

Navigating Intimate Image Sharing:
Youth Experiences with Technology-Mediated Sexuality in a
New Legal Landscape

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Abstract

Cyberbullying and intimate image sharing have become topics of grave concern for policy makers in several jurisdictions, including Canada. Intimate image-sharing controversies have aroused debates between policy approaches that primarily seek to protect young people from potential harms in digital spaces and those that endeavour to recognize, legitimize, and support young peoples' legal and ethical rights to sexual self-expression in digital spaces—what might be termed, their rights to sexual citizenship. This dissertation aims to do the latter, to give space to youth voices to understand how they negotiate risk, well-being, and sexual pleasure in digital contexts and cultures.

This dissertation illustrates the processes involved in creating a new legal landscape around intimate image sharing in Nova Scotia against the backdrop of the Rehtaeh Parsons case and the impacts that the landscape has had on both young peoples' legal consciousness and their sexual citizenship. The legal response following Parsons' death reveals that anxieties about youth sex and technology prompted swift state action that was more focused on responding to the “problem” of teenage technology-mediated sexuality than to sexual violence itself. My study examines the navigational work that youth do and the choices that they make, and how these are sometimes shaped by this legal landscape. I employ sexual citizenship as a conceptual framing in that it opens space to challenge a long history of technopanics and fears about child and youth sexuality that have informed policy that impacts young people.

Analysis of art workshops and face-to-face semi-structured interviews with Nova Scotian youth ages 13–18, which I conducted in 2017, revealed new findings that start to fill a gap in Non-Consensual Distribution of Intimate Images (NCDII) work by exploring questions about legal consciousness and sexual citizenship. I found that youth participants' offer nuanced understandings about NCDII that vary from the dominant narratives that they receive, and while the adult world might consider a criminal justice response the most appropriate in cases of NCDII among teens, young people do not believe that they or their peers would mobilize legal redress and are instead more likely to employ extra-legal approaches in these cases. This study uncovers a variety of reasons that teenagers are unlikely to mobilize criminal law in these cases including: perceptions of the law's failures to support victims/survivors of sexualized violence; fear of sexual shaming and blaming; negative perceptions of police; and fear of personal criminalization and/or the criminalization of their peers.

I argue for youth-centred approaches to policy and curriculum development around digital sexuality and image sharing that include consultations with young people themselves. Further, these approaches need to move toward a positive sexual rights framing that would recognize and legitimize young people as sexual citizens.

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Chapter One — Introduction

In Grade nine there was, like, a seminar in, like, the gym or whatever, and it was about nudes and cyberbullying. . . . They just told us not to do it altogether. That's the thing about schools and stuff, they just tell you "stay away from it," but they don't tell you how to handle it if you don't stay away from it. (Avery, 17)

Cyberbullying and intimate image sharing have become topics of grave concern for policy makers in several jurisdictions, including Canada. Intimate image-sharing controversies have aroused debates between policy approaches that primarily seek to protect young people from potential harms in digital spaces and those that endeavour to recognize, legitimize, and support young peoples' legal and ethical rights to sexual self-expression in digital spaces—what might be termed their rights to sexual citizenship. This dissertation aims to do the latter, to give space to youth voices to understand how they negotiate risk, well-being, and sexual pleasure in digital contexts and cultures. This dissertation examines these experiences by considering the institutional and organizational responses to these practices, exploring to what extent dominant narratives about youth technology-mediated sex and sexuality have an effect on the way young people themselves navigate intimate image sharing.

In Canada, the dominant policy, legal, and educational narratives about teenagers' technology-mediated sexual activities, including intimate image sharing, centre on young people being exposed to dangers in digital spaces. In 2015 these concerns prompted legal reform, adding a new offence of Non-Consensual Distribution of Intimate Images (NCDII) to the Canadian *Criminal Code* (Section 162.1). These legal reforms came shortly after, and largely in response to, a few high-profile cases involving Canadian teens, including Rehtaeh Parsons who had an image of her alleged sexual assault captured on a cellphone by the teenage boys who allegedly assaulted her and

subsequently distributed the image to her peers.

Within a growing body of literature, NCDII is understood as a form of technology-facilitated sexual violence (Henry & Powell, 2015; McGlynn & Rackley, 2016; Ringrose et. al., 2022) and has been theorized, by some, as part of a continuum of gendered violence (Aikenhead, 2018). Feminist criminologists and socio-legal scholars Nicola Henry and Anastasia Powell (2015) have argued that technology-facilitated sexual violence can include acts like NCDII, the creation and distribution of sexual assault images, online harassment and cyberstalking, gender-based hate speech, and virtual rape (p. 759). Henry and Powell (2015) pointed to the challenges that adult victims of technology-facilitated sexual violence have faced when pursuing criminal justice responses, noting that harms against physical bodies are sometimes punished while virtual/sexual harms that occur in digital spaces are often not taken as seriously.¹ The exception, they argued, is in cases involving youth. This dissertation contributes to this body of literature that examines how cases of technology-facilitated sexual violence involving youth are the exception and how moral panics over youth sexuality have contributed to this exception (Angelides, 2019; Hasinoff, 2015; Henry & Powell, 2015). This dissertation examines why the political discourse and the subsequent changes to law have centred on image sharing and cyberbullying, and how this connects to wider social anxieties and concerns about youth sex and technology. Drawing on cultural studies of moral panics, I demonstrate how anxieties about youth sexuality and technology were mobilized in the parliamentary debates around federal Bill C-13 (*Protecting Canadians from Online Crime Act*) and Nova Scotia's Bill 27 (*Cyber Safety Act*), both of which were introduced in response to growing concern about technology-facilitated sexual violence. The question that this dissertation grapples

¹ Since Powell and Henry's writing in 2015, there have been several reported cases of virtual rape in virtual reality scenarios. See for example, Oppenheim's (2022) reporting about Nina Jane Patel's experience: <https://www.independent.co.uk/news/uk/home-news/metaverse-gang-rape-virtual-world-b2005959.html>.

with is not whether NCDII should be a crime, but rather what effects the dominant discourses about youth and technology-mediated sexualities, discourses that have informed the passing of intimate image-sharing laws, have on the ways young people navigate the contemporary legal landscape.

What happened to Rehtaeh Parsons was both an alleged sexual assault and NCDII. My questions focus on why federal and provincial policy and legal reforms primarily frame it as the latter. This dissertation draws on the social constructionist paradigm to demonstrate how and why the image, and not the sexual assault, became understood as the real problem, and how this is linked to a much longer history of claims-making (Best, 1987) about child online sexual exploitation in Canada (Kohm, 2020). I examine the implications that this type of claims-making has on young peoples' digital practices, including image sharing. Research around technology-facilitated sexual violence is rapidly expanding, but work on how legal responses to these acts impact young peoples' sexual citizenship and their legal consciousness remains underdeveloped. Like other forms of gendered violence, some who experience it may seek criminal justice redress while others may not, and the reasons for such decisions are complex, especially for young people.

In this dissertation, I draw on narratives from young people in Nova Scotia, gathered through four group-based art workshops and ten individual interviews to examine how they think about the law in relation to intimate image sharing. I bring this data into conversation with political claims-making about cyberbullying and intimate image sharing presented in federal and provincial parliamentary debates as well as the opinions of 86 Nova Scotian adults gathered via an online survey. The following research questions guide this dissertation: 1) What processes were involved in transforming the Parsons case from an alleged sexual assault into a narrative about the dangers of youth sexuality and technology? 2) Who is targeted by intimate image laws, under what circumstances would youth invoke these laws, and how does the distributive impact of law play a

role in these decision-making processes? 3) How has the legal regulation of teen sex generally (not only image sharing) influenced the ways in which young people think about and navigate the boundaries of the practice?

To date, no research has investigated the ways in which these formal state responses to technology-facilitated sexual violence among young people, and the public dialogues and debates to which they give rise, impact how young people understand the limits (or possibilities) of their sexual citizenship. Taking a rights-based approach, this dissertation recognizes both the sexual participation and sexual protection of rights of young people, including their rights to digital sexual expression, digital intimacy, sexual self-autonomy, sexual self-efficacy, sexual identity, and control and safety. This dissertation recognizes and legitimizes young people as agentic rights-holders, sexual citizens, and active participants in online spaces, and provides space for the teenage participants in this study to express their perspectives about risk. Through interviews and art workshops, I found that youth perspectives were nuanced and shaped by tensions between the individualistic responsibilization of self and peers and the critical consciousness of the broader contexts that shape the risk landscape that they are navigating. Through my analysis, I found that parliamentarians at both provincial and federal levels drew on the devastating but also sensational elements of the Rehtaeh Parsons case to rush to fill a legal vacuum. The legislative focus, as this dissertation highlights, was narrowly centred on the perceived role of digital technology in contributing to and facilitating cyberbullying. However, I found that young peoples' interpretations of law vary, as do their understandings of harm when it comes to NCDII. While some youth participants believed that NCDII necessitated a criminal justice response, few indicated that they themselves would turn to the formal law in these situations. Further, stories about falling victim to NCDII or being exploited by adults luring kids over social media are

sensational and not common. What is more common among youth in Nova Scotia is consensual intimate image sharing (referred to as “sharing nudes”), as revealed in both my survey with adults working with youth and in interviews with youth themselves. Fifty-nine percent of adults (n=66) surveyed indicated that consensual intimate image sharing was “very common,” and 26% indicated that it was “somewhat common.” Interviews with young people also demonstrated that sharing consensual nudes within intimate partnerships is more common than NCDII situations. While the interview sample size is not large enough to make generalizations, it is important to note that none of the young people I interviewed had experienced NCDII (in its classical definition—i.e., having their own nude shared without consent) firsthand. Two teenage interview participants (from the same school) did know of a case of NCDII because it had happened in their school. What is more common, according to my data, are instances where cis-gendered heterosexual young men send unsolicited “dick pics” to young women.

My conversations with young people revealed: that interpretations of the role of formal law depend on how they understand the severity of NCDII; that some youth are unlikely to turn to the law (or the adult world generally) due to the perception that they will be sexually shamed and blamed; that some participants, especially racialized youth, have sufficiently negative perceptions of police and do not trust them to be a resource for assistance; and that some young people are fearful that they or their peers will be criminalized should they report. Considering these findings, I argue that the emphasis on criminal justice responses in these cases must be rethought as these are often not in the best interests of young people themselves. Participants (both teens and adults) emphasized that they would prefer alternative (and preventative) approaches to criminal law in NCDII cases.

In this dissertation, I argue that using the Parsons case as a platform to launch Bill C-13

2014 (*Protecting Canadians from Online Crime Act*) makes sexual violence a secondary issue, and that the non-consensual intimate image law passed in response to what happened to Rehtaeh Parsons does little to address the social and cultural norms that contribute to sexual and gender-based violence. This legal response reveals that anxieties about youth sex and technology prompted swift state action more focused on responding to the “problem” of teenage technology-mediated sexuality than to sexual violence itself.

This project explores the conceptual messiness around sexual violence, intimate image sharing, and cyberbullying, and how young people understand these intersections. It also draws attention to the ways that young people think about harm, justice, recourse, and the legality around these issues. Therefore, this dissertation makes two empirical and two conceptual contributions to the existing literature:

1. Technopanics and fears about child and youth sexuality fuelled the legislative/law-making process around non-consensual intimate image sharing.
2. Responses from teens showed that both proactive and extra-legal approaches may be better suited than criminal law in addressing NCDII among young people.
3. Sexual citizenship as a conceptual framing opens up space to challenge a long history of technopanics and fears about child and youth sexuality that have informed policy that in turn impacts young people.
4. Even if youth do not use the law or mobilize legal redress, they are navigating choices informed by the legal landscape. This navigational work is imbued with tensions and shaped by youth positionality, peer norms, and structures/discourses of power.

This dissertation illustrates the processes involved in creating a new legal landscape around intimate image sharing in Nova Scotia against the backdrop of the Rehtaeh Parsons case and the

subsequent impacts on young peoples' legal consciousness and sexual citizenship. This is a unique contribution to the sexual citizenship and legal consciousness literatures, which are both limited in terms of research with youth and on the issue of youth sexuality in particular. This research also contributes to the field of critical youth studies, offering a socio-legal analysis of the changing legal landscape and possible impacts on youths' technology-mediated sexualities in the digital era.

This dissertation presents original empirical data to highlight three key points. First, it offers a critical analysis of the state's role in the discursive construction of youth sexuality as risky, with a focus on how these narratives are amplified in the age of digital technology. Second, it highlights how this discursive context filters into the ways adults think about youth sexuality, emphasizing that the state's desire to silence the sexual expressions of youth or to make them taboo (sometimes by using shame) has impacted whether young people turn to the adult world for help in situations they consider harmful. Finally, other Canadian scholars have researched teenage intimate image-sharing practices (Johnson et al., 2018; Karaian, 2014; Karaian & Van Meyl, 2015; Shariff & DeMartini, 2015) as well as legal interpretations and responses to non-consensual intimate image distribution (Dodge, 2019, 2021a; Slane, 2013). My study, however, investigates the impact that the new intimate images law, discourses of power, and young peoples' positionality on the boundaries of sexual citizenship have on the ways Nova Scotian youth navigate intimate image sharing, and how they understand and experience legal responses to the practice. There is very limited research on youth legal consciousness (Adelman & Yalda, 2000; Brisman, 2010; Stevenson et al., 2013) or legal mobilization (Morrill et al., 2010) in general, and even less around legal consciousness and mobilization as it relates to intimate image distribution. My project utilizes these two socio-legal concepts to discover how young people make sense of image-sharing practices, where these ideas come from, and how they impact decisions around what is and what

is not acceptable (i.e., normative) sexual behaviour (including mediated forms of it). I further explore what actions they might employ in instances that they deem unacceptable: when and why they do or do not choose to mobilize the law or seek legal redress.

Legal Landscape

In April 2013, headlines about the death of 17-year-old Rehtaeh Parsons of Nova Scotia circulated internationally. After months of being shamed by her peers for the photograph depicting her alleged sexual assault, Parsons ended her life. Rather than being treated as a sexual assault case with tragic consequences, however, political discourse transformed Parsons' death into a cautionary tale about the harms of cyberbullying and the non-consensual sharing of intimate images.

On November 12, 2011, Parsons attended a small house party in Eastern Passage, Nova Scotia. The guests, including the four young men in attendance, Rehtaeh, and her female friend, were drinking alcohol. Rehtaeh reported to police that her alcohol consumption caused the night to be a bit of a blur; however, according to police reports, it was beyond dispute that some of the young men engaged in sexual activity with her (Segal, 2015, p. iii). The issue for police was whether the sexual activity was consensual (Segal, 2015, p. 8). What is clear is that at one point, in what became known as “the window incident,” Rehtaeh was vomiting out of a bedroom window when one of the young men, Adam,² took a photograph of another young man, Josh, naked from the waist down, as he pressed his genital region into Rehtaeh's anal region while giving a thumbs-up to the camera (Segal 2015, p. 8). The photograph was taken without Rehtaeh's knowledge and shared with students at Cole Harbour District High School and beyond (Segal 2015, p. 11). While

² The young men's names are published in the 2015 Segel report.

it is possible that Rehtaeh may have consented to sexual activity before the moment at the window, according to the legal definition of consent as outlined in section 273.1 of the Canadian *Criminal Code*, her consent would have been automatically withdrawn the moment she was incapable of giving it (i.e., when she was so intoxicated that she was vomiting).³ However, despite what the law says, courts often only interpret incapacity to mean unconsciousness; therefore, intoxication to the point of vomiting is often not considered evidence that a woman lacked the capacity to consent (Craig, 2020). The question of consent became a central issue in how this case was handled by police even though Parsons herself described her experience as sexual assault (Segal, 2015; Rau, 2015).

On August 8, 2013, the Royal Canadian Mounted Police (RCMP) and Halifax Regional Police (HRP) announced that while the evidence “did not meet the threshold of sexual assault” (CP, 2013), they were charging one young man with creating and distributing child pornography and another with two counts of distribution. Soon after, the government of Nova Scotia introduced a *Cyber-safety Act* and launched the CyberScan unit, a government enforcement unit within the Province of Nova Scotia’s Department of Justice created to investigate cases of cyberbullying and NCDII.

The federal government also responded by introducing Bill C-13 (*Protecting Canadians from Online Crime Act*), which amended the Criminal Code by adding section 162.1 to address the non-consensual sharing of intimate images.⁴ And in October 2014, the Canadian Centre for Child Protection (CCCCP) introduced cyberbullying programs for teachers nationwide. Quickly becoming the backdrop case for state cyberbullying platforms, Parsons’ story shares similarities

³ Criminal Code of Canada section 273.1 (2): “no consent is obtained: where the complainant is incapable of consenting to the activity” (*Criminal Code*, RSC 1985, c. C-46).

⁴ See: <http://laws-lois.justice.gc.ca/eng/acts/C-46/section-162.html>.

with other highly publicized incidents, in particular those of Canadian teenager Amanda Todd⁵ and American teens Audrie Pott⁶ and Jane Doe.⁷ It has become a case to be referenced in courtrooms dealing with teenagers and the production and distribution of sexually explicit photographs,⁸ and has changed the way law enforcement in Nova Scotia approaches cases involving the non-consensual sharing of sexual images among teens, often improperly categorized as “sexting” cases. As discussed at length later on, my review of the Parsons case and the legislative and subsequent legal developments demonstrate that following the Parsons case there was a moral/sex/techno-panic about image creation that muddled definitional waters. In some ways this definitional messiness was legitimate and drew important legal distinctions between consensual and non-consensual intimate image sharing (as seen through Bill C-13). In other ways,

⁵ In 2010, fifteen-year-old Todd was chatting with Aydin Coban in an online chatroom when he took a screenshot of her exposed breasts with a webcam. Coban used the photograph as blackmail to convince Todd to continue engaging with him online. Todd experienced severe harassment both online and off from peers at school, which resulted in depression, anxiety, and a panic disorder, and caused her to self-harm. Her widely circulated YouTube video that details her experiences of sexual violence and abuse was posted in September 2012, one month before she ended her life. See CTV News, “Timeline: Amanda Todd Investigation”, (April 18, 2014). <https://www.ctvnews.ca/canada/timeline-amanda-todd-investigation-1.1782168>.

⁶ Audrie Pott of Saratoga, California, was sexually assaulted by three male youth at a party. Nude photos of her were posted online, and she later died by suicide (Mercury News, 2015; Cohen & Shenk, 2016). Pott’s parents created the Audrie Pott Foundation, a non-profit organization providing anti-cyberbullying presentations to schools, art and music scholarships, and grants for school therapists (see: <https://audriepottfoundation.com/>). In September 2014, the California government signed Senate Bill 838, legislation known as Audrie’s Law, which toughened juvenile sex crime statutes, giving “judges the option to allow the public to view proceedings of juveniles being prosecuted on sexual assault-based charges involving victims who were unconscious or developmentally disabled” (Schiafone, 2014).

⁷ On August 11, 2012, Jane Doe was sexually assaulted by high school football players Trent Mays and Ma’lik Richmond in Steubenville, Ohio. The assault was photographed and documented on social media. The victim was shamed across social media and blamed her for her own sexual assault (Mannion, 2013). Both young men were found guilty of raping the 16-year-old and were sentenced to serve time in the state juvenile system. During the court proceedings, trial judge Lipps cautioned teens about how to conduct themselves when alcohol is present and in “how [they] record things on social media that are so prevalent today” (Oppel Jr., 2013).

⁸ In *R. v. C.N.T.* (2015), the judge stated: “It is important to note the date of these offences: 9 November 2014. That is over a year and a half since the tragic death of Rehtaeh Parsons. In that intervening time, this province and this country underwent a transformational shift in recognizing the vulnerability of young people—particularly females—to trauma, psychological harm, serial victimization and predation as a result of people (including—perhaps particularly including—age peers) doing precisely what C.N.T. did to his victims. Legislative action was swift. *Protecting Canadians from Online Crime Act* criminalized the non-consensual sharing of intimate photos. Nova Scotia enacted the Cyber-Safety Act, permitting the issuance of protection orders to stop cyberbullying” (*R. v. C.N.T.*, 2015 NSPC 43 (CanLII), <<http://canlii.ca/t/gk29w>>, retrieved on 2016-05-12).

moral panics about image creation worked to collapse all forms of youth image sharing as inherently risky. My qualitative data (both interviews and art) with youth reveals that these panics are insensitive to the ways that youth conceptualize and respond to sexual assault images, NCDII, and their overlaps and differences.

The Parsons case occurred shortly after a spike in legal, social, and educational responses to teenage sexting in the United States and Canada. Scholars began investigating the widespread panic that teenage sexting was causing in the United States in 2008, tracing developments in legislation aimed at addressing the “problem” (Calvert, 2009; DeMitchell & Parker-Magagna, 2011; Graw-Leary, 2010; Hessick, 2014; Karaian, 2012; Kushner, 2013; McLaughlin, 2012; Walters, 2011). Not long after the panic about teenage sexting in the US started, and largely in response to the Amanda Todd and Rehtaeh Parsons cases, there was an increase in prosecutions of minors under child pornography laws in Canada (Bailey, 2014; Karaian, 2014). As will be discussed in Chapter Two, the mobilization of moral/sex/techno-panics about children to enact criminal law are well documented (Best & Bogle, 2014; Jenkins, 1998; Jewkes, 2010; Kohm, 2020). My findings contribute to this body of literature and advance the distinctions between moral panics from the “adult world” and the ways in which youth themselves perceive their own intimate image-sharing practices.

At the outset of my project, I was interested in understanding whether and how charging the perpetrators in the Rehtaeh Parsons case with the production and distribution of child pornography sent a message that this was not a case of sexual assault. I originally aimed to better understand the possible impact—if any—that the legal response to the case might have had on how teens understand the legal parameters of sexual assault, including the legal definition of consent, and how this may have impacted their understanding of the creation and distribution of sexual

images. These questions propelled this project, but as I began engaging with youth via grounded theory methodology (Charmaz, 2006), different research questions emerged. Questions surrounding the role that moral panics about youth sex and technology have played in the development of the legal landscape following the Parsons case became more prominent.

The Role of Law

Rehtaeh Parsons was harmed by horrific harassment (both in-person and online) by her peers. The harassment never stopped, not even after her death. It was violent, misogynistic, and deeply influenced by a culture that shames victims of sexual assault. Through empirical research with young people, this dissertation aims to contribute to feminist scholarship that queries the role of law in responding to sexual harms. By engaging with youth perspectives and voices, I demonstrate that legal redress remains important in their conceptions of justice, even though many view formal legal avenues as being largely undesirable routes for young people who have experienced sexual or gendered harm (both on and offline).

Some feminist scholars have emphasized that criminal law is limited in its ability to change the cultural and social norms that contribute to sexual and gender-based violence, fails to meet the needs of survivors, and sometimes aggravates the distress that survivors experience (Henry et al., 2015). Anti-carceral feminists like Chloe Taylor (2018) have argued that feminist literature that calls on law-and-order responses to sexual and gendered violence revictimizes and fails complainants. Further, anti-carceral feminists maintain that a push for carceral responses in cases of sexual and gender-based violence have had undue effects on perpetrators, including contributing to the over-incarceration of racialized minorities. There is, however, a growing body of feminist work that questions anti-carceral feminism's central premises and argues that it is important to

recognize that some victim-survivors of sexual violence seek criminal justice redress (McGlynn, 2022), and that feminist scholars and activists should not fully turn our backs on the law. Emerging scholarship from feminists such as Lise Gotell (2015) questions the extension of anti-carceral feminist work on sex trafficking (Bernstein, 2012) to sexual assault laws, cautioning against a full rejection of criminal law in these cases. Gotell has argued that “the absolute rejection of criminalization strategies might well have the effect of re-privatizing sexual violence, with the inevitable return of impunity for perpetrators” (2015, p. 54). I situate this dissertation within this growing body of feminist literature in that I recognize and honour that Rehtaeh Parsons reported her alleged sexual assault and the distribution of the photo of that act to police, and, like with so many other victim-survivors, the police failed her. What followed were legal changes around intimate image distribution and an increased governmental focus on turning to criminal law to address this seemingly widespread issue.

Within that dominant governmental narrative is evidence of adult panics surrounding how young people use digital media for *any* type of sexual interaction. Therefore, this dissertation examines how this narrative does not accurately reflect the reality of digital image-sharing practices among young people—participants in my study shared that consensual image sharing was much more common than sharing others’ intimate images without their consent. Unfortunately, consensual and non-consensual image sharing are often conflated as both are inherently risky, especially in a legal landscape that criminalizes the latter. This collapsing of types of image sharing impacts young people’s sexual citizenship, which entails the right to sexual autonomy, expression, and decision-making; control over one’s body, feelings, and emotions (Plummer, 2001); and access to representations (Cossman, 2007), relationships (Richardson, 2000), and public spaces—including digital spaces (Plummer, 2016). My study explores how

dominant narratives around Parsons turned so quickly toward the danger of online spaces, the legal changes that followed, and the impacts that these narratives and legal changes had on young people who so commonly navigate between on and offline spaces while engaging in relationship building, digital intimacies, and expressions. Further, while NCDII does happen and is sometimes experienced as harmful, my research demonstrates that youth generally felt that alternatives to criminal law would be preferred among their peers. Therefore, this dissertation contributes to emerging scholarship that examines alternative or extra-legal approaches in cases of online harm among youth (Hasinoff et al., 2020; Powell, 2015).

Conceptual Framework

The conceptual framework for this dissertation takes insights from sexual citizenship studies, cultural studies on moral panics, and critical youth studies, and puts them in conversation with socio-legal work on legal consciousness. Here, I aim to better understand how different institutions impact young people's legal consciousness and how young people's ideas about the legality surrounding intimate image sharing have been shaped. I examine youth legal consciousness in connection with how young people have been constructed as not-yet sexual citizens (Robinson, 2012) and what this means for institutional responses to their digital practices. Through engagement with youth narratives about the relationship between youth sexuality, law, and online spaces, I illustrate how their ideas can be understood as evolving from structurally based interactions. Critical youth, sexual citizenship, and moral panic frameworks allow for an examination of the ways in which the adult world has constructed young people's digital sexual practices as problematic and in need of legal and social regulation. These constructions impact the social interactions that young people have with parents, teachers, legal actors, and other adults in

their day-to-day lives. Then, legal consciousness allows for an examination of how the youth participants' understandings, attitudes, and feelings about the law flow from these structurally based interactions. I explore how their thoughts and ideas about the law and image sharing are shaped by their experiences navigating limited sexual citizenship. Further, considering my original research questions concerning the impact of a failed police response to the alleged sexual assault against Rehtaeh Parsons on young people's legal consciousness, I examine how law and its enforcers have the capacity for shaping individuals' internal meanings of law (Sarat & Kearns, 1993, p. 21). While many youth participants did not remember the Parsons case, most shared negative perceptions about how police handle sexual assault cases.

Sexual Citizenship

The focus of this project is to engage with youth voices. To support the centring of youth voices and the recognition of young people as legitimate sexual actors with stakes in policy development, I draw on sexual citizenship literature, which offers a way of thinking about responses to sexual and digital harms that focuses not on individual behaviours but on multiple systems that contribute to these issues. In their work on campus sexual assault, Jennifer Hirsch and Shamus Khan (2021) argued that in addition to recognizing one's sexual rights and autonomy, being a sexual citizen entails recognizing the rights of others to say "yes" or "no" to sex. I situate this project within a sexual citizenship theoretical framework that unpacks the ways that hegemonic discourses about childhood and innocence have been mobilized to deny young people access to knowledge about sex and to regulate their sexual lives. Designing research that engages with questions about youth sexual practices and expressions requires understanding how young people continue to experience "difficult" citizenship within the controversial context of youth being considered sexual citizens (Aggleton et al., 2019; Robinson, 2012; Talburt, 2018). These

questions about young people's sexual citizenship are intimately linked to critical feminist work on sexual consent and gendered regulation. I agree with Hirsch and Khan (2021) that sexual citizenship is a larger community project that involves challenging notions of sex-negativity in society, families, public educational institutions, and among young people themselves. This dissertation approaches the question of young people's rights as sexual actors through this perspective, arguing that sexual citizenship is a useful concept in thinking through how digital technology has presented unique opportunities for young people to make claims to their sexual agency and self-determination. I argue that the framing of young people's sexual activity as inherently dangerous, including their technology-mediated sexual projects, is a direct suppression of their sexual citizenship.

This project contributes to a small body of literature on young people's digital sexual citizenship, which examines participatory and protection rights in online spaces with a particular focus on online sexual cultures (Albury, 2017). Digital citizenship is not meant to be protectionist or disempowering, but it identifies the conditions in which young people can participate openly in online spaces (Setty, 2022). It therefore includes "political and civic activities but also young peoples' broader understanding of citizenship values, their civic engagement and their rights in the world" (Stoilova et al., 2020, p. 8). I draw on Kath Albury's (2017) rights-based approach, which is grounded in deconstructing the social norms that shape expectations of online behaviour. Albury (2013) recommended reorienting our theoretical starting point from a focus on the "impact" of new media on young people's well-being to grounding our analyses in the role that digital media plays in shaping young people's "place in the world" (p. 34), and that media literacy is one way to centre young people's own engagement with both media production and media practices.

Cultural Studies of Moral Panics and Claims-Making

This dissertation also contributes to literature that examines the impact of moral panics on young people's sexual citizenship (Robinson, 2008, 2012; Shamus & Khan, 2021), taking insight from historical studies that have traced child sex panics to understand the impacts that socially constructed ideas about childhood and adolescence have on young people. Following a social constructionist paradigm, this dissertation explores the role of claims-making and moral entrepreneurs in constructing the "problem" of intimate image sharing among teenagers. This conceptual framework influenced my decision to include parliamentary debates in my data sources, to understand how claims-making processes are happening around youth sexuality and technology. It also draws on Foucauldian discourse analysis to examine how protectionist discourses, technopanics (Marwick, 2008), and the suppression of sexual citizenship claims by youth can all be understood as part of a contemporary "discursive explosion" (Foucault, 1978, p. 17) that constitutes youth sexuality as "problematic." My findings suggest that discourses about teenage sexuality and technology are circulated within politics, schools, popular culture, organizations serving youth, and youth peer groups, and that these "regimes of truth" (Foucault, 1990) constitute what it means to be a good teen and a good citizen subject in the digital era. I found that being a good citizen subject in the digital era means being technologically responsible and risk-averse, overtly aware of the potential "dangers" of online spaces—including the perceived lack of privacy that exists—and willing to follow the normative rules about sexuality that are expected of young people. These include not engaging in forms of technology-mediated sexual activities outside of relationships of trust (i.e., any sexual expression that is not within a monogamous dating relationship where both partners have a mutual sense of respect for the other's privacy). However, through conversations with youth participants, I also found that some believed that being a good citizen subject, especially with respect to sexuality, meant not being perceived

by adults as sexual at all; they had internalized the feeling that adults did not understand or did not want to understand their sexuality.

Critical Youth Studies

A critical youth framework (Ibrahim & Steinberg, 2014; Best, 2007; Cote & Allahar, 2005; Cerecer et al., 2013) informed my decision to employ the participatory methods that I used for data collection, including art workshops and individual interviews with youth. This framework is also important when working with participants who have been, and continue to be, constructed as not sexual actors (i.e., as not full sexual citizens).

The field of critical youth studies was founded on certain key methodological and ethical ideas including: that the lives of young people should be understood for what they are and not studied solely in relation to adult concerns; that young people must be seen as an important source of knowledge about their own experience and their world; and that the rights of young people must be respected within the research process in that they should not only be the focus but also should be actively engaged (Allen, 2008; Clark et al., 2014, pp. 2–3; Mitchell & Reid-Walsh, 2013). As argued by critical youth scholar Louisa Allen (2008), youth have been historically cast as passive objects of study due to social discourses that undermine their agency and position them as always being “at risk” from both themselves and adult others (p. 565). Working within critical youth studies’ methodologies as a feminist researcher, I challenge youth’s exclusion from the social processes through which knowledge about them has been created (Best, 2007; Hazel, 1995). According to Amy Best (2007), this can be accomplished by conducting collaborative and participatory research.

Foster-Fisherman et al. (2010) stated that Youth Participatory Action Research (YPAR) has become a popular tool for jump-starting youth engagement, giving youth an opportunity to

voice their concerns, and launching programs and activities that meet the needs of local youth within their communities. According to Rodriguez and Brown (2009), “PAR is an empirical methodological approach in which people directly affected by a problem under investigation engage as co-researchers in the research process” (p. 23). My project was inspired by YPAR approaches whose projects vary in their design depending on the extent to which youth are involved in the research process (Rodriguez & Brown, 2009; Foster-Fisherman et al., 2010; Mirra et al., 2016). Many YPAR projects include youth as collaborators in research often for the purpose of engaging the community in activism, education, and a transformative process. I could not engage youth before having ethics approval, and the university ethics board required a project design, sample questions, and consent forms, thus challenging the participatory process. Therefore, my study does not fully meet the threshold of YPAR in that it was not conducted with youth researchers, but it is situated and inquiry-based in that “the topic, content of learning, and the knowledge produced reflect and address the real-life problems, needs, and desires of youth” (Brown & Rodriguez, 2009, p. 25).

I was inspired by YPAR approaches when thinking about the best ways to design data collection methods, aiming to engage youth in a variety of ways that included art-based group methods and one-on-one interviews. Therefore, my methodological approach to working with youth during this project includes both traditional methods of research collection in the form of interviews and a youth-centred participatory visual art-based approach. It was my hope that including art-based methods (discussed below) would make participation as accessible as possible to the young people who wished to be part of the study (Coad, 2007; Yonas et al., 2009), and also to mitigate some of the power imbalances that exist between adult researchers and youth participants, which are often present when employing traditional research methods. Therefore, this

participatory method was chosen to empower participants and to encourage them to engage in the research process in ways that they found most comfortable (Mitchell et al., 2018; Stewart, 2020).

Legal Consciousness

According to Susan Silbey (2005a),

Legal consciousness as a theoretical concept and topic of empirical research developed within law and society in the 1980s and 1990s to address issues of legal hegemony, particularly how the law sustains its institutional power despite a persistent gap between the law on the books and the law in action. (p. 323)

As a youth legal consciousness scholar, I examine how dominant legal and/or criminal understandings of consent to sex and image sharing might influence young people's understandings of legality in this area. I am keenly interested in where these ideas about legal prohibitions originate and how they circulate for teens, whether at school, in the media, among friends, or within their families. Legal consciousness helps make sense of the ways that law seems to matter in the everyday experiences of people. Consider examples of everyday interactions that might become legal issues: parental responsibilities become legal issues during a divorce; harsh words between co-workers could become evidence of harassment that might go to a legal form to get addressed; teenagers hanging out late at night might become trespassers; and even death is sometimes transformed into a legal dispute in the moment of adjudicating a will. Instead of seeing law and our everyday lived experiences as separate from each other, in their formative work on legal consciousness *The Common Place of Law*, Patricia Ewick and Susan Silbey (1998) argued that law permeates the daily lives we live in ways that might be mundane but are also meaningful. Ewick and Silbey (1998) explored the ways that law has, in many senses, taken on a commonplace materiality whereby it is experienced simultaneously as both abstract and familiar—people may

not have direct experiences with the law, but they commonly invoke legal language in their everyday lives. Ewick and Silbey were seeking people's experience and interpretations of the law and did not want to assume its place in their lives, rather they wanted to discover whether it did or did not emerge in accounts of events. While influenced by legal consciousness scholars, I did not use this same approach in my data collection—I deliberately asked research participants about law. Since Ewick and Silbey's formative work, scholars have developed and added nuance to the legal consciousness approach, taking new directions to explore agency and the strategic use of law among marginalized groups including undocumented immigrants (Abrego, 2011, 2018; Gonzalez, 2023; Gonzales, 2012; Gonzales & Chavez, 2012; Muñoz, 2018), sexual minorities (Harding, 2006, 2011; Hull, 2016; Richman, 2014), transgender people (Cowan, 2020), Indigenous populations (Jacobs, 2010; McMillan, 2011), women (Liu, 2018; Marshall, 2005; Porter, 2020), sex workers (Boittin, 2013; Klambauer, 2019), workers (Gallagher, 2006; He et al., 2013; Smith, 2005), prisoners (Augustine, 2019; Calavita & Jenness, 2014), unhoused populations (Berti, 2013), and the poor (Hernandez, 2010; Huang et al., 2014). The relationship between legal consciousness and mobilization is important for my study. I draw on this body of scholarship to examine the gap between young people's awareness of acts that are crimes and their willingness to turn to formal law. My work contributes to a small body of scholarship that studies legal consciousness in the areas of sexual harassment and sexual harm in Western societies (Blackstone et al., 2009; Gash & Harding, 2018; Oberweis et al., 2021), and an emerging body of literature that studies legal consciousness and digital media (Creutzfeldt, 2021; Janson, 2023; Sarikakis & Winter, 2017; Van de Graaf, 2023).

There is very little work on youth legal consciousness (exceptions are: Brisman, 2010, 2012; Carr, Napolitano, & Keating, 2007; Morill et al., 2010; Muñoz, 2018). In this dissertation,

I bring together insights from critical youth studies and legal consciousness scholarship to explore both the hegemonic power of law in regulating youth sexuality and why it is that young people are unlikely to turn to state law when they define experiences as rights violations. Therefore, my work is situated in what Lynette Chua and David Engel (2019) have called the second and third schools of legal consciousness scholarship—Hegemony and Legal mobilization. I explore the impacts of legal hegemony and the “subtle ways that law affects the everyday lives of individuals” (Nielsen, 2000, p. 1059). My data analysis reveals the impact that governance discourses about youth, sexuality, and technology have had on youth, and the ways they think about, speak about, and act (or don’t act) in cases of non-consensual intimate image distribution.⁹ I found that young people would not turn to formal state law in these cases, and I use legal consciousness frameworks to help explain why. First, I argue that a lack of mobilizing formal law does not mean that hegemony does not exist. Rather, hegemonic ideas about childhood innocence (and the sexual shaming that accompanies it) are so powerful that young people do not feel that state law is a safe place to turn for help. My conversations with teenage participants illustrated that how they interpret and respond to rights violations is connected to the social constructions of youth, gender, and race, each of which helps define where they belong in the social fabric (Engel & Munger, 2003; Morrill et al., 2010). Perhaps not surprisingly, given their status as minors, youth experience more legal alienation than adults, and certainly more than politicians who are adamant about the constructive role of the law in this area.

Definitional Parameters

In this section I identify some definitional parameters around how I use the terms “youth,”

⁹ From an empirical perspective, it is important to note that my data and analysis are limited to the field of criminal law.

“adolescent,” and “teenager” throughout this dissertation. This also includes a discussion of some of the scholarly critiques of collapsing “youth” with “the child.”

The United Nations defines “child” as anyone under the age of eighteen, and “adolescent” as anyone between the ages of ten and nineteen (UN Convention on the Rights of the Child, 1989). Under this definition, the adolescent is considered a child and protected under the Convention on the Rights of the Child. The Canadian Department of Justice similarly lumps “youth” into the same category as children in its report on strategies to protect Canadian children (2015), noting that governmental protection strategies should be in line with the values and principles contained in the UN Convention on the Rights of the Child.¹⁰

Scholars studying youth sexuality have raised concerns about discourses of children and youth being used interchangeably (Weller, 2006), and children and adolescents being talked about as one and the same when it comes to sex (Cocca, 2006). According to Carolyn Cocca,

Collapsing ‘adolescents’ and ‘children’ together tends to rouse fear and anger among the populace and gives the word ‘adolescence’ real political and social power that can lead to public policies and cultural norms that may be serving other agendas and may or may not be helpful to adolescents themselves. (2006, p. 4)

The political and legal tendency to lump children and adolescents into one category erases the distinct needs of adolescents themselves who are in an in-between state, neither children nor adults. Following these critical youth scholars, I wish to map the particularities of these “in-between” adolescents. I engage with and promote the self-definitions of the teenage research participants. I use the terms “teenager” and “youth” interchangeably in this dissertation to refer to participants between the ages of thirteen to eighteen, while recognizing that teenager is a culturally specific

¹⁰ See: <https://www.justice.gc.ca/eng/rp-pr/cp-pm/cr-rc/dig/prot.html>.

term and that my focus is on constructions and representations of teenagers in the West.

Methodology

I chose Nova Scotia as the location for this study given its central position in the Parsons case; the fact that it was one of the first provinces to prosecute minors under Canada's non-consensual intimate image distribution law (Bresge & Tutton, 2016); and because of my professional connections with an art therapist, women's centres, and youth centres in the province. In preparation for fieldwork and to establish connections with community-based organizations across the province, I participated in a workshop in December 2016, hosted by the HeartWood Centre for Community Youth Development, called "All In! Facilitating Positive Youth Group Experiences," which focused on building skills and capacity for facilitating youth programs. The workshop was designed for those working directly with youth. It was here where I met art therapist Evie Dunville and we agreed to work together on my project. I decided to work with Evie because of her local knowledge and her experience conducting art workshops with young people in Nova Scotia. Evie established connections with three Family SOS locations in Halifax, Spryfield, and Dartmouth, where three of the four art workshops were conducted. Six of the ten individual interviews were also conducted with youth affiliated with these programs. Family SOS is a non-profit organization that supports families in need, meaning that most of the participants involved in the art workshops conducted with Family SOS were from low-income and diversely racialized households. One of the four art workshops I conducted was held at the MacPhee Centre for Creative Learning, and from that workshop I connected with an interviewee who introduced me to two additional participants. This unplanned snowball sampling proved very fruitful. The final interview was conducted in a rural community, the interviewee recruited via social media. Art workshops and interviews were completed between May and July 2017. Working with Evie,

Family SOS, and other organizations serving youth in Nova Scotia (Second Story Women's Centre, the MacPhee Centre for Creative Learning, and Youth Art Connection) helped me establish relationships of trust with participants.

