jackie, Officer (Royal Canadian Mounted Police, National Child Exploitation Coordination Centre)
22) BATTISTA Giuseppe, Representative (Barreau du Québec)
23) BELLEMARE Marc, Lawyer, as an individual
24) BERNSTEIN Marvin, Chief Advisor & Advocacy (UNICEF Canada)
25) BIG CANOE Christa, Legal Advocacy Director (Aboriginal Legal Services of Toronto)
26) BILINSKI Superintendent John, Officer in Charge (Royal Canadian Mounted Police, Canadian Police Centre for Missing and Exploited Children)
27) CENAIKO Harvey, Chairperson (Parole Board of Canada)
28) CHALIFOUX Pierre, Director General (Parents-Secours du Québec)
29) DION Sandra, as an individual
30) DOUSSOT Tony, Secretary (Comité des orphelins(es) victimes d'abus)
31) DUFOUR Nicole, Lawyer & Coordinator (Barreau du Québec, Committee on Criminal Law)
32) ELLERBY Lawrence, Forensic Psychologist (Association for the Treatment of Sexual Abusers)
33) FLETCHER Randall, Sexual Deviance Specialist, as an individual
34) GASTON Dr. Isabelle, as an individual
35) GODIN Sylvie, Vice-President (Canadian Council of Child and Youth Advocates)
36) HANSON Karl, Senior Research Officer (Public Safety Canada)
37) JONES Roger, Senior Strategist (Assembly of First Nations)
38) KENNEDY Karyn, Executive Director (Boost Child Abuse Prevention & Intervention)
39) KIRBY Peter, Coordinator (Kenora Lawyers Sentencing Group)
40) LANDRY Lucien, President (Comité des orphelins(es) victimes d'abus)
41) LATOUR Nicole, as an individual
42) LOOMAN Jan, Psychologist & Program Director (Correctional Service Canada, High Intensity Sex Offender Treatment Program)
43) MACRURY Daniel A., Chair (Canadian Bar Association, National Criminal Justice Section)
44) MARCIL Marie-France, as an individual
45) MARTIN John, Criminologist, as an individual (University of the Fraser Valley)
46) MATAS David, Legal Team Member (Beyond Borders)
47) MOMBOURQUETTE Derek, Vice-President (Canadian Association of Police Boards)
48) MORENCY Carole, Director & General Counsel (Department of Justice Canada, Criminal Law Policy Section)
49) NAYLOR Scott, Detective Inspector (Ontario Provincial Police)
50) PATE Kim, Executive Director (Canadian Association of Elizabeth Fry Societies)
51) PERRIN Benjamin, Assistant Professor, as in individual (University of British Columbia, Faculty of Law)
52) POUSOULIDIS Elizabeth, President (Association des familles des personnes assassinées ou disparues)
53) ROSENFELDT Sharon, President (Victims of Violence Canadian Centre for Missing Children)
54) STEWART Graham, as an individual
55) STODDART Jennifer, Privacy Commissioner (Office of the Privacy Commissioner of Canada)
56) STUART Barry, as an individual
57) TREMBLAY Diane (Shamane), as an individual
-) CAMPBELL Ellen, President & Chief Executive Officer and Founder (Canadian Centre for Abuse Awareness)
-) GILLESPIE Paul, President & Chief Executive Officer (Kids' Internet Safety Alliance – KINSA)
-) HEAD Don, Commissioner (Correctional Service of Canada)
-) KANE Catherine, Director General & Senior General Counsel (Department of Justice Canada, Criminal Law Policy Section)
-) KENNEDY Sheldon, Co-Founder (Respect Group Inc.)
-) STAMATAKIS Tom, President (Canadian Police Association)
-) WAMBACK Joe, Chair & Co-Founder (Canadian Crime Victim Foundation)

* ***Witnesses*** are here defined as persons who spoke about CSA.
Note: This chart was made using information and quotes from *LEGISinfo*.
The titles, occupational or other, here attributed to witnesses are those found in the relating *minutes of proceedings* and/or the heading, as recorded in *evidence*, that precedes the first transcribed words of each witness.

With the time given, many witnesses expressed concerned about the bill's omnibus format and argued it provided, among other things, an "undemocratic"[346] or "a philosophically incoherent response to serious social issues."[347] Some also found the bill was "a profound shift in orientation from a system that prioritizes public safety through individualized sentencing, rehabilitation, and reintegration, to

[346] Gottard, E. (Canadian Bar Association). (2011-10-18). Standing Committee on Justice and Human Rights, *Number 5 - Evidence*, p. 4.
[347] Latimer, C. (John Howard Society of Canada). (2011-10-18). Standing Committee on Justice and Human Rights, *Number 5 - Evidence*, p. 13.

one that puts punishment and vengeance first."[348] The focus of this shift was the implementation of mandatory minimum sentences[349], which were seen to "unduly restrict"[350] judicial discretion, even in cases involving CSA[351]. As witnesses questioned whether the proposed sentencing revisions would take "away dollars from treatment"[352], or victim services[353], or "have the effect of making someone less likely to plead guilty"[354], others labelled the bill "draconian"[355] and pushed for it to "be completely withdrawn"[356]. Karyn Kennedy (Boost Child Abuse Prevention & Intervention) disagreed[357]:

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[348] Gottard, E. (Canadian Bar Association). (2011-10-18). Standing Committee on Justice and Human Rights, *Number 5 - Evidence*, p. 4; see also MacRury, D. (Canadian Bar Association). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 9.

[349] See Big Canoe, C. (Aboriginal Legal Services of Toronto). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, p. 237; Roy, J. (Association québécoise des avocats et avocates de la défense). (2011-11-03). House of Commons Standing Committee on Justice and Human Rights, *Number 10 - Evidence*, p. 14; Battista, G. (Barreau du Québec). (2011-10-20). Standing Committee on Justice and Human Rights, *Number 6 - Evidence*, p. 17; Dufour, N. (Barreau du Québec). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, pp. 10-11.

[350] MacRury, D. (Canadian Bar Association). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 9.

[351] See Ouimet, G. (Barreau du Québec). (2011-10-20). Standing Committee on Justice and Human Rights, *Number 6 - Evidence*, p. 14; Battista, G. (Barreau du Québec). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, pp. 20-21 & 41.

[352] Fletcher, R. (Sexual Deviance Specialist, as an individual). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 163.

[353] Sullivan, S. (Former Federal Ombudsman for Victims of Crime, as an individual). (2011-10-27). House of Commons Standing Committee on Justice and Human Rights, *Number 8 - Evidence*, p. 15.

[354] Fletcher, R. (Sexual Deviance Specialist, as an individual). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 164.

[355] Roy, J. (Association québécoise des avocats et avocates de la défense). (2011-11-03). House of Commons Standing Committee on Justice and Human Rights, *Number 10 - Evidence*, p. 10.

[356] Roy, J. (Association québécoise des avocats et avocates de la défense). (2011-11-03). House of Commons Standing Committee on Justice and Human Rights, *Number 10 - Evidence*, p. 10.

[357] See also Martin, J. (University of the Fraser Valley, as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, p. 239; Tremblay, D. (as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, p. 231; Pousoulidis, E. (Association of Families of Persons Assassinated or Disappeared). (2011-11-01). House of Commons Standing Committee on Justice and Human Rights, *Number 9 - Evidence*, p. 13; Rosenfeldt, S. (Victims of Violence Canadian Centre for Missing Children). (2012-02-24 & 2012-02-27). Standing Senate Committee on Legal and

> *Boost [Child Abuse Prevention & Intervention] supports the addition of the new offences in Bill C-10* [emphasis added] and supports the government's recognition that sexual crimes against children that begin on the Internet are extremely serious and need to be prevented before they result in hands-on offences.
>
> With respect to the two new offences—providing sexually explicit material to a child and agreeing or making arrangements with another person via telecommunication to commit a sexual offence against a child—the creation of these new laws is important because they recognize the concept of grooming and the connection between how technology can facilitate sexual offences against children. By acknowledging this, the law will more effectively protect children as there will be more opportunities to make arrests and interrupt the grooming and planning process before it proceeds to off-line hands-on sexual acts or potentially traumatizes a victim due to the content of online communications by the offender.
>
> By creating a law that allows police to intervene earlier, not only will further offences be prevented, but education to child and youth victims and their families can be provided to further reduce risks to children and youth. Where indicated, treatment can address the negative impact of the crime on victims . . . . These new laws send a clear message that the government intends to keep up to date on how sex offenders commit crimes against children.[358]

Many of the witnesses who spoke in favour of Bill C-10 did so while referencing its CSA-related provisions[359]. Arguments "that a one-year minimum

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Constitutional Affairs, *Issue 14 - Evidence*, p. 24; Stamatakis, T. (Canadian Police Association). (2011-11-01). House of Commons Standing Committee on Justice and Human Rights, *Number 9 - Evidence*, pp. 3-4; Lemcke, W. (Vancouver Police Department). (2011-11-01). House of Commons Standing Committee on Justice and Human Rights, *Number 9 - Evidence*, p. 1; Mombourquette, D. (Canadian Association of Police Boards). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, p. 203.

[358] Kennedy, K. (Boost Child Abuse Prevention & Intervention). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, pp. 143-144; see also Kennedy, K. (Boost Child Abuse Prevention & Intervention). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 145.

[359] See Kennedy, S. (Respect Group Inc.). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, pp. 209-210; Vandergrift, K. (Canadian Coalition for the Rights of Children). (2011-11-01). House of Commons Standing Committee on Justice and Human Rights, *Number 9 - Evidence*, p. 10; see also Jones, R. (Assembly of First Nations). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, pp. 14-15; Chalifoux, P. (Parents-Secours du Québec). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 116; Landry, L. (Comité des orphelin(es) victimes d'abus). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 182; Gillespie, P. (Kids Internet Safety Alliance). (2012-

mandatory sentence, for example, for online luring will get people's attention"[360], "make them think twice . . . about the activity they are doing"[361], and/or develop public confidence in the justice system were put forth[362]. In the event that these expectations did not materialize, the changes would, at the very least and for a set period of time, get "them [pedophiles] off the street"[363].

Despite support for the legislation and calls, by some witnesses, for it to go further—to "see the sentences be even tougher"[364]—measures of CSA's Trend were at times difficult to pin-down. Witnesses seemed to talk around the issue:

> Opponents of this legislation have stated that because crime rates are going down this new bill does not really have a valid purpose. Why should we get tough on crime when crime is at its lowest point since 1973?
>
> While it is true that overall crime rates are going down, *the level of crime severity is not decreasing at such a rate*, according to police reported crime statistics from 2007. *This means that while overall crime rates are steadily decreasing, crime rates for serious and violent crimes are not following*

02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 180; Dion, S. (as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, p. 227.

[360] Naylor, S. (Ontario Provincial Police). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 137.

[361] Naylor, S. (Ontario Provincial Police). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 137; see also Chalifoux, P. (Parents-Secours du Québec). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 137; Basque, J. (Royal Canadian Mounted Police). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 141; Gillespie, P. (Kids Internet Safety Alliance). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 170.

[362] Wamback, J. (Canadian Crime Victim Foundation). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 74; Jong, J. (as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, p. 49; Westwick, V. (Ottawa Police Service). (2011-10-20). Standing Committee on Justice and Human Rights, *Number 6 - Evidence*, p. 1; McFee, D. (Canadian Association of Chiefs of Police). (2011-10-20). House of Commons Standing Committee on Justice and Human Rights, *Number 6 - Evidence*, p. 2.

[363] Campbell, E. (Canadian Centre for Abuse Awareness). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 204.

[364] Campbell, E. (Canadian Centre for Abuse Awareness). (2011-10-27). House of Commons Standing Committee on Justice and Human Rights, *Number 8 - Evidence*, p. 5.

> *that trend to the same extent.* [emphasis added] That is exactly why the Safe Streets and Communities Act is a necessary piece of legislation—*this act addresses crimes which are serious and/or violent in nature* [emphasis added].[365]

This was the case even when specific types of CSA were discussed:

> Our children should feel safe, but people need to realize that when we talk about sexual exploitation and predators of children who are using the Internet to find their victims, we are not even safe in our own homes. This bill will help to better protect our children.
>
> *We have heard a lot about declining crime, but let me tell you that these types of crimes are increasingly sophisticated and we need to get serious about it.* [emphasis added][366]

That said, some witness statements allowed for clear reading of CSA's Trend. When this did occur, all witnesses described CSA—and specific forms of CSA ("child exploitation on the Internet"[367], "child pornography"[368], et cetera)—as increasing:

> While it is often said that crime is on the decline in Canada, as the committee is no doubt now aware, *the types of crimes that are the focus of Bill C-10 are actually increasing, both crimes of child sexual exploitation,* [emphasis added] an issue I also have some expertise in relation to, and drug crime, and the perception that I and many others have that human trafficking would also fit into that list of crimes.[369]

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[365] Rosenfeldt, S. (Victims of Violence). (2011-10-18). Standing Committee on Justice and Human Rights, *Number 5 - Evidence*, p. 3.

[366] Blais, M-C. (Government of New Brunswick). (2011-11-03). House of Commons Standing Committee on Justice and Human Rights, *Number 10 - Evidence*, p. 2.

[367] Kennedy, K. (Boost Child Abuse Prevention & Intervention). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 143.

[368] Naylor, S. (Ontario Provincial Police). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 114.

[369] Perrin, B. (University of British Columbia, as an individual). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 23; see also Bellemare, M. (as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, p. 48; Gaston, I. (as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, pp. 287-288.

Much like portrayals of CSA's Trend, descriptions of Rate were on occasion difficult to measure. Statements describing "pedophiles" as representing "a serious threat to our children"[370], or the sexual exploitation of children as a "major issue"[371] or "serious problem"[372], leaned towards measurable assertions without allowing for their assessment. Sharon Rosenfeldt's (Victims of Violence) comments may help frame reasons as to why:

> In theory, the total number of offences in which these new penalties would apply is not great, as they only apply to serious and/or violent offences related to crimes against children, organized crime, and violent acts committed by youths—crimes which make up only a small percentage of all the crimes committed . . . . These may represent only a small percentage of crimes; however, they represent the most grave and serious offences and, as such, should be sentenced accordingly.[373]

Not all witnesses agreed with the first of Sharon Rosenfeldt's two claim description (i.e. *the total number of offenses* and *percentage of crimes*). Paul Gillespie (Kids' Internet Safety Alliance), for example, describes the use of communication technology to conspire to commit a sexual offence against a child as "a *very common* [emphasis added] occurrence on the Internet."[374] A similar statement is made by Scott Naylor (Ontario Provincial Police) concerning the issue of ICL:

> To put it into laymen's terms, we have undercover officers who are doing Internet child luring investigations on a daily basis. It is a matter of minutes

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[370] Kennedy, S. (Respect Group Inc.). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 211.

[371] Blais, M-C. (Government of New Brunswick). (2011-11-03). House of Commons Standing Committee on Justice and Human Rights, *Number 10 - Evidence*, p. 7.

[372] Bilinski, J. (Royal Canadian Mounted Police). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 110.

[373] Rosenfeldt, S. (Victims of Violence). (2011-10-18). House of Commons Standing Committee on Justice and Human Rights, *Number 5 - Evidence*, p. 3.

[374] Gillespie, P. (Kids Internet Safety Alliance). (2011-10-25). House of Commons Standing Committee on Justice and Human Rights, *Number 7 - Evidence*, p. 13.