Before, during, and after collecting and analyzing the interview and art workshop data, I also worked with other data sources including legislative debates, an online survey, and educational campaigns, programs, and curriculum about intimate image sharing. These secondary sources were employed in order to learn how youth are conceptualized in law. In combination with this, my approach to the mixed data sets helped me consider questions regarding how these discourses about youth, digital media, and sexuality impact the way adults who work with youth understand youth and digital intimacies, and most importantly, how youth themselves absorb and engage with these discourses.

Ethical Considerations and Challenges

Receiving ethics approval for this project proved challenging. I submitted my request for ethics approval in October 2016. I did not receive approval until March 2017. I was asked to revise my research plan multiple times due to the nature of the research questions and because the participants were primarily under 16 years of age. This is, perhaps, not uncommon for projects that wish to study youth and sexuality; however, this anxiety also speaks to some of the criticisms about the way youth sexuality is conceptualized in law—criticisms I engage with throughout this dissertation. Academic institutional ethics boards are not immune to the influence of discourses that construct youth as inherently vulnerable and youth sexuality as risky (Allen, 2008; Tolich, 2016). Moore and Reynolds (2018) argued that when the word “childhood” is juxtaposed with sex and sexuality, conservative voices are reinforced. These conservative voices view any interest (including research) in childhood and sexuality “with suspicion, and the dominant and prevailing

discourses of disgust, shame and vilification are amplified” (Moore & Reynolds, 2018, p. 4). In most research involving minors under 16, ethics boards require that parental consent be sought before youth can participate in any research activity (Tolich, 2016).

In my original proposal, I indicated that I would conduct both individual interviews and focus groups with youth between 13–18 years of age, and that I was unwilling to make parental consent a requirement. In January 2017, the Office of Research Ethics informed me that while they would grant my request to waive parental consent for individual interviews, they could not waive it for the focus groups. The committee also had serious concerns about the use of focus groups in this context because, they argued, the sensitive nature of the topic meant that the use of focus groups could not ensure confidentiality, which could be potentially problematic if participants disclosed personal information about their own experiences in relationships. They were also concerned that, if participants were under the age of 16, I would have a legal duty¹¹ to report any related circumstances that had put the participant in danger. I provided the Research Ethics Board with a response letter in February of 2016 that cited research that challenges the tendencies of ethics boards to assess parental consent as a protection factor (Dell-Clark, 2011; Taylor, 2008). In response to the Board’s concerns, however, I decided to rethink my data collection methods to include art-based visual methods provided via art workshops rather than focus groups. The board permitted my request to waive the parental consent requirement for art workshop participants under 16.

These workshops included art-based storytelling methods to represent youth’s engagement (or lack of engagement) with and understanding (or lack of understanding) of formal state responses to, and public dialogues and debates around the Rehtaeh Parsons case. The proposed

¹¹ *Children and Family Services Act*, c. 5, s. 23 (1990). Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/children%20and%20family%20services.pdf>.

YPAR method offered a flexible approach and a way for youth involved to represent their own lived experiences rather than having their stories told for them. Youth were given the option to choose which artistic mode of representation they would like to employ, including drawings, paintings, collages, posters, poems, etc. They also chose how they would like to present their work to the community (e.g., as a book, a calendar, posters for school, a newspaper publication, etc.). This art-based methods approach was conducted in partnership with art therapist Evie Dunville (BFA, Mount Saint Vincent University). The request for ethics approval was granted and I started circulating posters for the art workshops and interviews immediately. I travelled to Nova Scotia in May 2017 to commence fieldwork.

Individual Interviews with Youth Using Vignettes

Interviews are one of the most common qualitative methods used to gather deeper understanding about individual perspectives around a specific issue (DiCicco-Bloom & Crabtree, 2006). Qualitative interviews offer several advantages over quantitative data collection. This includes allowing the researcher to hear from interviewees in their own words (Dixon, 2015), which provides much more detailed information (Platt, 2012). In-depth qualitative interviews are best used with a sample of interviewees who share similarities related to the research question. This helps to maximize the richness of the data gathered to address the question (DiCicco-Bloom & Crabtree, 2006). It is also important that specific techniques be adapted depending on the population being interviewed (Dixon, 2015). In working with youth interviewees, it was essential to employ specific methods that would allow me to open up space for respondents to communicate ideas and feel at ease with speaking with me about sensitive topics (Hazel, 1995). In this section I explain the consent process, outline the specific techniques that were used for the in-depth interviews, and reflect on the interview process.

Face-to-face in-depth interviews were conducted with 10 youth between the ages of 14 and 17 (two young cisgender men and eight young cisgender women). While the relatively small number of interviewees is recognized as a limitation of the study, additional data to support interview findings was gleaned from the art workshops and survey data described below. Each interview was conducted in a secure location chosen by the interviewee. With one exception, all were one-on-one, between me and the youth interviewee. In one case, an interviewee requested that their support person (a youth worker) be present. Five of the interviewees volunteered for the interview following participation in an art workshop, which helped make them more familiar with me and the topic at hand. The other five volunteered but had not participated in art workshops. There were no notable differences in terms of responses between the interviewees involved in the art workshops and those who were not.

As a feminist and critical youth researcher, I am aware of the nature of my positionality and the relationship I have to the youth involved in this study. I wanted the relationship between me and the youth interviewees to feel non-hierarchical. In her work, sociologist Ann Oakley (1981) claimed that feminist researchers who wish to have a relatively intimate and non-hierarchical relationship with the interviewees must be prepared to invest their personal identity in the interview relationship. According to Oakley, this does not mean taking explicit initiatives in this direction but instead being very transparent with participants that you do not wish to exploit them or what they share during the interview. I ensured interviewees that no one besides me would listen to their interview recording and that their names would not be included on any publications that resulted from the research (Oakley, 1981). Oakley's work also challenged conventional masculinist assertions that "proper" interviews do not include comments, emotions, or feelings on the part of the researcher. On the contrary, feminist research holds some central values that

informed how I engaged with youth interviewees. These include: hearing often silenced voices; minimizing the power hierarchy between interviewer and interviewee; and having open and honest discussions that sometimes involved answering questions or offering my thoughts on an issue when participants asked (Oakley, 1981, 2016). Conducting the art workshops before the individual interviews was one method I used to build trust and minimize the power hierarchy between myself as the researcher and the youth participants. In the workshop, I emphasized that the young people were the experts and that Evie and I were there to learn from them. This previous engagement set a really comfortable tone for the interviews that followed. Not all of the interviewees completed an art workshop before an interview, but in most cases, they had friends who had, and they had been recruited by those friends for an interview. To minimize the exploitation of participants (i.e., taking their data and not giving them anything in return), I engaged in an equal sharing of opinions, thoughts, and ideas during the interviews (Thwaites, 2017). For example, when participants asked me a question, I gave them a response. This may have impacted the subsequent responses they provided.

The interviews were semi-structured and included eight vignettes about non-consensual intimate image sharing that were used as a starting point for conversation. Vignettes are short stories about hypothetical scenarios, presented to participants during qualitative research to gather information about their own sets of beliefs (Hazel, 1995; Hughes, 1998; Finch, 1987) and/or to draw out perceived cultural norms from respondents' attitudes and beliefs about a specific situation (Barter & Renold, 1999). Drawing on the work of Hazel (1995) and Barter and Renold (1999), I used the vignette technique as an icebreaker at the beginning of each interview with youth respondents by asking how a third person character in the story might react to a particular situation. Vignettes are also used in research that explores sensitive topics, to provide a less personal and

less threatening method of approach for subjects who may be uncomfortable otherwise (Barter & Renold, 1999, 2000; Neale, 2002). The primary limitation encountered when using vignettes in isolation is the indeterminate relationship between beliefs and actions (Barter & Renold, 1999, 2000). For instance, while participants might indicate their belief that a youth sharing a nude photo of someone without their consent should be punished via criminal law, they themselves might not actually take this approach. Indeed, as my conversations with participants revealed, most youth indicated at some point during follow-up questions that youth in general (often themselves included) would not turn to formal law as a first point of contact in cases of non-consensual intimate image distribution. This will be discussed in more detail in Chapter Six. After we had finished discussing each vignette, I asked youth interviewees six follow-up questions about the vignettes including: “What do you think of these questions? Would have worded them differently?” and “Where does the law come into your understanding of your answers?” (See Appendix B for interview guide.) Then, I had fourteen additional questions designed to open space for young people to share their perspectives about the relationship between youth sex and technology in their own words.

All interviews were audio-recorded with participants’ consent and then transcribed in full. Interviewees were assigned pseudonyms to maintain their confidentiality. In terms of data analysis, open coding was conducted using QSR NVivo qualitative software to organize findings based on emerging themes (Charmaz, 2006; Maher et al., 2018). I first read each transcript in full to note common themes, differences, and specific quotes that I believed would allow for a deeper analysis or new insights. The initial coding of the interviews revealed 39 primary themes and several sub-themes, which are detailed in Table 1 in Appendix A.

Art Workshops with Youth

Four participatory art-based workshops on the themes of law, sex, and technology were conducted in collaboration with art therapist Evie Dunville, Family SOS, and the MacPhee Centre for Creative Learning. There were 15 participants in total between the ages of 13 and 18 (10 cisgender young women and five cisgender young men). Participants were a diverse group of young people including youth of colour, Indigenous youth, immigrant and refugee youth, 2SLGBTQI+ youth, low-income youth, and youth living with disabilities.

The opportunity to create visual data opened space for teenage participants to draw, paint, or write about their experiences navigating sexuality in online spaces. The art-making methodology offered different understandings than interview-based conversations. I decided to employ arts-based methods to engage new manners of expression and enthusiasm, and to encourage young people to participate in ways that are exciting, fun and inclusive (Brady & Brown, 2013). Further, as Mitchell et al. (2018) argued, a visual participatory methodology is best used when working with a sensitive topic and/or marginalized communities since “it allows ease in participants’ expressing ideas around an issue that is difficult to articulate or that falls into the area of subjects that are deemed inappropriate for discussion” (p. 22). According to Cheryl Heykoop (2014), art-based participatory methods like drawing provide space for participants to control when, what, and how much they want to share. Capous-Desyllas and Morgaine (2018) posited that arts-based methods offer accessible ways to connect emotions and support empathic responses, and can provide new ways of “knowing, seeing, and experiencing social issues” (p. xiv). According to Capous-Desyllas and Morgaine (2018), art-based methods have three primary goals, which include: elements of social activism by giving voice to marginalized groups, making connections between research and lived experience, and using multiple senses and mediums to make meaning.

By moving beyond traditional research methods and putting greater emphasis on those that encourage knowledge created by youth, my study set out to enable young people to produce their own creative visions of what the relationship between technology, sex, and sexuality means to them. This “insider perspective” somewhat challenges the adult understandings about youth intimate image sharing that have dominated public discourse. The art workshops presented an opportunity to garner different knowledge from youth participants about intimate image sharing and sexual citizenship through creative sensory mediums, and to share this knowledge with a wider audience. Some of the art that was created by participants was displayed at Family SOS for the staff and youth to see. With the consent of some participants, I have also included this artwork in conference presentations and in this dissertation, to visually represent how participants are thinking about these issues. The decision to disseminate the art in these ways was made to reflect the goal of generating a wider understanding (Brady & Brown, 2013) of youths’ intimate image-sharing practices and their perspectives about legal redress.

The art workshops also challenged me to listen deeply to what participants were saying. This is where it became clear that my research questions were going to have to change and that they were being shaped by what the youth were putting on paper. I decided to use the art workshops to truly engage a critical youth research methodology that problematized power relations between myself (a white, middle-class, heterosexual cis woman) and youth (mostly from low-income and diversely racialized communities). This method was designed to capture youth perspectives around technology, sex and sexuality, and law in ways that positioned them—youth—as the experts from whom myself (as researcher) and other adults could learn (Sandlin et al., 2018; Renold, 2018). A limitation of a group art workshop is that some of the data relate to group-level attitudes, norms, and meanings. These cannot be understood or analyzed as indicative of more personal

perspectives, although these emerged in the final part of the workshop, when participants were creating their individual art pieces. It is, however, also recognized that even these pieces were likely influenced by the group discussions.

While the workshops were not conducted as art therapy, given the collaboration with an art therapist, we respected the principles of art therapy (Kapitan, 2010)¹² and therefore did not use audio-recording. Instead, field notes were taken following each session. These notes were analyzed along with the preceding interview data. Each workshop was conducted over a two-hour time period and included: a word association exercise on the topic of law and youth sexuality; the creation of a “mind-map” dissecting the relationship between law, sex, and technology; and time for personal reflection on the workshop themes, with the option to produce a piece of art (e.g., painting, illustration, or poem).

It was important to think about how the imagery and art created and presented by participants may have been received by youth outside of this study and others in general. There was potential that the images and art they created could be sexually expressive—and indeed some were. Working from a critical youth and sexual citizenship framework, I believed that it was important that the youth participants were not limited in how they chose to represent their understanding of the impact of the responses to the Parsons case on their sexual citizenship. Critical queer youth scholar Susan Driver (2007) emphasized the importance of open discussion about how young people feel, think, and act as sexual subjects. Her work draws on feminist narrative methods and queer theoretical work on performative representations to approach “do-it-yourself media projects that enable young people to produce their own creative visions of sexuality as an empowering and difficult practice of self-representation” (Driver, 2007, p. 306). Moreover, Driver

¹² The therapeutic element was not my responsibility, but in working in collaboration with an art therapist, I respected and followed the protocols that they work in accordance with.

believes “that it is ethically and politically important to develop research that provides queer youth with room to experiment with verbal and visual languages of desire as a means of self-consciousness and public recognition” (p. 306). Drawing on Driver’s approach, this project’s methods encourage youth to engage with research methods that enable them to explore themselves as sexual citizens, a subjectivity that is often denied by the institutional discourse of childhood sexuality.

Legislative Debates

In order to examine how we arrived at the enactment of the federal Non-consensual Intimate Image Distribution law and Nova Scotia’s *Cyber Safety Act*, I analyzed the legislative debates. This process allowed me to trace the ways in which dominant discourses about criminal justice, youth and sexuality, and the dangers of technology shape understandings of non-consensual intimate image sharing among youth. I used QSR NVivo qualitative research software to analyze the House of Commons debates on Bill C-13 (*Protecting Canadians from Online Crime Act*) and all three readings of Nova Scotia Legislature’s Bill 27 (*Cyber Safety Act*). NVivo allows users to organize and code large amounts of data into top-level “codes” that allow the researcher to sort through large data sets and give meaning to the text (Leech & Onwuegbuzie, 2011; Maher et al., 2018). In addition to top-level codes NVivo allows researchers to create “sub-codes” to further organize the text and to allow for “code mapping.” These codes were derived from both my reading of the existing literature on the topic of cyberbullying and intimate image sharing as well as my first scan of the debates. As such, the coding process was both deductive and inductive (Fereday & Muir-Cochrane, 2006). Once initial themes were translated into codes, the debates were read and coded in full. Thirteen top-level codes and five sub-codes were created based on this reading. These codes are detailed in Appendix A .

Educational Campaigns, Programs, and Curriculum

To understand where Nova Scotian youth get legal information about intimate image sharing and how these sources contribute to the formation of youth legal consciousness, this dissertation examines provincial formal curriculum, public campaigns from organizations like the Canadian Centre for Child Protection (C3P), education offered by the provincial CyberScan unit, and a provincially funded in-school program called Healthy Relationships for Youth (HRY). I analyze the messages provided in these curricula, including how they narrate risk and responsabilization. I argue that the messages that young people receive from these formal educational sources may contribute to how and in which ways they understand legality.

The formal curriculum for the grade eight Healthy Living class is available online, as are the C3P campaigns to which youth are sometimes directed. I was also able to access the 2017 and 2021 HRY curricula. In 2021 the program coordinators informed me that the new curriculum had not yet been delivered due to the COVID-19 pandemic. While the coordinators were able to provide me with the curriculum, they did not yet have insight into my questions about whether students asked specific questions about intimate image laws during the delivery of the curriculum. At the time of this writing, in 2023, this was still to be determined.

Survey with Adults

My initial research plan did not include developing a survey, but as I was progressing with data analysis, I became curious about how the wider community in Nova Scotia was reacting to new laws governing intimate image sharing among youth, how they understood youth engagement with technology-mediated sexual activities, and their general feelings about the appropriate responses to cases of non-consensual intimate image distribution. With the survey, I was able to reach these people and gain insight into research questions that had developed from my time

speaking with young people. For instance, the insights that I gained from conducting the initial phase of data collection with youth prompted me to ask how discourses about youth and sexuality, which sometimes impact the way young people think and speak about intimate image sharing, might also be circulating among the adults in their communities. I wanted to understand if this was indeed the case, and if so, to think about how this might impact young people.

I used Survey Monkey to develop the survey and circulated it widely via Facebook, Instagram, Twitter (now X), and LinkedIn. I asked that the public share the link on their own social media pages and for organizations to distribute the survey to their email lists. I also sent over 200 emails, Facebook messages, and LinkedIn messages to organizations and individuals across the province who work with youth. I received 81 survey responses from adults including parents, teachers, youth workers, community youth programmers, restorative justice practitioners, and school resource officers. Respondents included 60 women, 18 men, and three individuals who identified as gender nonconforming. Among these respondents, 66 indicated that they identified as heterosexual/straight, three as gay/lesbian, and 12 as bisexual, pansexual, or queer. In terms of racial diversity, 59 of the respondents self-identified as white, three as First Nations, one as Métis, one as African Canadian, one as Latin American Canadian, and one respondent identified as “mixed.” The survey asked a combination of rating, Likert scale, and open-ended questions about how they respond to non-consensual intimate image sharing and how they believe youth would want the act to be responded to.

Chapter Overview

Chapter Two examines the ways in which protectionist discourses, panics over technology, and the suppression of youth sexual citizenship contribute to a contemporary “discursive explosion” (Foucault, 1990) that extends the idea of youth sexuality as problematic and, therefore,

subject to, among other things, legal control. I argue that all of this leads to increased surveillance of youth desires and digital practices. This is related to my project's central focus: understanding how youth legal consciousness is formed, how youth are positioned as not legitimate sexual actors, and the impacts this has on how they think about mobilizing law in situations that they understand as harmful. This chapter also engages with important literature that lays out the theoretical foundation for this dissertation. This includes cultural studies of moral panics, sexual citizenship, and feminist justice studies.

Chapter Three draws on interviews and art workshops with youth, and a survey with adults, to present an overview of teenage intimate image-sharing practices in Nova Scotia at the time of data collection in 2017. While this dissertation cannot make any generalizable claims, the data collected for this study suggests that consensual image-sharing practices are common among young people and that there are several sexual norms that govern these practices. Chapter Three discusses these norms and how they impact young people's image-sharing practices. It explores the ways in which the participants in this study create their own rules regarding digital intimacy and how these rules govern their behaviours. The goal of Chapter Three is to lay out what young people shared, via their lived experience and within their peer groups, regarding intimate image sharing. This chapter explores the sexual norms that impact which intimate image-sharing behaviours are marked as deviant by participants in this study, how participants think about consent when it comes to intimate image sharing, and how their views and practices sometimes contrast with "official" messages they receive surrounding consensual and non-consensual intimate image sharing.

Chapter Four traces the reactionary tactics of law, the role of claims-making, and the influence of technopanics in the political debates that preceded the passing of federal Bill C-13

and provincial Bill 27 in Nova Scotia. Chapter Four examines the top-down approach to NCDII and the government's quick turn to criminal law to address these cases. By engaging with legislative debates, this chapter argues that the political claims-making and governmental response to the Parsons case and to intimate image sharing in general highlight the ways in which the relationship between youth sexuality and technology is structured in legal discourse.

Chapter Five queries teenage legal consciousness by investigating the ways in which structural interactions inform legality. Drawing on interviews and art workshops with youth, and through an examination of educational, media, and family interactions, the chapter engages the voices of young people to highlight which structures inform their ideas around intimate image sharing. Drawing on interviews and art workshop data collected with youth, Chapter Five also reveals that the ways Nova Scotian youth are navigating intimate image sharing, considering increases in surveillance and regulation, are imbued with tension. On one side is disciplinary control over youth sexuality and expression through protectionist and regulatory discourses originating from the perceived dangers of sexualized youth. On the other side is youth resistance demonstrated by challenging gendered scripts, rejecting formal sexual citizenship boundaries by demarcating their own, and asserting their own ability to actively challenge the over-surveillance of their everyday sexual practices.

In Chapter Six I draw on interviews and art workshop data collected with youth to better understand if, how, and under what circumstances they might mobilize law in cases of non-consensual intimate image distribution. This chapter engages legal consciousness, legal mobilization, and sexual citizenship scholarship to argue that while youth understand that law is there to be mobilized, there are several factors that influence why they don't believe in doing so. First, young people's understandings of legal shortcomings in providing justice to victim/survivors

of sexual assault negatively impact their trust in the criminal justice system. Second, given their position as not-yet-sexual citizens, they do not see themselves as agents of legal mobilization. Third, racialized youth have a particularly negative perception of police. Finally, young people do not want to be criminalized or to criminalize their peers. Chapter Six also highlights how teenage participants respond to NCDII cases when they don't turn to formal law, including resolving issues within their peer groups.

In the Conclusion, I return to the core arguments that have shaped this dissertation: that the legislative response following the Parsons case mobilized moral panic and rhetoric about youth sex, sexuality, and technology to amend the Criminal Code to regulate intimate images; that dominant narratives that construct youth sex and sexuality as a “problem” in need of management sometimes impact youth legal consciousness and how they understand themselves as legitimate sexual actors (i.e., sexual citizens); that while the state (and other adults) understand formal (often criminal) law as being best suited to respond to NCDII, young people often have different perspectives; that youth participants are unlikely to turn to formal law as a first resort due to varying perceptions about the legal system's treatment of victim/survivors, not wanting to be sexually shamed and blamed by adults, a distrust of police, and fear of criminalization; and that young people have their own sets of narratives about acceptable and unacceptable intimate image-sharing practices, which are sometimes connected to societally constructed sexual and gender norms but also reveal examples of an emerging normative shift, one that is important in understanding how some teens are navigating technology-mediated sexual activities. I also consider the limitations of the study and offer suggestions for future research that would contribute to the limited literature on young people's legal consciousness and intimate image-sharing practices.

Chapter Two — Governance of Youth Sexuality in the Digital Era

Introduction

This dissertation contributes to a growing body of research within critical feminist literature and youth studies focused on youth sexuality, sexual practices, and legal regulation, and raises a series of questions about youth sexual agency and sexual citizenship in the digital era. This chapter will serve as the framework for the dissertation. First, I engage with discursive constructions of child and youth sexuality and how power operates to construct the normative teenager. This section also draws on literature on the sociology of moral panics to highlight the ways in which sex panics about children have been used to mobilize criminal law. I present literature that unpacks how state policy and many adults construct youth sexuality as a “problem,” and how the management (including legal management) of this “problem” has taken on a new urgency in the digital era. This section engages Michel Foucault’s work on discourse, paying particular attention to the discursive construction of youth sexualities. I also engage with Kate Sutherland’s (2003) work on the distributive effects of law, as my focus throughout this dissertation is not just on the repressive power of formal law but also how various discourses structure youth behaviours around intimate image sharing. I found Sutherland’s work on both the repressive and disciplinary power of law to be insightful. In the second section of this chapter, I draw on literature that offers alternative narratives about young people’s sexuality and agency in online spaces. This work challenges constructions of young people as being always at-risk, troubles assumptions about privacy online, and highlights some of the realities of today’s “networked youth” (boyd, 2014). This section engages with scholars working on sexual citizenship and those that offer specific insight about sexual citizenship in digital spaces (Albury, 2017). The section concludes with a discussion of positive sexual rights, a framework that opens up

possibilities for challenging the boundaries that limit young people's sexual rights and responsibilities.

Discourse, Power, and the Constitution of Teenage Sexualities

It is difficult to escape the conclusion that the adult drive to constitute or reconstitute the image of the normative teenager is occurring at precisely the historical moment when young people themselves, through new technologies, are palpably challenging the norms of adolescence. (Angelides, 2019, p.160)

Sexuality is a culturally and historically mutable concept and a socially constituted practice. It is, therefore, important to consider the specific historical and cultural contexts that inform adolescents' sexual development. The ways in which young people are sexually socialized are important in understanding how they tackle sexual norms and values. It is through sexual socialization that they both constitute and contextualize their sexual identities. In this section I turn to an analysis of discursive power in constituting teenage sexualities, drawing on Foucault and feminist legal theorists. I begin with the social construction of moral panics around child and youth sex and sexuality that have been mobilized to enact criminal law and how this is part of the disciplinary power of law. I then engage with literature that outlines how protectionist discourses about normative white innocence and technopanics are both part of this disciplinary power.

Moral Panic and Teenage Sexuality

Sociologist and criminologist Stanley Cohen (1972, 2002) advanced the theoretical framework of the moral panic, defining it as a period wherein:

A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion

by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people. . . . Sometimes the panic passes over and is forgotten, except in folklore and collective memory; at other times it has more serious and long lasting repercussions and might produce such changes . . . in legal and social policy or even in the way society conceives itself. (2002, p. 1)

Cohen does not suggest that the issues that generate such panics do not exist or have never occurred; instead, he is interested in understanding the process involved in how certain things become selected as problematic. Therefore, his aim is to make sense of how deviance is a socially constructed rather than objective reality.

The concept of the “claims-maker” has long been important to the sociology of moral panics. Assertions that something (or someone) is a social problem can be made by anyone; however, convincing a large segment of society to buy into these fears often requires professional claims-makers, including politicians, religious leaders, celebrities, and other people who hold positions of power and influence. Cohen (1972, 2002) referred to these claims-makers as “moral entrepreneurs” who draw up the “appropriate” rules in the appropriate form in order to carry out a specific moral crusade. A moral crusade is a social movement that campaigns around a symbolic or moral issue (e.g., alcohol, pornography, crime comics). Often these claims-makers have the power and resources to have their claims heard, which is important when we consider the power that conservative claims-makers have had in the framing of issues around child and youth sexuality historically.

Children and teenagers have been prominently centred as subjects of concern in moral panic literature (Best, 1990; Cohen, 1972, 2002; Jewkes, 2010; Springhall, 1998). For example, scholars have traced moral panics around rock-and-roll music and comic books, which were

historically criticized for corrupting young people's innocence and turning them into juvenile delinquents (boyd, 2014; McGinnis, 1988; Park, 2002; Ryder, 1999). Youth delinquency has long been linked to sex and sexuality. For example, moral justifications for laws prohibiting "obscene" materials in the post-WWII era leaned on arguments about the "corruptibility" of youth and their need for protection from sex (Adams, 1997). These types of arguments have historically been tied to larger social anxieties about maintaining a specific sexual and moral standard—to uphold a particular heteronormative version of national health. In the 1970s, associating children (or young people) with particular crimes elevated said crimes into news visibility (Jenkins, 1992; Jewkes, 2010) in what Philip Jenkins called "the politics of substitution." Jewkes (2010) argued that during that era:

...those who wished to denounce and stigmatize homosexuality, the sale of pornography or religious deviation (e.g. Satanism) found little support in the prevailing moral climate; but the inclusion of children in stories about these activities [made] it impossible to condone them within any conventional moral or legal framework. (p. 7)

According to Kenneth Plummer (1991), since the 1980s, and with an increasing narrative of child sexual abuse as a public issue, there has been "a realignment of 'sexual politics' by which many but not all feminists have parted company with the 'sexual libertarians' and partially allied themselves with the sexual conservatives and professional child welfare lobby" (pp. 231–32). This realignment came, in part, as a response to concerns about child pornography, human trafficking, paedophile rings, molestation, and so forth, all of which helped to construct child sexuality as a problem. Writing in the 1990s, Plummer pointed to two sides of the debate about childhood sexuality, one organized around the symbol of "child sexual abuse," which used a language of danger, and the other around the symbol of "child love," which used a language of pleasure (1991,

p. 232). He argued “both assemble ‘the problem’ in a particular and distinctive way [since] both are essentialist constructs that help polarize the debates rather than clarifying them because they rest upon a limited and limiting view of sexuality” (p. 233). Plummer insisted that the approach to studying sexuality—one that “searches for the multi-layered complexity, the historical diversity, and the situational ambiguity of ‘sex’” (p. 232), which has been taken up by new social historians, some socialist-feminists, Foucauldians, and the “constructionist” sociologists—is more fruitful (p. 232).

A social constructionist view to understanding both childhood and sexuality focuses on deconstructing discourses that, according to social constructionists, are “the patterns of language and symbolism by which knowledge is produced and expressed” (Reynolds & Moore, 2018, p. 24). This scholarship is often influenced by the work of Foucault, whose fundamental three-volume work, *The History of Sexuality*, set out to deconstruct dominant norms and values that underpinned social and historical discourses (Reynolds & Moore, 2018, 25). Foucault’s (1990) work offered a great deal of insight into the historical categorization of “normal” and “deviant” sexualities, and how sexuality became a major obsession in society—how it became *the* question that had to be answered. This great obsession, according to Foucault, began around the 19th century when there is a visible “discursive explosion” around matters of sex (Foucault, 1990, p. 17). During this time, sex became a central focus in a number of institutional settings including psychoanalysis, psychology, and psychopathology (Foucault, 1971). According to Foucault’s theory of discursive power, in thinking and talking endlessly about sex and sexualities, we—people—don’t necessarily get closer to figuring out who we really are, rather the discursive explosion is a mechanism of control in that it generates evidence that can be used to monitor, control, and discipline us when we deviate from established norms. An increased focus on and

narrative around sex, an intensified analysis of the sexual conduct of the population, and a heightened awareness of sexual pleasures and desires was a necessary first step in controlling matters of sex (Foucault 1990). In other words, the deliberate move to censor certain sexualities (i.e., marginalized sexualities, the sexuality of children, etc.) through the policing of statements or complete silencing allowed for the creation of a “restrictive economy” that defined what was and was not possible to talk about in terms of sex (1990, p. 18). At the same time there was an institutional incitement to “talk”¹ about sex. Contemporary childhood and youth sexuality scholars have described this process in similar ways that I find helpful when thinking about discourses around youth sexuality. For example, Steven Angelides (2019) proposed that the agentic sexual child or adolescent is *under erasure*. By this he meant:

Children’s agentic sexual subjectivities are simultaneously acknowledged and avoided (although sometimes just avoided), or they are at once (over)protected from scrutiny and objectified as homogenous Child, exalted in their innocence and infantilized in their transgressions, endlessly spoken about and endlessly rendered mute. (p. xi)

The simultaneous focus on and erasure of childhood and youth sexuality is often done by mobilizing fear, anxiety, and shame in the name of “protecting” children and childhood innocence (Angelides, 2019, p. xii).

This dissertation investigates the power of discourse around youth sexuality—how it impacts the ways individuals speak about sexuality, the language they use, and the general constraint in their narratives. As Joan Sangster (2006) argued, Foucauldian insights on the power/knowledge nexus have been particularly salient in understanding the regulation of sexuality,

¹ For Foucault, this “talking” also occurs in other discursive formations, such as architecture (e.g., how schools were designed).

illuminating the ways in which “medical, social science, and legal discourses defined normality and abnormality, setting out boundaries within which populations and bodies were encouraged to act” (p. 38). According to Foucault, “any ontological history of ourselves has to analyze three sets of relations: our relations to truth, our relations to obligation, and our relations to ourselves and to the others” (Berkeley Lecture, 1983). He was interested in how these different relations make us who we are—the meaning people give to their own behaviour, the ways they integrate their behaviour in general strategies, and the types of rationality they recognize in their different practices and behaviours (Berkeley Lecture, 1983). This study of power goes beyond an understanding of it as something that is centrally located in the state to analyze a wide network of power relations that exist throughout society, manifesting in conduct and impacting the ways in which we think and behave. Political power, according to Foucault, exercises itself not solely through the state but also through certain institutions that are implicated in establishing “regimes of truth” (1990, p. 27). Power in this sense moves in many directions and is productive in that it “produces reality; it produces domains of objects and rituals of truth” (1977, 194). It—power—is “dispersed, localized,” and “never in anyone’s hands” (quoted in Sangster, 2006, p. 38). Foucault argued that an important task of contemporary society is to critique the workings of these institutions that appear to be neutral but are in fact responsible for reconstituting hegemonic ideologies that have shaped conceptions of truth (Berkeley Lecture, 1983).

Rebecca Raby engaged this by exploring how school rules are productive: they “produce language of responsibility that then come to shape students’ and teachers’ self-understanding” (2012, p. 4). As a sociology of children and youth scholar, Raby’s work on the social constructions of children and youth, and how these constructions are experienced by young people themselves is insightful for this project. Raby (2012) argued that negative beliefs about adolescents that

position them as needing to be directed by adults, due to their perceived naïve, irrational, risky, and/or angsty behaviours, might be responsible for creating understandings of young people that are then used to dismiss or contain them. I build on Raby's work to argue that these adult constructions of young people are used to delegitimize them as sexual citizens and indirectly call on young people to self-discipline. Following Raby (2012), I claim that the desire to encourage self-discipline does not replace the top-down consequences that young people might face from the legal system but that it does become part of an "embedded logic" in which multiple, shifting, situation-specific beliefs are used to understand and enforce" (p. 102) the regulation of digital teenage sex and sexuality.

While I find Foucauldian conceptions of power as dispersed and permeated by non-legal forms of expertise and knowledge to be useful, I also hold that juridical power remains pronounced in modern society (Hunt, 1992), especially when it comes to formal legal regulations aimed at the sexuality of minors. Feminist scholars have critiqued Foucault's conceptions of power as being dispersed and thereby faceless, not attending to the fact that the "headquarters" of power exist to "reproduce structural, social oppressions based on class, gender, and race" (Sangster, 2006, p. 40). I find Joan Sangster's approach to studying the sexual regulation of women and girls more helpful in that she asks how structural power interacts and combines to engage in the coercive regulation of "deviant" girls and women (p. 39). As a Marxist studying criminal courts, Sangster was explicitly trying to locate the significance of coercion (not just "law") as a force of (structural) power over the lives of vulnerable populations. Further Foucault's post-structuralist theories on regulation and governance reject normative commitments or "truth" claims on which appeals for justice can be based (Cain, 1993; Smart, 1989; Sangster, 2006). Critical feminist scholars have argued that such post-modernist deconstructions of sexuality and the law do not mesh with feminist

action around violence because “the former completely destabilizes the values and claims upon which feminist critiques of violence have been based” (Sangster, 2006, p. 40; see also Smart, 1994). Feminist scholars have argued that when it comes to sexuality, the effects of discursive power are not neutral, as certain groups experience them more oppressively. For example, while Foucault argued that sexuality itself is an “especially dense transfer point for relations of power” (1990, p. 103), critical feminist scholars have pointed to the ways in which the *female* body has become a “strategic site” of this power (Sangster, 2006, p. 38; see also Brock, 2014; Fine & McClelland, 2007; Levine, 2002). Throughout this dissertation I engage with Foucault and build on his insights while maintaining a critical feminist analysis of gender-based violence and state power. Therefore, I combine Foucauldian and feminist discursive–material insights to analyze and better understand how and in whose interest power has been exercised.

I find Kate Sutherland’s (2003) work particularly insightful in understanding both the direct repressive power of intimate image laws (i.e., instances where youth are charged and instances where young people resist sending nudes due to fear of being charged) as well as their disciplinary power, which can be seen in the ways that the laws might impact negotiations about acceptable and unacceptable image-sharing behaviours between young people, within families, in schools, or by other actors. Sutherland’s approach provided a helpful way to engage with a Foucauldian analysis of power while also maintaining a feminist lens on the effects of existing power relations in society, the role of stereotypes, and the brunt that certain categories of young people bear in so far as the legal regulation of teenage sex is concerned. For Sutherland, *repressive power* is evident in two general scenarios: first, when teenagers are actually charged, imprisoned, etc., for particular sexual acts; and second, in instances where there is no actual punishment for transgressions but when people who want to engage in forbidden acts abstain (p. 331). *Disciplinary*

power, on the other hand, plays a different role. According to Sutherland, “it operates not by taboo and censorship, but by normalization” (p. 331). In her work on age of consent laws, Sutherland argued that most teenagers will not come into direct contact with the law because laws regulating their sexuality function to control and reproduce normative sex rather than to repress teenage sex altogether (p. 333). The regulation of youth sexuality is done not just by passing or enforcing legislation but also in how “laws contribute to the production of a blueprint of normal teenage sexuality” (Sutherland, 2003, p. 334), impacting how youth are viewed and treated in schools, families, and in wider society: “[i]ts effect is not simply repressive but constitutive” (p. 334). Laws that regulate teenage sexuality, such as age of consent, intimate images laws, and the like, contribute to narratives about teenagers as illegitimate sexual citizens without positive sexual rights. These narratives are reproduced through schools, families, the media, and other institutions. This is the disciplinary power of law, and in the discussion that follows, I will highlight how protectionist discourses are mobilized as part of this disciplinary power. I draw on this insight from Sutherland in Chapter Five, demonstrating the ways that the disciplinary power of criminal law impacts the social construction of “normal teenage sex” (Sutherland, 2003, p. 331), as revealed through my data.

Sutherland’s analysis encourages us to ask: What kind of sexual subject is created by law? For example, she has argued that, on paper, age of consent laws deny young people any type of sex until they reach the age of capacity to consent; however, actual enforcement patterns “leaves considerable space for teenage sex, provided that it does not transgress boundaries based on age, sex, class, and race” (Sutherland, 2003, p. 332). According to Sutherland, it is not that young people have freedom from regulation but that they have freedom to self-regulate. She argued that they engage in what Foucault calls “ethical work,” and in doing this work, “they take an active

role in their own constitution as sexual subjects” (p. 344). They often govern themselves according to dominant ideas about “normal teenage sex” not only, according to Sutherland, to avoid the repressive power of law (although some do come into contact with coercive law) but because “they have embraced and helped to create the dominate legal/moral code,” and “they work to form themselves into the sort of sexual subjects that do not exceed the boundaries of normal sexuality” (p. 344). Thus, influenced by this dominant morality, many teens may end up governing themselves along the same lines as the state would, developing “codes of sexual ethics in accordance with which they strive to constitute themselves as ethical subjects” (p. 348). Drawing on Sutherland’s insights, this dissertation examines the ways in which youth observe and regulate themselves and each other, and how they apply the values of the normative social order. Following Sutherland (2003), I argue that law plays a role in constituting this normative social order: law is but one part of a “diffuse body of sexual regulation” that “operates to compare, differentiate, hierarchize, and exclude” (p. 334). I am interested in the specific norms that play out in youth sexual cultures in Nova Scotia following the high-profile Parsons case, and the ways in which these unwritten and written codes shape how youth navigate their sexual lives online and offline.

Protectionist Discourses: Normative White Innocence

According to some youth studies scholars, narratives about the need to protect young people from the dangers of sex are strategically mobilized according to adult-centric, gendered, racialized, classed, heteronormative, and ableist notions of normative sexual morality (Adams, 1997; Cocca, 2004; Hasinoff, 2015). This impacts how different groups of youth experience sexual regulation. According to Amy Adele Hasinoff, “legal structures impose a framework of normative sexual morality on young people, exerting a disproportionate amount of control on the sexual activity of girls in the name of protection, especially low-income girls, girls of color, and queer

girls” (2015, p. 6). Further, scholars like Sutherland (2003) have revealed how the selective enforcement of age of consent laws demonstrates that while lawmakers use protectionist rhetoric to pass laws, their actual enforcement is evidence that they are really aimed at controlling teenage sex and sexuality. For example, Sutherland found that most people prosecuted for age of consent violations were teens themselves (p. 316). Protectionist rhetoric, according to Sutherland (2003), “wears thin rather quickly” (p. 317) in age of consent violation cases where girls have consented to the sexual activity. She notes that, in some American states, girls who consent to underage sexual activity may be prosecuted for “aiding and abetting the offender” (p. 317), revealing the repressive power of law that operates according to adult-centric and gendered notions of sexual morality. One might argue that this is still protectionist in that young women are not seen as the best guardians of their “virtue” and thus need responsible adults to act as their protectors.