> that they get hit upon by the predators who have webcams and are showing sexually explicit material to our officers on a daily basis. *That is a common thing* [emphasis added] that happens every single day.[375]

Before noting "that there are 750,000 pedophiles on line every day, at all times,"[376] Isabelle Gaston (appearing as an individual) provides numbers on the more wide ranging issue of *sex offences against children*:

> First, the extent of sex offences against children and the consequences are matters deserving of attention. According to Statistics Canada, there were over 3,600 sex offences against children and 2,000 child pornography offences in 2010. Those figures, impressive as they are, represent only the tip of the iceberg. They do not represent the real extent of sexual assaults in Canada.[377]

Social Problem to Moral Panic

Because CSA has already been established as the social problem to here follow and because at least one of the identified witnesses spoke of CSA as a prevalent phenomenon and/or one that is increasing or increasingly taking place, moral panic's calculation is relatively straightforward. Whether members of parliament presented CSA's Rate as *prevalent* or *not prevalent*, *occurring* or *not occurring*, or its Trend as *increasing*, *decreasing*, or *constant*, they cannot be said to have been in a state of moral panic when passing Bill C-10; the statements of appearing experts support claims that the phenomenon is prevalent, occurring, and/or increasing and therefore, in the absence of a more refined understanding of

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[375] Naylor, S. (Ontario Provincial Police). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 122.
[376] Gaston, I. (as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, pp. 288.
[377] Gaston, I. (as an individual). (2012-02-22 & 2012-02-23). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 13 - Evidence*, pp. 287-288.

whose claim(s) to follow, there is no related exaggeration of threat posed by CSA (see *Chat C.8*). Claims that "the Conservatives do not govern based on statistics, because you can make them say whatever you want"[378], do not influence this conclusion. Though they may signify a shift in the values or (moral) reasoning of parliamentary discourse:

> I, as well, do not get too hung up on the statistics. I am more concerned about whether there is danger out there. If an individual poses a danger to the ordinary citizen, then that individual should not be on the street and should be dealt with in that way. I do not care whether the statistics demonstrate that crime is down 5 per cent or 3 per cent or 1 per cent or up 10 per cent; I am focused on danger, and that is what the legislation is focused on as well.[379]

In addition to a possible shift in reasoning, there is a line of argumentation unique to Bill C-10. When referring to the issues of ICL, CSA*, or CSA or in bills C-15A, C-277, and C-2, not one member of parliament argued that the phenomenon in question was not prevalent. The first and only time such an argument emerged was in Françoise Boivin's (Gatineau, NDP) previously noted portrayal of CSA[380]. While this break in the argumentation of Bill C-10 focal claims prevents me from identifying a taken-as-shared position or focal claim (no *s*) with regard to threat's measure of prevalence[381], it, again, has no effect on the above conclusion. It is, however, interesting nonetheless.

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[378] Goguen, R. (C.P.C.). (C.P.C.). (2011-12-02). House of Commons Debates, *Edited Hansard 146*(59). 41st Parliament 1st Session, p. 3934.

[379] Toews, V. (C.P.C.). (2012-02-01 & 2012-02-02). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 9 - Evidence*, pp. 24-25.

[380] Boivin, F. (N.D.P.). (2011-12-02). House of Commons Debates, *Edited Hansard 146*(59). 41st Parliament 1st Session, p. 3911.

[381] A taken-as-shared position or focal claim is a focal claim that is unopposed and/or supported by all other related focal claims attributed to members of the Parliament of Canada.

4.5. A Quantitative Lean

I earlier wrote that studies hoping to draw "conclusions about some aspect of human communication from a carefully selected set of messages" (Neuendorf, 2004, p. 33) are better served by mixing qualitative and quantitative considerations. While my claims of the existence and absence of moral panics, relating to ICL, have been heavily rooted in considerations of both, the quantitative half has perhaps been underemphasized.

Chart C.12, found on page 200 of this text, presents a breakdown and summary of the conclusions reached in the above sections. Of the four collective behaviours assessed, only the royal assent of Bill C-15A was found to constitute a moral panic. For differing reasons, the term was not considered an appropriate characterization of the remaining three. Because the following chapter reviews the findings and arguments made in this section and those that precede it, I here hope to emphasize one concluding point: Moral panic's calculation was dependent on a quantitative calculation.

Chart C.12
(*ICL-Related Moral Panics*)

Measures of Threat

ICL Related Legislation	*Rate*		*Trend*		Moral Panic
	Members Focal Claim	Expert Focal Claims	Members Focal Claim	Expert Focal Claims	
Bill C-15A	Prevalent	Supportive claims <1 (N/A Silent)	Increasing	Supportive claims ≥1	**Yes**
Bill C-277	Prevalent	N/A (unqualified numerical data)	Increasing	Supportive claims ≥1	No
Bill C-2	Occurring	Supportive claims ≥1	N/A	N/A	No
Bill C-10	N/A (division)	Claims supporting a categorization of *prevalent* ≥1	Increasing	Supportive claims ≥1	No

As indicated in *Chart C.12*, a moral panic, relating to ICL, was found to exist only in situations where the focal claim of members of parliament was not supported by the focal claim of at least one expert. Put differently, a moral panic was found to exist only in situations where the number of supportive expert focal claims was less than 1 (<1). In instances where the number of supportive claims was equal to or greater than 1 (≥1), a moral panic was not found to exist. While this argument should not come as a surprise—it has been made elsewhere in this text—I again make note of it to emphasize the importance of numerical considerations in both the assessment of moral panic's occurrence and presentation of related findings.

5. Contextual

The above exercise led to a number of ICL-related arguments that were not involved in moral panic's assessment but may be used to help contextualize its results. With this use in mind, the following sections link some of the more dominant claims made and decisions taken by members of the Parliament of Canada. Their views of the media, expert witnesses, Internet child lurers, and victims of CSA are outlined and the suggestion put forth that, when introducing ICL-related legislation (i.e. Bill C-15A), members attributed an economic worth to children that was of lesser value than Canada's Internet service provider (ISP) industry. The following chapter (*An End*) makes note of some of this work's key arguments and responds to its primary question: Can a reworked and theoretically justifiable definition of the moral panic concept adapt to differing moral viewpoints and be of practical use?

5.1. From News Media . . .

Answering the question to which all who study the media must respond, Silverstone (1999) writes "we cannot escape the media. They are involved in every aspect of our everyday lives." (p. ix) This, Critcher (2003) would argue, is especially so for members of parliament, policy-makers who "are highly sensitive to media agendas . . . [and ']take the amount of media attention given to an issue as an indirect expression of public interest in the issue' (Dearing and Rogers 1996:77)." (p. 137) Assuming this position, and that "the first duty of members of the House of

Commons is to represent the interests of their constituencies" (Bejermi, 2000, p. 33), it seems reasonable that media representations "play a significant role in . . . policy directives" (Jewkes & Wykes, 2012, p. 935; see also Mejia et al., 2012). Statements by members of parliament—that "ours is, of course, a media-driven society"[382], that the media is "the new opposition"[383], that it can lead people to "believe that the relatively safe community they live in is much more dangerous than it is"[384], and "raise calls of outrage"[385], et cetera—can be read to support this claim, which also applies to ICL-related directives: "Unfortunately, we hear too many stories in the media about children being lured on the Internet'[386]; "The new offence of luring seeks to address what the police and the media have reported is a growing phenomenon'[387]; "Anyone wishing to understand the scope and nature of child luring need only watch NBC's To Catch A Predator."[388]

To claim "the media, externally, and legislators both have roles"[389] in the development of legislation is not to suggest the former should be 'read' without

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382 Laframboise, M. (B.Q.). (2007-11-27). House of Commons Debates, *Edited Hansard 142*(25). 39th Parliament 2nd Session, p. 1429.

383 Toews, V. (Can. Alli.). (2001-03-14). House of Commons Debates, *Edited Hansard* 137(28). 37th Parliament 1st Session, p. 1647.

384 Telegdi, A. (Lib.). (2007-11-27). House of Commons Debates, *Edited Hansard 142*(25). 39th Parliament 2nd Session, p. 1427.

385 Maloney, J. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1793.

386 Freeman, C. (B.Q.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8070.

387 Pearson, L. (Senator). (2001-11-01). Debates of the Senate, *Edited Hansard 139*(66). 37th Parliament 1st Session, p. 1609.

388 Fast, E. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8068; see also Fast, E. (C.P.C.). (2007-02-05). House of Commons Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 2.