Sutherland also addressed sexual assault cases, arguing that complainants deemed unworthy are cast outside of the net of protection (p. 317), and that “the likelihood of having charges laid and of securing convictions is frequently hampered by the operations of stereotypes based on sex, class, race, and disability” (p. 319). White girls and young women have, for a long time, been enclosed in a web of discourses on sex that perpetuate ideas about purity and sexual safeguarding while maintaining a deliberate silence around sexual pleasure. Scholars have documented the concentrated efforts of turn-of-the-20th century purity campaigns, revealing that white women were (and remain) the focus of these endeavors because they are seen as the (future) “mothers of the race” (i.e., of the white nation) (Valverde, 1992, 2008). Adults, reformers, pedagogues, physicians, legislators, etc. participated in the web of discourses, special knowledges, and injunctions focused on transforming the sexual conduct of couples into a concerted and economic political behaviour (Foucault, 1990, p. 26). The focus predominantly on regulating the

sexuality of young white women—keeping them from prostitution, from crossing racial boundaries, and generally being careless with their sexuality—was inherently racist, rooted in notions of racial purity and national character in an effort to maintain the power of the upper class (i.e., this was a dense transfer point of power). This is not to say that protection was not applied to other social classes. In fact, as Joan Sangster (2006) argued, when directed at Indigenous girls, this protection took on the characteristics of racist paternalism (p. 31). Nonetheless, the protection of childhood innocence is, and has been, largely about the protection of *white* children whose purity stands in for symbols of national innocence (Karaian, 2014). According to Renold, Ringrose, and Egan (2015),

Historically, Anglophone culture has been engrossed by the innocent or sexually endangered child and its socially pathologized counterpart, the erotic or sexually knowing child . . . [who] has been classified as deviant alongside others constituted as having the potential to corrupt including immigrants, the poor, gays and lesbians, and paedophiles. (pp. 9–10)

These beliefs about sexual deviance have unjust consequences for racialized and queer youth.

Even in the 21st century, the same constructions about racialized and other marginalized youth persist. In contemporary policing of young people's tech-mediated sexual interactions, it's racialized and queer youth that have been the victims of carceral approaches in these cases. Consider the case of 19-year-old Antjuaneece Brown from Oregon who in 2009 was charged with producing child pornography when her teenage girlfriend's mother alerted police that Brown had sent sexual texts and images to her daughter (Hasinoff, 2015). Brown plead guilty to "luring a minor" and spent a month in jail (p. 7). According to Hasinoff (2015), Brown's case did not attract much media attention while other cases involving white girls became top teen sexting stories over

the same time frame (2009–2010) (p. 7). This lack of attention, according to Hasinoff, is attributed to “a set of mainstream discourses focused on the benevolent but misplaced desire to protect the supposedly inherent sexual innocence of white middle-class girls” (p. 7). It is the technology-mediated sexual interactions of often white teenage girls that is the source of public anxiety and the target of social, educational, and legal control when it comes to intimate image sharing (Karaian, 2014).

Twenty-First Century Technopanics

Protectionist discourses combine with adult anxieties around teen technology use, particularly in the area of sexual acts and expression, to justify legal intervention. Drawing on historical and contemporary work in childhood and youth studies as well as other moral panic scholarship, this dissertation explores why these policy responses are particularly prominent in the area of youth sexuality. The rise of the internet and quickly evolving communication technologies increased already-existing anxieties about young people’s sexuality, their sexual innocence, and their perceived vulnerability. As innovations in communications technologies continue and young people become increasingly part of networked communities (boyd, 2014), researchers must continue to explore the tensions involved in this relationship, including how youth navigate new laws regulating digital sexual communication and increased technological restrictions as well as how these new laws and restrictions come to exist.

Just as earlier discourses about the “corruptibility” of youth and their need for protection from sex were used to fuel censorship laws and police moral deviation, panics about paedophiles in cyberspace have been used to justify the increased regulation of young people’s digital intimacy, online practices, and expressions of sexuality (Kohm, 2020; Jewkes & Wykes, 2012; Picard, 2008). With a spike in internet use in the late 1990s, there emerged a new set of fears about how

dangerous strangers might use this emerging technology to lure and sexually exploit children (Kohm, 2020). As Jewkes and Wykes (2012) argued, the news media created the monster of our age with the “cyber-paed” and “orchestrated what some criminologists might term a moral panic about both ‘cyber’ and ‘paeds’” (p. 934). According to Canadian criminologist Steven Kohm (2020), “the construction of the problem of online sexual exploitation continues to reinforce well established stereotypes of sex offenders as dangerous predatory strangers, monsters in our midst, and modern day bogey men” (p. 116). For Kohm (2020), the Canadian Centre for Child Protection (C3P) has had immense power over how the problem of online sexual exploitation of children has been constructed and the policy solutions around the issue.

Scholars have argued that C3P has managed to execute a media strategy that has positioned them as the authority that people and organizations turn to on the issue of the online sexual exploitation of children (Karaian, 2014; Kohm, 2020). According to Kohm (2020), C3P carefully controls the crime narrative around online child exploitation in Canada, making it difficult for claims-makers to challenge the organization’s authority on the issue. In part, Kohm argued that this is because C3P operates in “virtual secrecy, generates the statistical data for its research reports, and has become viewed as the symbolic ‘owner’ of the issue” (p. 120). Kohm (2020) explained that, despite an absence of large numbers in police data and victim surveys on online child luring, C3P represents the issue as a problem that is getting increasingly worse, affecting all Canadian children. This is still the case in 2023, at the time of this writing, as C3P recently released staggering data claiming that reports of online sexual luring of Canadian children have risen 815% in five years (Canadian Centre for Child Protection, 2023). These statistics are reportedly based on numbers from cybertip.ca from 2018 to the end of 2022.

While new technologies have long captured widespread attention and stirred up public anxieties, as moral panic scholars have claimed, the recent focus of technopanics seems particularly narrowed in on the intersection of online spaces, digital technology, and teenage sex (Angelides, 2019; Hasinoff, 2015; Marwick, 2008). Many scholars have explored these intersections and their relationship to increased regulation of new online media and mobile technologies (Angelides, 2019; Atwood & Smith, 2011; Hasinoff, 2012; Karaian, 2012, 2014; Karaian & Van Meyl, 2015; Livingstone, 2008; Livingstone & Smith, 2014; Marwick, 2008; Renold & Ringrose, 2011; Slane, 2010). Moral panic is evident in policy responses to youth sexting that have become increasingly common in the early decades of the 21st century. Youth sexting has served as a key site for new anxieties about gender and sexuality. While youth are sometimes celebrated for their role in the proposed future of a technologically advanced society, innovations in communications technology have also impacted the popular imagination of youth, and policy responses to sexting have been aimed at responsabilizing the individual (Albury & Crawford, 2012; Karaian, 2014). Sexting provokes concerns about young people's sexual innocence or vulnerability, gendered coercion, and sexual rights or autonomy that, in most jurisdictions (including Canada), have encouraged policy responses that include criminal sanctions (Dodge & Lockhart, 2022; Greal et al., 2018; Kohm, 2020).

Steven Angelides (2019) offered a thoughtful analysis of the politics of emotion surrounding teen sexting, uncovering the “representational and rhetorical maneuvers and performative strategies of criminal justice systems, community groups, the media, and educational campaigns in publicizing and grappling with the issue” (p. 159). The alarmist, fear-based messaging embedded within media campaigns, information kits, and educational videos has propelled Angelides (2019) to argue that the sexting panic is “a displaced conversation about

teenage sexual agency with explicit and less explicit strategies” (p. 159). It has both an obvious objective of regulating teenage sexual agency and also hidden strategies of steering clear of the complex realities of teenage sex. Instead, according to Angelides (2019), these rhetorical strategies depict a homogenous and normative version of the “immature” and “inept” teenager. Angelides (2019) summed these processes up perfectly:

It is difficult to escape the conclusion that the adult drive to constitute or reconstitute the image of the normative teenager is occurring at precisely the same historical moment when young people themselves, through new technologies, are palpably challenging norms of adolescence. (p. 160)

None of this is to say that online sexual violence does not exist, and indeed, as technology and social media scholar danah boyd (2014) has pointed out, the internet makes “the good, the bad, and the ugly” of everyday life more visible (p. 73). Others have connected to that point, arguing that existing social issues, problematic behaviours, and developmental processes are “becoming *digitally mediated* as they manifest online” (Setty, 2022, p. 196, emphasis author’s). David Finkelhor (2011) described the internet as a “social problem amplifier” (p. 2), which may augment or shift the nature of harm but does not in itself create new or distinct harms that did not exist in some form already. Similarly, the racism, sexism, slut-shaming, homophobia, and other forms of hate that are expressed online are not new, and, as boyd has pointed out,

Helping young people navigate public life safely should be of significant public concern. But it’s critical to recognize that technology does not create these problems, even if it makes them more visible and even if news media relishes using technology as a hook to tell salacious stories about youth. (2014, p. 57)

According to Greal et al. (2018), “youth has been increasingly associated with *new* (emphasis

theirs) technology in particular, reinforcing the association of both with images of social transformation” (p. 9). These social transformations involve a positive spin where youth culture is closely linked to technological change in vibrant ways since they are often the first to use new media and technology (e.g., YouTube, Instagram, etc.) as expressive platforms (Gregg & Driscoll, 2008). However, these very same new technologies are cause for concern for some adults. The lives of networked teens are made more visible to adults who worry about them (boyd, 2014), but these fears are more often rooted in uncertainties about youth sexual agency, which the online world makes visible in new and pronounced ways. To some degree, there is a back and forth between the acknowledgment that younger generations are technologically savvy and uncertainties about teenage sexual agency and expression in digital spaces.

Youth, Networked Spaces, and Digital Sexual Citizenship

Livingstone et al. (2005) documented the ways in which discourses about young people’s digital lives have changed over time—from panic, protectionism, control, and restriction to more complex examinations of how teenagers are using the internet. Scholars studying youth and digital citizenship examine the intersection between the individual and broader socio-structural dimensions of online life (Setty, 2022). Digital citizenship refers to navigating online spaces in ways that consider individual and interpersonal ramifications (Setty, 2022), which, according to Kath Albury (2017), is particularly important in online sexual cultures. This dissertation takes these insights from Albury and combines them with other work on sexual citizenship to examine how intimate image sharing can be analyzed using the perspective of digital sexual citizenship.

This section first engages with research by leading scholars working on questions around how youth are using digital media in agentic ways. Second, it explores the concept of sexual citizenship and how claims to sexual citizenship are made. My dissertation contributes to both of

these bodies of literature by considering the possibilities of digital technologies for young people to make demands for their sexual citizenship.

Youth Agency in Digital Space

Digital spaces serve different meanings for teens that sometimes vary from how adults understand them (boyd, 2014; Marwick, 2008). As Marwick (2008) argued, young people have a different “cultural competency” when it comes to technological knowledge and online spaces, which is often strange to adults. According to Yvonne Jewkes (2010), the digital era has produced a change in how people, including young people, experience leisure. She explained, “adventure is, for many children, a virtual pleasure; competitiveness is honed at the games console rather than on the sports field; and sexual development occurs in chatrooms, on social networking sites, and via mobile phones” (p.10). Communications scholar danah boyd (2014) has highlighted the ways that young people navigate *networked publics*, or public spaces restructured by networked technologies, so that they are “simultaneously (1) the space constructed through networked technologies and (2) the imagined community that emerges as a result of the intersection of people, technology, and practice” (p.17). She argued that “just as shared TV consumption once allowed teens to see themselves as connected through mass media, social media allows contemporary teens to envision themselves as part of a collectively imagined community” (p. 19). boyd’s enlightening work on teens’ engagement with social media and digital technology, more generally, has offered an important contribution to the study of youth culture in the digital age. She found that teens’ online participation was communal, a way to connect with people, and argued that “the success of social media must be understood partly in relation to [the] shrinking social landscape” (p. 51), since spaces that teens previously occupied with their friends, like malls and parks, are becoming decreasingly common as social hangouts. According to boyd, while the spaces where teens feel

“cool” may change, the organizing principles remain the same. The teens she interviewed used Facebook, Instagram, and Twitter (now X) to create a communal space without physically transporting themselves anywhere. The teens who participated in my study continue using these social network sites but have added popular photo-sharing apps such as Snapchat to their repertoire of networked publics. Cultural and media studies scholars have argued that the widespread use of social media and information and communications technologies (ICTs) is not seen by teens as asocial or subcultural but rather a normative part of everyday life (boyd, 2014; Cupples & Thompson, 2010; de Souza e Silva, 2006; Holloway & Valentine, 2003; Livingstone, 2002).

Digital communications technologies, social media, and camera-equipped smartphones have also shifted how people, including teens, navigate sex and relationships (Cupples & Thompson, 2010). According to youth participants in my study, technology-mediated sexuality is an ever-present and important part of their lives. In this networked age of social media, where new forums are constantly being introduced, youth have a vibrant relationship with new technology. They are often the commercial targets of new product launches and typically one step ahead of adults in terms of making use of these new platforms to navigate relationships, contexts, and identity presentation in technology worlds that are less comfortable for older generations. The type of identity work that takes place in online spaces is part of how youth seek control over their self-presentation and is helpful for understanding how teens use digital technology to sexually express themselves (Yue & Lim, 2022). It is also a means of navigating privacy risks. “Although many adults think otherwise, teens’ engagement with public life through social media is not a rejection of privacy. Teens may wish to enjoy the benefits of participating in public, but they also relish intimacy and the ability to have control over their social situation” (boyd, 2014, p. 19). Teens often “go to great lengths to develop innovative strategies for managing privacy in networked publics”

(p. 19). For example, they might choose to provide false information, including names, ages, and locations, so that they are not easily searchable by parents, teachers or, as one of boyd's participants noted, "creeps who might be browsing the site looking for vulnerable teenagers" (p. 47). This participant wanted to be in an online space with only his friends, so he chose to provide just enough information for his friends to find him without increasing his visibility to adults. boyd argued that teens desire the right to be ignored and "wish to avoid paternalistic adults who use safety and protection as an excuse to monitor their everyday sociality" (p. 56). However, she believed their desire for privacy does not mean that they don't want to participate in public. Instead, she argued that it is important to distinguish between being *in* public and *being* public. According to boyd, teens are constantly up against the adult gaze, making their attempts at self-presentation challenging. For example, content can be taken out of context and interpreted through a lens of adult values, and adults often feel that they have the right to shame youth because said content was publicly available in the first place. According to boyd, these types of actions "ignore teens' privacy while undermining their struggles to manage their identity" (p. 51). She added that these same shaming tactics that are used by adults to pressure teens to conform to adult standards are also adopted by teens and adults to ostracize and punish youth whose identities, values, or experiences are not widely accepted: "I met plenty of teens who wanted to keep secrets from their parents or teachers, but the teens who struggled the most with the challenges of collapsed contexts were those who were trying to make sense of their sexual identity or who otherwise saw themselves as outcasts in their community" (p. 51).

Other scholars are exploring the ways in which privacy and sharing have changed as teens now express themselves through digital technology. According to Karaian and Dillon (2019), the frequency with which youth send nude images today can be understood as a mode of

communication much like passing love letters or having phone sex in the past. However, as boyd (2014) has claimed, the difference in networked spaces is that interactions are often public by default, and it can require effort to make these interactions private. There is, however, a difference between sharing nudes with another person via text and posting content to your Instagram account. The role of the receiver of a text to maintain a degree of privacy is arguably the same now as it was when love letters were the norm; what causes cultural anxiety today is that digital technology, if utilized by individual actors to circulate images, can facilitate quicker and easier sharing than with love letters of the past (boyd, 2014).

As challenging as it is to navigate the cultural expectations placed upon them in the digital era, young people's use of online spaces and digital communication opens up space to challenge existing heteronormative, gendered, racialized and classed definitions of normative teenage sexuality. This study joins others in exploring the ways in which young people are doing this resistance work in the digital era. This resistance will be explored in more detail in the next chapter.

Claiming Sexual Citizenship

Sexual citizenship is a particularly helpful conceptual tool in mapping how youth challenge traditional notions of childhood and other protectionist discourses that have worked to regulate their sexual desires, practices, and expressions. While there is limited literature on youth and sexual citizenship (Plummer, 1991; Robinson, 2012), the concept is a useful way of understanding accelerating social change, the transformation of the social world, and new possibilities of sexual self and identity for young people. For example, scholars have demonstrated how young people actively participate in forms of sexual expression and seek recognition as participants in sexual culture through practices like sexting (Albury & Crawford, 2011; Simpson, 2013). Examined

through a sexual citizenship lens, sexting can be conceptualized as a “rights-claiming” activity and an example of challenging exclusion from sexual rights.

The literature reveals that sexual citizenship is a helpful concept in articulating claims for sexual rights in two somewhat distinct ways. One framework places greater emphasis on the struggle for rights acquisition (Evans, 1993; Plummer, 2002) and state-facing practices/demands. The other focuses on the potential consequences of breaching the private/public divide as well as the theoretical implications of access or exclusion from certain rights on the grounds of sexuality (Bell & Binnie, 2000; Weeks, 1998).

I use both frameworks in this dissertation to understand how youth are using online spaces to make claims to sexual rights and digital intimacy (Plummer, 2001) but also how they navigate “going public” and the often-unintended consequences that can come with using digital technology as a way to express their sexuality. It is perhaps most helpful to begin with critical sexuality scholar Kenneth Plummer’s (2001) concept of “intimate citizenship,” which goes beyond gendered and sexual citizenship to focus more broadly on the sphere of changing intimacy. This concept is particularly relevant in today’s digital age where mediated sexualities and intimacies (Attwood, Hakim & Winch, 2017) are becoming common practices among many people, including youth. Plummer is best known for his focus on the emerging arenas of public debate across the personal life cycle and across social divisions where personal decisions seep into the public sphere. He offered a number of issues as examples, including lesbian and gay marriages and families, single parenting, safer sex, cybersex (and its link to cyber-stalking, cyber-rape, cyber-harassment, cyber-porn, etc.), sexual violence of all kinds, and the appearance of “hate crimes” (2001, p. 239). According to Plummer (2001), while the coffee houses and salons were the locations of public debate in the 17th and 18th centuries, new zones where public voices debate personal life have

emerged in recent centuries. These new zones include, but are not limited to, media worlds, educational worlds, and art worlds (p. 244). Moreover, what was once considered a unitary “public,” where citizenship was perhaps narrowly expressed and performed, is now more commonly recognized as a plurality of “public spheres,” which invites consideration of a multiplicity of performances and expressions of citizenship and a form of accepted belonging. As Plummer (2001) noted, “there can no longer be an expectation that pure blueprints will be found” (p. 243). Plummer’s “Intimate citizenship” decentres the state as the “giver” of citizenship focusing more on non-state facing demands. According to Plummer, plural public spheres may be seen as developing their own visible and positive cultures, which leak into wider public spheres and cultures, whilst also providing alternative, subaltern cultures. According to Plummer, these intimacy groups provide space for many new citizens in the making and shift the margins and boundaries of the wider society (p. 245). For example, according to Plummer, the visible culture developed by gay and lesbian public spheres has “led to increasing recognition (‘coming out’, ‘finding a voice’, ‘making a space’. . .), increasing equality (in areas of the law, in equal opportunities and anti-discrimination programmes, and in the widespread championing of ‘gay rights’), and in the emergence of more ‘gay institutions’ . . .” (p. 245). In these ways, gay and lesbian public culture has created space where a new language of “gay rights” and “gay citizenship” can be discussed, and where words such as “homophobia,” “heterosexism,” “sex panics,” and hate crimes now capture very noticeable phenomena that need addressing (Plummer, 2001). However, Plummer was aware that some public voices are privileged more than others and as a result can sometimes drown the others out.

According to Plummer, once these diverse publics are recognized, we enter public worlds that are far from homogenous and are subject to what has been called the “culture wars” (2001, p.

246). He argued that the post-modernization of intimacies has led to moral and political conflicts over how people should live their lives, and that most of these conflicts centre on the body as a key symbol of the wider social order. My dissertation highlights how this is particularly true for girls in that their sexuality (including that which is expressed online) often receives the brunt of moralizing control. I further agree with Danielle Egan (2013), who argued that “the entire edifice of class, gender, race, and heterosexuality assumed in the discourse on sexualization becomes fragile, at best, if the girl child is a sexual subject from the start or, better yet, if all girls are conceptualized as complex sexual citizens” (p. 103). The gendered dynamics of sexual citizenship will be explored in greater detail in the next chapter, but here it is relevant to engage with the cautions that sexual citizenship scholars have given about the potential harms that may arise when sexual dissidents breach the public/private divide. While scholars are largely referring to the risks incurred by people whose sexuality is not in line with normative heterosexual values (i.e., 2SLGBTQIA+ folks), I believe the same concept can be employed to describe youth who face potential harms (or who knowingly or unwittingly take on risks) when their (digital) expressions of sexual agency appear to challenge (adult) normative concepts of childhood innocence.

According to Hirsch and Khan (2021), “sexual citizenship is fostered, and institutionally and culturally supported” (p. xvi); however, when it comes to people under the age of eighteen (i.e., the age of sexual majority), this institutional and cultural support is lacking. Fears and moral panics about childhood sexuality are implicated in the denial of young people as legitimate sexual actors, and in the denial of their rights to their own sexual decision-making. According to Hirsch and Khan, cultivating sexual citizenship involves creating conditions that allow people to feel a sense of sexual safety and security when engaging in sexual projects. Sexual projects, they argued, include reasons why people may engage in a specific sexual interaction or experience (Hirsch &

Khan, 2021). Therefore, according to this understanding, cultivating sexual citizenship means supporting individual sexual self-determination. Sexual citizenship also encompasses feeling safe and capable of carrying out sexual projects while also respecting others' rights to do the same. Sexual citizenship, then, is a community project "that requires developing individual capacities, social relationships founded in respect for others' dignity, organizational environments that seek to educate and affirm citizenship of all people, and a culture of respect" (Hirsch & Khan, 2021, p. xvii). As discussed in Chapter Two, given that teenagers have been excluded from sexual citizenship (considered not legitimate sexual actors), part of the project of fostering sexual citizenship as a community endeavour requires recognizing teens as sexual citizens. Sexual citizenship is not something we are born with but is instead something that is advanced through education and supported by communities.

I take a feminist pro-youth stance on proactive education. I believe this to be a key form of support in transforming social attitudes about sexual consent and violence that contribute to assaults like that committed against Rehtaeh Parsons. This education must be sex-positive and in touch with the realities of students' technology-mediated lives. Young people are living in networked societies and technology has become an integral, almost inseparable part of their everyday interactions. They use technology, like most of us, to connect with peers, to form relationships, to develop intimate bonds, and to sexually express themselves. I did not ask youth if they learned about sexual pleasure in school, but in so far as the formal curriculum is concerned, teaching about sexual pleasure is not on the books. Young people, critical sexuality scholars, and those working in youth sexual health advocate that young people need educational tools not only for navigating danger but also for navigating desire (Oliver et al., 2013). Oliver et al. (2013) argued "there is a critical co-constitutive relationship between pleasure and empowerment and between

empowerment and sexual decision-making” (p. 146). Coupled with Hirsch and Khan’s (2020) analysis of sexual citizenship, this empowerment is an essential component of cultivating sexual citizenship. There is also no formal information or space in school curricula where young people can learn about technology as a tool for sexual pleasure. Instead, digital technologies and online spaces, including social media, are presented according to a narrow view that they are dangerous. The existing curricula promote “healthy” sex, which does not seem to include any sexual image sharing. The formal education that young people across Nova Scotia receive communicates that sex is risky and that online spaces represent sexual danger—for example, becoming victim to ‘sextortion’ and sex trafficking. These conservative narratives mirror those offered during the legislative debates that are detailed in Chapter Four. These narratives emphasize crime prevention with a focus on individual responsibility and are steeped in risk management rhetoric (Karaian, 2012, 2014; Kohm, 2020).

Teenagers use digital technology to express themselves and connect with intimate others, thereby engaging in activities that fit within Plummer’s definition of intimate citizenship claims. While in some cases digital media can facilitate these connections more easily and for a wider population of teens who might otherwise not engage in the same sexual expressions, at the same time there is much evidence to support the fact that using digital media to engage in sexual expression/intimacy can have consequences including experiencing shame, hate speech, bullying, etc. I am interested in exploring these tensions for what they reveal about the possibility of young people’s digital sexual speech as a site of political resistance to the denial of their recognition as legitimate sexual actors. By drawing on sexual citizenship literature, it is possible to start to think about how vulnerability and agency can be simultaneously produced in speech.

In tracking the possibilities and productiveness of resistance, sexual citizenship scholars have traced the development of changing norms around what “ideal” sexuality might be. For instance, Weeks (2007) asserted that since the 1990s, a new sexual individualism has emerged, which has made it possible for multiple sites of authority to speak their own truth about sexuality, with the result being that there is no longer one way to make sense of “good” sexual values. While dominant discourses on youth sexuality might be overtaken by particular institutions (e.g., education, law), within contemporary culture there is also space for sexual storytelling by others, including youth, to shape the meaning and politics about sexuality associated with self-making and self-invention (Plummer, 1995; De Ridder, 2017). At the same time, because they are steeped in a neoliberal narrative of risk-avoidance and individual responsabilization, overarching narratives about youth digital sexualities leave little space for acknowledging young people as agentic sexual subjects. De Ridder (2017) argued that research on young people’s sexualities demonstrates the tensions between youth being influenced by traditional scripts and ideas about sexual morality, and youth engaging in more liberated expressions of sex and sexuality.

The act of sexual storytelling and using digital media to do so has resulted in increased regulation of youth, from not only formal legal bodies but also parents, teachers, peers, and the self. This is evidence that the process of becoming a sexual citizen, as noted by Jeffrey Weeks (1998), and David Bell and Jon Binnie (2000), involves a negotiation of rights and responsibilities. As danah boyd (2014) explained, youth want to be in public without necessarily being public, but this line is difficult to navigate. This approach links to Weeks’ (1998) argument that:

The sexual citizen makes a claim to transcend the limits of the personal sphere by going public, but the going public is, in a necessary but nevertheless paradoxical move, about

protecting the possibilities of private life and private choice in a more inclusive society. (p. 37)

The challenge for youth going public using digital media is the widespread and permanent nature of that media itself. Therefore, this dissertation engages with questions around how youth attempt to navigate the tricky landscape of “going public” using digital media, the influences of law and peer normative ordering on these processes, the backlash youth receive for doing it, and the ways in which they actively challenge this backlash (as will be discussed in the next chapter).

This dissertation draws on the concept of sexual citizenship by employing it in new ways that are consistent with others working on issues of sexual assault. I draw on Jennifer Hirsch and Shamus Khan’s (2021) new theorizations of sexual citizenship, through which they have claimed that:

Sexual citizenship focuses attention on how some people feel entitled to others’ bodies, and others do not feel entitled to their own bodies. As a social goal, promoting sexual citizenship entails creating conditions that promote the capacity for sexual determination in all people. (p. xvi)

Drawing on this conceptualization of sexual citizenship, I examine young people’s rights to sexual agency, including their demands to be protected from sexual violence. This dissertation argues that the legal response to the Parsons case is but one example of the failures of the Canadian state to promote and protect young people’s sexual rights. As I will argue in the next chapter, the intense focus on intimate image sharing and the perceived dangers of the online world are institutional responses that do not promote sexual citizenship for young people. Young people are hence left to navigate a complicated terrain in terms of seeking support, and as this study reveals, teenagers often feel hesitant to turn to the adult world in cases of NCDII.

Importantly, this dissertation joins other research that employs sexual citizenship in the context of digital spaces. Kath Albury's theorizing around young people's rights to digital sexual citizenship is immensely helpful for this dissertation. Albury suggests that we must recognize young people's capabilities for bodily integrity (i.e., senses, imagination, and thought), which "include freedom of access to information, political and artistic expression, and pleasurable encounters with digital platforms and technologies" (Albury, 2022, pp. 10, 48) in order for young people to exercise their rights. Drawing on Martha Nussbaum's (1999) liberal theory of justice and human rights, Albury argued that capabilities for bodily integrity are fundamental in understanding the ordinary or everyday aspects of digital sexual citizenship. Further, Albury is interested in how sexuality and gender are expressed through and created by everyday encounters with digital technologies. This might include the ways that young people create self-images, engage in comment sections of social media threads, make gifs, etc. She has encouraged us to think about digital sexual citizenship as a site of possibility, opening up avenues for young people to participate in public digital spheres. Albury has asked us to consider what material circumstances and ethical conditions would need to exist to allow us to understand rights and responsibilities around freedoms in relation to sexuality and sexual rights. Digital sexual citizenship is a site where we can think about what needs to be in place or what conditions need to be there for us to understand young people as agentic beings in spaces of digital expression. Further, if we are thinking about young people as citizens, we need to ask what their role is in shaping the policies, frameworks, and conditions in which they are expected to exist.

Positive Sexual Rights

Unlike a negative sexual rights framework, which might include rights to protection from violence, exploitation, and coercion, positive sexual rights might include a right to sexual pleasure

and access to sexual information (Albury, 2017). According to Steven Angelides (2019), “unlike adults, for whom sexual citizenship seems to entail an equal balance between positive and negative sexual rights, for adolescents the law prioritizes the negative sexual right to be free from sexual coercion and harm” (p. 118). As it currently stands, the UN recognizes children’s rights to access to information generally and their rights to freedom of self-expression, but it does not specifically recognize children’s positive sexual (or digital) rights (Albury, 2017). Further, while Canada is among several other countries in that it acknowledges the importance of digital literacy for young people, as the remainder of this dissertation will examine, young people’s rights are largely discussed according to a “negative” rights (freedoms from) framework, with a focus on protection from violence and exploitation, whereas their positive rights (freedoms to) are often left out of policy and educational responses to young people’s digital sexual lives. Drawing on Livingstone et al.’s (2016) work, Albury stated that this might be in part due to the fact that “children and young people’s rights to digital participation may come into conflict with their rights to protection, and rights to privacy may also be in conflict with parental or institutional child protection strategies that aim to monitor online spaces” (2017, p. 716). Building on Petchesky’s (2000) conceptions of “ethical principles” and “enabling conditions” that position positive sexual rights as requiring a recognition of sexual *autonomy* or *personhood* (p. 93), Albury queried what types of conditions must be in place to enable these recognitions for young people.

One condition Albury (2017) has encouraged us to think about is the extension of positive rights beyond privacy for young people who already blur the lines between public and private when engaging in digital spaces. Albury (2017), like other sexting scholars (Karaian, 2012; Ringrose et al., 2013; Setty, 2019), pointed out the gendered and stigmatizing nature of educational resources and other campaigns that address youth intimate image-sharing practices. According to

these frameworks, the only way for teenage girls and young women to avoid public sexual shaming is to abstain altogether from digital sexual expression. As Albury rightly noted, in these contexts, teenage girls and young women are not addressed as sexual (or digital) citizens possessing both rights and responsibilities. Instead, they are marked as “at-risk” subjects who are naïve about the possible consequences of their actions (see also: Albury & Crawford, 2012; Albury et al., 2013). She argued,

Given the extreme difficulty of assuming individual responsibility for one’s privacy within ‘networked publics’ (boyd, 2011), it seems unreasonable to suggest that the recognition and defence of young people’s digital sexual rights (in terms of a recognition of personhood and autonomy) should be contingent on their adherence to feminized codes of sexual modesty. (2017, p. 720)

Adopting Warner’s (1999) framework for sexual ethics that emerged from his work on the relationship between publics and sexual shame, Albury has encouraged us to think about contemporary understandings of sexual expression in digital spaces. Warner’s (1999) queer ethics suggested that, within queer communities there is a kind of sociability that holds queer communities together—an understanding that one does not pretend to be above the circumstances that could cause one to be shamed or feel shame. As Warner noted, this form of collective ethics does not eliminate gossip about others’ sexual activity but is premised on an understanding that sex and sexuality are not (and need not always be) private (Albury, 2017). The insights from these scholars provide a way of thinking about how, if reframed according to a positive sexual rights framework, institutional approaches to supporting young people in online spaces would improve. This dissertation offers insights from teenagers about positive sexual rights and evolving notions

of privacy. I believe that a cultural embrace of positive sexual rights could have the liberatory potential of challenging the idea that sex and sexuality should be relegated to the private sphere. Recognizing young people as sexual citizens with positive sexual rights is an essential step in opening the possibility that their sexual expressions can be public without fear of retaliation from adults and peers.

Conclusion

As has been demonstrated throughout this chapter, the construction of youth sexuality as a problem, the subsequent responses to attempt to control it, and youth's internalization of their exclusion from sexual citizenship contribute to the formation of their self-identity. As this dissertation will reveal, this identity formation impacts the ways in which youth participants in this study understand their positionality in relationships to society, legality, and legal redress. This chapter engaged literature on social construction, power, technopanics, and sexual citizenship to set the foundation for this dissertation. In the chapters that follow, I build on the literature presented in this chapter to offer empirical and conceptual contributions in the areas of the sociology of moral panics, critical youth studies, sexual citizenship, and legal consciousness. As this dissertation reveals, we must pay closer attention to the experiences of young people, their desires, and their ideas of justice in order to have better policy that will meet their unique needs. The role of adults as the gateway for youth to connect to the legal system reveals the complicated and deeply entangled authority structure that Amy Best (2007) argued is supported by a set of institutional and ideological arrangements that legitimizes adult authority and produces differences in the roles adopted by youth and adults in social settings. These differences are produced and maintained largely due to the social construction of children and youth as being passive and innocent. In the next chapter, through data I collected with teenagers in 2017, during fieldwork for this dissertation,

I examine how young people sometimes challenge these constructions, as well as the reality of intimate image sharing among youth in Nova Scotia.

Chapter Three — Understanding Teenage Intimate Image Sharing: Sexual Norms and Digital Sexual Citizenship

Introduction

This study found that young people’s offline and online lives overlap, and that dominant sexual and gendered norms that influence how they navigate in-person sexual interactions similarly influence their digital sexual behaviours. In this chapter, I first trace the concept of digital sexual citizenship and what it means for understanding intimate image sharing among young people. I then explore the politics of intimate image sharing according to participants, illustrating how young people’s engagement with digital spaces offers new opportunities for them to claim agency—sexual and otherwise—in a society that doesn’t often support this endeavor. I examine the ways in which some participants are “talking back” (Angelides, 2019), engaging in what queer theorist Michael Warner (1991) might have called an example of “resistance to regimes of the normal” (p. 16). This line of inquiry speaks to one of the core arguments of my dissertation—that young people are navigating and contributing to a legal landscape that is imbued with tensions. Young people are complex sexual subjects and are not simply absorbing dominant narratives about their sexuality. They are not passive; rather, they are actively negotiating sex and sexuality in their everyday lives. This chapter examines how adolescents themselves perceive intimate image-sharing practices and how they position themselves between spaces of possibility and scenarios deemed unwanted or unacceptable.

It is important to note that I approach the category of gender critically. Because I did not want to essentialize gender, I did not ask youth participants to self-identify with respect to their gender. Nonetheless, most participants self-identified as either “boy” or “girl” at some point in

their interviews. Following their lead, this chapter focuses on cisgender heterosexual norms in youth digital sexual cultures.

The Politics of Technology-Mediated Sexual Actions

“Sending nudes is, like, the thing” (Audrey, 16).

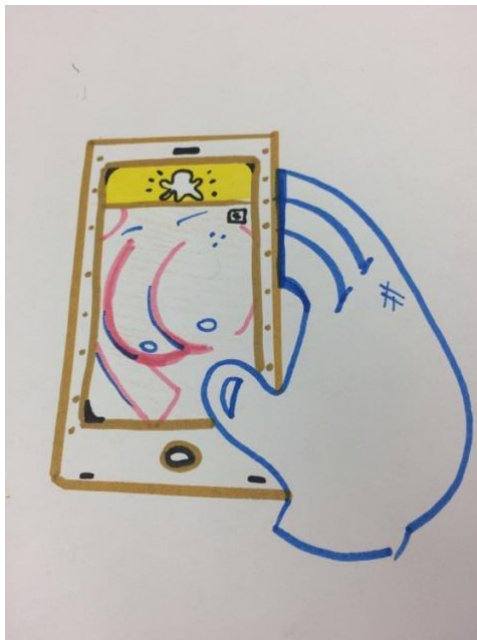


Figure 1: "Snapchat Selfie" illustrated by Avery

In Season 1 of the hit HBO show *Euphoria*, lead character Rue Bennett (Zendaya) calls sending nudes “the currency of love” (Levinson, 2019). While this might not ring true for all teens, the young people who participated in interviews and art workshops for this study suggested that consensual intimate image sharing was indeed part of the repertoire of teenage sexual and romantic behaviour. Perhaps unsurprisingly, *Euphoria* and other television shows that present a nuanced narrative about teenage intimate image sharing, painting it as a normal part of teenage digital sexual cultures, have received backlash from organizations like the National Centre on Sexual Exploitation for “promoting sexually exploitative themes” (NCOSE, 2019). These nuanced representations, however, resonate with young people (Oliver & Flicker, 2023) because they speak

to the reality of teenagers' digitally integrated lives. As noted in the Introduction, the teenage participants in this study understood consensual intimate image sharing as a common practice. Seventeen-year-old Avery, for example, shared that, in her experience, people often send nudes, and that doing so is socially acceptable among her friends. She stated, "I see a lot of that [consensual image sharing] in my school, because, I mean, all my friends do is send nudes of themselves." Similarly, sixteen-year-old Audrey commented that not only was sending nudes "the thing" to do, but "everybody sends nudes, and everybody talks dirty." When asked if sending nudes was common among her peer circles, seventeen-year-old Neve answered, "not with my school friend group like that I hang out most of my classes with, but in other friend groups I can tell that that stuff happens a lot."

Indeed, sexual expressions and interactions have rapidly digitized, and for many young people, digital media are an integrated and important part of their lived reality and are used to shape sexual activity and communication online (Bonilla et al., 2021; Oliver & Flicker, 2023; Widman et al., 2021). Given that intimate image sharing is a part of young people's range of sexual behaviour, this section explores the norms that inform their navigational practices online, and how these norms help to foster relationships and create safe communities. Looking at these practices through the lens of digital sexual citizenship, I examine how teenage participants make claims to their right to individual and group self-representations (Albury, 2022; Yue & Lim, 2022), and how they access digital spaces in ways that align with the sexual values of youth themselves (Albury, 2022).

The first section of this chapter offers an analysis of the ways in which young people are embedded among the social pressures of a broader set of discourses and structures regarding the

politics of sexuality, and how these social pressures impact their agency. It analyzes these pressures through a feminist discursive-material lens, exploring how power and gender operate in these contexts. The second section explores young people's heterogeneity online and how some teenage participants exercise resilience and agency in digital spaces. This section also highlights how the participants in this study blur the lines between public and private and considers what this means for making claims to digital sexual citizenship. Then, the third and fourth sections discuss how sexting and the consensual sharing of nudes are used in relationship building and sexual exploration, the agentic ways that young people engage in these types of exchanges, and how boundaries are constructed between acceptable and unacceptable image-sharing behaviours. I conclude that findings from the interviews and art workshops conducted with young people demonstrate that they are complex sexual citizens, and that the ways in which they navigate intimate image sharing offers youth-centred understandings that should be considered in future policy development.

Young Women's Rights to Digital Sexual Participation

Drawing on socio-cultural approaches that allow for an exploration of discursive and material systems of regulation, this section examines how sexual shaming is made possible in much the same way that Ringrose and Rawlings argued that bullying is: "through a system of ordered performances and repetitions of normative gender and (hetero)sexual discourses, centered on enacting complex inclusions and exclusions" (Ringrose & Rawlings, 2015, p. 83). If examined through a material-discursive lens, sexual shaming is a cultural phenomenon in that it is historically, socially, and culturally constructed. It is simultaneously material (embodied) and discursive (textual). In her work on discursive performativity, Judith Butler (1993) argued that gender becomes something that is done in habitually repetitive and stylized acts. Therefore, gender

is continually produced and reproduced in both discursive and material ways, giving the false impression that there exists a fixed set of gender norms. According to Ringrose and Rawlings (2015):

The heterosexual matrix of power relations operates through performances of successful, normative ‘subjects’ as well as abject ‘spectres.’ Each has an integral role in maintaining the heterosexual matrix. Those that fall within its realm portray normative genders and police boundaries through discursive and behavioural means. Those that exist outside of it work as a “threatening spectre” “of failed gender, the existence of which must be continually repudiated through interactional processes. (pp. 84–85)

Through empirical data collection with the youth participants in this study, I learned that their online sexual practices are formed according to a gendered system. In some instances, they reproduce this system in both individual and collective ways, but in others, they contest and destabilize it. This section examines the reproduction of the gendered sexual standard—later sections will explore examples of contestation.

As discussed in Chapter Two, the empirical data collected for this dissertation revealed that today’s networked youth—primarily young men and young women—are navigating the boundaries of digital sexual citizenship. This is not to suggest that this navigational work is experienced in the same way across genders; participants maintained that girls¹ still receive the brunt of sexual shaming. Feminist scholars are critical of the sexual double standard (SDS), which consists of judging women and men differently for the same sexual behaviour, emphasizing that while the importance of monogamy is highly valued for women, men have been encouraged to seek the opposite (Dobson & Ringrose, 2016; Setty, 2022). While the emergence of the figure of

¹ Girls includes femme-presenting individuals, and for the purposes of this dissertation “girls” will be used as an inclusive term.

the fuckboy and the negative cultural status surrounding dick pics (discussed later in this chapter) seems to signal a shift in so far as the SDS is concerned, participants' stories revealed that this is not yet the case. The predominant SDS that applauds young men for having multiple partners while shaming young women for the same has not completely disappeared in these young people's lives, and the word "slut" continues to work "as a discursive marker of sexual excess" (Ringrose & Rawlings, 2015, p. 86). Gendered sexual norms and stereotypes continue to structure how young people think about responsibility in image-sharing cases.