389 Tremblay, J. (N.D.P.). (2011-11-30). House of Commons Debates, *Edited Hansard 146*(57). 41st Parliament 1st Session, p. 3796.

caution. Alongside claims that "a key part of our role [as members of parliament] is to respond to legislation in the media in a timely fashion"[390], the media was accused of sensationalizing "almost everything."[391] It was perhaps because of this tendency that representatives of the media were not called to appear, before a parliamentary committee, as experts on ICL issues. The perceived aim of industry representatives may also have been an aggravating factor:

> The press and electronic media give the impression that crime is rampant, but when we check the statistics and see that crime is down, with a crime rate at its lowest level in 25 years, we put things in perspective . . . . As parliamentarians, we must mitigate the very harmful influence of media sensationalism. *It is understandable because they have to sell newspapers or the best television news reports. They will try to capture the sensational aspect of an incident rather than portraying the balance that can be inherent in a society* [emphasis added].[392]

5.1.1. . . . to Experts Witnesses

In *Discourses on Livy*, Machiavelli (as cited in Rousseau, trans. 1968/2004) writes "the truth is . . . that there has never been in any country an extraordinary legislator who has not invoked the deity; for otherwise his laws would not have been accepted."(p. 48)[393] While members of parliament were perhaps not required

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[390] Breitkreuz, G. (Can. Alli.). (2001-03-14). House of Commons Debates, *Edited Hansard 137*(28), 37th Parliament 1st Session, p. 1652.

[391] Murphy, B. (Lib.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1786.

[392] Laframboise, M. (B.Q.). (2007-11-27). House of Commons Debates, *Edited Hansard 142*(25). 39th Parliament 2nd Session, p. 1430.

[393] Harvey C. Mansfield and Nathan Tarcov's translation of Machiavelli's (trans. 1996) work is slightly, yet significantly different:

> And truly there was never any orderer of extraordinary laws for a people who did not have recourse to God, because otherwise they would not have been accepted. For a prudent individual knows many goods that do not have in themselves evident reasons with which one can persuade others. Thus wise men who wish to take away this difficulty have recourse to God. (p. 35)

to, when discussing CSA, "attribute their own wisdom to the Gods" (Rousseau, trans. 1968/2004, p. 47), some did:

> In the book of Mark, chapter 9, verse 42, Jesus said: "And whosoever shall cause one of these little ones that believe in Me to fall, it is better for him that a millstone were hanged about his neck and he were cast into the sea."
>
> Unless we do something to restrict the actions of sexual predators and the spread of child pornography, the millstone which they place around the neck of our society will surely strangle us, choking the very life out of our children, forcing them into the shadows of darkness where truth and beauty can no longer exist.[394]

At committee meetings it was primarily law enforcement officials, university professors, bureaucrats, lawyers, and persons representing victim and/or child service organizations who stood in place of gods, God, and/or electronic media ("the second god"; Schwartz, 1983, p. 1). According to Walton's (1997) description of the modern period, the listing of persons many would consider able to present *scientific views* is not surprising:

> In the sixteenth and seventeenth centuries, the official religion was the authoritarian viewpoint that could not be questioned. Anyone who questioned the officially accepted religious view was labeled a "heretic." . . . . In the modern period, science became the new authoritarianism, and to question officially scientific views of findings would be enough to throw one's rationality into question. (p. 27)

What is surprising is the inclusion, within the categorization of expert, of persons whose knowledge of CSA was seen to derive primarily from their experience as victims of crime (e.g. Nicole Latour, Dian (Shamane) Tremblay, and Marie-France Marcil).

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[394] Elley, R. (Can. Alli.). (2002-04-23). House of Commons Debates, *Edited Hansard 137*(174), 37th Parliament 1st Session, p. 10727; see also Schmidt, W. (Can. Alli.). (2002-04-23). House of Commons Debates, *Edited Hansard 137*(174), 37th Parliament 1st Session, p. 10737.

While the background of persons identified as experts is of no importance when calculating moral panic's existence, the inclusion of victims within the expert fold can be seen to mark a break with Walton's (1997) prioritization of "officially scientific views" (p. 27). The personal experience of victims, their views and findings appeared to be deserving of consideration during Parliament's construction of ICL-related criminal code amendments, if only "to convert liberal rhetoric into thin air or conservative ends" (Elias, 1993, p. 48).

Despite its possible (mis)use as a tool of hegemonic warfare, the categorization of victims as experts is in-line with arguments, made by members of parliament, that prioritize their (members') status as parents and/or grandparents over scientifically validated claims[395]. What is also interesting is that this focus on one's relation to a child and the categorization of victims as experts only emerged within the last of the above reviewed bills (Bill C-10)[396]. It may be, assuming Walton's (1997) retelling of history, that we are witnessing fragments of another shift in the valuing of opinion, from scientific (often third-party) findings to lived experience. If so, the media may be said to have a hand in this shift as well (Lacombe, 2008).

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[395] See, for example, Frum, L. (Senator). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 38.

[396] So as to be clear, I am not here writing that, prior to Bill C-10, none of the persons identified as experts were victims of crime. My claim is simply that, in reviewing the above four bills' ICL-related provisions, it was not until Bill C-10 that individuals who were victims of crime spoke as victims of crime—and not, for example, as persons representing an organization—before a parliamentary committee.

5.1.2. . . . to Child Sex Offenders

In keeping with the understanding that members of parliament represent the interests of their constituents, and that the media reflects and/or shapes the views of those constituents, it is likely legislation meant to address the problem of ICL will be designed to confront an Internet deluged with adults who manipulate unsuspecting young persons into sexually abusive situations (Greco & Corriveau, 2014). The construction of calculating deviants, vast in number, seems likely to fuel punitive solutions that aim to send "a message to those people who would prey on innocent children"[397]. A message that "their snazzy defence attorneys are unable to bargain or whittle down in a courtroom because the law is tough"[398], even if the recipient of that message is said to be weakened by a mental illness.

As expressed in the *Empirical* chapter, members of parliament described CSA as "a deplorable and inhumane phenomenon"[399] and child sex offenders as "predators"[400]. Combined these constructions, and the notion that "everything connected with paedophilia is dreadful"[401], seemed to allow for the categorization of

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397 Butt, B. (C.P.C.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1501.

398 Butt, B. (C.P.C.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1501.

399 Pearson, L. (Senator). (2001-11-01). Debates of the Senate, *Edited Hansard 139*(66). 37th Parliament 1st Session, p. 1609.

400 MacKenzie, D. (C.P.C). (2007-10-18). House of Commons Debates, *Edited Hansard 142*(3). 39th Parliament 2nd Session, p. 74; Stratton, T. (Senator). (2007-12-04). Debates of the Senate, *Edited Hansard 144*(19). 39th Parliament 2nd Session, p. 382; Fast, E. (C.P.C.). (2007-11-28). House of Commons Debates, *Edited Hansard 142*(26). 39th Parliament 2nd Session, p. 1471.

401 Girard-Bujold, J. (B.Q.). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10572.

these persons as both "sick"[402] (i.e. "really not well"[403]) and deserving of punishment:

> A child molester and a pedophile *are people who have a sickness. These people can never be cured of that sickness. It is a disease* [emphasis added]. It requires therapy, not obtuse legal reasoning . . . . I am convinced that the Minister of Justice and parliament are of one mind, that *all issues must be put aside until we can deliberate on this issue to ensure the maximum penalties and force of law* [emphasis added] and to ensure that the charter of rights and freedoms brought forth by the hon. prime minister of many generations ago, Pierre Trudeau, is not intended in any way, shape or form to undermine the rights of children.[404]

This was the case even if "our prisons are not supposed to be substitute mental hospitals"[405] and may be the "worse place for a mentally ill person."[406]

While the media may, again, have helped facilitate the merging of seemingly opposing arguments—that one can "have a screw loose"[407] and be deserving of punishment—in an era where "everyone is against sexual predators"[408], where "we all want to punish child molesters"[409], this position is perhaps not so politically

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[402] Bailey, R. (Can. Alli.). (2002-04-22). House of Commons Debates, *Edited Hansard 137*(173). 37th Parliament 1st Session, p. 10636.

[403] Frum, L. (Senator). (2012-02-08 & 2012-02-09). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 10 - Evidence*, p. 38.

[404] McTeague, D. (Lib.). (2002-04-18). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10574.

[405] McCallum, J. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, 3728; see also Cowan, J.S. (Senator). (2012-03-01). Debates of the Senate, *Edited Hansard 148*(56). 41st Parliament 1st Session, p. 1265.

[406] McCallum, J. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3728; see also Cordy, J. (Senator). (2011-12-13). Debates of the Senate, *Edited Hansard 148*(41). 41st Parliament 1st Session, p. 924.

[407] Runciman, B. (Senator). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 226.