It was clear from conversations with youth that girls continue to be very conscious of the social risk of being labeled a slut, and that this consciousness impacts the decisions they make around sharing nudes. As discussed in the previous chapter, girls are the primary intended audience for anti-sexting campaigns in schools and the media; paradoxically, they are told to embrace their sexual decision making as a form of empowerment. This complicated terrain, which teen girls are asked to navigate, involves embracing and asserting sexual agency while adhering to gendered norms around monogamy. The following account from one of the participants explained this double standard:

For girls, if we mess up and we tell our friend, they would probably try to help you more than she gets mad at you but then when people find out that you've messed up then that's when she gets slut-shamed and stuff . . . it's easier for guys . . . guys think that we are their property, we're supposed to be the virgins, we are supposed to be pure pretty much right? And the good girlfriend, the girlfriend that's not supposed to mess up or do whatever, have mistakes. We're supposed to be this wonderful perfect girl. Be pure, perfect, don't make mistakes. But then when we do make mistakes, they're hatin' on us. They're getting more offended than we do when honestly if you messed up, if you did it with somebody else, we

have the right to be angry with you because you cheated on us, you didn't respect my wishes and how could I trust your loyalty right? But then when we mess up, they take it way too far and that's when we get slut-shamed. . . . [B]ut if you see in past history books, what you see in past history of family or friends' families, you can see, we get slut-shamed a lot when like "fuckboy" only came out a couple years ago pretty much. (Feara, 17)

Feara's response speaks to the navigational work that young women do to preserve their social and sexual reputations. Conversations with teenage participants and survey responses from adults who participated in this study revealed that girls continue to bear the brunt of one-sided decision-making processes about consent, and they continue to experience pressure to safeguard their sexual reputation. This is especially true when it comes to sharing intimate images. Manipulation and pressure to send intimate images or to have sex a certain way are part of a broader issue related to the pressure placed on girls to be cautious about their bodies, including how they present themselves online and how they exercise self-control to avoid sexual shaming in digital spaces. For example, Karaian (2014) argued that the Canadian "Respect Yourself" campaign, which is part of the child protection/crime prevention initiative that teaches youth about sex and, more importantly, ways to protect themselves from it, "exploits slut-shaming in an effort to responsibilize teenage girls for preventing the purported harms that may flow from sexting—including humiliation, sexual violations, and criminalization" (p. 282). She further noted that the "Respect Yourself" campaign,

reveals anxieties about the decline of the moral authority of the White, middle-class, heterosexual nuclear family; constitutes certain teenage girls' unintelligibility as sexual subjects; and, undermines teenage girls' ability to challenge a normative sexual order in which they are often blamed extra/legally for their sexual victimization. (p. 282)

Campaigns like “Respect Yourself” are part of a larger regime aimed at managing risks. This regime constructs youth sexuality (including their mediated sexuality) as a “problem” in need of management (Roots & Lockhart, 2021). According to Roots and Lockhart (2021), “these regimes construct middle class (read: White) girls as always victims due to their social location, while simultaneously making them into responsible agents who should not trespass the boundaries of good moral citizenship” (p. 70). The neoliberal process of responsabilization, which emphasizes the need for girls and women to exercise self-regulation, “respect,” and being ever aware of their self-representation, is particularly evident in how they are judged for the images they post online. As research has shown, experiences of sexual shaming and stigmatization are highly gendered, with girls being targeted more often than boys for making and sharing images of themselves (Dobson, 2019; Dobson & Ringrose, 2016; Lippman & Campbell, 2014; Ricciardelli & Adorjan, 2019; Ringrose & Harvey, 2015; Ringrose et al., 2013). Women and girls who engage in mediated sexualities online, including creating and sharing intimate or sexually suggestive images, or using dating apps like Tinder or Bumble, have experienced forms of vile cyber-violence (Cama, 2021). Sexual gender normativity is not only about outward expression but also about emotional management. For example, one female participant explained some of the challenges that girls face in exercising control over their sexual lives: “if you tell someone don’t take a picture of me or don’t touch me, they will take it as a challenge and continue to do it” (Avery, 17). She further explained that girls who resisted these types of challenges were negatively labelled as having “attitude” or being “angry.” For Avery, intimate images taken under these circumstances would not be consensual.

This labelling is part of a broader cultural phenomenon of shaming girls and women, one which fourth-wave and #MeToo-era feminists have actively challenged. The fourth-wave feminist

revival via media cultures, for example, has raised simultaneous concerns about its ties to neoliberal subjectivities and agendas, and how feminism continues to appear (or be treated) differently in the media (Dobson & Kanai, 2018; Rottenberg, 2014). As these studies have argued, the media tends to favour a “cool” feminism (McRobbie, 2015) that is taken up by fun-loving, confident, upbeat girls and women rather than a feminism perceived as being driven by anger and negative attitudes, and motivated by concerns about social injustice and inequality (Gill, 2016). Girls and women who express concern or dissatisfaction with experiences of injustice—including harassment, sexism, racism, heterosexism, and the like—are often labelled as suffering from insecurity, anger, anxiety, or attitude.

These problematic characterizations are particularly prevalent for women and girls of colour whose anger has historically been positioned as unruly: “angry emotions are outlawed for Black women who wish to be welcomed” (Griffin, 2012, p. 141). As critical race and communications scholar Rachel Alicia Griffin (2012) has argued, Black women have been discursively disciplined not to rant or express anger in the face of injustice. Avery, a young African Nova Scotian woman, feels dismissed and labelled when she asserts herself to classmates. Griffin’s (2017) reflections about her experiences navigating the “trenches of Black sexual politics” have highlighted the ways in which Black women, feminists, and activists are constantly trapped in controlling imagery of the “mammy, jezebel, sapphire, matriarch, and the more contemporary welfare queen, hoodrat, freak, crazy Black bitch, superwoman, or some combination thereof” (p. 147; see also Collins, 2009; hooks, 1989, 1992; Hull et al., 1982; Neubeck & Cazenave, 2001; Reynolds-Dobbs, Thomas, & Harrison, 2008). It is within these trenches, Griffin explained, that she has found herself struggling for liberation because of the representation of the Black female body in the media, in classrooms, and on sidewalks.

Heterogeneity, Agency, and Resilience Online

As Emily Setty (2022) argued, there is ample evidence to suggest that sex-specific risk does not always lead to harm, and that the association between the two “seems rooted in offline causal factors and circumstances” (p. 196). Scholars working on youth and digital citizenship pay close attention to young people’s heterogeneity and agency online, including how they respond to and engage with risk and opportunity.

Livingstone et al. (2023) found a positive association between digital skills and teens’ ability to deal with different social encounters online. Other scholars have found that resilience or the capacity to recover quickly from difficult online experiences can be understood as the ability to navigate risk in ways that mitigate long-term or substantial damage (Harrison, 2012; Vissenberg et al., 2022). For some young people, employing digital skills to navigate or avoid risk might mean that harm is avoided.

For some scholars, however, the focus on teens’ resilience tends to take an individualizing approach that is problematic and critiques conceptualizations of resilience that responsabilize “at-risk” subjects to manage the risks they face (Harrison, 2012). This depoliticized approach results in value judgements about who is and is not considered resilient, while also not accounting for structural factors that create risk and limit resilience over the longer term (Setty, 2022). Setty (2022) claimed that:

An overly optimistic or celebratory approach to conceiving digital skills, literacy, and resilience should not . . . obscure the ways in which the digital mediation of young people’s lives and experiences is reflective of socio-structural inequalities; for example, pertaining to class, gender, race/ethnicity, sexuality, and socio-economic status. (p. 198)

Scholars working with youth and digital citizenship must consider the “digital divide” as it pertains to differences in online experiences, skills, and literacy levels (Setty, 2022). The socio-structural inequalities are social factors that can negatively impact young people’s resilience online, but other social factors can have positive impacts, as will be demonstrated below.

It is important to consider the social and environmental factors that exist offline and which contribute to young people’s opportunities to be resilient online. Audrey’s narratives help us think through these types of factors. For example, Audrey is an activist who identifies as a feminist and a poet. She is very engaged in calling out sexist behaviour both on- and offline. She is influenced by feminist discourses that turn the gaze around, redirecting it from women’s bodies to social responses to women’s bodies, and believes that if negative reactions come about because a nude of her is shared, then that is not her fault. She noted, “whatever happens just happens,” and in her view, that (the negative impact) is on society, not on her. Other young women alluded to the importance of sisterhood and to feeling empowered if backed by other girls: “as soon as you come after us, we’re like FEMINISM . . . right in your face” (Nora, 17).

Audrey’s insistence on reversing the gaze can be understood in the context of broader feminist movements that seek to disrupt the new normal of online slut-shaming. Influenced by third-wave feminist anti-rape activism that challenged mainstream rape scripts by insisting that sexual violence is a collective social problem and cannot be individualized (Mazurok, 2010), young feminists like Audrey are attempting to destabilize highly sexualized and patriarchal gender ideas that structure women’s lives both online and off. Recent scholarly work on digital feminism highlights the nature and use of online spaces for anti-rape activism, which, according to Loney-Howes (2020), encompasses “a spectrum of sexually violent experiences” (p. 3). Feminist politics

such as these figure squarely in Audrey's thinking, empowering her to push back against oppression.

The interview with Audrey and the other young people in this study took place only a few months before the emergence of #MeToo, but other prominent movements have used digital media to draw attention to the prevalence of sexual harassment and assault in women's lives. This includes SlutWalk, a feminist tactic that emerged in 2011 in response to comments made by Toronto Police Constable Michael Sanguinetti, who stated, "I've been told I'm not supposed to say this; however, women should avoid dressing like sluts in order not to be victimized" (Pilkington, 2011). SlutWalk became both a large-scale protest whereby feminist activists took to the streets and a viral movement, attracting attention on popular feminist blogs and sites such as *Jezebel* and Feministing. As a viral movement, SlutWalk helped renew discussions about sexual violence and feminism online (Loney-Howes, 2020; Mendes, 2015).

There are other examples of activists and survivors utilizing digital media for personal and political purposes. In the same year that SlutWalk emerged, Savannah Dietrich mobilized Twitter (now X) to get public support after the two boys who sexually assaulted her, recorded the assault, and distributed the offence online were given lenient sentences (Hess, 2012; Salter, 2013). The court ordered Dietrich not to talk about the case and threatened her with 180 days in prison and a \$500 fine. Dietrich outed her assailants by name and warned other women about them: "ATTENTION WOMEN, they are predators and will show no remorse for anyone" (Hess, 2012). Other examples of the use of digital technologies to expose perpetrators include actions taken by the activist hacker group Anonymous who intervened in the Steubenville, Ohio rape case and in the Rehtaeh Parsons case, threatening to release the names of the young men involved in both cases unless the police acted. There are other examples of the use of digital technologies to

facilitate discussions about gendered violence, harassment, sexual assault, and slut-shaming online including, #WhatIWasWearing from 2014, where @steenfox asked her Twitter followers to respond to the question of what they were wearing when they were raped, to shatter the myth that sexual assault can be attributed to a person's choice of wardrobe. Another hashtag that gained popularity in 2014 was #BeenRapedNeverReported, in which survivors revealed why they chose not to formally report their sexual assault to police, thereby drawing attention to the prevalence of victim-blaming and disbelief, both common in criminal justice responses to rape survivors (Loney-Howes, 2020). These examples demonstrate that there are no clear-cut delineations between on- and offline feminism, or on- and offline violence. Further, they illustrate how online space is one of not only individualized danger/risk but also proactive/collective/community support, activism, and resistance.

Conceptions of Harm

Audrey asserting that “whatever happens, happens” gestures to her acceptance of what might come of her consensually sharing a nude image of herself. This position can be read alongside emerging critical literature that challenges traditional definitions of intimate image sharing as always being harmful (Albury et al., 2013; Setty, 2019). While sending one's nude can lead to harassment, and girls and young women are particularly targeted and shamed when their images are distributed, not all teenage girls experience harm in these scenarios. Participants like Audrey challenge these understandings, and analyzing Audrey's perspective through a digital sexual citizenship framework helps us think about what needs to happen if we are to move away from a victimhood vs. empowerment binary (Setty, 2019). Critical scholars working on youth intimate image-sharing practices (commonly referred to as sexting within the literature) have argued that these practices should be conceptualized along a continuum (Setty, 2019; Setty et al.,

2021; Zauner, 2021). Teenage participants in this study also gestured to this continuum, emphasizing that harm might arise from violations of trust, privacy, and consent, and are not inherent to intimate image sharing from the outset. These more nuanced experience-based approaches to harm suggest that formal interventions to support young people would be best designed alongside consultation from said youth, to incorporate their perspectives and experiences about online risk and harm.

Scholars have also offered alternative ways of thinking about conceptions of harm that potentially arise from non-consensual intimate image sharing in an era of ever-increasing engagement with and reliance on digital media as a communication tool, including for relationships and sexual expression. For example, Karaian and Brady (2019) argued that in the digital context, non-consensual intimate image sharing has come to constitute a modern-day sexual rumour mill, and that framing the issue along these lines might have “implications for how we understand the meaning and boundaries of privacy, control, and harm” (p. 308) both socially and legally. Changes to understandings and expectations of privacy in an increasingly networked society might also result in alternative conceptions of harm that do not neatly fit with lawmakers’ definitions of intimate image sharing or its inherent dangers.

Expectations of privacy have changed with the rise of digital and social media, but that does not mean that young people (and adults) do not value privacy or will not take measures to protect it (Marwick & boyd, 2014). As discussed in Chapter Two, boyd’s theorizing around “networked privates” and “networked publics” has been revolutionary in understanding the difficult public and private boundaries that youth navigate in the digital age. In other words, youth must put forth an effort to make their social media accounts private and, in many cases, choose instead to “manage disclosure by sharing deliberately selected pieces of information based on

audience and context” (boyd, 2014, p. 150) and “purposefully anonymize their images by excluding identifying features or contexts” (Karaian & Brady, 2019, p. 333). Further, as this chapter demonstrates, creating and sharing one’s nudes is a commonplace practice that youth engage in and has become part of their social and sexual communication. While youth value privacy and control of their own sexual images, they also find it difficult to opt out of participating in digital sexual expression (Karaian & Brady, 2019). Some of my interview participants (both young men and young women) explained that they found sexual digital expression to be empowering, and they thought it fun to send nudes to their sexual partners; some, like Audrey, were willing to accept the possible risks associated with those choices. This insistence on sexual pleasure and empowerment is a direct example of young people making claims to intimate citizenship and participating in youth digital publics in agentic ways. As my data reveal, youth participants interpret severity of harm in several ways in so far as the Non-Consensual Distribution of Intimate Images (NCDII) is concerned, and these varying interpretations sometimes impact how they think about the role of law in these cases, as will be discussed in the last two chapters of this dissertation.

I position my work as a sex positive feminist response to youth NCDII, in that through my analysis of the interviews, I found that participants did not always think of non-consensual sexual exposure as ‘ruining’ one’s reputation. Feminist and queer sex positivity aims to shed the shame around sex/uality (Rubin, 2006). A component of shedding shame is to trouble the assumption that NCDII is always damaging or always experienced as harmful. Another component is to combat sex negative responses to NCDII that do sexually shame and blame victims (Dodge, 2021a). My work emphasizes the importance of recognizing young people as sexual citizens and how this can challenge sex negative responses to image sharing. Sex-positive responses legitimize consensual

intimate image-sharing acts. Legitimizing these acts means recognizing young people as legitimate sexual actors with sexual and digital rights (Albury, 2017). This recognition is difficult in a socio-cultural context where “anti-child porn panics distort our perceptions of the large majority of the young people involved in [non-consensual intimate image distribution] cases” (Karaian, 2017, para. 8).

The tendency of the adult world to collapse youth sexual agency with child pornography renders all youth sexualization suspicious. This fear of youth sexualization (as inherently exploitative and age-inappropriate) has an especially acute impact upon girls, making it difficult—although not impossible—for them to explore their own sexual desires. Audrey’s awareness of these tensions, as noted above, is telling: she clearly understands the normative boundaries within which she is supposed to act, but she is also not willing to let them suppress her sexual autonomy and the pleasure she derives from engaging in this consensual technology-mediated form of sexuality. This kind of agency and resilience is admirable, but difficult to achieve in a context in which negative sex responses are common. As Karaian (2017) has suggested,

maybe, if we thought more highly of the pleasures and benefits of sexual speech, then the existence and discovery of an intimate image at some point in a person’s future would not be so threatening to their sense of sexual autonomy (para. 9),

or to other aspects of their life like graduate school acceptances, employment, and so forth. Audrey and other young people speak to the positive and pleasurable experiences they have had with consensual image sharing. For some of these young people, sharing their nudes is part of their sexual expression and exploration. When asked, Audrey was not concerned with reputational damage and instead challenged the norms that facilitate social and sexual shaming, particularly as they pertain to girls her age:

Instead of looking at the fact that, like, sexting is bad or sending a nude is bad, it's not bad, it's what's happening and has been happening since people got phones. So instead of looking at it like that, look at it as in, okay, that's okay, that's natural, that's what people are gonna do, especially young people. But when something bad happens, we should act towards that, 'stead of stopping what's already happening, stop the negative that comes out of what's already happening. (Audrey, 16)

Sex-positive responses would avoid shaming Audrey should her nude be shared without her consent and instead “work to create a context in which not only is sexual violation condemned but recognition of consensual sexual expression and pleasure is developed” (Dodge, 2021a, p. 26).

We can also read Audrey's opinions in the context of changing attitudes around public and private spaces, and in how privacy has been reframed and challenged in relation to digital publics. As discussed in Chapter Two, media and communication scholars have examined how digital spaces and people's participation in these realms have changed how privacy is understood. According to Kath Albury (2017), “the capacity for ‘spreadability’ (or copying and sharing) is an intrinsic aspect of contemporary digital culture” (p. 716), and certainly the participants in my study have acknowledged this. This shifting landscape should be taken into consideration in policy and pedagogical approaches to young people's digital sexual participation. I agree with Albury, who argued “for adults to insist that young people only have sexual rights where they are assured of *absolute* privacy can . . . be seen as a de facto demand for digital non-participation or abstinence” (p. 716). This de facto demand for abstinence puts young people in a bind, so that what appears to them as “normal” becomes a problem that they are simultaneously required to explain, navigate, or hide.

Digital Sexual Communication in Intimate Relationships

When teens say that digital sharing is normal, they were most often referring to image exchanges in consenting romantic relationships.² Some perceived the practice to be empowering, fun, flirty, and exciting. In art workshop word-association exercises, participants used terms like “love,” “partners,” and “hooking up” to describe their experiences with digital intimacy, which might be indicative of the importance of using digital technology for sexual expression both within intimate relationships and for sexual pleasure and exploration. In another art workshop, flirting came up again, and participants discussed how sending consensual nudes to their intimate partners is considered a self-esteem booster for some young people.

Some teen participants discussed the importance of emotional labour in building and maintaining intimate relationships in digital spaces. Aaron considered sharing intimate images to be “less intimate [than text-only sexting] because you’re just sending a picture and don’t have to think about what to say” (Aaron, 16). For Aaron, sexting represented something else that included spending time expressing thoughts and feelings with an intimate partner through text.

Other participants understood sending nudes to be a type of sexual foreplay used for arousal or sexual pleasure. Luna explained that while both sexting and sharing nudes were too awkward for her and “just not [her] thing, it’s obviously a way to get each other excited” (Luna, 16). Nora shared that “it’s basically just to help



Figure 2: "Flirty Toast" by Harper

² While this study did not specifically focus on young people’s use of platforms for online dating, some art workshop participants brought up Tinder, Facebook, and Grindr as spaces where teenagers go to meet people for relationships and/or hookups. The exploration of teen online dating practices is an emerging area of research (Yue & Lim, 2022) and something that I will explore in future work.

masturbate kinda” (Nora, 17). Some art workshop participants emphasized that “having a good time” was an important part of positive digital intimacies.

Some (albeit few—only five of 66) of the adult survey respondents also situated their understandings of why youth in Nova Scotia share intimate images of themselves in sex-positive ways, noting: “teens are comfortable communicating through technology and this is a part of exploring sexuality” (P, 19); “it is now a more common part of relationship development, part of the courting or pre-dating process” (P, 35); teens engage in the practice “for intimacy and as an act less than sex” (P, 37), “for fun and flirtation” (P, 46), and “because they enjoy sexuality and sexual practices” (P, 51). These participants’ (youth and adults) understandings of intimate image sharing and digital sexual speech as expressions of sexual autonomy and pleasurable experiences differ from “official” sex-negative messages about the practice.

Generally youth participants considered consensual intimate image sharing within dating relationships to be acceptable, but they drew clear boundaries around sending nudes to someone else’s partner. This act represented a violation of normative codes of conduct within these youth networked sexual communities. One art workshop group explained, “sending nudes to other people’s bf/gf = drama.” Another group emphasized that “sending nudes, everybody does it . . . nothing wrong with it unless it is someone else’s bf.” Fifteen-year-old Xavier’s account of the politics around sending nudes reaffirmed this attitude, explaining that people should not send unwanted nudes to others randomly because it might result in the receiver getting in trouble with their partner. He noted, “Some people, especially if they’re in a relationship themselves, that could, for one, get them in trouble with their partner, and two, like it’s just unexpected” (Xavier, 15). Xavier emphasized the importance of people not breaking these rules to protect others from relationship turmoil. These views were shared by many interview participants.

Sexual Reciprocity and Trust

The teenage participants in this study are navigating their own sexual agency in a world that already assumes either their vulnerability (girls) or their predation (boys), but in some ways, these young people resist these assumptions. An important dynamic for the teen participants in this study is the act of sexual reciprocity and a degree of mutually beneficial exchanges. In other words, intimate image sharing is more commonly understood as being acceptable when the exchange of images is enjoyed by both partners and not in situations where only one person benefits. Relatedly, teenage participants spoke about the politics of intimate image sharing and their perspectives about trust:

When people Snapchat like in their bras and stuff. Like, I know it's not as much revealing but like for someone to screen shot it and to send it to someone else, I still find that wrong in a way. Because like, if they wanted other people to see it, they would send it to other people. (Jordan, 14)

That's not really theirs to share. Like if somebody did send it to them that means they trusted them like I said before. But you're breaking that trust if you go around showing it to other people, also that's illegal. So, it's just wrong. (Neve, 17)

As Jordan and Neve's quotes highlight, some young people want control of who sees their nude images, and violating someone's trust and privacy by showing their nude images without their consent is not acceptable.

Young people were generally in agreement that intimate image sharing was acceptable in dating relationships where both partners consented to, got satisfaction from, and perhaps experienced pleasure in receiving intimate images from their partner. Neve explained, “it really depends on how close they are and how much they trust each other and if it was consented to” (Neve, 17). Situations that involved pressure or coercion from a partner were clearly marked as unacceptable and not part of a reciprocal relationship. The first vignette asked participants to share their thoughts on a scenario where one youth sends a nude photo of themselves to another youth that they are dating. Audrey responded, “I think it’s okay because they are dating, as long as it’s consensual and respectful, like it’s not like they’re forcing them . . . like obviously that’s consent” (Audrey, 16). Luna asked if there was “free will,” because otherwise that would not be acceptable. Jordan explained that she believed it was okay as long as there was a “resounding yes” from both partners and that there was no pressure. The illustration in Figure 3 of a smartphone, social media icons, and the words “love,” “pressure,” and “social media” offers another example of the key



Figure 3: Illustration by participant in an art workshop.

ingredients necessary for what teens identify as appropriate sharing. These examples make it clear that, for these teenage participants, explicit communication is essential to achieving reciprocity. So, too, was the element of respect: having a partner who listens to their wants, needs, and comfort levels

is clearly important. Jordan expressed the importance of respect in a poem about “Amelia” in

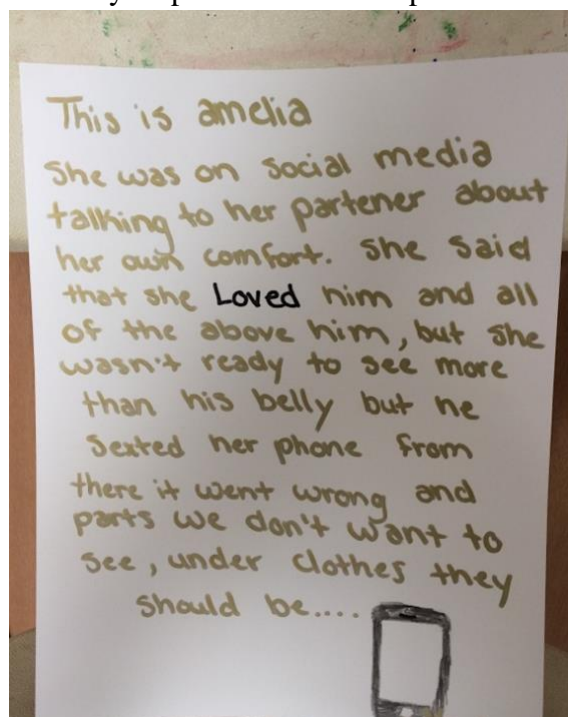


Figure 4: Poem written by Jordan during an art workshop.

which Amelia uses social media to communicate her comfort levels with her boyfriend who does not listen and crosses boundaries that she is trying to establish. The poem speaks to how Jordan understands girls her age using social media to establish trust, express love, and negotiate intimate boundaries. It also alerts us to another issue of non-consensual image sharing known as the “dick pic.”

What Jordan describes in this poem as problematic is not the sending of images per se but, very specifically, the unsolicited and non-consensual

sharing of intimate images of young men’s genitalia, otherwise known as sending dick pics—a practice commonly discussed throughout this study in every art workshop and nearly every interview with youth participants. Other young women felt similarly that boundaries would be crossed within relationships if a male partner sent his own intimate image without first establishing that his partner wanted to receive it, which, as Audrey explained, “is disrespectful . . . [and] happens a lot” (Audrey, 16). Young people did not feel that sending unsolicited dick pics was part of a reciprocal relationship in that there was no mutual understanding involved nor any degree of mutual satisfaction. Scholars have conceptualized the act of sending unsolicited dick pics as a form of technology-facilitated sexual violence (Henry & Powell, 2015) or image based sexual harassment (McGlynn & Johnson, 2020), and as something that disproportionately impacts girls and young women as receivers of the content (Ringrose et al., 2021; Setty, 2022).

There is limited research exploring the unwanted receiving of dick pics by teen girls. Ringrose et al. (2021) is an exception—their recent study with young people in secondary schools in England found that a shift has occurred in the relational dynamics of youth sexting in that dick pics have become normalized and are now ubiquitous in the social media ecosystems of young people. Ringrose et al. (2021) have claimed that receiving unsolicited images of penises is a growing social problem for girls and women in the United Kingdom. Ricciardelli and Adorjan (2018) also explored this phenomenon in Canada and have argued that SDSs in youth sexting practices contribute to the normalization of non-consensual dick pics. While it is limited, there is some research on reversing shame back onto dick pic senders by using art and invoking humorous language (Vitis & Gilmour 2017), as demonstrated by Jordan’s poem. Ringrose et al. (2021) also considered possibilities of disrupting narratives of feminine passivity and vulnerability around receiving dick pics. Similar points emerged in conversations with youth participants in this study who linked unsolicited or unwanted dick pics with the “fuckboy” (defined below) label, to challenge the SDS.

The act of sending unsolicited dick pics came up in most of the interviews with young people and in three out of four of the art workshops. Participants explained that such a thing could happen in relationships and that it would violate trust, but many explained that these images were often received by people who were not in relationships with the sender. Participants commonly shared that unsolicited dick pics were often received on Snapchat, a platform whose principal feature is that images are only available for a short time before they disappear. Some of the teenage girls interviewed for this study explained that receiving unsolicited dick pics was common, especially with Snapchat, and a subset of this group shared that they felt surprised when the images appeared:

There's even, like, guys on Snapchat and they'll add you and their main goal is just to send you dick pics. (Nora, 17)

You'll open it and be like 'oh a penis.' So, it's like, I don't really agree with that because they're not asking for it. (Audrey, 16)

Like slowly they will start by showing just their face in the shower, then they will take a picture with like their chest, and then the next thing you know you're like OH OK dick . . . Hello there. Haha. Where did that come from? [LAUGHTER]. (Luna, 16)

Jordan revealed a similarly disdainful view of unwanted dick pics. While “thankfully it never happened to me,” she nonetheless assumed it was a common and unpleasant experience:

I wouldn't like to open my phone, even if it was like . . . some people do it because they want to and they don't get consent and I can't believe how many people would open their phone and just see pictures of dicks. It's really gross. (Jordan, 15)

Jordan went on to explain that it was a common occurrence for random boys and men to send images of their pelvic region over Snapchat: “it's a pretty real thing and a lot of people on Snapchat get close to sending it like almost full V-line” [LAUGHTER]. Like Jordan and the others cited here, Neve understood the practice as being one of masculine entitlement: “when it's (the sexual image) not asked for, I find it's mostly guys. But maybe that's maybe because I'm a girl and that's what I've experienced. I've heard a lot of guys do it without consent” (Neve, 17). She described receiving unwanted dick pics as “never fun. [LAUGHTER],” and expressed that she was “not

really into it.” For these teen girls, there is no pleasure in receiving a dick pic without consent, especially not from random people on Snapchat. But they also discussed unsolicited dick pics with humour, leaving me to wonder if it has become so routine and normalized that the response is to laugh about it. My findings echo Ringrose et al. (2021) in suggesting that these young women might not experience these acts as harassment.

The teenage boys in the study also explained that their female peers received unsolicited dick pics on Snapchat: “I know people who would just like . . . I know girls who umm just random people on their snapchat, they just open up the thing thinking it’s something like streaks and BAM dick pic” (Xavier, 15). “Streaks,” according to Xavier, are: “you’ll send a picture a day with somebody, and they’ll send a picture a day with you and um basically you just keep that up for as long as you can” (Xavier, 15). For Xavier, Streaks are “boring as shit,” and he believed that “nobody wants to just open their phone to like a big old dick” (Xavier, 15). Waling and Pym’s (2018) research has suggested that this type of unsolicited sharing could be part of a desire to achieve “shock value” from the receiver, or it could be the result of boredom or drinking. The participants in this study did not offer any insights on why dick pics were so rampant; however, in their research, Ringrose et al. (2021) found that the “quick add” function on Snapchat makes it easy for unknown contacts to be added, and young people use a “shout out” function where messages about a contact can be used in a bid for more contacts. By turning off any privacy settings, these functions allow heavy Snapchat users to increase their snapchat user scores. According to Ringrose et al. (2021), this also “sets the conditions for adults to easily identify children’s networks and infiltrate them” (p. 562). Most of the participants in Ringrose et al.’s (2021) study explained that they had received their first unsolicited dick pic over Snapchat when privacy functions were not enabled, and that these experiences were very common. The

participants in my study did not say who they were receiving unsolicited dick pics from or whether the senders were adults or other teens, although they did seem to suggest that they were not “friends” or part of their networks.

Ringrose et al. (2021) found that teen girls employ several strategies to mitigate this, including blocking or ignoring senders who are unknown to them. Referring to their peers, participants in my study explained that, increasingly, sending unsolicited dick pics is behaviour that is frowned upon and is a violation of trust. Some scholars have conceptualized unsolicited or unwanted sexual image sharing as a form of gender-based abuse that often targets women and girls (Hayes & Dragiewicz, 2018). The participants in my study did not describe these actions as abusive, although they did make it clear that young men who sent unsolicited dick pics were crossing normative sexual boundaries and that there could be social repercussions for doing so. For these young people, sending someone an unsolicited or unwanted dick pic warranted being labelled a fuckboy.

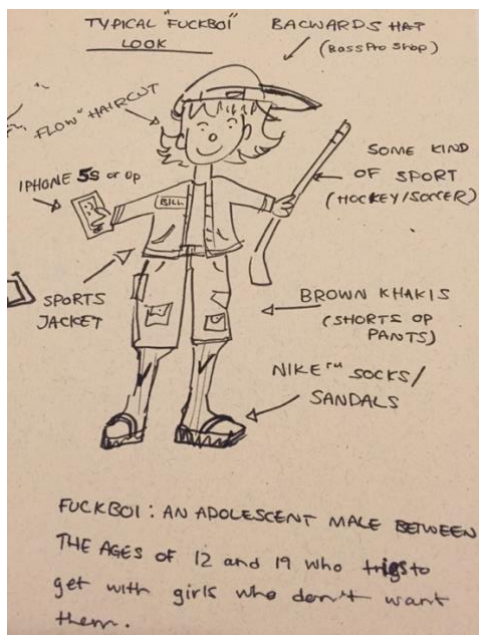


Figure 5: An illustration by Avery (17) to depict her interpretation of the 'fuck boi'

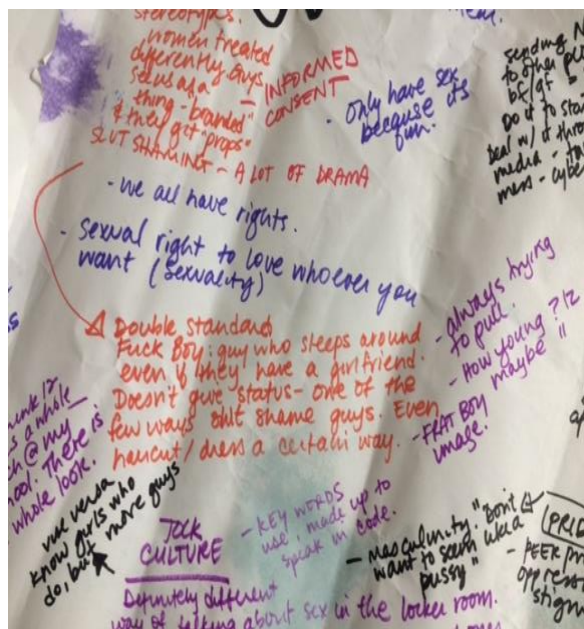


Figure 6: Art Workshop 4 comments about toxic masculinity and fuckboys

Unlike the “stud,” the fuckboy (alternatively spelled “fuckboi”) is the new male equivalent to the slut or whore (Baker, 2019; Peters, 2017; Tweten, 2018) and is a label that many of the male participants said they were careful to avoid taking on. In one art workshop, participants explained that fuckboy describes a young man who “sleeps around even if they have a girlfriend” (see Figure 6: July 27, 2017). Another art workshop group explained that the label was equivalent to a boy calling a girl a “ho.” Avery specifically defined the fuckboi as “an adolescent male between the ages of 12 and 19 who tries to get with girls who don’t want them” (Avery, 17) (see Figure 5). There is little academic literature that couples the sending of unsolicited dick pics with the fuckboy label. Waling and Pym (2018) highlighted the ways in which heterosexual cisgendered men who send unsolicited dick pics are sometimes understood as abusive and are under the impression that women “owe” them a nude image in return (p. 74). They found that women believed this to be an “exercise of male power, and the result of men’s privilege and entitlement” (p. 74). Further, in their analysis of online articles about dick pics, they found that many “framed the issue of men’s motivations in the context of sexual harassment” (p. 74). These conclusions seem confirmed by my own participants. For example, Aaron believed that more young men than women were sending their own nudes to prove their manhood, but that this engagement with digital sexual expression could backfire:

Yet again the stigma of fuckboys, more men are sending to women. And it’s probably been like that for years because it’s more of a mental role on men to prove what they have and prove they can so most times they’ll do it without thinking and then. . . . I know a lot of my friends who have sent these without consent, and they’ve regretted it the next day because they’ve just ruined a friendship that they may have just got a week ago. Or even a friendship for two years and they’ve just ruined it by sending one picture. (Aaron, 16)

Beyond sending unsolicited dick pics, fuckboys might also take on the label if they violated someone's trust by sharing that person's nude image without consent:

Emily: What about if one youth shared a nude photo of another youth with peers without asking for the permission of the nude person?

Feara: Well then you're pretty much starting the slut shaming thing all over again if it's a female and if it's a male, they'll be called a fuckboy which, honestly, that's their business not really mine but if it's a close friend of mine, I'd get to the bottom of it and tell them they shouldn't be doing this or this person only gives consent to show you not everybody else so you should respect their trust. You should respect what they asked for.

Feara described the shaming process within her peer circles that results from intimate image sharing. Feara's specific invocation of a repeated cycle of slut shaming ("starting the slut shaming all over again") suggests that the original sender of the image had already been shamed for sending it. Then, as Feara noted, if that image is shared by the receiver without consent, they will be contributing to the further slut-shaming of the original sender. The link between violations of trust and fuckboys is starkly apparent in the above exchange. Feara continued:

It's trust too. I sent you a picture that's only between you and me or that person. So, if somebody sends a person another picture of themselves, like a naked picture, and then they start showing a friend, you betrayed their trust and then that links onto, it makes all these occasions happen and these events and they just blow up in your face. (Feara, 17)

Feara's narrative speaks to the idea that fuckboys often violate trust and therefore are not participating in reciprocal sexual relationships.

Trust was highly valued for youth participants and was a common theme throughout the interviews and art workshops. Indeed, trust is a key component of how acceptable image sharing is understood. Art workshop participants explained that fuckboys are always "trying to pull," "only have sex for fun," and present a "frat boy image." These descriptions speak to unilateral sexual

satisfaction and are not actions that are celebrated by these young people. For example, according to participants, the title of the fuckboy does not give young men status and is “one of the few ways to ‘slut-shame’ guys” (Art Workshop, July 27, 2017). Feara explained that this new label (Brown, 2015) does not have the same positive impact on young men’s social status as the stud label does:

Before the “fuckboy” thing happened . . . honest to God, seriously like, if a guy messed up or cheated on another girl when he was with some other girl and tells all his buddies, brags about it to his buddies, like yeah bro good for you and everybody is cheering you on at school. (Feara, 17)

Sixteen-year-old Aaron added:

It’s good that they’re called “fuckboys” because that’s giving them a negative name now. . . . If you looked at it, crime would up a pimp’s status, would up a player’s status. It’d be like oh you’re a pimp, you’re a player, you play these girls, it’s like a game . . . but when you’re called a “fuckboy,” it’s degrading, it’s demeaning, you don’t want to be that. (Aaron, 16)

These participants understood disrespect for women/girls as evidence of male entitlement and not part of a sexually reciprocal relationship (in that they are dismissive of the needs and wants of young women). As a young man, Aaron was acutely aware of the stigma that comes from the fuckboy label.

Given the low number of young men interviewed for this study (two), it is not possible to make larger claims about whether these sentiments are shared by other teenage boys in Nova Scotia. What is possible is to analyze Aaron’s sentiments about fuckboys alongside the mobilization of the label in other settings. Consider, for example, the popular HBO reality dating

show *FBOY Island* (otherwise known as *Fuckboy Island*)³, where 24 men are placed on an island to compete for the love of three young women. The catch is that the young men have self-identified as either fuckboys or “nice guys,” and the women have to figure out who’s who. In contrast to how Aaron and other teenage participants in my study conceptualized fuckboys, on *FBOY Island* men compete as so-called fuckboys as if it is something to be proud of, and these patterns of male behaviour are examined through a comedic light with gentle antagonism to the fuckboys. *FBOY Island* was released well after data collection for this dissertation, but it speaks to the place of this label in popular consciousness. It also sparks research curiosity, to further explore contemporary representations of gender, the social construction of the fuckboy, and how the label is understood among young people. The young people in this study characterized the fuckboy as an undesirable figure of contemporary masculinity. These understandings stand in contrast to other representations “that present the fuckboy as an inevitable misstep and derided character yet somehow still desirable” (Peters, 2017, p. 35).

Conclusion

In research with youth in the Netherlands, Naezer and van Oosterhout (2021) found that one motive for sharing non-consensual intimate images of other youth was the “newness” of sexuality for young people, which makes them more eager to share something that is “interesting, exciting and/or shocking” (p. 85). Despite these documented motivations for youth intimate image sharing, which stretch across gender lines, images of girls continue to be considered more sexual—and therefore more worrisome—than those of boys and young men (Albury & Crawford, 2012; Handyside & Ringrose, 2017; Naezer & van Oosterhout, 2021; Ravn, et al., 2019; Salter, 2016;

³ The CW Network picked up the show for its third season after HBO cancelled it and there is a spinoff coming called *FGIRL Island*.

Setty, 2022). At the same time, research has demonstrated that boys and young men can gain popularity and social status by possessing nude images of girls and young women on their digital devices (Ravn et al., 2019; Ringrose et al., 2013; Setty, 2022). In contrast, my research suggests that, at least among youth in Nova Scotia, there is a youth-led feminist resistance to these documented interpretations of intimate image sharing. Audrey's direct confrontation of the gendered scripts that structure these practices, and other participants leveraging the term fuckboy to challenge masculinist entitlements, are indicative of this form of emerging resistance.

As participants explained, mutually beneficial digital sexual communication is important, and those acts which do not emphasize consent or respect and that violate trust fall outside the boundaries of good digital sexual citizenship. While this study is not representative of male youth in Nova Scotia, the demarcation of fuckboys as undesirable, and their intimate image-sharing behaviours as unacceptable, reflect (at least for these peer groups) changing attitudes around masculinities in contemporary youth culture. These findings also suggest that young people have a different take on the harms of image sharing that is yet to be reflected in the more top-down depictions of NCDII.

Panics about teenage sexting have, in many respects, had latent strategies that, according to Steven Angelides (2019), include avoiding the complex realities of teenage sexual agency “and enacting a normative and homogenous figure of the immature and inept adolescent” (p. 159). Indeed, these same types of strategies were employed by lawmakers at both federal and provincial levels, as will be explored in the next chapter. To put those strategies in context, this chapter has focused on young people's perspectives in order to highlight their agency and celebrate their resilience. Some of the youth participants in this study are, as Angelides put it, “talking back”

against normative understandings of adolescent sexuality, challenging sex-negative depictions that are steeped in risk narratives.

Drawing on data collected with teenagers in Nova Scotia, this chapter illustrated what these participants think about intimate image-sharing practices and the boundaries that they draw between acceptable and unacceptable actions. Centring these understandings is important as they offer different perspectives about harm than those that will be discussed in the next chapter. Unlike dominant messages that construct all teenage mediated sexual communication as risky, these young people have normalized these expressions in certain scenarios and clearly denounced them in others. Dobson and Ringrose (2016) argued that educational campaigns should stress a digital sexual ethics in which teens are encouraged and empowered to critically deconstruct harmful practices. The young people who participated in interviews for this study did so in how they spoke about violations of trust and consent, and in how they labelled fuckboys. All interviewees criticized the vignettes that depicted NCDII scenarios. Further, none of the young people talked about the possible social capital that young men might receive for sharing girls' images without consent, as has been documented in other research on teen sexting practices (Ringrose et al., 2013; Shariff & DeMartini, 2015). The sample size in my study is too small to generalize, but these young people demonstrated a level of critical consciousness about which image sharing practices are non-consensual and, therefore, not acceptable among their peer groups.

As discussed in Chapter Two, young people blur the lines between public and private in digital spaces, and notions of privacy have shifted with increasing participation in networked publics (boyd, 2014). In this digital age, young people understand that absolute privacy is not possible and that information, images, messages, and the like can be copied and shared beyond their intended destinations. Kath Albury (2017) has asked us to consider what might change in

terms of digital sexual ethics if notions of public and private applied less to what we know and more to what we talk about (p. 721). In other words, if the messages that young people receive about navigating digital sexual practices focused less on abstinence to avoid risk and more on being an ethical bystander within digital cultures, we might move toward a positive rights framework with more constructive outcomes (Albury, 2017; Dobson & Ringrose, 2016).

By engaging with youth perspectives, this chapter revealed the importance of positive sexual rights in the context of recognizing young people as sexual citizens. This is an important piece of the larger architecture of this dissertation, demonstrating how sexual citizenship as a conceptual framing offers an opportunity to challenge a long history of technopanics and fears about child and youth sexuality that, as Chapter Two demonstrated, have informed policy that impacts young people. In the next chapter, I analyze the parliamentary debates that preceded the passing of laws around NCDII in Canada, to highlight the ways in which legislative logics are fuelled by technopanics.

Chapter Four — Conservative Regulatory Discourse: Mobilizing Technopanics in a Top-Down Approach to NCDII

Introduction

This chapter explores the legal and political decisions that followed the death of Rehtaeh Parsons, to better understand how this socio-legal context informs young people's understandings of consent, their navigation of sexual citizenship, and their decisions regarding sexual image creation and sharing. It builds on the arguments outlined in Chapter Two, to demonstrate, with concrete examples, how after Parson's case, narratives about the so-called dangerous relationship between youth sexuality and technology circulated at the legislative level, resulting in laws aimed at governing youths' mediated sexualities—namely section 162.1 of the *Criminal Code*, which governs the non-consensual distribution of intimate images. Through careful analysis of the legislative debates following Parsons' death, I note that the making of this law is a product of moral panic and that it resurrected a link between image sharing and pornography that ultimately puts young people in the firing line for their own sexual practices.

This chapter begins by analyzing Murray Segal's report detailing the legal outcome in the Rehtaeh Parsons case and why sexual assault charges were not laid. Then the chapter examines the legal infrastructure that governs intimate image distribution by minors including the already-existing child pornography laws and the new non-consensual intimate image distribution law (C.C. s. 162.1). Next, it highlights how formal legal approaches conceptualize all intimate image sharing among young people, including consensual and potentially constitutionally protected sexting (Karaian & Brady, 2019), as a problem. From here, I analyze all of the federal parliamentary debates about Bill C-13 (Protecting Canadians from Online Crime Act), which was an act to amend the Canada Evidence Act, the Competition Act, the Mutual Legal Assistance Act, and the *Criminal*

Code. This enactment amended the *Criminal Code* by creating, among other things, a new offence of non-consensual distribution of intimate images (C.C section 162.1). I also analyze the provincial Nova Scotia debates about Bill 27 (Intimate Images and Cyber-Protection Act). In doing so, I demonstrate that the Parsons case was used in government narratives to further fuel ideas about the dangerous relationship between youth, sex and sexuality, and technology, and to collapse consensual and non-consensual intimate image-sharing practices. I then highlight how the new non-consensual intimate image distribution law has been applied in Nova Scotia and offer a critical analysis of its application to date, including a discussion about its inability to address social and cultural norms that contribute to sexual violence, sexualized online harassment, and other forms of gender-based violence.

Failure to Lay Sexual Assault Charges in the Rehtaeh Parsons Case

The province of Nova Scotia recognized that the Rehtaeh Parsons case could have been better handled by police and Public Prosecution Services, and hired former Ontario Attorney General Murray Segal to conduct an independent review and outline recommendations for future investigations into cases of sexualized violence and cyberbullying of young people (Segal, 2015). The report was delivered on October 8, 2015, and is publicly available. Most of the details that I outline below are drawn from this report.

In his review of the police and prosecution responses to the case, Segal outlined Rehtaeh Parsons' own interpretation of her lack of consent, noting:

In relation to the window incident, she indicated that they did not ask if they could do it, and she didn't recall if she told them to stop. In her second statement, she related that she felt her pants going down and tried to pull them back up, and Josh pulled them all the way down. She added that she tried to push Josh away, but it didn't work because

she was being sick and her hair was getting in the way. She also indicated that the entire sexual encounter was non-consensual, that she had voiced her lack of consent and tried to push both boys off of her at some point in time. (2015, p. 11)

Although Rehtaeh disclosed her lack of consent to police, the officers did not interview any of the accused until August, and only one of them ever agreed to a voluntary interview.¹ According to Segal's report, "on October 30th, D./Cst. Snair consulted with Crown counsel Shauna MacDonald in person. By the end of that meeting, it was determined that no sexual assault charges were going to be laid" (2015, p.18). As stated in Segal's report, this all happened despite police only interviewing one of the accused (Segal, 2015).

The most obvious points of concern in Segal's report were the length of the original investigation, which took nearly a year to conclude (Segal, 2015, p. ii), and why child pornography charges were only laid after her death: "what warrants particular consideration is not why charges were not laid in the first instance, but how 'no charges' became 'yes charges' following Rehtaeh's death" (p. 3). Segal was also asked to investigate how the police handled the sexual assault and cyberbullying components of the case and to decide "whether the policies, procedures and guidelines that apply to the police and the prosecution in these areas are adequate and appropriate, while taking into consideration the impact of technology on young people, their families, their interaction with the justice system, and police investigations" (p. 2). While Segal noted that proper protocol was not followed in the initial police interview, he believed that once the case was handed over to an officer from the Sexual Assault Investigation Unit (SAIT), the proper protocol was followed. According to Segal, the SAIT officer attempted to interview students at Rehtaeh's school about the photo, but school authorities stopped this attempt. The report explains that the SAIT

¹ The interview was voluntary because no charges were laid.

officer sought out the advice of Crown counsel who was hesitant to bring a sexual assault charge, and “after a thorough discussion with the investigator and an extensive review of the file, the Crown prosecutor came to the conclusion that there was no realistic prospect that sexual assault charges would result in convictions” (p. 4). It was the Crown’s position that there were many evidentiary challenges to a successful prosecution, a conclusion with which Segal agreed, although he also noted that “another Crown counsel could reasonably have chosen to prosecute the sexual assault component of the case, but it no doubt presented a unique challenge for the prosecution” (p. iv). According to the report, the evidentiary challenges included inconsistencies between two statements that Parsons gave to police, inconsistencies between her statement and that given by Lucy (the other female teen at the party), and further inconsistencies between Parsons’ statement and various text messages she had sent (p. 22). According to MacDonald (2015), “the Crown also considered that due to her intoxication at the time, Parsons had little or no recollection of large portions of what happened that night” (para. 11). Therefore, the primary issue was the Crown’s ability to prove lack of consent to sexual activity.

Segal did not find the Crown’s decision to not lay charges unreasonable, but he did feel that more time should have been spent investigating the allegations “surrounding the events that occurred at the window” (2015, p. 5). He raised several specific criticisms about Parsons’ initial interview with police before the case was routed to the SAIT officer, including that the interview with Rehtaeh was not recorded, therefore leaving no way of knowing whether the questions asked were leading (p. 28). Instead, as Segal noted, the officer used handwritten notes, which “in this case were the officer’s own interpretation of what Rehtaeh had said, as opposed to a verbatim rendition of what was said. For example, the officer wrote that Rehtaeh and her mother were more concerned about the photo ‘than the possible act itself’” (p. 29). He added, “the officer confirmed

that this was her own interpretation and not words that Rehtaeh or her mother used. Yet someone reading the report could believe that Rehtaeh had expressed uncertainty about whether there had been any sexual assault” (p. 29).

Segal argued that the Crown’s advice not to prosecute the case as a child pornography offence was incorrect and reflected a “misunderstanding of the law² as it relates to child pornography” (2015, p. 4). Segal found that the Crown’s conclusion to not proceed with child pornography charges seemed to rest on the perception that it was not apparent that the people in the photograph were under the age of 18. Segal noted this error in reasoning:

If there is other evidence that the person in possession of the photo knows that the person depicted in the photo is under 18, even if this is not apparent from the photo itself, the knowledge requirement is satisfied. In other words, if the person who takes the photo or distributes it knows who is in the photo and how old that person is—no matter whether the person’s identity or their age is apparent from the photo—the essential element of knowledge can be proven. It is also important to keep in mind that any offence can be proven by way of circumstantial evidence. . . . Evidence is evidence. If there is evidence of knowledge, it doesn’t matter whether it emanates from the picture itself or not. (2015, p. 90)

Additionally, according to Segal (2015), the Crown’s reasons for not following through with child

² In section 163.1 (2) of the *Criminal Code* child pornography means:

- (a) a photographic, film, video, or other visual representation, whether or not it was made by electronic or mechanical means,
- (i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or
- (ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years (Criminal Code R.S.C., 1985, c. C-46).

pornography charges included informal Crown policy and a practice of not prosecuting youth Non-Consensual Distribution of Intimate Images (NCDII) cases as there were suggestions that these types of cases “are so prevalent and the photos distributed to such a large group of people that it would overwhelm the court system if all these cases were prosecuted” (p. 90). Segal recognized the value in the argument that minors should not be charged with child pornography offences, but also argued that the photograph of Rehtaeh Parsons extended beyond mere loss of control of a photograph that was initially voluntarily taken. This case was different in that it “involved an allegation of an intimate photo being taken both without the subject’s consent and knowledge as well as an allegation that it depicted sexual assault” (p. 91).

Segal explained that “following Rehtaeh’s death, the Internet Child Exploitation Unit (“ICE”) reviewed the file. It concluded that child pornography charges could have been laid at the conclusion of the initial investigation. That decision was based on a proper application of the law to the facts of the case” (2015, p. 5). According to Segal’s report, Senior Crown Counsel Shauna MacDonald consulted on October 30, 2012, with Craig Botterill, a cybercrime and child pornography specialist. Mr. Botterill had explained that if there was no sexual assault allegation, then the photographer could potentially use the “personal use defence” outlined in *Sharpe* 2002 (discussed below), which allows two youth to record their own lawful, consensual sexual activity, providing the recording is for personal use only (p. 24). Therefore, one of the main issues from this perspective was whether the photo was of a consensual or non-consensual sexual act. Given that the Crown had already decided not to proceed with the sexual assault charge, Mr. Botterill advised that they were not in a position to proceed with child pornography charges (p. 24). This advice, along with the SAIT officer’s belief that it was not possible to tell from the photo whether

the persons depicted were underage,³ contributed to the decision to not prosecute on child pornography charges. Thus, the officer did not proceed with the planned arrests and interviews (p. 24).

Ultimately, Segal concluded that the legal outcome was correct in this particular case. It seems that Segal was trying to ensure some level of legal repercussion for the young men who allegedly sexually assaulted and distributed the image of Rehtaeh Parsons and was left with no choice but to frame the incident as child pornography given the purported challenges around sexual assault charges. This framing overshadows Parson's description of the events as sexual assault.

Understanding how the Parsons case was framed as child pornography and NCDII is important, and deconstructing this framing is what motivated me to approach this research project. This chapter is an inquiry into the ways in which technopanics underlie changes to the legal landscape around NCDII in Canada. This is not to say that the Rehtaeh Parsons case was not an example of child pornography or of NCDII. The distribution of the image in this case does fall into those legal categories. However, I aim to illustrate why narratives about the dangers of technology and fears about youth sexuality become dominant in rolling out criminal laws against NCDII.

Legal Infrastructure Governing Non-Consensual Intimate Image Distribution Among Minors

There are two bodies of federal legislation that govern non-consensual intimate image distribution among youth in Canada in 2023: *Criminal Code* section 163.1 (child pornography) and *Criminal Code* section 162.1 (publication of an intimate image without consent). Provincial governments have also enacted legislation that prohibits the publication of intimate images without

³ How old the persons appeared should have no bearing here given that the police and public prosecution services knew the ages of the people involved.

the consent of the person depicted. Nova Scotia was among the first of the provinces to pass such laws when it enacted the *Intimate Images and Cyber-Protection Act* in 2017. In the section that follows, I will outline the legislative processes that led to the passage of NCDII laws in both the Criminal Code and Nova Scotia's provincial framework.

After public pressure for some form of punitive outcome for the young men who allegedly sexually assaulted Rehtaeh Parsons (Omand, 2015), the criminal justice response was to charge one young man with distribution and the other with the making and distribution of child pornography. But using child pornography laws to address contemporary digital image sharing is a complicated, and limited, legal option. In part, this is because of the constitutional framework determined by the Supreme Court of Canada (SCC) decision in *Sharpe*, which established that youth should not normally be charged with possessing or distributing pornographic images (discussed below); however, critical youth and feminist legal scholars are also wary of using such charges in NCDII cases, arguing that the use of child pornography charges may result in the over-criminalization of youth who engage in NCDII (Angelides, 2013; Henry & Powell, 2015; Karaian & Dillon, 2019; Shariff & DeMartini, 2015; Slane, 2013). Further, scholars have documented how the stigma associated with being charged as a child pornographer is a deterring factor for police who are reluctant to bring such charges in youth digital image sharing cases (Dodge & Spencer, 2018). Dodge and Spencer found that:

...while the charge of child pornography continues to be utilized in cases involving youth, police often find child pornography laws ill-suited to cases of non-consensual intimate image sharing among youth and will often utilize discretion to avoid criminalization of (primarily male) youth. (2018, p. 638)

Concerns about applying child pornography laws in youth cases have surfaced in actual cases in Nova Scotia, as will be discussed later in this chapter.

The Constitutionality of Charging Minors Under Child Pornography Laws

The Canadian constitutional framework provides substance for concerns about charging youth with child pornography. In 2001, the SCC determined that minors (persons under 18) would not be charged with child pornography offences for creating and sharing their own sexual imagery as long as it was: 1. self-created expressive material created and held by the accused alone for their personal use and, 2. private recordings of lawful sexual activity created by or depicting the accused (*R. v. Sharpe*, [2001] 1 S.C.R. 45, para 115). The SCC decided that the purpose of section 163.1 (4) of the *Criminal Code* was to protect children from exploitation and abuse by prohibiting possession of material that posed a “reasoned risk of harm to children” (para. 34). In *Sharpe*, the Justices determined that this meant that children themselves, as the object of this legislation, should not be charged with the offence when the impugned activities fell with the “private use exception” as defined by the two conditions described above.

Debate regarding the legal challenges to the private use exception devised in *Sharpe* has re-emerged almost twenty years after the decision (Karaian & Brady, 2019). Part of this renewed debate centres on how technology has changed the frequency at which minors take and share nude images of themselves (Karaian & Brady, 2019). This was a key point in a 2016 intimate images distribution case in British Columbia. In *R. v. M.B* (2016 BCCA 476), 17-year-old M.B. relied on *Sharpe* on appeal to get a new trial after she was convicted in 2014 of possession of child pornography (s. 163.1(3)) and possession of child pornography for the purpose of distribution (s. 163.1(4)) for texting nude images of her boyfriend’s ex-girlfriend to others. The sexual images had been exchanged via text message and Skype, between M.B.’s boyfriend (I.S.) and his ex-

girlfriend (C.B.) when they were dating. I.S. kept C.B.'s sexual images on his phone after they broke up and showed these images to M.B. who then took pictures of the images with her own phone. M.B. then sent the images to another friend using Facebook Messenger. The trial judge ruled that the images of C.B. were not protected by the private use exception that would shield M.B. as a minor from prosecution and, instead, fell within the definition of child pornography under s. 163.1 of the *Code*. In so determining, M.B.'s argument, as summarized by Chief Justice Bauman, was that "the purpose behind the prohibition on child pornography [was to] reduce the risk of harm to children [and] that her conduct was not connected to the evils associated with child pornography or to child sexual abuse" (para. 16). At trial M.B. applied to challenge the constitutionality of section 163.1 (3) and 163.1 (4) of the *Criminal Code* "because they capture conduct that bears no connection to the stated objective of the legislation [and therefore] the provisions infringe the s. 7 guarantees⁴ in a manner not in accordance with the principles of fundamental justice" (para. 16). The trial judge refused to hear this challenge, arguing that "harm can come to children through such distribution and the risk of harm is even greater where such photos are then re-distributed, as they were by M.B." (para. 20). It was this refusal that constituted the heart of M.B.'s challenge to the BC Court of Appeal, where the Justices granted the appeal, allowing a new trial in which she would be permitted to demonstrate evidence to establish the unconstitutionality of the child pornography charges against her. The Court of Appeal concluded that there were new legal issues to consider since *Sharpe*, including that cellphones with cameras did not exist when *Sharpe* was decided and that the SCC could not have known the frequency "with which adolescents take and share sexual photos of themselves" (para. 27). The Court of

⁴ Section 7 guarantees that everyone has the right to life, liberty, and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice (Canadian Charter of Rights and Freedoms, 1982).

Appeal argued that these new legal issues permitted revisiting whether the child pornography offence complied with the principles of fundamental justice and that the trial judge had erred in exercising her discretion by summarily dismissing the section 7 challenge. M.B. was granted a new trial, but as of this writing, the trial had not yet happened.

The Court's ruling in M.B. suggests that evolving changes in digital technology and the ways in which they are integrated into young people's lives may continue to reopen questions about the constitutionality of charging minors under child pornography laws. This might be one reason that the federal government introduced an alternative law to prosecute non-consensual intimate image distribution cases. I believe that this law is an important addition, but I argue that some of the logics used to pass it have rested on undue panics about technology and fears about youth sexuality.

Filling A Legal Gap

Drawing on the devastating but also sensational elements of the Rehtaeh Parsons case, parliamentarians at both the provincial and federal levels rushed to address the legal conundrum concerning what to do in cases where minors share sexual images of others without consent. However, in my analysis of legislative debates, I found that the narrative was not focused on the misapplication or dangers of child pornography provisions, or the inadequacies of sexual assault prosecutions, but instead on the perceived role of digital technology in contributing to and facilitating cyberbullying. On April 25, 2013, soon after Parsons' death, Nova Scotia became the first Canadian province to introduce a bill addressing cyberbullying. The *Cyber-safety Act* was proclaimed on August 6, 2013, making cyberbullying a tort: a wrongful act and infringement on

the civil rights of the plaintiff.⁵ Section 22 (3) of the Act, concerning liability, outlined that parents of the defendant could be jointly liable for any damages awarded to the plaintiff,

unless the parent satisfies the Court that the parent was exercising reasonable supervision over the defendant at the time the defendant engaged in the activity that caused the loss or damage and made reasonable efforts to prevent or discourage the defendant from engaging in the kind of activity that resulted in the loss or damage. (Nova Scotia Cyber-safety Act, 2013)

These liabilities imposed on parents/guardians illustrate the ways in which adults have been legally as well as discursively responsibilized for guarding teenagers' (digital) sexuality. The Act was also intended to amend the *Education Act*, to impose liability on parents of minors who acted as cyberbullies for improperly supervising their child's online activities. The *Cyber-safety Act* also amended the *Safer Communities and Neighbourhoods Act* to create a CyberScan Unit to investigate cyberbullying cases across the province (Dodge, 2021b).

The *Cyber-safety Act* was challenged immediately by privacy lawyer David Fraser on behalf of a client who had posted about a former business partner on social media (Boon, 2015; Ruskin, 2015). The *Cyber-safety Act* was determined unconstitutional in that it was found to violate section 2(b) (Freedom of expression) and section 7 (Life, liberty, and security of the person) of the *Charter* (Dodge, 2021b; Taylor, 2016). In a letter to the Nova Scotia Legislature, Law Amendments Committee, he stated,

I consistently heard from and about people whose political or legitimate *Charter*-protected speech was removed from the internet because members of CyberScan bullied the people

⁵ This classification as a civil wrong makes it possible for plaintiffs to sue for damages including emotional pain and suffering, damage to their reputation, material loss, etc. Provinces cannot enact criminal law, therefore a tort is their only option (if they want to do anything at all).

into removing it under threat of unspecified ‘legal action’ that could include removing their internet access. (Fraser, 2017)

The Supreme Court of Nova Scotia struck down the *Cyber Safety Act* in December 2015, calling the legislation a “colossal failure” and claiming that the government had rushed the legislation following Parsons’ death. The main arguments were that the Act was not well thought out, was too far sweeping, and infringed on the *Charter of Rights and Freedoms’* s. 2b right to freedom of expression. In 2018, a revised version of this law was passed in Nova Scotia. This will be discussed in more detail below.

Meanwhile, similar legislative impulses were seizing federal parliamentarians. In December 2015, the federal government passed Bill C-13, adding to the *Criminal Code*, among other things, section 162.1 (“Intimate Image Provision”). Sponsored by then Justice Minister (and Nova Scotia native) Peter MacKay,⁶ section 162.1 states that:

Everyone who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty (a) of an indictable offence and liable to imprisonment for a term of not more than five years; or (b) of an offence punishable on summary conviction. (R.S.C., 1985, c. C-46)⁷

As discussed above, the new non-consensual distribution of intimate images law is preferable to

⁶ <https://openparliament.ca/bills/41-2/C-13/>

⁷ The definition of “intimate image” for the purpose of the law is described as: “a visual recording of a person made by any means including a photographic, film or video recording, (a) in which the person is nude, is exposing his or her genital organs or anal region or her breasts or is engaged in explicit sexual activity; (b) in respect of which, at the time of the recording, there were circumstances that gave rise to a reasonable expectation of privacy; and (c) in respect of which the person depicted retains a reasonable expectation of privacy at the time the offence is committed” (R.S.C., 1985, c. C-46).

charging minors with child pornography, but this law does other things that were not possible before. According to the Coordinating Committee of Senior Officials (CCSO), Criminal Justice, Cybercrime Working Group (CWG), tasked in October 2012 to identify potential gaps in the *Criminal Code* around cyberbullying and NCDII, “for adults there are concerns relating to the ability of the criminal law to respond to NCDII, absent additional aggravating features that may bring the conduct at issue within the scope of existing offences” (2013, para. 11). The new law addresses specific harms associated with NCDII, which existing offences do not adequately address. One example includes that the offence of obscene publication would only apply if the image depicted was one of violence and sex, which, they suggest, is not a typical situation. Another example is the crime of criminal harassment, which involves the victim fearing for their safety or the safety of someone they know who is being harassed. People who experience NCDII, on the other hand, may not fear for their safety but are instead sometimes harmed by humiliation caused by the breach of privacy (CWG, 2013). Therefore, the CWG (2013) argued that existing criminal offences may apply in certain situations but are not always best suited to address the specificities of NCDII cases.

Critiques of Bill C-13

Rehtaeh Parsons’s death was cited widely (27 references in total) in the parliamentary debates about cyberbullying that led to the passage of Bill C-13. The Conservative federal government led by then Prime Minister Stephen Harper arguably exploited this high-profile case to implement its own agenda. Bill C-13 looked a lot like the previous Bill C-30 (*Protecting Children from Internet Predators Act*)⁸ but packaged in a new way. This was not lost on critics,

⁸ Bill C-30 did not become law and was widely referred to as the “Online Spying Bill” by critics. See: <https://openmedia.org/look-back-our-stop-spying-campaign-against-canadas-bill-c-30>.

including some Members of Parliament (MPs). New Democratic Party (NDP) MPs accused the Conservative government of “playing politics” with Bill C-13, using cyberbullying as an issue to pass an alternative agenda (House of Commons, 41st Parliament, 2nd Session, 2014). Quoting the Information and Privacy Commissioner of Ontario on Bill C-13, NDP MP Jinny Sims stated:

The federal government is using this pressing social issue as an opportunity to resurrect much of its former surveillance legislation Bill C-30. . . . [T]his proposed legislation is a resurrection of that bill and the government is trying to sugarcoat it by throwing in a much needed bill to protect our children. (Jinny Sims, House of Commons, 41st Parliament, 2nd Session 2014)

These MPs stated that members of their ridings had expressed opposition to supporting “the proposed online spying bill” (House of Commons, 41st Parliament, 2nd Session, 2014) but went on to claim that painting the bill as anti-cyberbullying legislation strategically appealed to the public desire to protect children. For instance, NDP MP Carol Hughes argued:

The government knows that people are supportive of addressing and fixing the cyberbullying situation, but in the meantime it keeps putting in a poison pill by throwing the whole kitchen sink into the bill. The government knows Canadians will not be in favour of these other measures, but by making the opposition look like they are against a situation such as [passing] cyberbullying [legislation], which is not the truth, it can gain points. (House of Commons, 41st Parliament, 2nd Session, 2014)

Finally, NDP MP Niki Ashton argued that the Conservative government was “using people who are in vulnerable situations to put forward a regressive agenda that has everything to do with attacking people’s privacy” (House of Commons, 41st Parliament, 2nd Session, 2014). She added,

...what I find most disturbing about the debate and discussion around Bill C-13 is the way

in which the tragic stories of young women who took their own lives as a result of cyberbullying are being used by the current government to push its agenda. (House of Commons, 41st Parliament, 2nd Session, 2014)

Liberal MP Sean Casey accused the Conservative government of including provisions in Bill C-13 and “wrapping them in the flag of the victims of some terrible crimes” (House of Commons, 41st Parliament, 2nd Session, 2014).⁹ Former Green Party Leader Elizabeth May argued, “They will never protect privacy by invading privacy. They will never get more law and order by putting people in jail when they should be creating the circumstances that keep people out of criminality to begin with” (House of Commons, 41st Parliament, 2nd Session, 2014). Overall, the critiques levelled against the Conservative’s bill pointed out its reactionary, repressive, and invasive characteristics while at the same time accusing the Conservative party of playing political games and relying on tragic cases of youth suicide to pull on the heartstrings of Canadians, to pass a revamped version of Bill C-30.

Bill C-13 passed despite all the criticisms and concerns outlined above, and the new non-consensual intimate image distribution law (s. 162.1) came into effect in 2015. The Liberals voted in favour of the bill largely on the premise that victims of cyberbullying could not wait.¹⁰

The Nova Scotia Intimate Images and Cyber-Protection Act

Less than two years after the passing of the new federal non-consensual intimate image distribution law, on October 26, 2017, the Nova Scotia Legislature passed a revised version of its

⁹ Additionally, NDP MP Françoise Boivin pointed out, “the government tried to address cyberbullying via image distribution and the highly publicized cases of Rehtaeh Parsons and Amanda Todd,” arguing that “as a society we are failing miserably [and] claiming that Bill C-13 will save young lives is laying it on rather thick” (House of Commons, 41st Parliament, 2nd Session, 2014).

¹⁰ Bill C-13 An Act to amend the Criminal Code, the Canada Evidence Act, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act received 173 “yea” votes from the Conservatives and Liberals and 94 “nay” votes from the NDP, Bloc, and Green party (41st Parliament, 2nd Session – Vote No. 255, Sitting No. 128 – Monday, October 20, 2014: <https://www.ourcommons.ca/Members/en/votes/41/2/255>).

own legislation surrounding intimate images in Bill 27, the *Intimate Images and Cyber-Protection Act*, which replaced the previous *Cyber-safety Act*. According to the Nova Scotia Legislature the purpose of the Act is to:

- (a) create civil remedies to Law, prevent and respond to the harms of non-consensual sharing of intimate images and cyber-bullying;
- (b) uphold and protect the fundamental freedoms of thought, belief, opinion and expression, including freedom of the press and other media of communication; and
- (c) provide assistance to Nova Scotians in responding to non-consensual sharing of intimate images and cyber-bullying. (1st Session, 63rd General Assembly Nova Scotia 66 Elizabeth II, 2017)

The legislation allows a victim or their parents to go to court for a protective order or financial compensation for emotional harms caused by cyberbullying or NCDII. In the bill's second reading on October 12, 2017, Nova Scotia's then Minister of Justice Mark Furey addressed members of the House, explaining, "this bill does not replace the criminal law, in fact it complements it and will be one more tool for victims to address these serious harms" (Bill 27 second reading, Oct 12, 2017, p. 1164). Some of the options for victims include stop or take-down orders for web pages, orders to prohibit further contact with the victim, a referral to dispute resolution with the CyberScan unit (which will be discussed in more detail in Chapter Five), or an order to pay damages (Bill 27 second reading, Oct 12, 2017, p. 1165). Furey added,

Our province has been a leader in addressing the issues of cyberbullying. Nova Scotia was the first province in the country to introduce legislation to protect its citizens from the harmful impacts of cyberbullying. All members of this House will remember the cyberbullying tragedy that resulted in the death of Rehtaeh Parsons, a young and vibrant Nova Scotian. Her death prompted many changes in how we respond to cyberbullying. (Bill 27 second reading, Oct 12, 2017, p. 1164)

The framing of the Parsons case as cyberbullying in both the Bill C-13 and Bill 27 debates constitutes a very specific social and legal meaning, in that it suggests a kind of childhood wrongdoing involving harassment via the use of technology (Lidsky, 2012, p. 697). The claims-making process that constructs cyberbullying and NCDII as social problems must be analyzed in terms of rhetoric. In the next section, I look to constructionist literature and the sociology of social problems to analyze the claims-making process and rhetorical moves that define conditions as social problems (Best, 1987; Kohm, 2020; Jenkins, 2009). The next section presents an overview of four dominant narratives in legislative debates about youth and non-consensual intimate image distribution in Canada: 1. The dangers of the online world; 2. “bullying on steroids,” and “a modern plague of cybercrime”; 3. the state’s duty to protect; and 4. the need for policing tools for modern times. Using QSR NVivo qualitative data analysis software, I have analyzed both Bill C-13 and Bill 27 together to better understand the kinds of logic of necessity that run through these debates and the laws that ensue.

Constructing the Problem: Canadian Legislative Logics Concerning the Necessity of Non-Consensual Distribution of Intimate Image Laws

The transformation of Parsons from a victim of sexual assault to the poster child of non-consensual intimate image distribution and cyberbullying policies reveals, as Jane Bailey (2014) argued, that cyberbullying has become a “political juggernaut for transporting a broad range of individual and social issues, as well as political ideologies, onto the public agenda” (p. 664). Through an analysis of federal and Nova Scotia parliamentary debates around NCDII laws, this section illustrates the kinds of issues that get transported into these debates. I argue that the pitting of young people’s innocence and naïveté against the lurking [adult] harms of the new socio-technical world erased the agency of youth and set the tone for the protectionist framework to

follow. This is relevant to the aims of my study in that, through this erasure the positive sexual rights of young people are not foregrounded. Instead, young people are positioned as deserving of negative rights (i.e., right to protection), but not rights to sexual expression, exploration, or pleasure.

This section draws on Joel Best's (1987) work on claims-making to examine the rhetorical manoeuvres that were employed in the legislative debates that preceded the passage of new intimate images laws in Canada. Picking up on the discussion of moral panics in Chapter Two, I explore, as Jenkins (1998) did, how "claims tend to be exaggerated and distorted" (p. 6), demonstrating how political claims-making around the necessity of NCDII were mobilized using performative strategies that relied on fears, anxieties, and other emotions.

Social problems claims-making is an exercise in the construction of knowledge in that claims-makers must persuade their audience that what they are claiming is the "truth" about a problematic condition. In doing so, they construct what should and should not be included as part of the problem (Best, 1987). According to Best (1987), claims-makers typically wish to "convince others that X is a problem, that Y offers the solution to that problem, or that policy of Z should be adopted to bring that solution to bear" (p. 102). In the sections that follow, I employ Best's (1987) theorizing around political claims-making to examine the rhetorical strategies mobilized by legislators to pass Bill C-13 and further construct the social problem of cyberbullying, and the Conservative push to respond to this "problem" with criminal law.

As argued in the previous chapter, participants in my study revealed that consensual intimate image sharing is much more common than NCDII; however, by linking NCDII to cyberbullying, leaning on pre-existing social anxieties about the dangers of technology and teenagers' online sexual activities, and relying on tragic (yet sensational) cases like Rehtaeh

Parsons, claims-makers were able to define NCDII as a problem that required a criminal justice response.

Dangers of the Online World

Anxieties about the “dark side of the Internet” and beliefs that “the virtual world is fraught with all sorts of danger and concerns” were commonly expressed in Parliamentary debates about Bill C-13 (House of Commons, 41st Parliament, 2nd Session, 2014) and Nova Scotia’s Bill 27 (NS Legislature, Bill 27, second reading Oct 12, 2017). According to NDP MP Peter Stoffer “The reality is that this is a new era now, one in which our young people are communicating back and forth at lightning speed, in many cases with people they do not even know. In many cases, these are people who prey upon them” (House of Commons, 41st Parliament, 2nd Session, 2014). This sentiment was shared across party lines but was used especially strategically by the governing Conservatives, to push for increased police powers based on the argument that the online world is full of abusers who can hide behind their screens and that “Bill C-13 introduces a number of measures to take the mask off the perpetrator” (House of Commons, 41st Parliament, 2nd Session, 2014). During the Bill 27 readings in Nova Scotia, Mark Furey also nodded to the speed at which technology is changing the ways in which we engage with one another in the online world, noting that it is important to keep legislation current to address “the use of social media and those who abuse it” (NS Legislature, Bill 27, second reading Oct 12, 2017, p. 1167).

Assumptions about the naivety of youth and their inability to fully understand the risks of putting something online were expressed in both legislative debates. For example, Nova Scotia MPP Claudia Chender argued that in order to “nip cyberbullying in the bud,” conversations about appropriate online behaviour needed to happen in schools. Chender believed that youth born into the digital age do not fully understand these behavioural parameters (NS Legislature, Bill 27,

second reading Oct 12, 2017, p. 1172). At the federal level, NDP MP Jinny Sims emphasized that “the world has changed for our children [in that] they are spending more time on the Internet or attached to their cell phones . . . [and] are socializing differently” (House of Commons, 41st Parliament, 2nd Session, 2014). Others warned of the presumed ways in which today’s youth are the most connected generation that we have ever seen, and because of this they are “bombarded” by social media, adding to their already-existing anxieties and depressive states. New Democratic Party MP Paul Dewar argued that there is a “skyrocketing number of [youth] who are being identified with anxiety disorder,” and that when they feel anxious, they turn to social media to find friends and community in virtual worlds where, he believed, it can “really descend into chaos” (House of Commons, 41st Parliament, 2nd Session, 2014). Dewar drew on the case of fifteen-year-old British Columbia teen Amanda Todd who, in 2010, was chatting with Aydin Coban (an adult man) in an online chatroom when he took a screenshot of her exposed breasts with his webcam. Coban used the photograph as blackmail to convince Todd to continue engaging with him online. As a result of this, Todd experienced severe harassment both on- and offline from peers at school, which in turn caused her to suffer from depression, anxiety, a panic disorder, and to turn to self-harm. Her widely circulated YouTube video that details her experiences of sexual violence and abuse was posted in September 2012. She ended her life one month later. Dewar used this case to argue that youth (especially teenage girls) use the internet as a space to reach out to others to give them confidence in who they are, warning that this could have detrimental effects (House of Commons, 41st Parliament, 2nd Session, 2014).

Speakers used stories about their experiences as concerned parents to emphasize the importance of a parent’s role in protecting their children from the perceived evils of today’s fast-paced technology. Consider the following statement by Conservative MP John Carmichael:

Mr. Speaker, I am a parent and a grandparent. I have concerns about my children in this day and age of technology. I have watched my three-year-old grandson navigate through an iPad, and I do not have any idea how he moves through the technology. Clearly, in today's world there is so much access to different types of attacks on our children. Obviously, entertainment is one thing that we want our children to have, but I think we also have to be wise in what we allow them to watch or see. (House of Commons, 41st Parliament, 2nd Session, 2014)

MPs called for parents to watch and be concerned about what their children do on the internet, and to take responsibility to educate them about the dangers of the online world. Other speakers expressed similar concerns about protecting children (especially girls) online by prefacing their speeches with the fact that they were parents themselves and were taking these precautions with their own children. For instance, Conservative MP Dan Albas stated, "I have young children who range from 2 years old to 17 years old, so I understand some of the concerns that the member opposite has, particularly around protecting our youth" (House of Commons, 41st Parliament, 2nd Session, 2014). Similarly, NDP MP Peter Stoffer stated,

I have two daughters, aged 25 and 22, who grew up with the Internet and all of that kind of technology, but my wife was very clear and careful to ensure that a conversation took place on a regular basis about being very careful of what they typed into the computer and being very careful about what they looked at on Facebook, and now the tweets and so on. That conversation has to take place. The government or opposition members cannot be the sole source of remedying this situation. This has to be a national conversation across the country. I encourage all families, all legal guardians, and everyone else to have that national conversation with their children so that they understand the dangers and the threats of the

Internet and what happens on Facebook when they post pictures or say certain things that can be interpreted in the wrong way. (House of Commons, 41st Parliament, 2nd Session, 2014)

The speakers in the Bill C-13 debates drew on both technology panics and gendered protectionist logics, both of which call on families, parents, and legal guardians to be vigilant in instructing their children on how to manage the new and seemingly urgent risks of the online world. The narratives advanced by these speakers also reveal a deeper anxiety about the limitations of law—here, specifically the capacity of Bill C-13—to affect behaviours, which they frame as “private” and “family” problems. Barry Sandywell’s (2006) analysis of cyberpanics is particularly helping in unravelling these overlapping panics. He notes that cyberpanics are like moral panics in that they are “imaginary in their origins but very real in their consequences” (p. 46). Employed by governments and fuelled by the media, these panics represent the internet as a “lawless *zone* undermining the solidities and solidarities of civil order” (p. 48). These anxieties are especially salient around matters of sex and children. As Sandywell noted, “recent media depictions of the figures of the child pornographer and child-molesting paedophile ‘grooming’ children through chat-room exchanges are particularly potent symbols of their kind of invasive criminality-at-a-distance” (p. 48). The labelling of the internet as a risky and lawless space calls for individuals to cautiously mitigate their own risk (or in the case of parents, to watch over how their children navigate these online spaces). But as feminist scholars have argued before, risk narratives are often gendered. According to Amanda Glasbeek (2006), the deployment of gender in the consolidation of a law-and-order agenda has played a role in the “neoliberal construction of ‘safety’” (p. 57). In her work on political discourses around squeegee-ing, she found that Conservative MPPs mobilized the protection of their wives and daughters as an urgent responsibility that required

decisive action (Glasbeek, 2006). My analysis of the Bill C-13 debates reveals similar tactics exercised by MPs across party lines.

Although MPs from all sides of the House mobilized familial protectionist logics to underscore the dangers of the new digital world, two different responsabilization narratives were expressed throughout the debates. While Conservatives advocated for young people and their parents to be provided with the tools needed to be able to “take the simple steps they can take to protect themselves from people who want to do them harm online” (Bev Shipley, House of Commons, 41st Parliament, 2nd Session, 2014), the NDP more often expressed a need for a “collective community responsibility” to reach out to young people who are disenfranchised and in need of support (Peter Stoffer, House of Commons, 41st Parliament, 2nd Session, 2014). While the former approach is rooted in neoliberal narratives of individual risk-management, the later focuses on a collective responsibility to challenge intolerance within our communities in order to shift the cultural attitudes about gender and sexuality (not excluding race, class, and ability) that contribute to the violence that young people experience online.