[408] Joyal, S. (Senator). (2008-02-27). Debates of the Senate, *Edited Hansard 144*(36). 39th Parliament 2nd Session, p. 857.

[409] Dyck, L. (Senator). (2008-02-27). Debates of the Senate, *Edited Hansard 144*(36). 39th Parliament 2nd Session, p. 855.

charged. The construction of child sex offenders as morally white against black victims or, as Christie (1986) writes, "black against the white victim" (p. 26) supports

> calls for actions that might have counter-effects. By being that extremely bad, other acts, not quite that bad, can escape attention as well as evaluation. By having an oversimplified picture of the ideal offender, business for the rest of us can go on as usual. (Christie, 1986, p. 29)

The ideal status of child victims—"*weak enough not to become a threat to other important interests*" (p. 21) and "strong enough to be listened to" (p. 21) or cared for—pushes those who harm them sexually to the fringes of humanness (Christie, 1986). For politicians, a group of people who "are absolutely allergic to risk"[410], the difficulty in disadvantaging "the lowest form of humanity"[411] is eased and punitive orientations play to good politics and, often, oversimplified laws.

5.1.3. . . . to Child Victims

In the context of bills C-15A, C-277, C-2, and C-10 the near ideal status of children can be read through claims describing them as "vulnerable"[412], or "the most vulnerable when it comes to sexual abuse and exploitation"[413], and/or persons deserving of "special attention and protection."[414] At the root of their vulnerability to online sexual abuse was the notion that "children often do not have the maturity

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[410] Andreychuk, R. (P.C.). (2001-12-05). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 20 - Evidence*, para. 312.

[411] Harris, R. (Can. Alli.). (2002-04-22). House of Commons Debates, *Edited Hansard 137*(173). 37th Parliament 1st Session, p. 10630.

[412] Fast, E. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 75.

[413] Wilks, D. (C.P.C.). (2011-10-25). House of Commons Standing Committee on Justice and Human Rights, *Number 7 - Evidence*, p. 17.

[414] Fast, E. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 74.

to identify, avoid and protect themselves against the risks of using the Internet."[415] Their lack of experience and inability to identify dangerous situations renders them "almost defenceless"[416] and, coupled with the understanding that "children are precious"[417], they become persons "we must protect"[418]:

> We want to come out fighting and to stay fighting.
>
> *Do not worry about affecting anyone else but the young people. Do not worry about ruining anyone's lives except those of the young people. Do not worry about making people suffer except the young people* [emphasis added]. Let us think about that. *Everything else will take a back seat and second place* [emphasis added]. Let us get the show on the road. We can do it if we want to.[419]

While the above portrayal of children was the most prevalent view and that which characterized the above four bills, some members of parliament did present children—or girls, "because this gender neutral stuff is rubbish"[420]—as *compliant*[421] victims or persons who at times give "false accounts [of sexual abuse] . . . to get

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[415] Fast, E. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8068.

[416] Fast, E. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 80.

[417] Fast, E. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 76; Fast, E. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8069.

[418] Spencer, L. (Can. Alli.). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10576; Sorenson, K. (Can. Alli.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5333.

[419] Bailey, R. (Can. Alli.). (2002-04-22). House of Commons Debates, *Edited Hansard 137*(173). 37th Parliament 1st Session, p. 10637.

[420] Ruth, N. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 81.

[421] My use of the word *compliant* is burrowed from Lanning (2010), who uses it to "describe those child victims who in any way, partially or fully, cooperate in their sexual victimization without the threat or use of force or violence." (p. 25)

attention or for some other reason."[422] However rare, in some cases it was the adults who were in need of protection:

> I taught senior high school for 20 years. I saw 14-year-olds who were wearing so much makeup that they could very easily pass for 21 or 22 without any difficulty at all. *Where is the protection for young men in these circumstances?*
>
> *A girl may decide to portray herself as much older. We all know this happens in bars all the time; kids say they are 19* [emphasis added]. They even steal ID to be 19, or 18 as it is in some provinces. We know this goes on. Where are the protections for a person who is clearly non-exploitive and yet finds himself in this position? It could be reversed; it could be a boy that is in this non-exploitive situation. Where are the protections?[423]

The shift in protection for children to protection from them was intensified in discussions of how the state should respond to young persons found to have committed a criminal offence. With experts describing children who violate the law as "monsters"[424], "predators and psychopaths"[425], some members of parliament argued in favour of getting "tough on violent young offenders"[426]—persons who the "former Minister of Justice, the Honourable Vic Toews, has indicated . . . have the mental capacity to determine whether or not to commit a criminal act and should be treated like adults when they do so."[427] Though it does not appear to have influenced much of the transcribed discussions or the drafting of ICL-related

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[422] Angus, D. (Senator). (2012-02-20 & 2012-02-21). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 12 - Evidence*, p. 157.

[423] Carstairs, S. (Senator). (2008-02-06 & 2008-02-07). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 6 - Evidence*, p. 47.

[424] Jong, J. (as an individual). (2011-10-27). House of Commons Standing Committee on Justice and Human Rights, *Number 8 - Evidence*, p. 8.

[425] Wamback, J. (Canadian Crime Victim Foundation). (2011-11-01). House of Commons Standing Committee on Justice and Human Rights, *Number 9 - Evidence*, p. 17.

[426] Carmichael, J. (C.P.C.). (2011-09-27). House of Commons Debates, *Edited Hansard 146*(21). 41st Parliament 1st Session, p. 1527.

[427] Carstairs, S. (Senator). (2007-05-31). Debates of the Senate, *Edited Hansard 143*(102). 39th Parliament 1st Session, p. 2479.

legislation, some experts also noted that, "in many [ICL] cases . . . , the luring is done by their [a child's] peers."[428]

Returning to the dominant and easily digestible discourse of predatory adult offenders and vulnerable/innocent children, members of parliament spoke of child protection—of providing "our justice system with the legal tools to keep sexual predators away from our children"[429]—as their "job"[430], "duty"[431], "moral right"[432], and/or special responsibility[433]: "Obviously. None of us got elected by saying we did not want to protect children."[434] Whether support for this position is found in election results, newspaper publications, or claims that "there is no doubt in the minds of 85% to 90% of Canadians that no amount of the benefit of the doubt should be given to anything other than the protection of children"[435], what remains unanswered is why vulnerable children are deserving of protection.

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[428] Wong, N. (Department of Justice Canada). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 81.

[429] Fast, E. (C.P.C.). (2007-02-05). House of Commons Standing Committee on Justice and Human Rights, *Number 44 - Evidence*, p. 3; Fast, E. (C.P.C.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3459.

[430] Fast, E. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8069.

[431] Solberg, M. (C.P.C.). (2007-10-18). House of Commons Debates, *Edited Hansard 142*(3). 39th Parliament, 2nd Session, p. 68; Lunn, G. (Can. Alli.). (2002-04-22). House of Commons Debates, *Edited Hansard 137*(173). 37th Parliament 1st Session, p. 10630; Moore, R. (C.P.C.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1801.

[432] Girard-Bujold, J. (B.Q.). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10572; Girard-Bujold, J. (B.Q.). (2002-04-18). House of Commons Debates, *Edited Hansard* 137(171). 37th Parliament 1st Session, p. 10571.

[433] Comartin, J. (N.D.P.). (2006-05-31). House of Commons Debates, *Edited Hansard 141*(30). 39th Parliament 1st Session, p. 1800.

[434] Bellavance, A. (B.Q.). (2011-09-20). House of Commons Debates, *Edited Hansard 146*(16). 41st Parliament 1st Session, p. 1251.

[435] McTeague, D. (Lib.). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10573; see also Boshcoff, K. (Lib.). (2006-10-04). House of Commons,

5.2. The Economics of Inaction

CSA's construction as a social problem was, as all social problems are, the result of a successful marketing campaign (Finkelhor, 1984)[436]. In the case of CSA, this campaign expanded on 18th or 19th century calls to sentimentalize childhood or focus our attention on the 'need' to nurture children (Best, 1994, p. 6). Its result, according to Zelizer (1985), was the creation of "an essential condition of contemporary childhood" (p.3): the construction of the "economically 'worthless' but emotionally 'priceless' child" (p. 3).