“Bullying on Steroids” and “A Modern Plague of Cybercrime”: A Cyberbullying Panic

Through the analysis of the Bill C-13 debates, it is clear that the new non-consensual intimate image distribution law does very little to acknowledge sexual assault or address the social and cultural norms that contribute to sexual and gender-based violence. In the Bill C-13 debates, only two MPs (both from Nova Scotia) called the crimes that were committed against Parsons rape—no one made reference to the failures of the police to properly investigate a sexual assault, and instead, Parsons’ case was overwhelmingly classified as cyberbullying with non-consensual intimate image sharing as a dangerous component. Indeed, during the Bill C-13 debates many MPs used Rehtaeh Parsons to demonstrate the severity of cyberbullying and non-consensual intimate

image distribution. As Best (1987) argued, these types of case examples that focus on lived experiences are commonly used in claims-making, serving as “emotionally riveting ‘grabbers’” (p. 106) that make it easier for listeners to identify with the problem: “selecting horrific examples gives a sense of the problem’s frightening, harmful dimensions” (p. 106).

Sentiments about the dangers of cyberbullying were shared across party lines. Members of Parliament continuously emphasized the ways in which cyberbullying could happen twenty-four hours a day, seven days a week. The belief that cyberbullying is immediate, follows people home, and does not give its victims a break was expressed by members of all parties during the debate on Bill C-13. This same narrative was emphasized in the Nova Scotia Legislative debates on Bill 27. According to then Nova Scotia Justice Minister Mark Furey “Bullying today goes far beyond the playground, campus, or workplace. It can be online and quickly in the hands of many, where it remains for 24 hours of the day—the victim has no escape” (NS Legislature, Bill 27, second reading Oct 12, 2017, p. 1165).

There is validity in the points made by these claims-makers. Young people in my study did experience sustained exposure to online communications that they defined as being harmful or negative. For example, Xavier defined cyberbullying as “making someone hate their life through technology” (Xavier, 16), and Avery explained that she had seen vile forms of harassment online including people making rape threats and telling people to kill themselves. What Avery described is a form of online harm that includes hate and expressions of sexual violence. While Avery did not share whether she had been personally impacted by witnessing these types of threats online, research has found that witnessing hate can lower one’s happiness and life satisfaction (Keipi et al., 2017). These young people are clear about how they interpret the serious impacts of cyberbullying on some victims, and they are aware of the factors that might make certain people

more vulnerable to harm in these situations. Participants used gendered language in their descriptions, often alluding to the belief that girls experience online harassment more often than boys. Xavier talked about girls experiencing more harm from being “bashed” online, or experiencing abusive verbal attacks in digital spaces, if they were already dealing with anxiety or other mental health challenges. Audrey explained that cyberbullying is a “broad topic” that generally involves people being “disrespectful” or “rude online” (Audrey, 16). For these young people, cyberbullying is an issue worth addressing in schools as it is something that occurs in their social worlds, but none of the young people I interviewed talked about cyberbullying with the same urgency as politicians did. Political claims-makers employed very particular language and images to emphasize the severity of the threat that the online world posed to Canadian children and youth, invoking images of invasiveness, illness, and death to incite another type of emotional response from the House..

During the debates on Bill C-13 NDP MP Robert Chisholm called cyberbullying “bullying on steroids,” arguing that in the digital era, it has “been torqued up to the extent that people who are completely unknown to one another can create the kind of violence and damage to a person’s reputation that we have never heard of before” (House of Commons, 41st Parliament, 2nd Session, 2014). Former Minister of Justice Peter MacKay described the urgency to pass Bill C-13 and getting provisions to the Criminal Code in place to address what he called “a modern plague of cybercrime” (House of Commons, 41st Parliament, 2nd Session, 2014). According to MacKay, “what happens in the virtual world can have deadly consequences in the real world” (House of Commons, 41st Parliament, 2nd Session, 2014). Words like *steroids* and *plague* portray an issue that is manufactured, grows quickly, spreads uncontrollably, and infects (or sometimes kills) many. These terms are used to create associations between technology and harm—the violation of

innocence, the decline of mental health, the possibility of suicide, etc. Images like these play into fear and anxiety about society becoming infested, calling for a collective response to a social ill.

Other speakers stressed that those responsible for the harmful phenomenon of cyberbullying were anonymous perpetrators, lacking goals and optimism, who use online spaces to target victims anytime. According to NPD MP Pierre Nantel,

The traditional bullying that used to happen face to face in schoolyards has now become an after-school, underhanded and often anonymous activity. By its very nature, this type of bullying can occur at any time rather than only during the school day. There is no refuge; victims know that the violence will keep on going even if they try to ignore or escape from it. Everybody can be a victim and it can happen anywhere. We know, however, that the victims are most often our children. With the current technology, it is all too easy to conduct heinous and malevolent attacks, a behaviour that likely reflects a more generalized malaise, as well as a lack of goals and optimism in our society. This new and violent phenomenon has a long-term impact on the lives of thousands of young people, as well as other individuals and families. (House of Commons, 41st Parliament, 2nd Session, 2014)

Beliefs about the “often anonymous” nature of this type of harassment speak to the significance of anxieties and common myths about “stranger danger” (Wodda, 2018), which, according to scholars, have amplified in the digital era (Kohm, 2020; Jewkes & Wykes, 2012). As Jewkes and Wykes have argued, “the construction of the dangerous stranger who once hovered outside school gates . . . now surfs the net” (2012, p. 943), but as research has found, child abuse (including sexual abuse) happens most often by people known to the victims, including family members (DeMarni Cromer & Goldsmith, 2010; Wodda, 2018). However, these discourses of dangerousness and the construction of the dangerous stranger are used to “legitimate government initiatives to control

and monitor communication technologies with implications for our personal freedoms, privacies, and human rights” (Jewkes & Wykes, 2012, p. 943).

According to my discussions with youth participants and scholars working on youth online practices (Albury, 2016; boyd, 2014; Setty, 2022), this adult interpretation of a separation between real life and digital life is out of touch with young people’s lived realities. According to my conversations with youth, the reliance on cases of teen suicide to make these types of cautionary tales about cyberbullying do not reflect the majority of young people’s experiences with technology-mediated sexual activities. Pascoe (2011) similarly found that these types of accounts of cyberbullying “reinforce messages directed at adults (and teens) that adolescents are out of control, making poor decisions about their bodies, and that new media and teen sexuality are a combustible and dangerous mix” (p. 5). Members of Parliament commonly spoke about distinctions between the online and the “real” world (and their collision). Young people are navigating a social world that is immensely digital: it is their “real” world and, as discussed in Chapter Three, online spaces sometimes have meanings for teens that differ, often substantially, from how adults understand them (boyd, 2014; Marwick, 2008).

Concerns that society is dealing with a “plague” of cyberbullying rest on the belief that cyberbullying exceeds conventional understandings of time and place. Speakers in both the federal Bill C-13 and provincial Bill C-27 debates describe bullying as a type of crime that is easily facilitated with the help of the internet, is often anonymous, and is difficult to govern. For parliamentarians, it is the combination of “bullying” and “cyberspace” that creates a toxic and explosive mix, even greater than the sum of its parts. The idea that cyberspace allows anyone to say anything at any time fuels public fears about cyberspace as a boundary-less world (Sandywell, 2006). According to sociologist Linda Waldron (2014), these ideas contribute to the promotion of

a moral panic around cyberbullying. While societal concerns about cyberbullying certainly existed prior to its construction as a moral panic (Waldron, 2014), the sentiments of fear were fuelled by the media and pressure groups like the Canadian Centre for Child Protection (C3P) (Kohm, 2020) via headlines about high-profile cases of teen suicide, including Amanda Todd and Rehtaeh Parsons. Claims-makers such as politicians and C3P also contributed to the creation of fear around the issue by relying on these same tragic (yet rare) cases. According to Best (1987), this is a common move—atrocious tales, he argued, are usually selected for their extreme nature and “become the referent for discussions of the problem in general” (p. 106). Cyberbullying has been constructed as a particular type of social problem, a process that moral panic scholars would argue relies on claims-makers (or moral entrepreneurs) using a variety of common strategies including discursive strategies, emotional appeals, and statistical framing (Best, 1990; Cohen, 1972; Jewkes, 2012; Kohm, 2020). Importantly, as discussed in Chapter Two, claims-makers such as C3P seek to “own” an issue (Kohm, 2020), presenting it as an urgent problem that requires specific, often legal, solutions.

Words like “steroids” suggest that this is a growing problem, and terms like “plague” and “deadly” establish the scale and destructive nature of the issue. Finally, phrases like “no refuge” and “no escape” suggest that the problem is beyond control. The framing of the problem of cyberbullying as a spreading plague is reminiscent of other panics of the past involving the perceived vulnerability of children and a turn to criminal law to respond. Concerns about threats to children, as noted in Chapter Two, have historically been linked to fears about child sexual exploitation and/or corruption and have been the focus of moral crusades throughout history. Moral crusades are social movements that campaign around a symbolic or moral issue and often require professionals (or moral entrepreneurs) who can draw up the appropriate rules in the

appropriate form to carry out their mission. However, one major consequence of a successful crusade is the establishment of a new rule or set of rules, usually with the appropriate enforcement machinery being provided at the same time.

Tracing the historical shifts, redefinitions, and realignments around the phenomenon of “dangerousness,” there are examples whereby the construction of the “dangerous offender” has been used to bring certain individuals into the spotlight for public denunciation and expulsion. In an effort to construct social problems around child sexual exploitation, claims-makers have created specific figures (e.g., boogeymen, sexual psychopaths, monsters) to symbolically demonize and denounce and to punish. Criminal law has served to do both of these things. Dangerousness became “sexualized” in a particular way around the middle of the 20th century (Chenier, 2008; Lave, 2009). Understanding the intense focus on the social construction of the dangerous sexual offender involves a historical analysis of the particular “regimes of truth” in which dangerousness has found expression. This involves looking at the convergences, alliances, and contingencies occurring among psychiatry, medicine, and law; the organizational, professional, and bureaucratic interests that elevated these forms of knowledge at the expense of others; and the mobilization of a political authority to take action. One concrete example of this can be seen in the construction of the “Sexual Psychopath.” Jenkins (1998) traced the period from the 1920s through post-WWII to demonstrate that a sex psychopath panic was fuelled by fears about “predatory strangers preying on children” (p. 117), and that criminal law was used in an effort to eradicate the problem of “sexual deviants” (Chenier, 2008; Jenkins, 1998). Most historians writing about America’s post-WWII sex crimes panic credit its creation to the director of the FBI at the time, J. Edgar Hoover, who was an outspoken advocate for increased measures to control sexual deviancy and in the 1930s declared a “War on Sex Crimes.” The local and national media responded with an increased focus on sex-

related social and moral conflicts. Fuelled by sensational media coverage of sexual assaults, and in rare cases the disappearance and murder of children, the sexual deviant, a pathological character popularized in the United States prior to WWII and revived immediately after the war, emerged as a new sexual villain (Chenier, 2008). As scholars have made clear, while claims-makers argued that the sexual villain was a threat to children, the threat was symbolic in that it was about the threat to the heteronormative status quo. According to Canadian queer liberation scholar Gary Kinsman (1990, 1995, 2006), the post-WWII sex crimes panic targeted gay men, who were constructed as “sexual deviants” and framed as a sexual danger in order to intensely police them. This resulted in many gay men being sent to psychiatric hospitals where they were deemed “incurably homosexual” (Kinsman, 2006) and imprisoned, in some cases indefinitely.

As discussed in Chapter Two, Cohen coined the term “moral panic” “as a way to analyze and understand a particular public reaction to deviance (Waldron, 2014, p. 198). Therefore, like other scholars studying moral panics, I am interested in understanding the processes involved in how certain things become selected as a threat or a problem. Alongside the media, politicians and other interest groups act as claims-makers who help to define something as a threat. According to Waldron, such rhetoric relies “on a moral panic as a way to create fear over an issue that is out of proportion with its actual threat” (2014, p. 205). One of the purposes in riling up societal fears over cyberbullying is to convince members of society that attention to the problem is reasonable, helping to grow public hostility toward the evil perpetrators of cyberbullying, the anonymous abusers who hide behind their computer screens and prey on Canada’s children. By constructing this figure of the cyberbully, claims-makers call on parents to do something about it by monitoring what their children do online, but also to get them on board with justice mechanisms that will control the problem.

A cyberbullying-focused moral panic has implications. As Waldron has noted, it masks the complexities of and underlying causes that contribute to the issue: “The causes of bullying more generally get ignored, discussions of relational aggression and sexual harassment don’t get taken up, serious conversations about homophobia and the problematic gender socialization that takes place in homes and in our schools gets dismissed” (2014, p. 200). Instead, as Waldron has claimed, there is “an oversimplified panic about the downside of the proliferation of technology use among kids” (2014, p. 200). Further, these narratives portray universalizing notions of teenagers as naïve, foolish, and psychologically and emotionally immature, therefore making them likely victims of cyberbullying by strangers lurking “out there.”

Duty to Protect

On both sides of the Bill C-13 debate, MPs emphasized their duty as parliamentarians to protect vulnerable Canadians—primarily children—from the harms of cyberbullying. Peter MacKay argued, “The legislation is intended very much to protect people, young people in particular, our most vulnerable” (House of Commons, 41st Parliament, 2nd Session, 2014). The frequency of this argument occurring across party lines should be noted. In my analysis of the debates, I coded 44 references under the theme “Protecting the Children.” Parliamentarians’ appeals to the government’s role in providing protection were emphasized by Conservative member Robert Goguen who stated, “we believe the bill that has come forth has struck a good balance between the privacy rights of those who commit the offences and the protection of those most vulnerable people whom they attack, the children of Canada” (House of Commons, 41st Parliament, 2nd Session, 2014). His fellow party member Scott Armstrong similarly stressed the importance of passing the “legislation as quickly as possible so we can step up and protect our children” (House of Commons, 41st Parliament, 2nd Session, 2014). This sentiment was shared by

politicians in other parties, including the NDP, whose member Charmaine Borg argued that “The provisions pertaining to cyberbullying, namely the specific clauses that deal with the distribution of images without consent, could already be law and could already be protecting children” (House of Commons, 41st Parliament, 2nd Session, 2014). Ève Péclet of the NDP added,

As I have said many times, the role of a parliament and a government is to give a voice to people who are too weak to defend themselves or who unfortunately have not had the same opportunities as others to be able to feel equal and face difficult times in their life. All of us have gone through adolescence. . . . [W]e, as legislators, have a duty to pass laws to protect young Canadians. (House of Commons, 41st Parliament, 2nd Session, 2014).

These members emphasized the urgency of a governmental response to cyberbullying, some suggesting that without this action, more young people’s lives would be at risk. For instance, Peter MacKay argued,

The bill is about protecting people. It is in response to a very real need. Cyber-intimidation, cyberbullying, cybercrime is a very serious issue in this country today and we have seen instances where it literally cost young people their lives. (House of Commons, 41st Parliament, 2nd Session, 2014)

Others once again relied on rhetorical devices that in turn relied on emotional and ethical appeals to consider the dire situation of parents who have lost children to suicide. One case referenced during the debates was the death of Jamie Hubley. Hubley was a queer teen who died by suicide after relentless harassment and physical violence by his schoolmates. Conservative member Bob Dechert quoted Jamie Hubley’s father, Allan Hubley: “Our children need you to use your power as parliamentarians to protect them. Parents across Canada are watching and hoping you will do something to help them” (House of Commons, 41st Parliament, 2nd Session, 2014).

The Liberals and the NDP argued that the welfare of young people could be best addressed holistically with a focus not just on changing the criminal law but also by implementing education- and community-based approaches that would focus on prevention (Barrense-Dias et al., 2020; Dodge, 2023; Dodge & Lockhart, 2022; Horeck et al., 2021). However, it should be noted that all parties agreed that the criminal law should be changed to address cyberbullying because of the idea that this “new” articulation of harassment was not already within the scope of existing laws. The Conservatives, while in agreement that criminal law should not be the only recourse, believed it was the best tool at their disposal to crack down on predators lurking on the internet by equipping police with the appropriate tools to do so. The Conservative focus on criminal law as the best form of protection was further criticized by the other parties because the Conservatives also voted against motions to adopt a national strategy to address the issue. Further, Information and Privacy Commissioner Ann Cavoukian offered a critical take on the Conservative’s approach: “We can all agree that cyberbullying is an issue that needs immediate attention, but it is very troubling to see the government once again trying to enact new surveillance powers under the guise of protecting children” (House of Commons, 41st Parliament, 2nd Session, 2014).

While the Conservative government framed Bill C-13 as a response to cyberbullying, in fact there was a very specific focus on the “collision between sexual exploitation, technology, and bullying” (House of Commons, 41st Parliament, 2nd Session, 2014), therefore narrowing in on what Peter MacKay described as “the particularly vile and invasive form of cyberbullying involving the non-consensual distribution of intimate images” (House of Commons, 41st Parliament, 2nd Session, 2014). While technically these legal changes would apply to anyone who was a victim of non-consensual intimate image distribution, including adults, the focus of the debates was almost entirely on youth. The Conservatives were adamant about making the link between intimate image

distribution and child pornography, playing on public anxieties about the online distribution of nude images of children.

According to Best (1987) and Kohm (2020), a common strategy in claims-making about child sexual exploitation is to present estimations to assess the problem's magnitude. This is often done by presenting statistics. Indeed, the Conservatives presented data from Cybertip.ca that revealed the national tip line had received more than 100,000 reports of sexual abuse and exploitation of children. This resulted in more than 500 arrests and in numerous children being removed from abusive environments, emphasizing the importance of modernizing the law. Although as Kohm (2020) argued, Cybertip.ca is the national tip line run by C3P, a private organization with no accountability and a lot of proprietary interest in how these numbers are delivered. Nonetheless, Conservative claims-makers used these statistics to lobby for a criminal justice response. Conservative MP Mike Wallace asked the House,

If it was their son or daughter whose photo was online and who was being bullied, would they want the police to be able to act to resolve the issue and have a penalty for cyberbullying? I believe the answer is yes, and it is yes for the vast majority of Canadians. That is why we need to support Bill C-13. (House of Commons, 41st Parliament, 2nd Session, 2014)

This call for increased policing powers was commonly shared among Conservative speakers who emphasized the importance of this approach in light of the changing nature of the technological world.

Policing in the Digital Era: “modern tools for modern times”

The “tough on crime” rhetoric from Conservative MPs, which was pervasive throughout the Bill C-13 debate, can be summed up in a quote by Conservative MP Cathy McLeod: “we are

a government that will see criminals receive the criminal sentences that should be rightfully coming their way” (House of Commons, 41st Parliament, 2nd Session, 2014). One of the main arguments presented by the Conservatives (spearheaded by Peter MacKay) was that police needed “modern tools for modern times,” and to “enhance the investigative toolkit [they] use to deal with cybercrimes and electronic evidence.” Conservative MP Bob Dechert explained that the government worked with the cybercrime working group—a group of experts in the law that report to the federal-provincial-territorial ministers of justice—and they recommended that in order to address cyberbullying, police needed to be provided with additional investigative powers including “data preservation demands and orders, new production orders to trace specified communications, like [in] the Amanda Todd case, and new warrants and production orders for transmission data” (House of Commons, 41st Parliament, 2nd Session, 2014). In fact, the Conservatives drew on testimonies from the parents of Amanda Todd, Rehtaeh Parsons, and Jamie Hubley to emphasize their belief in the importance of increasing investigative powers “to ensure that what happened to their children does not happen to other children” (House of Commons, 41st Parliament, 2nd Session, 2014). The following quote from former police officer and Conservative MP Shelly Glover speaks to the party’s emphasis on the perceived importance of the role of police and on a law-and-order approach to this situation:

It is obvious just by looking at the makeup of our parties that having 12 police officers sitting in a Conservative caucus and no police officers sitting in the NDP caucus that we have some experience in dealing with victims. We are going to continue to push forward for victims. I am hopeful my colleague will correct the statements made about us not caring about these issues and caring only about an agenda. How on earth can she explain the fact

that both of these poor young women's families have agreed 100% with this Conservative government's bill? (House of Commons, 41st Parliament, 2nd Session, 2014)

Nicola Henry and Anatasia Powell's (2018) work on policing technology-facilitated sexual violence against adult victims in Australia has revealed some of the challenges that police face in addressing these types of crimes. They noted that these include cross-jurisdictional barriers or access issues in cases where evidence is held by an international service provider. This might include Facebook, Dropbox, and Snapchat, among other social media and smartphone applications. Henry and Powell's (2018) interviews with police revealed a lack of cooperation on the part of internet and telecommunications service providers (p. 302). Therefore, while there is evidence to support the need to provide investigators with the tools to support victims who decide to enlist their help, as my study and others before me have found, young people are unlikely to turn to police in these situations (see also: Dodge & Spencer, 2018). Instead, as will be discussed in Chapter Six, young people do not often engage criminal law and instead look for alternative approaches. Further, as will be discussed below, there is much evidence to support the argument that, despite MP Glover's claim that police have experience dealing with victims and want to support them, young people who do not meet the image of the "ideal victim" often face serious barriers, legal and otherwise, if they choose to access the criminal justice system in cases of sexualized violence. Therefore, the issues here are more complex than a need for "modern tools for modern times," and while some victims of NCDII may want to enlist police to have an image removed from a website, or to have a cellphone confiscated so that an image can be deleted, my study reveals that young people (and the adults who support them) are interested in alternative approaches in these scenarios.

Conclusion

The events and debates that preceded the passing of Bill C-13 and the subsequent amendment to *Criminal Code* section 162.1 was largely in response to the Rehtaeh Parsons and Amanda Todd cases. These reactive responses relied on narratives detailing the vulnerability of youth to cyberbullying and were constructed to lobby for criminal justice responses to cases of NCDII. While the new law governing non-consensual intimate image distribution is preferable in many ways to child pornography laws in that it does not criminalize youth for sending their own nudes and carries fewer stigmas for those youth who are charged under it, it will not do anything to change the cultural landscape that contributes to sexual and gender-based violence in the first place. Further, in this new landscape, where intimate image distribution laws are on the books, young people in Nova Scotia are grappling with what this all means. In the chapters that follow, I engage with the voices of young Nova Scotians to illustrate some of these interpretations and highlight their perspectives about legal responses to sexual violence, cyberbullying, and non-consensual intimate image distribution.

Chapter Five – Youth, Sexuality, Digital Intimacies, and Legal Consciousness

Introduction

As chapters Two and Four outlined, the combination of the construction of youth sexuality as a problem in need of addressing, protectionist discourses, and technopanics have resulted in new laws governing youth's online practices, including intimate image sharing. As I have argued to this point, these discourses have led to increased surveillance and shaming of young people's digital practices. To date, the legal, political, and educational responses to intimate image sharing have largely ignored youth perspectives on the matter. This chapter analyzes youth participants' voices to better understand how protectionist and legal discourses inform youths' legality and their navigation of intimate image sharing. Interviews and art making with participants in this study revealed that, while law may seem far removed from most teenager's everyday lives, the normative impact of law-like thinking and social organization still impacts how they navigate intimate image sharing. Data collected for this study illustrates how power operates in unseen ways through institutions like the family and school, and through social and cultural views on sex and childhood. This chapter draws on Ewick and Silbey's concept of legality (1998, 2003) to unpack how, even in the absence of direct engagement with formal law, teens are influenced by law-like normative orders.

The data in this study reveal how young people come to understand their sexual citizenship and how various structures impact their legal consciousness and orientation toward law. This chapter engages with how the legal regulation of teenage intimate image sharing, and youth sex more broadly, influences the ways in which young people think about and navigate the boundaries

of intimate image sharing practices in two ways. First, it explores how young people move through a social world that has constructed youth digital sexual practices as inherently risky, and how in turn they begin to grapple with their realities and learn to navigate this landscape. Second, it highlights how youth become aware of inequities in the legal system, including the barriers that survivors face in accessing legal justice in sexual assault cases, and examines legal consciousness in motion. This legal consciousness can be seen in how participants assert their rights to sexual safety and dignity under a legal system that has proven to be flawed in upholding these legal rights.

This chapter provides further context for this dissertation's key argument—that young people are navigating this legal landscape based on how they come to understand and make meaning of their sexual citizenship. Through ten interviews and four art workshops with young people, I examine how the structures that inform young people's ideas about legality impact how they come to understand their legal consciousness as they negotiate digital spaces as not-yet-sexual citizens.

Legal Consciousness

Consciousness, as explained by Ewick and Silbey (1998), refers to:

. . . a reciprocal process in which the meanings given by individuals to their world become patterned, stabilized, and objectified. These meanings, once institutionalized, become part of the material and discursive systems that limit and constrain future meaning making. . . .

Through language, society furnishes images of what those opportunities and resources are: how the world works, what is possible, and what is not. (p. 39)

Ewick and Silbey's (1998) *The Common Place of Law* focused not on exchanges that happen within the boundaries of the physical space of the legal system (i.e., the courtroom or mediation room), but instead on how people get to those spaces in the first place. They asked, "how, where

and with what effect law is produced in and through commonplace social interactions within neighborhoods, workplaces, families, schools, community organizations, and the like” (p. 20). I agree with Ewick and Silbey (1998) in that consciousness is not reducible to the sum of individual experiences and understandings. Instead, by using a legal consciousness framework, this chapter is concerned with the ways in which legality—hegemonic legal ideologies—operates through social life outside of institutional boundaries when people use law’s language in their everyday social interactions. Hegemonic legal ideologies are defined as the “meanings, sources of authority, and cultural practices that are commonly recognized as legal, regardless of who employs them or for what purposes” (Silbey, 2005a, p. 347). Legal hegemony refers to how the “law sustains its institutional power despite a persistent gap between law on the books and the law in action” (Silbey, 2005a, p. 323). In their work, they interviewed individuals to make sense of why people accept a legal system that promises neutrality, impartiality, objectivity, and equality but systematically reproduces inequality.

Susan Silbey (2005a) argued that legal consciousness must be understood in terms of its role in the collective construction of legality (p. 334). Legality does not simply refer to the ways in which formal law forms the basis of how we live or the kinds of rules we live by, rather it finds expression in the commonplace schemas of everyday life (Ewick & Silbey, 1998). Ewick and Silbey’s (1998) theoretical foundations remain important for researchers, particularly for their theorizing around legality. Legality is significant for understanding the way law enters a situation, even when seemingly absent. This can be seen when individuals routinely invoke legal language when discussing issues in their lives. This is evidence of the defining power of law over people’s lives (Ewick & Silbey, 1998, p. 171).

In order to trace legality in my own work, this chapter examines how everyday actions and

practices interact with one another to create hegemonic legal ideologies about “proper” versus “deviant” sex, consent, privacy rights, and responsible technology use, and how these ideologies impact the legal language and common narratives that youth use when speaking about intimate image sharing. While some youth believe that law is insignificant in their lives and feel quite distanced from formal legal systems, consistent with Ewick and Silbey (1998), I found that the function and power of the legal system as an ideological phenomenon is prevalent through discourses about youth sexuality and the dangers of technology. These discourses are invented to govern without actually invoking formal law (Foucault, 1991; Sutherland, 2006). There is a juxtaposition, then, concerning the ways in which youth feel distanced from formal legal systems while at the same time being in close proximity to them. While most youth I interviewed felt that law was not a significant institution that impacted their day-to-day lives and decision making around intimate image sharing, I argue that youth are in fact engaging in law-like thinking when navigating intimate image-sharing practices. Drawing on Foucault, Ewick and Silbey (1998) claimed that in this era of disciplinary control, power is decentralized and impacts individuals by “creating desires and then naturalizing those as drives . . . the technical, faceless, and individuated forms of contemporary power that defy the possibilities of revolt or collective resistance” (p. 188). They believed that this disciplinary regime has disabled communities who were once the site of social disturbance (p. 188). In this chapter, I explore this disciplinary regime, examining how young people come to learn about normative online sexual behaviours from educational institutions and the like, and how these ideas contribute to a formation of legal consciousness.

Formation of a Teenage Legal Consciousness and the Disciplinary Power of Law

While my data suggest that young people might not fully understand the parameters of Non-Consensual Distribution of Intimate Images (NCDII) laws, they know that these laws are

directed at them. Kate Sutherland (2003) argued that while many young people will never come into contact with formal systems of law as a result of their sexual activity, this does not mean that law has no impact on “normal teenage sex” (p. 331). To understand the meaning-making process of legality, I ground this chapter and the next in theories of legal consciousness, including the understanding of consciousness advanced by Ewick and Silbey (1998, 2003), which as illustrated above, understands it as the process whereby individuals assign meanings to their social system to construct a common-sense understanding of the world. Using legal consciousness as a conceptual framework allows for an investigation into the constitutive power of law—the ways in which law “is one of many competing forces that affect and shape social life” (Nielsen, 2000, p. 1058). Law collaborates with other social structures, including family, religion, and class, to “infuse meaning and constrain social action” (Ewick & Silbey, 1998, p. 22). I draw on contemporary legal consciousness scholarship that focuses more on how young people learn about the limitations of their legal status (Gonzales, 2011; Muñoz, 2018), and how lived experience of oppression, as well as how teenagers are socialized by their parents not to disclose their legal status to others, impact how youth make meaning of legality (Muñoz, 2018). While this work centres on the experiences and legal consciousness of immigrant youth, I find it influential in analyzing the socialization processes that impact the ways in which young people come to understand their legality. I use insights from Muñoz (2018) and expand on them to explore the relationship between how young people are socialized as not-yet-sexual citizens and the impact that this socialization has on their legal consciousness. There is very limited literature that takes this approach; therefore, this dissertation contributes original findings to legal consciousness scholarship by offering new insights into how young people’s perceptions of legality are shaped by their limited sexual citizenship.

Drawing on Foucault's analysis of disciplinary models of power, Sutherland argued that "[w]ithin law, juridico-discursive power operates alongside disciplinary power; law is simultaneously repressive and constitutive" (p. 330). Sutherland's work revealed the normative (if messy) "middle" where coercion does not always reach. Sutherland (2003) asked how "teenagers experience and interpret law in the context of their sexual lives" (p. 336), and goes on to explore how age of consent laws have come to have a "place in teenage consciousness" (p. 338). She argued that legality is confirmed in the longstanding currency of the term "jailbait" in popular culture (p. 338) and detailed how teenagers get information about age of consent laws from advertisements, movies, television, music, and news coverage of sensational stories about statutory rape cases. These sources are foundational in the formation of a teenage legal consciousness even if they do not provide accurate depictions of how law works (Sutherland, 2003). Consistent with Sutherland, I found that the law does indeed influence the sexual morality that acts as a backdrop for how the teenage participants in this study govern their own sexual behaviour and police that of their peers (Sutherland, 2003). Sutherland's theoretical contributions have been immensely helpful in analyzing young people's legal consciousness, when applied to an examination of the sources and structures that inform young people's ideas about intimate image sharing and how they come to think and talk about it. Depictions of law are presented to youth in specific ways and through a variety of sources including formal school curricula, school presentations, popular culture, and organizations like the Canadian Centre for Child Protection (C3P). As my findings reveal, these messages are not always clear and sometimes not even legally accurate, but they tell young people who is and who is not likely to be judged as deserving of legal protection (see also Sutherland, 2003). As I argue in the following sections, the mainstream messages that young people received about NCDII at the time of data collection, and how these messages are interpreted by young

people, demonstrate how the distributive impact of law reveals itself through young people's legal consciousness. I found that young people's perspectives regarding intimate image sharing are shaped by tensions between responsabilization narratives that they receive and their own critical consciousness about where these responsabilization narratives come from, including how they are influenced by adult fears about the relationship between youth sex and digital spaces.

Danger Discourses in Educational Messages about Intimate Image Sharing

At the time of data collection, most of the teenage participants had taken one Healthy Living class offered in grade eight. Most teen participants highlighted that this was the only class in which they discussed sexual consent, sexual assault, cyberbullying, or sexting. Participants shared their frustration about the absence of this education in every art workshop and in many interviews. With respect to the presence or absence of legal education, Audrey responded,

Probably not. Because we don't learn about laws in school for one. The only thing we learn about is consent and I guess, and we don't even learn about consent. It's not like we have a workshop or a class on what is consent, it's not like that, it's just kinda briefly mentioned, or like here's a news story that happened and this is what consent is now it's over with. So law does not . . . I don't think law influences anything at all about consent and youth sexuality. (Audrey, 16)

One interesting point to note from Audrey's quote is that she identifies consent as being outside of law's purview to define. She explained, "we don't talk about consent laws, we don't really think about law. I guess it's being more implemented in everyday society, the word consent is being talked about more because it's becoming such a big issue especially with technology" (Audrey, 16). The young people who participated in this study demonstrated a strong understanding of the legal parameters of sexual consent, despite sharing that they had very little legal education about

it. While Audrey is referring to the role of formal law in shaping “consent and youth sexuality,” through a legal consciousness framework, we can think about the informal, yet powerful, ideas that permeate the everyday lives of young people like Audrey. Where and how these young people get their ideas about consent is important in studying the formation of their legal consciousness, and in how they come to label experiences as legal violations (see too Oberweis et al., 2021).

Some participants explained that their schools took a reactive approach when only engaging in discussions about consent following news headlines. For example, Xavier told me that after “a couple kids in Canada committed suicide from [cyberbullying],” his teachers talked about it in class. Referring to the Amanda Todd case, he explained, “that happened, and everybody was just kinda silent on it and the teachers just kinda spoke up and were like ya, this happened, don’t do this” (Xavier, 15). Xavier was specifically referring to individuals not showing strangers their nude bodies online. His description of the warnings that he and his classmates received following the Amanda Todd case reveal how concerns about young people’s online behaviour have narrowed in on preventing the possible harms that could arise in digital spaces by emphasizing the importance of responsible decision making and risk-averse actions to avoid victimization. The reactive approaches taken by schools, coupled with the risk-focused messaging that young people receive after tragic NCDII cases where teenagers have taken their lives, impacts their legal consciousness and how they think about risk in these cases.

Both old and the new grade eight Healthy Living curricula address technology-mediated sexual activities, and both are designed to encourage students to assess the risks and benefits of online technology and to make “healthy” decisions that reduce their risk of exploitation and victimization. The repressive power of law is not hinted at in these educational messages, and it is left to teens themselves to make responsible and healthy choices. The 2015 curriculum provided

teachers with talking points that emphasized the internet as an integral part of young people's lives while also presenting real concerns: "Despite the fact that it is an amazing tool offering endless opportunities for learning, it is also *home to an equal number of risks and dangers*" (Healthy Living 8, 2015, p. 55; emphasis mine). Teachers are expected to relay to students that, while access to cellphones can keep teens safe by providing a way to get in touch with their parents or guardians, thereby giving parents or guardians peace of mind, some young people are growing up without the skills to keep themselves safe online:

At a time when teens are experiencing a powerful need to belong, to explore their identity, and assert their independence, growing up online without the skills and supervision necessary for safe exploration presents a *whole host of concerns and dangers*" (Healthy Living 8, 2015, p. 55; emphasis mine)

This message responsabilizes teens but also states a need for parental supervision, which underestimates the ability of teens to understand the perceived dangers of the online world.

These messages are intimately tied to technopanics, which were discussed in Chapter Two, and the idea of stranger danger in the lawless space of internet (Kohm, 2020). The curricula assert that "teenagers must learn the skills that are required to be thoughtful and critical about what they see and read online, and they need frequent reminders to *use technology with caution*" (Healthy Living 8, 2015, p. 55; emphasis mine). Teachers are encouraged to emphasize three main areas of risk that exist with the use of technology: content, contact, and conduct. Content refers to the nature of the material that exists online; contact includes the people that one can interact with; and conduct includes what a person does and says in online spaces (p. 55). This lesson plan asks teachers to emphasize that it is impossible to have a private life in public space, and that once youth post words or photos online, they cannot take them back:

Material posted online becomes part of public information and the poster loses control over how it is used. Personal growth is about making and learning from mistakes; however, the nature of online social media means that teens are making very public mistakes that can live forever in cyberspace, often with devastating social consequences that teens just don't anticipate. (Healthy Living 8, 2015, p. 55)

The emphasis on losing control of one's material and the permanency of digital space echoes much of the narrative that was debated during the passing of Bill C-13. There is a focus on the dangers of the online world, the importance of responsible digital citizenship, and the responsibility of teachers to help young people understand how to manage these risks. The focus, however, seems to be directed at responsabilizing individual students to manage their own online risks—including the risk of victimization—by emphasizing that the things you do, say, and post online live forever in cyberspace, making them public “mistakes” that can have “devastating social consequences” (Healthy Living 8, 2015, p. 55). Indeed, these educational sources enlist teenagers by encouraging them to govern themselves online, including what sexual activities and expressions they engage in. The renewed 2022 curriculum maintains this narrative of risk but also includes reference to image sharing and access to pornography:

There is a growing number of concerns that schools and families of young children and school-aged children and youth face addressing the negative impacts associated with the use of the internet including, but not limited to, taking and sharing photographs of self and others, sharing of personal information, increased access to pornography and misinformation in the area of sexual health, and self/peer exploitation. It is a growing concern that children, youth, and indeed the adult population do not seem to understand

that what we say, do, and post online can have consequences for self and others. (Healthy Living 8 Guide, 2022, pp. 16–17)

The language of self-exploitation suggests that engaging in technology-mediated sexual expression is a form of exploitation with risky consequences. Under the lesson on healthy relationships, guiding questions for teachers included “how are the laws related to sending, receiving, or purchasing sexually explicit images online necessary to understand?” (Healthy Living 8 Guide, 2022, p. 31) and “how can understanding the laws related to consent and sending, receiving, or purchasing sexually explicit images contribute to safe relationships?” (p. 32). Under a lesson about healthy behaviours, teachers are further prompted to emphasize that it is important to have “boundaries” (p. 18) when using new technologies. While these messages are not problematic in their own right, in this same lesson students are directed to the C3P website for more information about issues like “sextortion.” As noted earlier in this dissertation, C3P’s approach to addressing these issues is alarmist and conservative, presenting messages that do not differentiate between consensual image sharing and NCDII (Kohm, 2020). One of the activities in this unit requires students to visit C3P’s website to find details about sextortion. What students will discover when they reach the site is the organization’s DontGetSextorted.ca initiative, which, while steeped in comedy, still focuses on responsabilization. Students are asked to share what they found on the C3P site in class, and teachers are provided with some questions that might come up during these discussions. These include:

- How could I help a friend who has been impacted by sextortion?
- How could I find out steps to take to get a picture removed from the internet/social media site?
- How would I recognize controlling behaviour of someone I am dating?
- How do youth learn what is legal and what is illegal about sending pictures online? (2022, 19)

In other words, there is no direct lesson plan to teach students about existing laws, but if the question comes up, teachers may address it or they might prompt students to ask these specific legal questions. Further, no responses to the above questions are provided in the curriculum guidelines, leaving teachers, presumably, to have to come up with responses themselves. The curriculum outlined some additional questions that might emerge, including “how might sextortion be related to human trafficking?” and “how might sending a nude to someone you know be considered pornography?” (2022, p. 19). The link that is made between intimate image sharing and crimes like human trafficking and child pornography in these types of public campaigns sends a strong message to young people that the risk of sending one’s own nude is much too high and can lead to devastating consequences such as becoming a victim of sex trafficking. As my empirical data suggests, the linking of intimate image sharing with crimes like human trafficking impacts how young people come to think about legality. For example, when I asked Harper what she thought about youth consensually sending nude photos to others, she responded, “well they’re

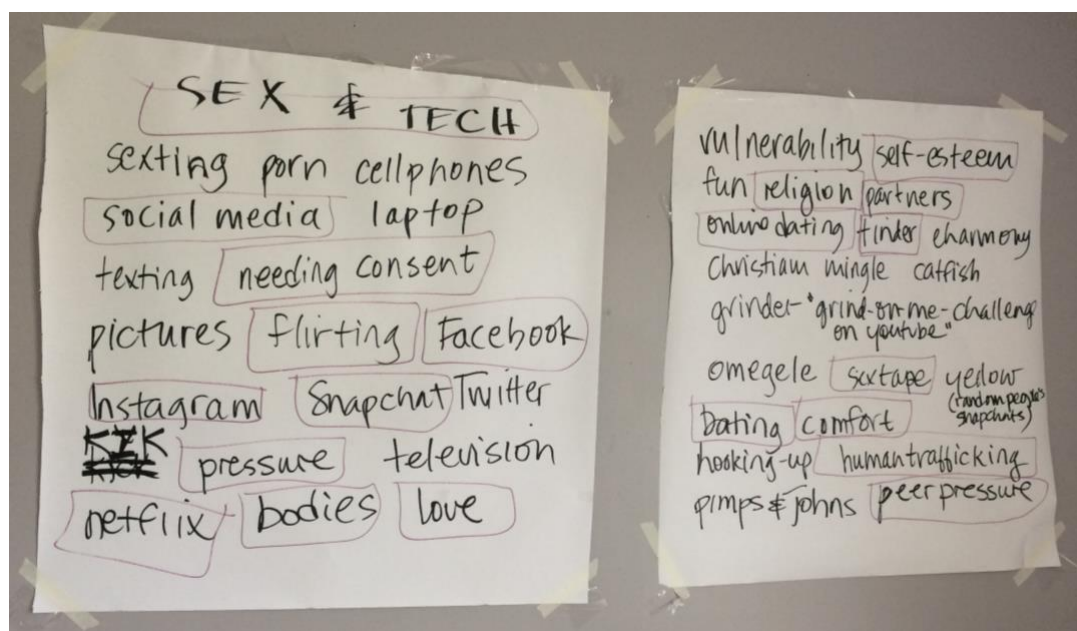


Figure 7: Art Workshop 1 Word Association Exercise on Sex and Tech

not allowed to if they’re a youth because it’s [pause] child pornography.” Harper also told me that

she did not believe that any intimate images should be taken of anyone under the age of 18 and that the law should be involved in these scenarios, noting that “even if they [a teenager] have permission [to take or share a nude image] and they’re underage, you shouldn’t do it” (Harper, 15).