In a community of people for whom time, labour, and pleasure may be expressed monetarily, Zelizer's (1985) claim is problematic; persons or things that are emotionally priceless are of inherent economic worth. Within the described monetary-based community, the emotional value attributed to certain objects or groups of persons will increase their economic value or the economic resources invested in their protection. This process, however indirect, instils upon these persons/objects an economically calculable worth. Canada, I would argue, is such a monetary-based community and, in their portrayal of children, some members of parliament appear not to have forgotten this: "Our children are among the most important *resources* [emphasis added] we have in our society and certainly are

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Edited Hansard 141(59). 39th Parliament 1st Session, p. 3644; Girard-Bujold, J. (B.Q.). (2002-04-18). House of Commons Debates, *Edited Hansard 137*(171). 37th Parliament 1st Session, p. 10572.

[436] In Canada this can be said to have occurred in late-1970s/mid-1980s Canada (Department of Justice Canada, n.d., 1988; Sas, Wolfe, & Gowdey, 1996; Wells, 1990), around the same time as its construction/invention or discovery in the United States (A. Adler, 2001; Best, 1990; Bolen, 2001; Finkelhor, 1984; Hacking, 1991; Pratt, 2005).

deserving of protection"[437]; they are "our most precious *possession* [emphasis added]"[438], "prized possessions"[439], "our most precious resource"[440] ; "we can ask any parent or grandparent, including me, and they will tell us that no *resource* [emphasis added] is more precious than our children"[441]; "I can think of no higher calling than to be able to participate in substantive legislative changes that better protect our most precious resource, our Canadian children"[442]; "there is no more precious *commodity* [emphasis added] than our children"[443] ; they "are the wealth of society"[444].

5.2.1. A Capitalist Democracy

If we define capitalism as an economic system in which the means of production are privately owned (Mueller, 2012), Canada can be said to have always employed such a system[445]. To ensure its survival, the state plays an important

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[437] Fast, E. (C.P.C.). (2007-03-28). House of Commons Debates, *Edited Hansard 141*(130). 39th Parliament 1st Session, p. 8069.

[438] Schmidt, W. (Can. Alli.). (2002-04-23). House of Commons, *Edited Hansard 137*(174). 37th Parliament 1st Session, p. 10737.

[439] Fast, E. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 72.

[440] Spencer, L. (Can. Alli.). (2002-04-23). House of Commons, *Edited Hansard 137*(174). 37th Parliament 1st Session, p. 10686.

[441] MacKenzie, D. (C.P.C.). (2007-10-18). House of Commons Debates, *Edited Hansard 142*(3). 39th Parliament, 2nd Session, p. 74.

[442] Findlay, K-L.D. (C.P.C.). (2011-12-02). House of Commons Debates, *Edited Hansard 146*(59). 41st Parliament 1st Session, p. 3908.

[443] Maloney, J. (Lib.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3452.

[444] Boisvenu, P-H. (Senate). (2011-12-08). Debates of the Senate, *Edited Hansard 148*(39). 41st Parliament 1st Session, p. 834.

[445] Because the Canadian government works "to set prices, restrict the flow of finance, and so on", Mueller (2012) would argue that the Canadian economy should not be thought of "as a capitalist system." (p. 2) While I understand Mueller's (2012) position, I, like another whose name I cannot now remember, know of no state or grouping of people that has ever let the invisible hand dictate the

economic role: It manages the development and maintenance of public capital, "the foundation upon which the economy is built." (Macdonald, 2008, p. 9) If surprising, this managing of the public's assets—and of the roads, sewage systems, and other infrastructural investments that make-it-up (Macdonald, 2008)—should not be understood as opposing Myles' (2002) assertion that "capitalism has won" (p. 339). These "economic resources are allocated primarily to suit the requirements of large scale private corporations" (Levitt, 1970, p. 39), organizations that are, in large part, controlled by the parasitic elite: "the directors and executives of foreign parent firms" (Carroll, 1986, p. 10), who, if threatened with increased costs, may "bring an economy to its knees through a *capital strike*." (Phillips, 2003, p. 29)[446] In short, as Cornwall and Cornwall (2001) note, "business governs the economy and elected governments cannot ignore this" (p. 264), particularly when determining what acts are to be considered criminal.

Defining unwanted behaviour and legitimizing the punitive consequences that are (in theory) to flow naturally from their occurrence, criminal law is one of the primary tools states use to regulate behaviour. It is, therefore, difficult to imagine the possibility of a capitalist state whose criminal law opposes or does not

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distribution of wealth entirely—there seems to be but illusions of a free market economy, whose existence Mueller (2012) writes is "implicit in the notion of a capitalist system" (p. 2). Krahn and Lowe's (2002) explanation of a *capitalist system of production* is more supportive of my use of the term capitalism:

> A capitalist system of production is one in which a relatively small number of individuals own and control the means for creating goods and services, while the majority have no direct ownership stake in the economy and are paid a wage to work for those who do. (p. 2)

[446] Phillips (2003) explains *capital strike* as occurring "when businesses collectively refuse to invest or move their operations to other countries or political jurisdictions in order to protest, block or escape taxation, environmental regulation or any other economic policies they deem will affect corporate profits." (p. 29)

allow for the actions inherent to capitalism (the sale and purchase of goods, the personal accumulation of wealth, et cetera). Despite paying little attention to crime and/or its related legislation, Marx (trans. 1956/1964) links criminal law to economic factors he adjoins to class interests:

> The individuals who rule under these [capitalist] conditions, quite apart from the fact that their power has to constitute itself as a State, must give their will as it is determined by these definite circumstances, a general expression as the will of the State, as law. The content of this expression is always determined by the situation of this class, as is most clearly revealed in the civil and criminal law. (p. 225)

If one adopts this orientation to law and the economy, the *CCC* can be said to reflect capitalist concerns. This being the case, persons seeking to amend the *CCC*, by (re)defining certain behaviour as unlawful, must do so by framing their arguments so as to comply with the rules of political capitalism[447]. And, therefore, the question that members of parliament must address in their response to ICL and/or CSA is "how do we protect the [ISP] industry and get at the real perpetrators?"[448]

5.2.2. Against Strike

The luring of children into sexually abusive situations is not a phenomenon that began with the Internet. It is, however, one "that has been greatly facilitated by"[449] its development. The medium provides an environment in which "sexual predators no longer need to hide behind bushes in schoolyards to troll for victims.

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[447] In *Capitalism at Work*, Bradley (2009) defines *political capitalism* as "a socioeconomic system in which legislation and ensuing regulation are inspired and influenced by organized business interests." (p. 120)

[448] Andreychuk, R. (P.C.). (2002-05-08). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 34 - Evidence*, p. 10.

[449] Warawa, M. (C.P.C.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3455.

They now . . . hide their identities and ages behind the anonymity of their computers."[450] With persons "able to slip into our homes"[451], Bill C-15A aimed to criminalize online behaviour that would facilitate later acts of CSA. What is here interesting about the lead-up to the bill's royal assent is that, of the persons perceived to be in the know, one committee witness was from the ISP industry.

Representing the companies that "provide approximately 80% of the Internet connections in Canada"[452], Jay Thomson (President of the Canadian Association of Internet Providers) introduced his association's understanding of Bill C-15 and C-15A as follows:

> It's a pleasure for me to be here this morning, along with our colleagues from CCTA [Canadian Cable Television Association], with whom we've worked quite closely on this particular file, to offer our general support for the provisions of Bill C-15, which deal with child pornography and child-luring on the Internet. At the same time, I'd like to highlight for you our real concern that these provisions could have serious but clearly unintended consequences for ISPs and the Internet[453];
> We are aware that the Minister of Justice has assured members of this committee, as well as the Commons committee studying Bill C-15A, that the bill is intended to target child pornographers and predators, and not ISPs. Those are indeed welcome comments, however, with all due respect to the minister, the bill still does not clearly state that. Instead, we fear that the language used in the bill remains so broad that it could permit a court to hold ISPs liable for criminal acts of others over which they have no knowledge or control.[454]

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[450] Fast, E. (C.P.C.). (2007-05-31). Standing Senate Committee on Social Affairs, Science and Technology, *Issue 23 - Evidence*, p. 72; see also Maloney, J. (Lib.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3451.

[451] Oliver, D. H. (Senator). (2007-05-10). Debates of the Senate, *Edited Hansard 143*(96). 39th Parliament 1st Session, p. 2333.

[452] Thomson, J. (Canadian Association of Internet Providers). (2001-10-04). House of Commons Standing Committee on Justice and Human Rights, *Evidence*, 0915h para. 18.

[453] Thomson, J. (Canadian Association of Internet Providers). (2001-10-04). House of Commons Standing Committee on Justice and Human Rights, *Evidence*, 0920h para. 1.

[454] Thomson, J. (Canadian Association of Internet Providers). (2001-12-12). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 22- Evidence*, para. 149.

The colleagues to whom Mr. Thompson was referring were represented, at committee, by Lori Assheton-Smith (General Counsel and Vice-President of New Media). Like Mr. Thomson, Ms. Assheton-Smith expressed her association's "strong and unqualified support for the intent of the proposed changes to the Criminal Code that would criminalize the sexual exploitation of children on the Internet"[455]. She then identified the legislation's "potential scope"[456] as the source of CCTA's concern: "CCTA is concerned that without legislative clarification these offences ['transmitting' and 'making available' child pornography] could inadvertently capture Internet service providers even where they do not themselves have actual knowledge of or control over illegal content."[457] Mr. Thompson's association was also concerned "that the language used in the bill remains so broad that it could permit a court to hold ISPs liable for criminal acts of others over which they have no knowledge or control."[458] He then explained this concern in economic terms:

> The costs of defending such a charge could put many of my members, our smaller ISPs, out of business.
>
> Not only would this be unfair and unjustified, it would run contrary to the approach taken by other democratic countries with similar criminal law principles, namely the U.S. and the European Commission, and it would place

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[455] Assheton-Smith, L. (Canadian Cable Television Association). (2001-10-04). House of Commons Standing Committee on Justice and Human Rights, *Evidence*, 0925h para. 10.
Although Ms. Assheton-Smith did mention *the sexual exploitation of children on the Internet*, she was not considered to have spoken about ICL because she appeared to be referring to child pornography and not ICL. The sentence that immediately follows the above quote (and shares its aforementioned citation) reads: "Those who are responsible for the creation, dissemination and consumption of child pornography should not be treated any differently under the law merely because they use the Internet to commit their offences."

[456] Assheton-Smith, L. (Canadian Cable Television Association). (2001-12-12). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 22 - Evidence*, para. 174.

[457] Assheton-Smith, L. (Canadian Cable Television Association). (2001-10-04). Standing Committee on Justice and Human Rights, *Evidence*, 0925h para. 15.

[458] Thomson, J. (Canadian Association of Internet Providers). (2001-12-12). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 22- Evidence*, para. 149.

> Canada at a competitive disadvantage in its efforts to be a leader in the Internet economy.[459]

According to Senator Landon Pearson (Ontario) the above concerns were addressed in the proposed legislation: "In creating these new offences, the government carefully examined how this would affect the industry that has made Canada the world's most connected country."[460] If they did not agree on the effectiveness of the government's approach, others supported its protective intent:

> The concern I have, which is I am sure shared by these ISPs, is this: *How can we protect them and ensure the way we create the infraction does not include them en passant?* [emphasis added] Of course, they are responsible for distribution. Of course, they will be part of an infraction, if we are not meticulous in the way we share with these individuals who, in good faith, are part of the technical evolution of our country. In doing that, of course, some people both within Canada and outside Canada are committing serious offences by permitting child pornography to be available.
>
> *How can we ensure that service providers are protected?* [emphasis added][461]

In the end, so as not to infringe upon the privacy of individual persons or "place an excessive burden on ISPs"[462], the decision was made to allow ISPs to self-regulate, to "voluntarily police themselves"[463], or to not amend Bill C-15A so as to require them to do otherwise.

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[459] Thompson, J. (Canadian Association of Internet Providers). (2001-12-12). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 22 - Evidence*, paras. 152-153.

[460] Pearson, L. (Senator). (20001-11-01). Debates of the Senate, *Edited Hansard 139*(66). 37th Parliament 1st Session, p. 1610.

[461] Nolin, P.C. (Senator). (2001-12-05). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 20 - Evidence*, paras. 72-73.

[462] McLellan, A. (Lib.). (2001-10-02). House of Commons Standing Committee on Justice and Human Rights, *Evidence*, 1640h paras. 1-2.

[463] McLellan, A. (Lib.). (2001-12-05). Standing Senate Committee on Legal and Constitutional Affairs, *Issue 20 - Evidence*, paras. 84-85.

Considering the behaviour of parliamentarians, unless we assume members attributed an economic worth to children—and, by consequence, their "right to be safe from sex offenders"[464]—that is of lesser value than the economic worth accredited to Canada's ISP, it is problematic that a governing organization would allow an industry comprised of privately operated for-profit companies to determine how the unlawful online activity of their clients will be policed. To do so implies there are limits to the notion "we must take every measure possible to protect children"[465] and that children are not "our most precious resource"[466], possession[467], or commodity[468]. In a capitalist country where "taxpayers expect government [/governing] officials to conduct the nation's business at a reasonable cost"[469] and money stands as the "power of humanity" (Marx, trans. 1956/1964, p. 173) these limits are, however, justifiable[470]. They secure against capital flight by focusing the goals of criminal legislation "on what matters most to Canadians, jobs

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[464] Toews, V. (C.P.C.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1329.

[465] Sorenson, K. (Can. Alli.). (2001-09-20). House of Commons Debates, *Edited Hansard 137*(82). 37th Parliament 1st Session, p. 5333.

[466] Spencer, L. (Can. Alli.). (2002-04-23). House of Commons, *Edited Hansard 137*(174). 37th Parliament 1st Session, p. 10686.

[467] Schmidt, W. (Can. Alli.). (2002-04-23). House of Commons, *Edited Hansard 137*(174). 37th Parliament 1st Session, p. 10737.

[468] Maloney, J. (Lib.). (2006-09-29). House of Commons Debates, *Edited Hansard 141*(56). 39th Parliament 1st Session, p. 3452.

[469] Rempel, M. (C.P.C.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3772.

[470] Marx's (trans. 1956/1964) description of money reads as follows:

> *Money*, since it has the *property* of purchasing everything, of appropriating objects to itself, is therefore the *object par excellence*. The universal character of this *property* corresponds to the omnipotence of money, which is regarded as an omnipotent essence . . . money is the *pander* between need and object, between human life and the means of subsistence . . . . The power to confuse and invert all human and natural qualities, to bring about fraternization of incompatibles, the *divine power* of money, resides in its *essence* as the alienated and exteriorized species-life of men. It is the alienated *power of humanity*. (pp. 172-173)

and economic growth."[471] Even the expansion of custodial sentences and introduction of mandatory minimum sentences for behaviour violating *CCC* section 172.1 (luring a child) may be argued as supportive of these aims. Although "I sincerely hope this is not the government's plan for lowering the unemployment rate."[472]

The suggestion that members of parliament attribute a general economic worth to children that is of lesser value than Canada's ISP industry requires development elsewhere[473]. The reason for its introduction here is, again, only to help further situate—to contextualize—the discussion that emerged or was developed from my reading of the transcribed documents and provide a direction for its continued analysis, before giving way to an end.

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[471] Hoback, R. (C.P.C.). (2011-09-20). House of Commons Debates, *Edited Hansard 146*(16). 41st Parliament 1st Session, p. 1241; see also Flaherty, J. (C.P.C.). (2011-09-20). House of Commons Debates, *Edited Hansard 146*(16). 41st Parliament 1st Session, p. 1242; McLeod, C. (C.P.C.). (2011-09-21). House of Commons Debates, *Edited Hansard 146*(17). 41st Parliament 1st Session, p. 1325; Menzies, T. (C.P.C.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1339; Albas, D. (C.P.C.). (2011-09-22). House of Commons Debates, *Edited Hansard 146*(18). 41st Parliament 1st Session, p. 1343; Gourde, J. (C.P.C.). (2011-09-20). House of Commons Debates, *Edited Hansard 146*(16). 41st Parliament 1st Session, p. 1242; LeBreton, M. (Senator). (2011-12-15). Debates of the Senate, *Edited Hansard 148*(43). 41st Parliament 1st Session, p. 968.