As discussed in Chapter Three, messages about teenage sexting that include the threat of human trafficking are a component of a much larger risk-oriented strategy to educate young people about safe and responsible online behaviour (Roots & Lockhart, 2021). These types of educational messages are part of a project that I have critiqued throughout this dissertation—a project that constructs youth sexuality as a “problem” in need of management, one that largely devalues, or outright ignores, young people’s sexual agency, which is a component of their sexual citizenship. These messages of danger influence how young people think about sexuality and technology, as was revealed in one art workshop when participants brought up the term “human trafficking” during a word association exercise about sex and technology. They explained that they had been told by teachers that sending one’s own nudes via text could make them targets for human traffickers. These danger discourses instill fear into students, but, as Oliver and Flicker (2023) have rightly argued,

Warning young people about the risks and dangers of sexting often fails to understand the wider norms and stereotypes inherent in the scenarios that teacher themselves are generating. Rather than exploring unhealthy relationships and how to prevent domestic and/or sexual violence, this scenario blames the victim at the expense of wider conversations about power, misogyny and help-seeking. (p. 5)

Even in its renewed format, the formal education that students in Nova Scotia receive around the relationship between youth sexuality, technology, and image sharing continues to follow dominant

assumptions that this relationship is imbued with risk. These findings contribute to other emerging work that critiques educational approaches that emphasize danger (Oliver & Flicker, 2023). For example, in their recent research on Canadian teachers' responses to including sexting in the Ontario sexual health and human development curriculum, Oliver and Flicker (2023) found that most of the classroom-based approaches "did not account for young people's pleasure and desire", and that they "adhere[d] to one-dimensional and desexualized understandings of why young people sext in the first place" (p. 5). These examples suggest that young people are being socialized not to engage in digital sexual practices through a fear-based approach that links very tragic (albeit unlikely) outcomes such as sextortion or sex trafficking to sexual image sharing. Indeed, some youth participants believed this was reason enough not to partake in certain digital sexual practices, including sending their own nudes. As this section has demonstrated, young people are not being socialized as sexual citizens and this is, in part, due to a long history of child sex panics and more contemporary moral panics about youth sex and technology. Together, the experience of not being socialized as legitimate sexual actors and the dominant risk discourses that young people receive shapes their legal consciousness.

Building Policing into Lesson Planning

Some participants explained that they had received information about image sharing during school assemblies with invited speakers such as social workers and police. Many of these workshops are provided by the provincial Department of Justice's CyberScan Unit. As discussed in chapters One and Four, CyberScan was launched in 2013 as a product of Nova Scotia's *Cyber-safety Act*. From its inception, one of CyberScan's primary roles has been to deliver educational workshops across the province. Between 2013 and 2017, CyberScan conducted over 900 cyber safety presentations, discussing cyber safety and the unit's mandate with schools, community

groups, and government workers across Nova Scotia, and between July 2018 and July 2020, they provided another 464 (Dodge, 2021b). The school presentations are directed not only at students but also at teachers, support staff, and parents. Alexa Dodge's (2021b) research on CyberScan detailed the types of messages that are delivered in these presentations. She offered several criticisms of CyberScan's approach, noting that the presentations are primarily focused on giving youth general "cyber safety" tips, like not accepting friend requests from strangers or giving out their home address online. These tips, according to Dodge, are better suited for avoiding harassment, luring, or stalking by strangers than they are at preventing cyberbullying or NCDII. Most cases of cyberbullying and NCDII are between people known to each other, but CyberScan's "stranger danger" messages are intimately connected to ideas about childhood sexuality, moral panics about children and sex, and adult beliefs that young people do not understand or appreciate the perceived importance of privacy, especially online. Dodge also argued that CyberScan's approach is problematic because it responsabilizes the potential victim—that the unit's cyber safety model of education is not aimed at "challenging the culture of beliefs that fuel the harms of sexist bullying, victim blaming/shaming, or other discriminatory beliefs that are often present in the most harmful experiences of cyberbullying and nonconsensual intimate image distribution" (2021b, p. 45). Finally, she claimed that while education focused on legal warnings might have the short-term effect of scaring youth into compliance, these messages are not likely to impact behavioural change (p. 48). Instead, as will be discussed in the next chapter, my study found that youth may be less likely to seek adult support if they believe that they, or their peers, will be criminalized for doing so.

In their research with teachers in Ontario, Oliver and Flicker (2023) found that some had invited or wanted to invite police into their classrooms, to discuss sexting with students in an effort

to strike fear into them. Oliver and Flicker (2023) explained that some of their interviewees believed that “messaging coming from law enforcement was more intimidating to students” (p. 6). While youth participants did not always believe that criminal law was the best approach to dealing with cases of NCDII among teens, Audrey thought that getting a “talking to in a police station” (Audrey, 16) could deter future incidences. This perception gestures toward the viewpoint that law is authoritative. Like the teachers that Oliver and Flicker interviewed, Audrey had normalized the authoritative (and coercive) power of criminal law and its agents.

Education that Shifts the Responsibility Narrative

Alongside the formal curriculum that all students in Nova Scotia receive in public schools, there is one additional educational program called Healthy Relationships for Youth (HRY), which is offered in some schools across the province. Healthy Relationships for Youth trains and supports students in grades 11 and 12 to facilitate a series of 10 sessions to grade nine students with Healthy Living 9 classroom teachers. The program was designed to be linked to the grade nine Healthy Living curriculum outcomes. Developed by the Antigonish Women’s Resource Centre & Sexual Assault Services Association, HRY is “a school-based, peer-facilitated education program where grade 11 and 12 students are trained to deliver a series of twelve HRY sessions to Grade 9 students in partnership with the Healthy Living classroom teacher” (HRY, nd). Healthy Relationships for Youth works in partnership with 24 schools across the province and trains approximately 450 youth facilitators each year. The program itself classifies its work as a violence-prevention program with youth: “a tool for schools to start preventing violence by addressing the underlying issues of sexism, racism, classism, ableism, transphobia, and homophobia,” and the “curriculum supports the goal of violence prevention by giving students the information and space to express their thoughts and emotions” (HRY Curriculum, 2019–2020). When asked how sexual image

sharing was covered in school, 16-year-old Luna explained, “It’s only . . . the only time I heard about it was during HRY.”

Healthy Relationships for Youth centres youth, consulting with young people in program design, and training students for youth-to-youth teaching. Curricula from 2017 to the present have included a session on “Social Media and Relationships,” which emphasizes the importance of understanding that the online world is part of growing up in the 21st century, that rights extend to digital space, and that “we have to uphold these rights and try to build spaces online where people can feel supported and welcomed, and not where racism, sexism, and downright awfulness can thrive.” (HRY, 2017–2018, p. 46). The primary goal of this session is to explore how youth can prevent violence and help create empowering spaces online (HRY, 2017–2018, p. 51), and while one of the key points of this session is to talk about the risks involved in being online, it differs from the provincial school curriculum in that it also emphasizes the possibility of having positive experiences using technology (p. 51). Facilitators are required to emphasize that social media is not always a positive space for everyone and can sometimes be a space that hosts “fake news, cyber-bullying, harassment, hate speech against marginalized minority groups, non-consensual image sharing, doxing,¹ cyberstalking, etc.” (p. 52). Facilitators are reminded that this session focuses on rights, emphasizing that everyone, everywhere has basic human rights to safety, respect, and human dignity, and that these rights are applicable online. They are encouraged to emphasize that women and people of colour are disproportionately targeted by hate speech and sexual bullying/harassment on the internet, and that image sharing, hacking, and doxing are all used to retaliate against women and people of colour who speak out (p. 52). Healthy Relationships for

¹ Doxing refers to the process of publicly identifying or publishing private information about someone especially as a form of punishment or revenge (Merriam-Webster Dictionary 2022).

Youth takes an intersectional approach, in order to engage and address a wide variety of youth and a wide variety of online harms.

Overall, the HRY session was designed to engage youth in active learning about what rights people have when living online and to prompt them to discuss the laws around intimate image sharing. For example, the 2019–2020 curriculum includes a scenario activity (6.4) that encourages students to think about different ways to handle different online situations. During this activity, students are presented with the following scenario:

The guys in my band are being really weird about the girl I’m seeing. They are always asking me to ask her for nudes because they want to see them. I’m not comfortable with that, and I’m also not **super sure if it’s legal**). Today one of them got her number from my phone and they were all laughing about how they are going to send her dick pics and will keep asking her for nudes. I know that she will be upset and hurt but I also don’t want to look bad to my friends or risk not being in the band. (p. 56; emphasis added)

A similar image-sharing scenario is also used in Session 10: Power and Violence:

Josh is in Grade Nine and thrilled to have made the basketball team. One day Austin, a 12th grader and the captain of the basketball team, asks Josh if his girlfriend, Ginny, ever sends him nude photos. When Josh says yes, Austin tells Josh to share them with him and the rest of the team. Ginny already made Josh promise that he would not show them to anyone else. He refuses. Austin makes it clear that if Josh wants to stay on the team and be included in the group he must share the photos. When Josh talks to other teammates, he discovers that it is what they all do, even if they do not want to. Josh feels bad about it but

being on the team means a lot to him. He shares the photos, and hopes that Ginny will never find out.

1. Why would it be difficult for Josh to say no to Austin? 2. Are social pressures at play in this situation? Why or why not? 3. What could Josh do differently in this situation? 4. **If Ginny hadn't made Josh promise to keep the pics she sent private, would it have been fine for Josh to share them with the other guys?** (pp. 97–98; emphasis added)

As the above activities suggest, the HRY curriculum provides opportunities for youth and youth facilitators to talk about the potential illegality of non-consensual intimate image distribution. These scenarios encourage critical thinking about consent, respect, and trust that many of the youth participants in my study revealed were important components in intimate image-sharing practices. This program shifts the responsibility to men's behaviour and withstanding the pressures of dominant masculinity, which is different than the gendered notions of responsibility presented in other anti-sexting campaigns like those from C3P for example. I have highlighted the lines where students might be prompted to discuss the illegality of image distribution, although it might not always be the case that participants engage in this specific discussion. At the end of the session, facilitators give students time to debrief and provide them with an opportunity to ask clarifying questions, including if they were confused about what action(s) should be taken in any particular scenario. By shifting responsibility from the trusting sender of a consensual nude to the non-consensual distribution of the nude beyond its intended recipient, the HRY curriculum structures legality differently than both the formal public school curriculum and the school workshops offered by CyberScan. Further, the HRY scenarios are better aligned with the ways in which

teenage participants in my study claimed to think about intimate image-sharing scenarios that they deemed unacceptable, including sharing unsolicited dick pics.

The above sections demonstrate how educational curricula and programs are part of the knowledge production process with respect to responsible digital citizenship, and how such knowledge might impact how young people come to see law and legality. These programs and curricula govern through responsibility, autonomy, and choice. The messages in the grade eight Healthy Living curriculum rely on neoliberal responsabilization strategies and utilize extreme consequences that “could” arise should youth not heed the warnings about the potential dangers of the internet.

There are notable differences between the abstinence, victim-blaming, the self-regulating messages presented in the grade eight Healthy Living curriculum, and the more youth-centred understandings that underline the HRY program objectives. Healthy Relationships for Youth has designed its programming with networked youth in mind and with the understanding that youth culture is incredibly digital. Rather than framing the online realm as inherently risky or calling on young people to navigate sexual self-expression with extreme caution or not at all, HRY emphasizes the importance of respecting other people by not engaging in digital sexual actions that are unwanted by the other person. The HRY curriculum is in line with what teenage participants in my study shared about the importance of trust and sexual reciprocity, as discussed in chapter three.

In the discussion that follows, I will illustrate how the socialization of young people as not-yet sexual citizens and adult panics about the relationship between youth sex and tech impact how youth participants think about intimate image sharing. Further, I will argue that this socialization and these adult panics influence legality. I explore how responsabilization messages filter into

youth participants' discussions of image-sharing behaviours and how they talk about self-respect, self-governance, and self-control.

Vulnerability, self-esteem, and peer-pressure came up in a word lottery exercise completed as an ice breaker in an art workshop (see Figure 3 above); however, self-esteem was understood in multiple ways by these participants. For some, low self-esteem could make young people vulnerable in online spaces; for others, online spaces presented opportunities to engage in “fun” ways that benefitted one’s self-esteem. The second part of the word lottery exercise asked young people to narrow down their list of words, and we drew boxes around the words that they indicated were most important to keep on the list. “Self-esteem” remained, as did “peer-pressure” and “human trafficking,” but they also kept references to “partners,” “online dating,” and “comfort.” The purpose of this ice breaker exercise was to get teenage participants thinking about what they might want to focus on further when we moved into the art-making component of the workshop. The next section engages with these responses, and individual interview and art workshop data with youth participants, to explore how young people’s accounts about intimate image sharing are shaped by wider socio-structural contexts that frame intimate image sharing as risky and reinforce gendered notions about responsibility.

“Not the Best Choice to Make”: Internalizing Risk Discourse

In the survey conducted with adults, I found that many respondents perceived youth intimate image-sharing practices as risky. They believed that youth who engage in the practice are “craving outward validation for positive body image” (P 2), have a “developing brain and lack fear” (P 10), have “no comprehension of self-worth” and are “largely ill-equipped to use and understand technology” (P 11), are typically in “unhealthy relationships” (P 16), are dealing with “mental health struggles” (P 48), and have “absent parents” (P 61). These understandings attribute

“sexting” to a personal deficit, suggesting that engaging in the act signals that something is wrong with the young person in question (i.e., mental health challenges, immaturity, lack of self-esteem, lack of responsible digital citizenship) or within their intimate relationships or family life (i.e., relationship problems and lack of parental guidance or supervision).

Young people’s accounts of why teenagers share their own nudes with others did not carry the same pathologizing tone as the responses from the adults presented above, but it was clear that risk narratives structured their understandings of the practice. For instance, as noted in Chapter Three, while some participants believed that sending nudes within relationships was normal and usually acceptable, most also maintained that people should proceed with caution. Jordan, for example, was clear about her understanding of consent around image sharing, but she also expressed trepidation (verbally and in her manner of speaking):

Um well I personally, like it’s not okay to me cus I wouldn’t feel comfortable doing it but if it’s a resounding yes, like they both are ok with it, as long as it’s not being shared with other people and they feel comfortable, I mean, it’s between them so it’s really their choice but it’s maybe not the best choice to make. (Jordan, 14)

The cautious approach, expressed above by Jordan, was echoed by others, who provided texture to these concerns by focusing on the question of the trustworthiness of the receiver of any nude image. For example, as 15-year-old Harper explained, “I think it’s kinda stupid. You can’t just like, even if you’re dating, you don’t know if you can trust them fully.” Sixteen-year-old Luna responded similarly to a vignette about a teen sending a nude image to another teen:

She obviously knew what she was doing. Like she took it [the photo]. So, if they were dating then obviously it’s been a while in that relationship, and they built that trust.

Obviously. But if the guy goes behind her back and sends it saying, oh look what my girl

showed me last night then obviously that's betraying her trust. But she knew what she was doing. (Luna, 16)

For Luna, young people are very aware that breaches of privacy can occur in these situations. This fact cannot be disconnected from the educational messages that they take in.

Reading these responses alongside those provided by the adult survey participants suggests differing understandings about young people's capacity to understand the practice of intimate image sharing. Jordan, Harper, and Luna all believed that sending one's own nude is not the most responsible decision to make, but, at least for Luna, young women who do it are doing it with agency. For Luna, this agency is not necessarily positive, but unlike the adults above, she believed that young women her age can make these decisions themselves, and that they have to take responsibility for any consequences that could arise from such a decision. It is noteworthy, given that I did not specify the gender of the actors in the provided vignette, that Luna assumed it was a heterosexual couple in which it was the girl who took and sent the photo and the guy who received it (see Appendix B). This assumption may not be surprising given the larger context in which the practice of sending nudes has been communicated. Luna's assumption may also have been more specific, however, as she'd had a close connection to a controversial case of non-consensual intimate image distribution in her school, which she explained sparked debate among classmates about whether the teenage girls involved had been pressured to send their nudes to male classmates (some of whom they were dating). The young men involved in this case were charged and pled guilty to NCDII; however, Luna, along with her schoolmate Nora, who had also been entangled in this debate, believed that some of the young women involved in the case should have shared some of the blame for sending their nudes in the first place. Nora believed that the girls "should have

gotten something” (i.e., an educational course) for sending their nudes, and Luna believed that the girls in this case “knew what they were doing.” Nora explained:

I think that they shouldn’t get community service hours like the guys because they are not the ones who gave it [the image] to everyone. They had the trust between them and thought they could trust them with that but like I feel like now they’ve learned their lesson after experiencing that but maybe beforehand we should have had more programs in our school to help us like learn this stuff. (Nora, 17)

Nora’s position is confusing here in that she both believed that the girls should be held responsible and that they knew what they were doing, but that they are also the victims of misplaced trust and should have been better advised. Nora also gestured to the belief that no major harm occurred and that the girls “learned their lesson,” which is to not be so trusting. Nora seemed unconcerned that the girls had been “exposed” to boys to whom they did not give permission to see their bodies. What Nora offered with this statement is a lot to unpack—she had also taken Healthy Living in grade eight and had experienced the HRY programming. Nora’s opinions in this scenario might have been structured by a combination of sources including direct knowledge of a case involving NCDII in her school and the narratives that surrounded it, her grade eight Healthy Living curriculum, and her participation in HRY. What Nora offered here is a clear example of the tensions that young people are having to navigate in terms of cultural norms around technology-mediated sexual behaviours.

Other participants similarly felt that there could be multiple people to blame when nudes were shared and that laws were important for managing this. For example, referring to the laws governing intimate image sharing, Daria explained:

Because I know that they’re really important and there’s like consequences if you break

them and like definitely, you're also shaming yourself if you do something, like if you're the one posting the photo. Like you shouldn't be the one to do something. You shouldn't watch someone doing that, you shouldn't take photos of young people doing that and all that. (Daria, 15)

In my conversation with Daria, it became clear that she did not believe that image sharing (consensual or not) should happen. I asked her about youth sending their own nudes, sending others' nudes without consent, and third parties taking sexual photos of other people. Daria believed that consensual image sharing is coupled with shaming oneself, and she conflated consensual and non-consensual image sharing. Given the situation that Nora and Luna described, perhaps Daria had good reason to believe that consensual image sharing could easily slide into non-consensual sharing, and knowing this, she found the risk too high. These perceptions are not surprising given that risk and individualization are both central to how sexual knowledge is constructed in youth cultures (De Ridder, 2017) and how they shape anti-sexting messages aimed at youth on television (Lockhart, 2018), in public campaigns (Karaian, 2014), and those delivered by police and child protection agencies (Karaian & Brady, 2019).

Teenage Awareness of State Regulation of Their Digital Sexual Actions

Avery's assumptions about minors as the targets of NCDII laws reveal how pervasive the regulation of young people's digital sexualities has become:

I think if you're like legally an adult and you're doing something consensual with an adult then that's your business. But like when it's minors and stuff that can get all legally and stuff so that's kinda weirdish. So I mean, I just like, I wouldn't change my opinion, like if it's your business, it's your business but like {sigh}. (Avery, 17)

Avery's opinion did not change depending on age—she noted that adults should be free to engage in technology-mediated sexual expression, but that unfortunately this freedom is not extended to minors. She invoked the idea that things could get “all legally” to explain how minors might experience different legal regulations than adults who consensually share their nudes. This, for her, is not a reason not to engage in the practice because she believed that everyone, regardless of age, is entitled to their own business (so long as it is consensual), but she acknowledged that the possibility of “weird” legal rules existing and possibly impacting behaviours as well as outcomes. The question that I posed to Avery concerned image sharing specifically, but her consciousness around image sharing laws seemed shaped by understandings of other laws regulating the sexual activities of minors. Building on Sutherland (2003) who demonstrated that age of consent laws occupy a place in teenage consciousness (p. 338), interviews with Avery and other teenage participants, like Aaron (discussed below), uncovered that youth might not always be aware of NCDII laws (or know what they say), but that understandings of legality surrounding intimate image sharing are partially informed by their awareness of age of protection and child pornography laws.

The influence of discursive constructions of children as asexual and of childhood innocence as something to be protected were particularly evident in the ways in which some participants demarcated acceptable age boundaries for consensual intimate image sharing. It seems that some participants' ideas about such age boundaries are extensions of ideas regarding the acceptable age for young people to be sexually active, which is an example of the constitutive power of law (Sutherland, 2003). Some set these boundaries based on their own age, thereby placing themselves within acceptable boundaries and younger teens outside of them. Consider the following exchange with 16-year-old Aaron, who invoked legality to explain why younger youth should not share their

nudes:

E: One youth sends a nude photo of themselves to another youth that they're dating, so it's a relationship. What do you think about that?

Aaron: It depends on age. If they're around 16 or 17, I'd say it's fine. It's not that bad. But if they're somewhere around 13 or 14 then it shouldn't be done.

E: And who says it shouldn't be done?

Aaron: Mainly, legally it should not be done.

For Aaron, legal age of consent grounded his understanding for what is the acceptable age for young people to engage in intimate image sharing. Talking about the law, Aaron added, "it (the law) changes how I do things, because legally there's certain things I can't do" (Aaron, 16). While the Canadian Intimate Image law does not, in fact, say anything about age, it is explicit in that Aaron's perceptions are influenced by other legal regulations like age of protection laws and child pornography laws.

Aaron's boundary setting provokes an interesting question about legal consciousness and how Aaron interprets law in his everyday sexual life. How has the legal regulation of teen sex generally (not only image sharing) filtered down to inform how young people, like Aaron, think about the appropriate age for sharing consensual sexual images? Aaron's ideas about age and image sharing are not linked only to what is codified in official law. These ideas are the result of dominant discourses about youth sex as a problem and the hegemonic paradigms of childhood innocence and child protection. That Aaron knows that "legally there's certain things I can't do" suggests that he has, as Sutherland (2003) argued "embraced and helped to create the dominate legal/moral code" (p. 344). Within legal consciousness literature, attention is paid to the ways in which law does more than encode what is otherwise normatively constructed, and to how legality is a structural component of society (Silbey, 2005a, 2005b; Nielsen, 2000). For Aaron and other

teenage participants, legality is produced through everyday actions and processes. It is produced when they fill out a waiver to accept the rules and regulations required to participate on a social media application, when they complete a lesson plan on the dangers of sexting, or when they watch a Netflix series saturated with legal images. It is through these types of sources that young people learn about the legal parameters within which their own sexual activities can (legally) take place (Sutherland, 2003). It is the pervasiveness of law—“its semiotic, visual, discursive profusion” (Silbey, 2005b, p. 337)—that constitutes legality.

Conclusion

While Criminal Code section 162.1 regulates the non-consensual distribution of intimate images, teenage legal consciousness around image sharing is informed by awareness of age of consent and child pornography laws. While a Canadian minor has never been charged with child pornography for consensually sharing their own nude, formal school curricula in Nova Scotia stresses the risk that consensual image sharing poses, including the possibility of being sex trafficked. This is not elaborated upon but rather just put out there as a fear. Formal educational messages are saturated in risk narratives that shame and blame victims of NCDII. These ideas are so embedded that, as will be discussed in the next chapter, some teenage participants shared that they would not turn to their parents for help if their intimate images had been shared without their consent due to fears that their parents might in turn shame them. Others said they refrained from engaging in expressions of digital intimacy out of fear that their parents might find out and report it to the police.

Young people are navigating the normative sexual order on their own, following unwritten but shared rules around intimate image sharing. They are acutely aware of their exclusion from the boundaries of sexual citizenship, and they themselves have internalized some of the factors that

have helped maintain their exclusion, including sexual scripts that are rooted in gendered, classed, and racial expectations about acceptable and unacceptable behaviours. This chapter has demonstrated the ways in which educational curricula about the youth-sex-tech relationship impacted how some participants think about acceptable and unacceptable forms of technology-mediated sexual activities. For example, some participants engaged in victim-blaming narratives about intimate image sharing, shaming their peers for sending their own nudes. As noted earlier, this way of thinking cannot be disconnected from the large-scale public discourse about the risks of sexting that young people (particularly girls) receive; however, while some youth continue to invoke these narratives to make sense of acceptable and unacceptable image-sharing practices, they are also largely unaware of the formal legalities involved. By connecting these understandings to legal consciousness, we can start to see how ideas about right and wrong are not necessarily directly related to formal laws but, rather, to commonplace notions about how youth should navigate their sexual lives (both on- and offline).

Chapter Six—Legal Consciousness and Mobilization

“I don’t think anybody generally trusts the legal system” – Audrey, 16

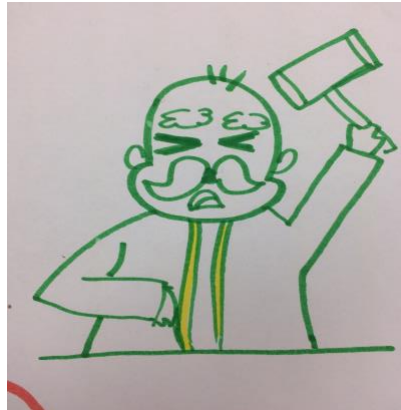


Figure 8: Illustration by Avery depicting what came to mind when she thought about law.

Introduction

This chapter builds on the discussion in the previous chapter regarding the formation of teenage legal consciousness to explore how young people “live law,” invoking questions about mobilization, navigation, and rejection (Chua & Engel, 2019). This chapter engages the dissertation’s third key argument concerning how participants in this study understand the role, usefulness, and limitations of criminal law in responding to Non-Consensual Distribution of Intimate Images cases among young people. Bringing together legal consciousness and youth sexual citizenship scholarship, I argue that while youth understand that law is there to be mobilized, they do not see themselves as agents of legal mobilization. I argue that this is related to their incomplete sexual citizenship. What became clear in the interviews and art workshop conversations I conducted with teens was that while they believed a criminal justice response was necessary in cases involving digital evidence of sexual assault and sometimes in cases of NCDII,

young people said that they would not turn to law as a first resort. I engage with the youth that took part in this study to examine their confidence in formal law and their perceptions about its role in responding to NCDII cases. Following literature within the sociology of childhood and the importance of youth voice, I advocate for young people's participation in and consultation on policy decisions that affect them (see also Raby, 2012). The central goal of this dissertation is to call attention to these young people's insights.

This chapter joins other literature on legal consciousness to explore the complicated relationship between beliefs about and mobilization of law (Blackstone et al., 2009; Bumiller, 1988; Engel, 2012; Ewick & Silbey, 1998; Sarat, 1990; Taylor, 2018). While formal policies and laws direct victims to criminal law, and while adults surveyed for this study believed that young people should always contact police in the event of a crime, this is not a likely scenario according to teenage participants. This chapter explores the reasons for this unwillingness to turn to law, examining young people's legal consciousness in the context of the ways in which sex (and technology) panics have excluded them from sexual citizenship. Then, I present findings about the extralegal approaches that young people currently engage when faced with intimate image-sharing situations that they deem unacceptable. The youth participants in my study explained that they turn to their friends for help and advice in such situations, and that they often resolve things on their own or within their peer groups. Further, it was noted that they only involve adults if a situation gets "too bad" or goes beyond the point at which they feel they can manage things by themselves.

This chapter highlights: 1) how youth do not feel that they can exercise their rights (both negative and positive) when only their responsibility to take precautions to avoid victimization has been emphasized; 2) participants' (both youth and youth supporters) perceptions of the law—and the adult world generally—and how these perceptions impact decisions about reporting non-

consensual intimate image distribution; and 3) alternative approaches to formal law that youth create in these cases.

Legal Consciousness of Teens on the Margins of Sexual Citizenship

According to Taylor (2018), “a central claim of legal consciousness scholarship is that it matters how people understand their worlds and their relative positioning in these worlds, particularly that these understandings affect the actions people take” (p. 340). What is the relationship between legal consciousness and legal mobilization in the context of young people’s sense of their own sexual rights in Nova Scotia? How do their perspectives on their sexual rights and the legal system relate to their willingness (or lack thereof) to mobilize criminal law? What beliefs encourage or discourage individual youth to turn to formal law to make claims in NCDII cases?

In this section, I build on the legal consciousness tradition, to explore how young people’s socially constructed understandings of the world encourage or discourage certain sets of actions, making some actions thinkable and doable, while others remain unthinkable and, therefore, undoable. I argue that the ways in which young people understand the state, the legal system, and their sexual rights inspires them to either mobilize or not mobilize law—I am interested in understanding when young people believe it is time for law and when it is not. In addition to their work on legality, Ewick and Silbey (1998) also made an important contribution to the study of legal consciousness, outlining three broad patterns that describe the ways in which ordinary people interact with law. They called these: “before the law,” “with the law,” and “up against the law.”¹ The first describes a pattern whereby ordinary people view the law in its most traditional and

¹ In their original presentation of the schemas of legal consciousness, Ewick and Silbey (1998) used “against the law” but have since changed that language to “up against the law” (Silbey, 2015), to better reflect the power imbalance that some individuals feel exists between themselves and the formal legal system.

liberal form as an external, neutral, and objective apparatus operating on both society and individuals. People who display a “before the law” perspective often accept legal constructions and believe that formal legal procedures are appropriate and just. The “with the law” perspective indicates that people see the law and its rules as something that can be used to their advantage or to pursue their rights. This might be understood as viewing law as a type of game that can be played to achieve a desirable outcome. People who display this perspective might be less concerned with the “legitimacy of legal procedures and more concerned with their effectiveness for achieving desires” (Ewick & Silbey, 1998, p. 48). Finally, the last pattern, “up against the law,” places the individual in an adversarial position with the law. For some, this might mean feeling that they are “against” the law, caught within it, or that they do not have any legitimate legal options due to the perception that law has all the power and they have none. Sometimes this is an extension of the second pattern, in that some people who are not successful in working with the law may, in turn, decide to not invoke the law or might purposely avoid it (Ewick & Silbey, 1998, p. 192). The patterns of legal consciousness that Ewick and Silbey outlined are useful in analyzing the data collected from youth participants in this study. I draw on Ewick and Silbey’s three patterns to make sense of the ways in which teenage participants’ diverse understandings of their own positionalities, and their perceptions of legal systems (and the adult world), impact whether they would turn to formal law to resolve sexual rights violations.

To capture the varied dynamics of youth responses to law, I utilize Taylor’s (2018) definition of legal mobilization as “the individual use of legal strategies (involving legal institutions, mechanisms, and actors) to make claims” (p. 341). My study contributes to a body of literature on legal consciousness and mobilization that examines how individuals respond when they feel their rights have been violated and denied (Abrego, 2011; Blackstone et al., 2009; Morill

et al., 2010; Taylor, 2018). These studies involve understanding the interdependent processes through which individuals first come to experience or discern some wrong that's occurred and then take action to address it (Blackstone et al., 2009). These actions might be "formal," such as filing police reports, but they might also be "informal" and include such things as directly confronting someone who has violated legal conventions of right and wrong, in order to achieve a more general sense of justice. For the youth participants in this study, the informal (or extralegal) approaches are much more common.

Hesitancies About Turning to Formal Law in NCDII Cases

Teenagers' social location—as minors and not (yet) full citizens, sexual or otherwise—makes formal law feel like a resource that, at best, can only be accessed through adult gatekeepers. When asked what advice they would give to a teen who has had their image shared without consent, 20% ($n = 81$) of adult survey participants indicated that telling the police would be the most important thing to do. This was the second most popular response from respondents since the majority (55%) ranked "tell a parent or guardian" as the most important. While parents/guardians and police were the top-ranked figures to turn to according to adult survey respondents, youth participants expressed hesitancy about turning to adults generally, and even more hesitancy about turning to the police. Following Ewick and Silbey (2003), my findings suggest that these young people understand themselves as situated "up against the law," facing a powerful state institution that some participants believed has not had a very good track record when it comes to providing justice for youth in these contexts. Drawing on a more recent approach to legal consciousness research advanced by Hertogh (2014, 2018), my data also suggests that youth experience what Hertogh called "legal alienation," which results in feelings of legal powerlessness. In turn, this powerlessness makes them "legal outsiders"—individuals whose interests are rarely represented

in the law, which reflects the views of the adult world that wants to control them. According to Hertogh (2014), “‘outsiders’ who are neither very knowledgeable nor very positive about the justice system” (p. 20) are more likely to turn to other modes of action to resolve conflict. Hertogh’s (2014) use of the concept of “legal alienation” was adapted from Cotterrell’s (1992) earlier use of the term—Hertogh applied it to understand, among other things, how and why people come to exhibit strong feelings of “legal powerlessness” and “legal cynicism.” My data suggests that, while headlines about Rehtaeh Parsons and other high-profile cases of sexual assault such as *R. v. Bassam Al-Rawi* (2012) (discussed below) disappeared from headlines, they have had a lasting effect on the trust, and in some ways the legitimacy that young people in this study gave and continue to give the legal system.

My analysis in this chapter is driven by what my conversations with young people uncovered: that by and large they want the justice system to respond should youth decide to turn to formal law. Participants indicated that when young people decide to turn to adults for help, they want to be taken seriously and not be shamed or blamed, and they want to be in control of the process. In the context of technopanics and limited youth sexual citizenship, I found that young people expressed a general hesitancy to invoke formal law in cases of NCDII (even as they wanted to). This section details some of the factors that are important in young people’s decision-making around not invoking formal law including: 1) their perceptions about the law’s response to sexual violence and victim-survivors, 2) experiencing sexual shaming and blaming from adults, 3) negative perceptions of police, 4) fear of their own criminalization or the criminalization of their peers, and 5) interpretations about the severity of the incident.

Perceptions About the Law's Response to Sexual Violence and Victim-Survivors



Figure 9: An illustration by 17-year-old Avery representing two newspaper headlines about sexual assault in Nova Scotia. This illustration was done unprompted when I asked participants to draw what came to mind when they thought of law and the media. Avery explained that she was representing Rehtaeh Parsons and the recent sexual assault by a taxi driver in Halifax. We had not talked about either case during the workshop.

The type of non-consensual intimate image distribution that occurred in the Parsons case was the circulation of a photograph that depicted an alleged sexual assault. When I presented interviewees with a vignette that described this type of NCDII, every participant told me that circulating a photo of someone having sex with an intoxicated person, without their consent, was wrong. For example, I asked, “What if one youth takes a photo of another youth having sex with an intoxicated person and then sends it to other people with permission of only some of the people in the picture?” Luna, Feara, and Aaron all replied by categorizing this type of scenario as recording a “rape.” Luna stated: “If you see that happen you should either be taking that person off whether it’s male or female and slapping them and telling them it’s not right, taking them outside. Goodbye” (Luna, 17). Audrey stated:

That's like fucked up. That's like, ya instead of taking the picture. So there's two wrongs with that one. For one they're not stopping non-consensual sex and for two, they're taking a picture and sending it to people, so definitely legal action. (Audrey, 16)

Aaron believed that the person taking the photo would be considered “a compliant witness . . . and could be sentenced with [the person having sex with the intoxicated individual] (Aaron, 16). Daria similarly believed that “the person that's having intercourse with the intoxicated person should get charged and also the person taking the photo,” adding, “I definitely think the police should be involved” (Daria, 15). These participants see the act of taking a photograph of non-consensual sex as severe because they understand it as documenting sexual assault. Cass made an interesting point, asking if the person taking the photo was planning to use it as evidence that the assault had occurred, thus demonstrating an awareness of the agency that bystanders can exhibit in these moments. Bystander work is not part of the official Nova Scotia public high school curriculum around sexual violence as it is in most Canadian universities (Crocker et al., 2020; Mujal et al., 2021); however, Cass has developed a consciousness about the importance of bystanders acting in these types of situations, even in this absence.

Youth participants in this study expressed criticism about the legal system's treatment of the Parsons case. For example, Aaron told me, “There is a very clear line between sexual violence and cyberbullying,” offering his perspective about the criminal charges brought against the two young men who allegedly sexually assaulted Rehtaeh Parsons:

I have heard of the case. It should be charged with rape, cyberbullying, and whatever else they could find on it. And that makes me feel like the law system is failing in some places because there's people, as I've said before, that are 20 talking to a 13-year-old they think

is 20 and they're going to jail for 20 years and these guys are going to jail for a minimum of one. (Aaron, 16)

Aaron's belief that the "legal system is failing in some places" is connected to his understanding of the types of crimes that get punished and those that do not. He believed that cases of online exploitation or luring of young people are treated much more harshly than incidences of sexual assault between teenagers, and that this was a major shortcoming of law, which he believed impacted young people's trust in the legal system. Aaron and other participants pointed to gaps between law on paper and law as it is applied. These gaps create feelings of mistrust toward the legal system, which is exacerbated when young people believe that legal actors fail to investigate cases like Rehtaeh Parsons as sexual assault. Audrey shared that this was a "another negative aspect of the legal system" (Audrey, 16) contributing to people's lack of trust in criminal law to provide justice to survivors of sexual violence. The observation that sexual assault cases are often classified as "unfounded" by police in Canada is a common conclusion (Doolittle, 2017; Johnson, 2017). These interviews indicate that young people are aware of the fundamental flaws in the legal system and that, in cases of sexual violence, there is an absence of the application of law, which then influences young people's faith in the system and impacts how they think about mobilization.

Youth participants were acutely aware of the barriers that victims of sexualized violence face when accessing the justice system, including making the initial report and taking on the responsibility of providing enough evidence to warrant a desired response. Nora was asked if she believed that the law takes sexual violence among youth seriously:

Nora: It depends if the victim stands up.

E: If the victim stands up. Okay.

Nora: 'Cus that's a lot of pressure on the victim.

E: Totally.

I asked this same question to all interviewees. Most expressed concern about how victim-survivors are treated during formal legal proceedings. Luna believed that “if they [victim-survivors] do stand up like, the judge and the lawyers and if there's a jury. . . . They're going to come after you hard” (Luna, 17). When asked why youth may not report sexual violence to the police, Xavier explained that he believed that the law does not believe that youth should be sexual in the first place and that reporting sexual assault is difficult because the “law is fucked up” and “has so many holes in it” (Xavier, 15). Avery explained that she didn't think that “anyone wants to go to police,” noting that this could be due to perceptions that reporting cases of sexual violence or NCDII to the police might not result in the legal outcome that the complainant was hoping for and that they might have to “go through all that court nonsense for nothing” (Avery, 17). For Avery, some people do not turn to formal legal avenues in these cases because it is time-consuming and potentially re-traumatizing, and does not provide the justice that victim-survivors seek. Cass believed that if police thought that a “minor” sexual violation “would solve itself,” then the police were unlikely to take it seriously (Cass, 16). Cass believed that if police had any doubt that an assault had occurred, then the likelihood of them believing a victim was seriously reduced. Feara wanted me to know that it was important for adults, including lawmakers, to understand that youth living with disabilities “just learn differently” and “process things differently,” and that there is a reason they don't report sexual violence: “When that goes to court, then we get blamed for it. . . . Because there's kids out there that don't even have their own voice or don't have a voice at all and I just want to help be that voice for them” (Feara, 17). Feara's lived experience has taught her that close regulation of young people's sexuality by adults is intensified in the lives of youth living

with disabilities. These experiences were documented by Rogers (2009) who investigated the ways in which youth living with learning disabilities are discouraged from participating in intimate relationships, often excluded from sexual education because of social perceptions about who has the right to be sexually and intimately active, and are the objects of closer supervision by adults because of their perceived sexual vulnerability. Feara raised all of these points during our discussion. While she felt that she and her friends at school should not be the objects of constant surveillance by teachers and other adults, and that they were indeed sexual beings whose sexual rights—including their rights to sexual expression, intimacy, and identity formation—should be respected, she was also frustrated because she believed that youth living with disabilities were often invisible in discussions about sexual violence. She finished her interview by stating,

People are not aware that kids with disabilities can be taken advantage of too . . . I have ADHD, I have a learning disability . . . I do have my challenges and I take medication to help me with my challenges but still, you gotta know that there's people who are out there that are autistic or ADD, OCD, whatever, even physically disabled. . . . Because it does hurt when people don't notice us, it really does hurt when they are treating us differently. But you gotta make sure, it's not just people who don't have it, it's people who do because rape can happen to anybody with a disability or not. I just wanted to give a shout out because there are not a lot of people who know this. (Feara, 17)

Feara's account goes some way to explaining why it is that some youth decide not to tell adults (including parents, guardians, or teachers) about their victimization or to report such things to police.