[472] Morin, I. (N.D.P.). (2011-11-29). House of Commons Debates, *Edited Hansard 146*(56). 41st Parliament 1st Session, p. 3724.

[473] Written in a slightly different manner, it may be that while "politicians use morality as the justification for their use of power" (Critcher, 2003, p. 147), when debating issues of child protection, economics are used to justify inaction.

An End

Writing of *Tools for Studying 'Moral Panics'*, Moore and Valverde (2003) note "it is high time to get away from the notion that the populace is in the grip of irrational myths and that only the enlightened philosophers (or critical sociologists) can save the world through Reason and accurate facts." (p. 308) I agree. Reason, like the accuracy of facts, is subjective and it does little to critique one view from the position of another. For similar reasons—and because this work was not consciously constructed to address notions of the unconscious—I also agree with Moore and Valverde's (2003) claim

> there's something that is all too convenient about claiming the irrational fears and unconscious drives of the populace . . . can only be dispelled by enlightened critical sociologists. Explaining moral panics by reference to the unconscious fears of the populace has the effect of making it seem as if ordinary people . . . are more irrational, and thus more primitive, than we cool critical sociologists who study moral panics. This is an elitist and self-serving assumption. (p. 306)

To avoid "stepping outside our role as sociologist" (Garland, 2008, p. 22), social problems and moral panics were situated within a soft-constructionist/post-positivist paradigm that prioritized the moral viewpoint and socio-political process of the studied group. These 'ordinary people' were allowed to shape the truth, by identifying those who spoke it, within a framework devoid of positivism's analytical certainty and the strict-constructionist's sense of equality.

In addition to Moore and Valverde's (2003) above arguments, the authors present two claims that I am at odds with and one that I fail to understand. In order,

they are as follows: (1) "The 'irrational' character of moral panics has the effect of suggesting that solid information and rational analysis are the best, indeed the only remedy, to cure the panics" (p. 307); (2) "it's high time to move beyond the usual 'irrationality' explanations of moral campaigns" (p. 306); (3) "analyses of moral panics, we argue, do not greatly advance our understanding of social change when they merely point out that X or Y fear is not justified by crime statistics." (p. 307)

I find Moore and Valverde's (2003) equating of moral panic's "irrational character" (p. 307) with the suggestion that panics could be cured or remedied via the use of "solid information and rational analysis" (p. 307) troublesome. Because moral panic is no more than a concept or description of something, which allows for it to be discussed, there is no implicit or included suggestion that that which is described must or should be corrected, cured, or remedied. It is possible to suggest that a group of people are basing their behaviour on an irrational belief—that they are, for example, in the midst of a (good moral) panic—and not suggest that there is something to remedy. The same can be said of describing someone or something as overweight or of normal weight. While losing weight may render either descriptions' continued use an exaggeration, the terms do not, in and of themselves, suggest the existence of or lobby for a remedy or cure. Though they may point to the possibility of alternative states.

The above said, those who find the term *irrational* too suggestive may simply drop it from the definition of moral panic provided here. Its inclusion was meant to

highlight the concept's (dis)proportionality requirement, yet an argument can be made that—in the context of the entire definition—its use is redundant; moral panic may simply be defined as collective, corrective-intended behaviour based on a belief that exaggerates the threat posed by a social problem. This reworking is, however, not a "move beyond the usual 'irrationality' explanations of moral campaigns" (Moore & Valverde, 2003, p. 306), where moral panics are said to "take the form of campaigns" (Thompson, 1998, p. 3). The notion of an irrational belief or ability to point to a group's misinterpretation of what they identify as fact remains, via the inclusion of the word *exaggerates*.

An extended representation of Moore and Valverde's (2003) third quote outlines one of their paper's central arguments:

> Analyses of moral panics, we argue, do not greatly advance our understanding of social change when they merely point out that X or Y fear is not justified by crime statistics. Instead, it is more productive to show that anxieties about danger and chaos can be linked to very different political aims and regulatory strategies, depending on the political, cultural, and legal context in which they occur. (p. 307)

The statistics statement aside, I am not sure I understand the authors' position. My confusion centres around a question: If moral panic is understood as a description of something (a concept), why should the quality or value of studies that assess the appropriateness of its use be dependent on the researcher's ability to link this aim with an understanding of social change? Put differently, I fail to see the value in arguing that something designed to perform a specific task be judged by its ability to perform another. In the context of Moore and Valverde's (2003) text, the argument

does, however, have a purpose. It helps establish a literary void the chapter's content is intended to fill:

> Rather than try to counter one set of facts (the dangers of "date rape drugs") by another set of facts (solid scientific information about drugs and about sexual assault), we turn our attention here to the *format* of the claims made, leaving aside the issue of whether the claims are scientifically valid.
>
> The main analytical innovation that we bring to the study of what could be seen as a classic moral panic . . . is the decision to focus more on the *format* than on the *content* of the claims made by various information providers." (p. 308)

Moore and Valverde's (2003) use of the moral panic concept highlights some of the issues I tried to address in the pages of this text. After clarifying its theoretical foundation, the concept was continually redefined to answer criticism and move moral panic away from notions of the unconscious, competing moral viewpoints, and attempts to shift its (dis)proportionality focus. In this process, social problems were described as conditions, phenomena, or behaviours defined by a substantial number of persons as problematic or a threat to something or someone of value. A substantial number of persons was, in turn, explained as a number of persons, determined by the socio-political formation of the group(s) being studied as large enough to encourage, force, or motivate the implementation of (one or more) corrective-intended measures available to and in the name of the potentially wider collective.

Using the work of Reisigl and Wodak (2009) and Fairclough (1992, 2001a, 2001b, 2009), the practical applicability of a reworked understanding of moral panic—and included meaning of social problems—was tested in the context of the

Parliament of Canada's passage of four bills that introduced or amended section 172.1 of the *CCC*. The exercise identified several aspects of the concept's use that required further nuance and, with threat's measurement equated to readings of ICL's Rate and Trend, the existence of a moral panic related to Bill C-15A. So as to provide additional (contextual) information, the manner in which members of parliament spoke of the media, expert witnesses, Internet child lurers, and victims of CSA was also outlined. Finally, the suggestion was put forth that, when introducing Bill C-15A, members attributed an economic worth to "our most valued citizens"[474] that was of lesser value than Canada's ISP industry.

The purpose of this work was to fall back on a lone familiar narrative as a means of explaining certain social facts and determine whether a reworked and theoretically justifiable definition of the moral panic concept could be adaptive to differing moral viewpoints and of practical use. Having spent 200 or so pages falling back, I would argue that it is possible to define moral panic in a way that is theoretically justifiable, morally adaptive, and makes for a clear narrative of the social facts on which it is focused. But why does this matter?

Simply put, the moral panic concept and analyses to determine situations that meet its definitional requirements serve a sociological role that is of sufficient importance: Both are part of the process of identifying "conditions that are . . . at odds with values current in the society but are not generally recognized as being

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[474] MacKay, P. (P.C.). (2002-04-22). House of Commons Debates, *Edited Hansard 137*(173). 37th Parliament 1st Session, p. 10634.

so." (Merton, 1971, p. 806) As Merton (1971) may say: They help make "latent social problems manifest." (p. 807)[475] In such cases "the sociologist does not impose his values upon others" (p. 806), but adopts those of the group he/she is speaking of. Although analyses of moral panics rarely conformed to this role, they can, should, and do here.

Because I have yet to encountered a group of people for whom claims have not "become more credible when they have the support of acknowledged 'experts'" (Troyer, 1989, p. 169)—persons they perceive as in the know—and because I am not creative enough to imagine a time where 'simply' pointing out latent problems could appropriately be considered an inadequate analytical aim, the thought of a devaluing of moral panic's conceptual terrain is difficult. Therefore, in our continued rush to modernize, to rebrand the sociological landscape, it is perhaps best to be cautious in discarding old conceptual tools. If not, we "run the risk of repeating ourselves and repeating each other." (Allman, 2014, p. 225)

[475] It is important to note that my definition of social problems does not allow for a division between those that Merton (1971) would describe as latent and manifest. That said, his description of latent social problems as *conditions that are at odds with values current in the society but are not generally recognized as being so* allows for them to be written of as 'latent problems' here.

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