In my interview with Luna, I followed up by asking: "If a third party takes a picture of the two of them, like what happens then? Who would they first go to, to seek help"? Luna replied, "I

don't think they would go to the police," and then told me they would be more likely to "go to their best friend" (Luna, 16). Therefore, even though Luna understood the severity of a scenario in which a third party takes a photo of someone having sex with an intoxicated person without their informed consent, categorizing it as "rape," she did not believe that young people would turn to formal law. Aaron explained that he didn't think the law would take it seriously, "not in [name of community] at least" (Aaron, 16). When I asked Feara a similar question, about what would happen next in a scenario like this, she told me:

Well then that person who is passed out or intoxicated, they will get the blame. Like why were you passed out and intoxicated in the first place. It's the victim of the rape that always gets blamed as you can see in courts if you watch the news or read the newspapers or whatever in past and previous years. Even this year there was a rape victim in that taxicab. She was drunk and intoxicated whatever . . . but they always bring it back to the victim. They blame the victim, like oh, especially if you're a female so . . . what tempted him, where you half naked, like what were you wearing, how were you walking, how were you speaking, what did you look like? (Feara, 17)

Feara was referring to the survivor who was sexually assaulted by Bassam Al-Rawi, as discussed below. As Feara articulated so clearly, even when these young people believed that the situation was severe, they overwhelmingly demonstrated the ways in which teenage female victims can feel "up against the law" (Ewick & Silbey, 1998; Johnson, 2017). I asked all interviewees if they believed that the law takes sexual violence among youth seriously, and some told me they didn't believe it did: "Nah, no" (Daria, 15); "um, not really" (Jordan, 14); "well, I mean, with Rehtaeh and stuff that'd be a no" (Avery, 17).

These teenage participants are completely justified in feeling “up against the law” as there remains much work to be done to improve how sexual assault cases are handled. The tireless work of feminist scholars and advocates has seen equality provisions in the *Charter* and changes in the *Criminal Code*, such as the removal of the necessity of corroborating evidence and the doctrine of recent complaint, as well as clarification of the legal meaning of consent. Despite these changes, however, research indicates that women (and girls) continue to be seen as not credible in cases of sexual assault (Sheehy, 2012; Doolittle, 2017; Johnson, 2017; Craig, 2018). In 2017, Robin Doolittle released “Unfounded,” a report exposing the ineffectiveness and flaws in how police handle sexual assault allegations across the country. In the report, she revealed that “police dismiss 1 in 5 claims as baseless” (Doolittle, 2017). In a 20-month-long investigation with the *Globe and Mail*, for which data was collected from 873 Canadian police jurisdictions, Doolittle found that the national rate of unfounded sexual assault allegations was significantly higher than for other types of crimes. According to the report,

When complaints of sexual assault are dismissed with such frequency, it is a sign of deeper flaws in the investigative process: inadequate training for police; dated interviewing techniques that do not take into account the effect that trauma can have on memory; and the persistence of rape myths among law-enforcement officials. (Doolittle, 2017)

Doolittle’s report is the most comprehensive review of unfounded rates of sexual assault ever conducted in Canada, but the general findings about the ineffectiveness of Canadian police in sexual assault cases has already been well-documented by scholars (Craig, 2018; Johnson, 2017; Sheehy, 2012). According to Elaine Craig (2018), over 90% of sexual assaults in Canada go unreported due to “distrust and fear of the criminal justice process” (p. 11). The re-traumatization that victim-survivors experience from the legal process is a major deterrent when seeking justice.

This fact was not lost on the young people who participated in interviews and art workshops for this project, and was perhaps most salient for me when Avery (17) sat quietly during the individual reflection and art creation component of one workshop. She drew an illustration depicting Rehtaeh Parsons on the front page of a *Metro* newspaper (this illustration is at the outset of this chapter). On the other side of the newspaper cover she sketched a yellow taxi. Avery explained that these were the cases that came to mind when she thought about legal responses to sexual violence. We spent some time discussing the notion of consent during art workshops. Avery expressed that in both of these cases, the victims were blamed for their sexual assaults because they were intoxicated. This bothered Avery and inspired her drawing. Her concerns about the dominant messages put forth about women who are sexually assaulted while drunk are well-founded (Craig, 2020).

The now-notorious line that “clearly, a drunk can consent,” uttered by Halifax Judge Greg Lenehan in his acquittal of taxi driver Bassam Al-Rawi, has raised critique among legal feminist scholars. Elizabeth Sheehy told *The Guardian* that Lenehan’s decision sent the message that it was “open season on incapacitated women” (Kassam, 2017); Elaine Craig (2017) argued that Judge Lenehan made several legal errors:

- (1) He failed to apply the proper legal standard for capacity to consent;
- (2) He confused the *actus reus* and *mens rea* elements of the offence of sexual assault;
- (3) He failed to uphold section 276 of the *Criminal Code* [which states that evidence of a complainant’s sexual activity is not admissible to support an inference of consent]; and
- (4) He failed in his legal approach to the evidence as a whole. (p. 182)

The Crown appealed to the Nova Scotia Court of Appeal, and the appeal decision will be discussed in the analysis below.

The complainant in *R. v. Al-Rawi* was intoxicated to the point that she had lost control of her bladder and urinated in the taxi on her pants and underwear. The young woman was found by police unconscious, naked from the waist down, her breasts exposed and her legs propped up on the front seats while she laid in the backseat of the accused's taxi (*R. v. Al-Rawi*, 2018 NSCA 10, para 5). Judge Lenehan repeatedly said that he had “no evidence” that the complainant did not consent even while indicating that he found as a fact that the respondent had touched the complainant in a sexual manner when he removed her pants and underwear (para. 11). According to Craig (2018), the accused's lawyer, Luke Craggs, introduced evidence that the complainant is the “type of person” who is flirtatious and dances inappropriately when she consumes alcohol (p. 36). Craig argued that Craggs attempted to construct an alternate personality for the complainant, whom he named “Drunk Jane,” stating, “when you are sober you are a very together person . . . you can handle real life responsibility . . . But Drunk Jane is very very different than the sober sensible person who works for—right?” (p. 36). This stereotype of the drunk and promiscuous party girl, which was used by the defence and permitted by Judge Lenehan, constructed the young woman as being willing to consent to sex anywhere and with anyone (Craig, 2018, p. 36). Al-Rawi was acquitted in 2018, but the Crown appealed the case. On appeal, the Crown argued that the trial judge was technically right to say that “a drunk can consent,” because case law has established that; however, the Crown argued that a person who is intoxicated to the point of being unconscious cannot. Therefore, the Crown argued that it was Judge Lenehan's failure to address capacity to consent that resulted in the acquittal being overturned (Craig, 2020, p. 92).

The stereotype of the promiscuous drunk girl is even further complicated in the context of minors, who are labelled risk-takers if they engage in activities such as alcohol consumption. In these situations, young women run the risk of implicating themselves in illegal activity (i.e., underage drinking) and are therefore somehow perceived as being responsible for any consequences. The Parsons case stands alongside a number of other high-profile cases that made national headlines involving female youth who were sexually assaulted while intoxicated and then shamed about it over social media. These include: sixteen-year-old Savannah Dietrich in Louisville, Kentucky, whose sexual assault by two male youth in 2011 was photographed and shared with peers (Chang & Brown, 2012); 16-year-old Jane Doe in Steubenville, Ohio, who was raped by teen football players Trent Mays and Ma'lik Richmond in 2012, the rape itself described and joked about on video by former high school baseball player Michael Nodianos (Macur & Schweber, 2012); 15-year-old Audrie Pott in Saratoga, California, who was sexually assaulted, drawn on with markers, and photographed by three male youth at a small house party in 2012 (Burleigh, 2013; CBC News, 2014); and 14-year-old Daisy Coleman who was sexually assaulted by her brother's friend and left out in the cold in below-freezing temperatures in Maryville, Missouri (Diaz & Efron, 2014). Victims like Rehtaeh, Savannah, Jane Doe, Audrie, and Daisy (aka "Cat") have been challenged in terms of receiving justice; as young women who stepped outside the moral boundaries expected of them as middle-class girls—and especially as minors who were not supposed to be consuming drugs or alcohol—they were constructed as less than "ideal victims" whose credibility, therefore, was diminished. According to Dawn Moore and Mariana Valverde (2001), public spaces such as clubs, parties, raves, or similar events that usually involve the consumption of drugs and alcohol have been categorized by educational and legal

services as “chronotopes,” or “space-times² thought to be fraught with sexual and pharmacological risks” (p. 10). Moore and Valverde explained that the specific spatio-temporal logic that is used to unify substances and activities that would otherwise be classified differently is applied by governing authorities in cases involving all leisure spaces that involve youth and risk-taking (e.g., sexuality, drugs, and alcohol) (p. 10). This conceptualization helps my analysis of law’s shortcomings in providing justice to victim-survivors of sexual assault. Spaces that combine youth, sex, drugs, and alcohol continue to be classified as breeding grounds for risky behaviours that would not exist in other types of youth spaces, therefore young people are encouraged to avoid them. The overwhelming belief that girls and women are at risk of being drugged and raped even by their friends at space-times such as these is the underlying reason why girls who are assaulted in these locations are blamed for being there in the first place—for drinking too much, for not keeping their guard up at all times, to protect themselves from those who might want to take advantage of them. Although feminist efforts have challenged the ideology that the drug, rather than the perpetrator, is the real criminal and have argued that it is extremely dangerous to relocate misogyny and violent desires to substances, girls and women who are present in spaces deemed risky are given less credibility as “real” victims (Gotell, 2008, 2012). The Steubenville victim’s presence at the party was questioned through Twitter (now X) posts such as “so your [sic] drunk at a party and two people take advantage of you, that’s not rape, you’re just a loose drunk slut”³; and on Facebook, other teens in Steubenville wrote comments such as “but honestly what girl goes to a party alone with no friends to look out for her?” In a description of Audrie Pott in *Rolling*

² Moore and Valverde’s (2001) use of the term “space-time” is borrowed from Russian literary scholar Mikhail Bakhtin’s term “chronotope,” which means “the spatially specific temporality that defines and is constituted by each major literary genre” (p. 10).

³ See: <https://www.theglobeandmail.com/life/the-hot-button/the-real-horror-of-the-steubenville-rape-case-it-wasnt-wrong-say-many-twitter-users/article9880795/> and http://publicshaming.tumblr.com/post/45635407944/the-victim-blaming-slut-shaming-reactions-to-the#_.

Stone magazine, Nina Burleigh wrote, “when she drank, the self-consciousness that had afflicted her since junior high melted away. She loosened up. Sometimes, she loosened up a lot” (2013, para. 8). These same victim-blaming statements are what Rehtaeh Parsons’ family believes led to her deteriorating mental health, and ultimately to her death. Her mother, Leah Parsons, stated in an interview, “All the bullying and messaging and harassment that never let up are also to blame” (Poladian, 2013). According to Ms. Parsons, it wasn’t the rape that took her over the edge; it was the public humiliation that followed (Bates, 2013; Pace, 2016).

While legal responses to cyberbullying and non-consensual image sharing have recently grown in number, legal responses to sexual violence remain problematic due to flaws in the investigative process, and because of gendered logics and rape myths that continue to influence criminal justice responses to sexual assault. Following the Parsons case, as was demonstrated in the Bill C-13 debates, the legislative focus was on providing police with the tools necessary to investigate online crimes, including non-consensual intimate image distribution. This narrative shadowed the fact that, at least in the Parsons case, a sexual assault was reported and deemed unfounded. This part of the story was completely absent in the hue and cry that led to new laws about technologically mediated sexual exchanges.

At the same time, some young people in this study held out hope that positive change might be forthcoming. Avery, for example, was optimistic that institutional change was underway in Nova Scotia and mentioned that she’d heard someone talking about the province “putting judges through sensitivity training” (Avery, 17). Audrey was similarly optimistic about the power of social consciousness-raising and increased dialogue around consent to force legal actors to take sexual violence cases among youth more seriously. She noted:

I think they're starting to. I feel like it wasn't talked about as much as it is now. So now that the people are talking about it more, the legal system is like, I guess we have to now. So that's what I feel like is happening is that people . . . it's being implemented more so I guess . . . I think it's being talked about a lot and I think that it's serious now . . . society is the biggest influence on law because if everybody kept silent, what kind of horrible world would we be living in now? (Audrey, 16)

I had very engaged conversations with both Avery and Audrey during our art sessions. Like other participants, both explained that young people don't trust the legal system in Nova Scotia because it doesn't have a good reputation of providing justice for victim-survivors. It seems that, while the criminal law is in disrepute for these young people, they are not opposed to criminal sanctions in principle; rather, they are upset that criminal sanctions are not self-evident or don't work in the ways they should. Indeed, as discussed, some, but not all, of these young people leaned toward a carceral approach in some of the vignettes that I presented during the interviews. Even still, these young people maintain a healthy cynicism about the legal system's ability to act effectively due to knowledge about how victim-survivors have been treated by police, courts, lawyers, and other legal actors in Nova Scotia.

In some ways these findings are consistent with Hertogh's (2014) operationalization of "legal alienation," particularly as he advances it to understand feelings of legal powerlessness and cynicism following high-profile cases that spark public anger. Hertogh, for example, wrote about public perceptions of law following the 2013 acquittal of George Zimmerman after he killed 17-year-old Black teenager Trayvon Martin. While Hertogh (2014) found that public outrage in the aftermath of the verdict demonstrated that the Trayvon Martin case posed a real threat to the legitimacy of the United States legal system, my findings speak more to young people's lack of

faith in a legal system that they believe should be working as it promises to, not as it currently does. A preliminary definition of legal alienation, according to Hertogh (2014), “refers to a perceived gap between an internal and an external conception of law” (p. 12)—a gap between how law is understood by law makers and formal legal actors, and how close the general population feels to law or how they perceive it. The young people in my study are not legal cynics—there is no evidence that they exhibit a sense of anomie about law; however, my data does suggest that these young people feel a sense of “legal powerlessness,” especially due to their social location as young people on the margins of sexual citizenship and in how they speak about law’s treatment of victim-survivors of sexual violence. Consistent with Ewick and Silbey (1998), these young people feel “up against the law,” which they view rightly as an adult system with many flaws.

Following Oberweis et al. (2021), I argue that the ways in which these young people understand the law is affected by their general knowledge of the law, and when something unjust happens, such understandings are positioned to help them decide how to respond to said injustice (see too Blackstone et al., 2009; Ewick & Silbey, 1998; Merry, 1990; Nielsen, 2000). According to Oberweis et al. (2021), this might be particularly true in cases of sexual violence, where the “law operates in a decontextualized vacuum” (p. 2400), while criminal behaviours and how we interpret them do not. For many victim-survivors, their social context impacts how they come to believe, or not, that they will be recognized as a victim or whether what happened to them will be recognized as a crime (Oberweis et al., 2021). This reasoning does not apply solely to sexual assault and can also be utilized to think about how young people come to label digital harms as crimes. In the section that follows, data is presented that outlines the role of sexual shaming in the formation of young people’s legal consciousness and how this shaming is partially responsible for the gap between legal consciousness and legal mobilization in hypothetical sexual crime scenarios.

Sexual Shaming and Blaming

While survey responses indicate that adults are very aware that intimate image sharing among teens is a common practice, participants like 16-year-old Audrey believed that adults were, in fact, “oblivious” or “ignorant” to this fact; she explained that adults do not “really even think about it unless it becomes a problem.” Audrey further spoke to the silencing effects of discourse about youth sexuality: “people don’t talk about it because I think just the main reason for everything is that adults don’t know that is happening and even though they do know, they *don’t know* [Audrey’s emphasis] . . . they don’t want to know.” Audrey’s statements gesture to the belief that adults don’t want to know that sexually expressive youth share images. Her experiences highlight the existence of what Foucault (1990, 18) referred to as a “restrictive economy” as far as childhood and youth sexuality are concerned. This refers to the policing or complete silencing of particular topics of conversation concerning youth sexuality. This silencing is in itself productive of rituals of truth, of constituting what is normal (i.e., good, acceptable) sexuality and what is abnormal (i.e., bad, deviant) sexuality. In this sense, the silencing can be understood as a source of discipline and conformity.

Indeed, through conversations with young people, I found a common belief that adults do not want to understand young people’s sexual worlds, or that they would prefer to pretend that these worlds do not exist. For example, when asked what he would do if he learned of an instance of non-consensual image sharing, Xavier explained: “Oh. [Pause] I’m not proud of it but I wouldn’t go, to like, anyone. Just because like, for one, like relatives don’t really understand fully, like how it is, how, well like how youth sexual activity is” (Xavier, 16). There was a moment of hesitancy as Xavier was responding to this question. The language he used, noting that he is “not proud,” signified to me that he has received the dominant message that young people should seek help, should reach out, and should not act as active bystanders in cases of NCDII. At the same time, his

response also demonstrated his awareness of the disconnect between adult and youth understandings of young people's sexual worlds.

Youth participants identified a paradox in the formal guidance given to them about image sharing. On the one hand, they are encouraged to seek help from the adult world, including through legal agents, to address “harmful” sharing; yet on the other hand, they also found themselves searching for ways to avoid seeking help from adults due to the fear of being shamed or blamed for their participation in technology-mediated sexual activities that tend to be painted as singularly harmful and exploitative. The possibility of adult shaming/blaming was often understood as being more serious than having their nude image seen by other teens. This power inherent to adult shaming clearly impacted how Audrey thought about how she would behave if her nude image were shared without her consent. She explained that even if she was being bullied everyday as a result of having an intimate image non-consensually shared, she would not report the act to an adult as she would not want her mother to be upset that she consensually shared a nude photograph of herself at the outset. Another participant, Avery, felt that most youths would avoid telling their parents, explaining that “some people have good relationships with their parents, but I mean I wouldn't personally tell my mom about that first. But like I feel like she'd find out either way or like I'd tell her eventually if it got real bad” (Avery, 17). These feelings—having their sexuality over-policed by their parents as well as discomfort with telling their parents if their nudes were distributed without their consent—speaks to the consequences of establishing image sharing as “stupid” and “reckless” and proof of the sexual immaturity of youth, and also to norms about adolescent sexuality as either nonexistent or a “problem.”

My conversations with young people and the messages provided to youth by organizations like the Canadian Centre for Child Protection (C3P) make very clear how creating “regimes of

truth” (Foucault, 1990) around youth sexuality that label it as risky help constitute the meanings of good and bad (sexual) citizenship for young people. The resistance to reaching out to adults runs up against messaging from NeedHelpNow.ca, a website by C3P (see also Kohm, 2020). The information page provides tips for youth when approaching adults for help, including using the script “I made a mistake—I sent a sexual image of myself to [name] and now others have seen it,” and warns youth to “be aware that your parents/safe adult are likely to feel a wide range of emotions hearing that you have created and shared a sexual picture/video of yourself with peers. This may include disappointment, anger or hurt. . . . It is *normal* (emphasis mine) for your family to be feeling these things and more when they receive this type of news.” These warnings normalize perceptions that youth sexual image sharing is something to be ashamed of and that engaging in expressions of technology-mediated sexual activities is abnormal for youth. As discussed in Chapter Two, this is the type of messaging that emerges from the construction of the youth sex-sexuality-tech relationship as a problem in need of management, one that leaves little space for young people’s sexual agency. This narrative appears to be absent of any creative engagement with young people, and youth digital sexual expression is constructed as uniformly “abnormal” and “bad/risky/dangerous”—“proof” of the sexual immaturity of youth, necessitating adult intervention. These 21st century young people are not seen as the best guardians of their own (sexual) lives and futures, now encapsulated in the phrase “the internet is forever.” My conversations with young people revealed that these types of messages can be pervasive—some participants employed similar shaming narratives. These messages can also impact whether young people consider mobilizing formal law. For some, it might impact positively where law is conceptualized as a helping site and a reasonable resource for receiving justice in NCDII cases. For others, however, as I expected when I began this research project, the messages that shame

and blame young people when they are victimized online have negative impacts on the likelihood of teens turning to formal law for help in NCDII cases.

If young people are sexually shamed and blamed by adults for their negative experiences of non-consensual intimate image sharing, they are unlikely to trust adults to understand or address the injury itself. When adults interpret young people's experiences as something that young people themselves have invited, then the process of naming the injury as a violation and blaming the perpetrator as the injurer can be disrupted (Felstiner, Abel, & Sarat, 1981; Oberweis et al., 2021). As Felstiner et al. argued "people do—or do not—perceive an experience as an injury, blame someone else, claim redress, or get their claims accepted because of their *social position* as well as their individual characteristics" (1981, p. 636). While these scholars were not referring to youth specifically, thinking about this process in relation to participants' social position—as not yet (sexual) citizens—but also within a digital society where they are expected to act as responsible and savvy digital citizens if they are to avoid the risks of the digital world, one can see how their experiences of sexual violation are difficult to claim. According to Felstiner et al., "people who blame themselves for an experience are less likely to see it as injurious" (p. 641). The participants in this study confirmed this observation: as they explained, it is easy to blame oneself for having an image distributed when young people are constantly fed messages about the importance of risk-adverse online behaviour, including sexual expression through image sharing. This may lead young people to minimize the "injury" of non-consensual sharing because of the pervasiveness of victim-blaming in these situations.

Oberweis et al.'s (2021) work on college students' legal consciousness and the hypothetical activation of police pointed to the influence of stereotypical sexual scripts regarding what constitutes a sexual crime. Given that young (particularly white) women are especially targeted by

the sexual double standard that calls for them to safeguard their sexuality online (and elsewhere) (Karaian, 2014), it is important to think about the gendered impact that this might have on mitigating legal mobilization. For example, Oberweis et al. (2021) found that in their study, the women were more likely than the men to recognize less serious forms of sexual violations as illegal, but “this did not translate into higher confidence that these [crimes] should be reported to police” (p. 2416). Ample research has found that women and girls who are victimized by image-based sexual abuse (IBSA) and other forms of technology-facilitated sexual violence are often blamed for the violence that they experience (Adair, 2022; Flynn et al., 2023; Mckinlay & Lavis, 2020), especially if the woman or girl in question took her own photo in the first place. According to research by Flynn et al. (2023), victim-blaming attitudes “not only increase the harm experienced by victims, who may internalize these negative judgements but also create barriers to help seeking” (p. 8).

Further, as discussed in Chapter Four, recent research with Canadian policing organizations has revealed that stereotypical attitudes influenced by ideas about sexual double standards for teen girls and teen boys influence how police respond in cases of non-consensual image distribution. For example, Dodge and Spencer (2018) found that some officers use discretion when dealing with NCDII cases and that their reasoning is sometimes influenced by the same types of narratives that organizations like C3P circulate. These include casting victims of NCDII as “dumb” and irresponsible (Dodge & Spencer, 2018, p. 650); however, some police officers in their study, like the officer quoted below, engage in victim blaming because their perspectives are deeply structured by the aforementioned sexual double standard:

Because [the victim] was dumb enough to make a movie—whether you asked or didn’t ask—but she sent it to you. And you decided to share it like every one of us 15-year-old

boys would have done. Because people just forget. People forget what it's like to be a kid. Yeah you know what that 15-year-old boy that gets it, he's responsible for it, too. And he needs to have a talking to, to understand how he now has to be responsible for that, but you can't ever tell that boy you're wrong to ask [for the movie]. My educational conversation with that girl and her parents would be an hour and a half. My conversation with that boy and his parents was 10 minutes. (Dodge & Spencer, 2018, p. 650)

The above quote from a police officer demonstrates the types of sexist messages that teens receive. This officer believed that in an NCDII case, the teenage boy's behaviour is expected, while the teenage girl should be attributed more blame for engaging in sexual expression in the first place.

“With Youth There’s Not a Big Eye for Police”

An overwhelming majority of the youth who participated in my study said that they would be unlikely to formally invoke the law if they experienced sexual violence, cyberbullying, or non-consensual intimate image distribution (either personally or as a bystander). Aaron told me, “with youth there’s not a big eye for police” (Aaron, 16), meaning that, among his peer circles, young people did not have a lot of trust in police. Given the attitudes presented above, in the quote from the officer, it is understandable why some teenagers might feel adversely toward the police. In addition to participants’ perspectives about the legal system not providing justice in cases like those detailed earlier, racialized participants identified a more general distrust in police as an institution.

For the racialized youth who participated in this study, the police represented a punitive system whose primary purpose was to monitor, scare, and arrest them. Avery explained that the common sentiment among students at her school (which is in a predominantly racialized community) was “Fuck the police”—she believed that everyone feared the police because “they

can ruin your life,” and that young people cannot report certain things because “they [the police] can hold you for it or whatever” (Avery, 17). Xavier, too, told me how he felt about police: “Like, I understand they have a job to do and everything but, like, I don’t like them . . . cuz like, because I’m very cultural and I’m, I got like [list of racial identities]” (Xavier, 15). Avery and Xavier described the law, its actors (police), and its institutions with distrust—they believed that young people are scared about the legal system and the potential consequences of engaging with it. For Black Nova Scotians, these understandings are unsurprising given what has been documented about racial profiling by police in the province (Wortley, 2019; Maynard, 2017). Scholars have documented similar racist patterns in the ways that Indigenous Peoples are treated by police in Canada (Comack, 2012; David & Mitchell, 2021; Razack, 2020). What Avery and Xavier explained above indicates a sense of legal realism from racialized youth (see also Hertogh, 2014) formed by lived experiences with legal actors. Legal realists believe that rule making and judicial decision making are subjective exercises (Tamanaha, 2008), which is unlike how legal positivists understand law and judicial decision making (i.e., as neutral and fair). Therefore, youth perspectives and the formation of their legal consciousness must be examined through an intersectional lens. While all the youth in this study expressed feelings of “legal powerlessness,” the racialized teenage participants tended to be especially hesitant to turn to law, particularly police, feeling that the law worked in its own interests and not in theirs.

In addition to a general distrust of police voiced by racialized participants, Xavier brought up an important point about the criminalization of racialized men and boys. Xavier believed that he would not stand a chance against a sexual assault charge. When asked if he thought the legal system took sexual violence seriously, he responded, “Um. I think to an extent cuz like, basically, like, with sexual violence, it’s hard to get around . . . get like through it and around it. It’s like

pretty much just . . . unless you have proof that you didn't do it . . . there's no way to get through it" (Xavier, 15). Xavier's experiences speak to a long history of stereotypes about racialized, especially Black, men as sexual predators who lust after white women (Duru, 2004). That Xavier believed he would be unlikely to stand a chance at being believed by legal actors if he were accused of sexual violence speaks to his realistic assessment of the injustices at the heart of the Canadian justice system. This is the result of a long and punitive history of the justice system's targeting of racialized men for sexual crimes against white women.

Fear of Criminalization

When asked if she thought that the police in her community took sexual violence among youth seriously, 14-year-old Jordan explained, "I think a lot of people, like, when that happens hold it to themselves just cuz they're scared. And they just don't know what's gonna happen next so they just try to hold back." She added:

Since now they're in the age of like, they could go to Juvy (Juvenile Detention), I think they're scared of the police just because they're scared that somehow they could be in the wrong and that they just witnessed something that they shouldn't have and that something could happen to them by telling the police and that just scares them. (Jordan, 14)

Here Jordan is referring to bystanders witnessing non-consensual sexual actions of any kind, including image sharing. She felt that teens in her community (which is racialized and low income) have a general fear about being taken into state custody, including juvenile detention.

A minor has never been convicted for consensual intimate image sharing in Canada, and legal scholars believe it's unlikely one ever will or should be (Karaian & Brady, 2019). Regardless, some youth in the study revealed to me that in school assemblies, they had been told that consensually sending your own nudes was considered child pornography and could result in

criminalization. As noted by Karaian and Brady (2019), policing organizations have even been recognized with awards for providing anti-sexting information sessions to young people despite misinterpretation of the “private use exception” to Canada’s child pornography laws.⁴

These top-down messages about the potential criminality of intimate image sharing were a common experience among participants. Avery explained how this had worked at her school:

There was a social worker and a police officer there that were talking to us about it and like saying that sending nudes, that’s like, if you send your own nude that’s still distributing child pornography so . . . I’m pretty sure half the people there sent nudes themselves and no one was trying to say that cuz they were probably like oh there’s a police officer right there and they’re gonna arrest me in the middle of the gym . . . (Avery, 17)

According to Karaian (2014, p. 282), since 2005, police and child protection agencies across Canada have been informing young people (under 18) that they do not have the legal right to consensually create or share their own nude images. Dodge and Lockhart (2022) stated that “the fear of being criminalized themselves provides yet another reason that youth are likely to avoid engaging adult supports in many cases and are especially concerned with involving criminal justice personnel in any way” (p. 8). We went on to note that “it is striking to imagine the moment, described by Avery, in which teens who had consensually shared images hear the likely frightening message that they have unknowingly committed a crime” (p. 8). Such warnings seem to have the unintended effect of communicating to youths that they should deal with NCDII on their own, to avoid criminalization. Given the responsabilization messages presented in anti-sexting campaigns (Angelides, 2013; Karaian, 2014), representations of sexting-related criminal charges on television

⁴ For example, the Saint-Jerome Police Service was awarded the 2017 Minister of Justice Youth Justice Policing Award for its anti-sexting campaign: “Campagne section: refleter la bonne image de toi et pas obliger de tout partager.” (Cited in Karaian & Brady, 2019, p. 307).

(Lockhart, 2018), as well as the fact that in some jurisdictions in the United States, minors have been charged for sending their own nudes (Graw-Leary, 2008, 2010), this finding, while concerning, is not surprising (see also Bivens & Fairbairn, 2015).

Young people were concerned about not only self-incrimination but also criminalizing their peers—another factor that disincentivized them from seeking criminal justice assistance. Research on police responses to the new non-consensual intimate image distribution laws reveals that the pressure to lay charges does not often come from youth “victims” themselves but instead from parents and teachers (Dodge & Spencer, 2018). In their interviews with police, Dodge and Spencer (2018) found that police believed that “youth victims often do not want to criminalize their peers,” rather they just want the pictures to be deleted or taken offline (p. 649). This finding was replicated among some participants in my study. In terms of support for Canadians seeking to take down a non-consensually shared intimate image, C3P’s “need help now” service directs people to report NCDII to cybertip.ca. The young people who participated in this study did not mention knowing about this resource, though it is one option that’s available for those seeking justice who want to avoid criminalizing their peers.

While most of the youth involved in this study agreed that they would avoid the use of law in almost all cases, one interviewee, Aaron, was concerned that this meant that young people may not use criminal justice resources even in cases that warrant such action. He shared a story about one of his female friends who was non-consensually photographed having sex, and the photo was shared without her consent:

It’s not because she doesn’t trust the legal system [that she didn’t report], it’s because she doesn’t want people to get in trouble for it. She’s thinking that they’re young, they’ve done it but they shouldn’t do it again. She’s trusting them, I’d say too much in my opinion. But

I'd say the legal system if brought up to it, will do something about it. (Aaron, 16)

While Aaron acknowledged that the victim herself is actively seeking to avoid the criminalization of her peers, he also believed that the criminal justice system would have been able to “do something” about this case. While he agreed that most teens “don’t have an eye for police,” his own positionality and experience with the junior police may have led him to have more faith in the justice system’s ability to deal with sexualized violence, including non-consensual intimate image distribution. Aaron’s comments also highlighted that while youth might want or even need the support of adults in some cases of non-consensual intimate image distribution, they might choose not to seek support, even when they are in over their heads, due to fears that the perpetrator might be (from the perspective of youth) overly punished or criminalized rather than educated on their behaviour being wrong. From this perspective, it’s evident that youth might be more willing to seek support if they knew they would be able to gain resources without losing control of how their case is dealt with.

This approach to what constitutes a just resolution is interesting in that it stands in contrast to messages from groups like C3P who fear that posting any sexual image, even consensually, means that a young person, especially young women, has lost control of their sexual integrity, reputations, futures, and so forth. According to this line of reasoning, these digital expressions are inherently bad and in need of guidance. The young people in this study, however, signalled that they do want control, but over the meaning of justice and not necessarily the image itself. As scholars have documented, this is also the reality for adult victims of sexual violence, once they initiate formal legal processes (Gray, 2021; Johnson, 2017; Randall, 2010). What is particular about youth is the ways in which they can lose control of the process (and of their own decision-making) when adults are brought into the fray in any form.

Interpretations About the Severity of the Act

I asked youth participants what they would think of a situation where consensual sex was photographed and the photograph was shared without the permission of the individuals in it. It is possible that this is not something that the young people in this study had experienced in their lives because most laughed at this vignette. Perhaps most of the interviewees understood this type of behaviour as Jordan did, as something only “creepers” would do. Only Audrey mentioned that the taking of an image of consensual sex and then distributing it without permission warranted a formal legal response: “if anything is not consensual then there should be punishment,” she said, noting that depending on the age of the sharer, “you should either get like a talking to in a police station or legal action” (Audrey, 16). For Audrey, the police play a role in these scenarios, but the degree of that role should depend on the age of the young person who committed the crime. She believed that the police could serve as a lesson for younger youth by taking them into a police station and telling them why their behaviour is unacceptable. For older youth, Audrey felt they should be criminally charged if they were to share anyone’s sexual images without their consent. Xavier asked me to confirm if the subject of the picture consented to it being shared and explained that if not, “that’s [the non-consensual sharing] messed up” (Xavier, [age]), but he did not say anything about further legal response. Neither did Jordan, Luna, Nora, Aaron, Cass, Feara, Avery, nor Daria. This was an interesting outcome given that some of these same youth believed that cases where an individual breaches another’s trust and distributes their intimate images to others did require a legal response.

There was no consensus about the meaning of harm among the youth who participated in this study, and not all youth interviewed perceive image sharing as harmful or severe enough to warrant action outside of their peer circles. The descriptions of image sharing offered by

participants in this study provided a snapshot of these variations in conceptions of harm and, therefore, conceptions of the severity of non-consensual intimate image distribution. Some participants were steadfastly opposed to any non-consensual image sharing. Xavier, for example, was adamant that the sharing of someone else's nude, especially by another youth, was "fucked up . . . that's what I call distributing child . . . um . . . pornography" (Xavier, 15). Avery similarly told me, "Oh that's just like horrible and should be illegal and taken seriously in criminal charges" (Avery, 17). In speaking about non-consensual image sharing, these participants focused on impacts to the individual, believing that victims could experience anxiety, depression, and distress due to having their image shared without their consent, sometimes leading to suicide in the most severe cases. These participants generally believed that formal law should be invoked in these situations, matching a legal response to the severity of the harm that they believed victims experienced; however, these same participants believed that most youth would not turn to formal legal actors.

Other participants, though, while not approving of the practice, thought of it in less absolute terms, focusing on it as an exercise in poor judgement with implications for their peer circles. These participants described the practice as "mean," "vengeful," taking image sharing "a step too far," and as something that would cause intra-group drama: "all it is, is drama. People just wanna be seen and people will cause drama, like that's how we, that's how I see it" (Feara, 17). This second group, who understood non-consensual image sharing to be mean and vengeful, did not describe the same level of harm to victims. Feara understood NCDII as engaging in sexual shaming. She explained that she would not intervene in such a case unless it was a close friend who was doing the non-consensual sharing:

Honestly, that's their business not really mine but if it's a close friend of mine, I'd get to

the bottom of it and tell them they shouldn't be doing this or this person only gives consent to show you not everybody else so you should respect their trust. You should respect what they asked for. (Feara, 17)

While some participants were more likely to depict non-consensual intimate image sharing as wrong, they also perceived it as something that could be dealt with in the same way that other conflicts were resolved within their peer groups—by friends intervening in one way or another, or by fighting (not physically) until they reached a resolution. In situations where fighting was described, participants were more likely to insist that adult intervention might help. This preference for local decision-making about intra-group harms begs the question of whether approaches such as educational workshops or transformative justice sessions would be beneficial in these scenarios, to provide young people with the tools to diffuse conflict—a question that will be taken up in the latter part of this chapter.

Alternative Approaches

Extralegal Action

Based on interviews with youth participants, there is reason to believe that youth-led extralegal mobilization in cases of non-consensual intimate image distribution may be beneficial. In my conversations with young people, I learned that some are keen to avoid adult intervention while others believe that involving adults is possible but can sometimes make a situation more complicated—it is an uneasy choice. There is scant literature concerning extralegal action for dispute resolution among youth, with only one study, conducted by Calvin Morill et al. (2010), on legal mobilization in schools based on students' perceptions of rights violations. Morill et al. (2010) found that high school students (n=5461) reported experiencing rights violations, with racialized students reporting said rights violations at higher rates (African Americans 59.1%,

Latinx 53.1%, and students who identified as “other” 58.6%) than their white counterparts (48%). However, despite experiencing rights violations, students reported, in both surveys and in-depth interviews, that they would be most likely to handle such violations in extralegal ways. The authors concluded that “in general youths recognize that they have ‘rights’ in the abstract (whether based in law or not), but they understand the limitations of rights given the social realities of everyday school life” (Morril et al., 2010, p. 684).

Based on my research, adults who work with youth in Nova Scotia also believe that youth are more likely to engage in extralegal action or to keep to themselves, choosing to do nothing at all. Youth supporters acknowledged that youth are dealing with non-consensual intimate image distribution individually or within their peer groups. When asked, “In your experience, what do teens do when intimate images (nudes) are shared without permission/consent?” most adult respondents explained, echoing youth participants, that they believed that youth should “challenge the sharer directly” (P 27); “complain to their friends and plot revenge, but don’t consult anyone who can assist them in taking positive action that will actually help them” (P 2); “seek peer support” (P 4); “talk about it among themselves but usually don’t notify adults” (P 64); and “confide in friends and use social media to confront the people who did it” (P 66). According to survey respondents, youth would only report to adults of any kind (let alone criminal justice personnel) in cases that are perceived as being the most severe or as having gotten out of hand despite peer-level attempts to address the issue. One survey respondent said, “usually they keep it to themselves, or friends but usually don’t include adults—teachers or parents—[because] they don’t want to be seen as a ‘rat’ or someone who can’t handle a ‘joke’” (P 6). Although youth participants did not use such language (e.g., “being a rat”), this perspective is in line with what youth participants shared about not wanting to get their peers in trouble.

While youth participants agreed that they perceived non-consensual intimate image sharing as something not entirely out of the ordinary and as something they are capable of addressing at the peer level, they also believed that supports from adults might be needed in some cases. Keep in mind that non-consensual intimate image sharing can include receiving unwanted or unsolicited images such as dick pics, as well as the distribution of one's image without their permission/consent. Youth in my study didn't categorize unsolicited dick pics in the same way as the distribution of someone's image without their consent. While sending unwanted dick pics was considered shameful and warranted the label of fuckboy, youth did not believe that this type of non-consensual image sharing caused much harm to the receiver. Participants were more likely to categorize typical NCDII cases as those that could "get out of hand."

As part of the semi-structured interviews, participants were asked: "If there was an image shared and someone needed help, what would be the first place that you would go for help"? Instead of invoking formal law or adult resources, youth participants described alternative approaches they would take. Most explained that they would deal with these kinds of situations themselves or within their peer groups. For example, 16-year-old Cass stated:

A lot of people do try to work it out among themselves first which is good because it means you don't have to get other people involved with it because that just makes it really complicated so if you can solve it in your group that's good. (Cass, 16)

Fifteen-year-old Xavier felt that even involving multiple peers could complicate things, explaining that he would prefer to deal with such a situation himself:

If it was me, I would deal with it myself. I don't like bringing other people into stuff that's not their business. So I deal with shit. Um, if it was someone else and they were coming to me for help, if it was something like cyberbullying, ummm, I would just, I would tell them,

like I would try to help them myself before I did anything. Meaning like, I'd take their phone away pretty much for a day or two and just like let 'em calm down and then just like relax. Like who cares what a bunch of people who don't know you are talkin' about.

(Xavier, 15)

Feara explained that if she were sent an unwanted nude, she would confront whoever did the sending:

I would text them back and be like "what the hell are you doing? I don't want this" . . . Like pretty much go confront this person themselves, like if it's anonymous then go find the person, try to find them or confront them if you know them. Like just say "hey I don't like this, don't send them to me, I don't know you that well, I didn't give you permission so. (Feara, 17)

However, young people also recognized that such conversations might be difficult to have, and that they might not always be successful:

E: Do you think youth are kinda handling these things [instances of non-consensual intimate image distribution] on their own?

Avery: Oh ya that happens all the time. It will just, there will be sides taken and then everyone will just fight until someone either leaves the school or it just dies down. Like it eventually dies down but then someone always brings it back up again like two months later.

E: Right. But there's no like, there's no plan amongst youth about like how we're gonna deal with this, like can we sit down and mediate this situation on our own?

Avery: There's no planning. There's just fighting and name-calling.

This excerpt from my conversation with Avery revealed a set of anxieties that might be linked to the untenable situation in which youth find themselves. What Avery described sounds much like the type of "cyberbullying" problem that I have argued parliamentarians have exploited to introduce new intimate image sharing laws. Avery describes a situation where someone might be

forced to leave a school, take a side, and engage in or be the recipient of name calling—up to and including fighting. This is all very detrimental and was certainly what happened in the Parsons case. However, as I have also argued thus far, this legislation (162.1) is not going to address the social and cultural norms that lead to these interactions in the first place. The use of criminal law to address NCDII and cyberbullying is reactionary, and as young people and adult survey respondents argued in my interviews with them, communities also need proactive approaches, including sex positive education, as well as legal education about intimate image sharing.

For most of the participants, managing situations within their own peer groups was seen as positive—they felt very strongly about not being over-policed and/or pressured to accept outside intervention be it from parents, teachers, police, etc. According to Audrey,

Teens are doing their own things and kinda resolving things themselves and the only time it becomes an issue is when it's something like really bad where someone is really getting harassed or their nudes are getting sent around or a parent looks through a phone. I think it's just random acts like that that people catch and then take seriously . . . it's not like you're like, ahhh so and so just sent my nude, I'm gonna go tell my mom . . . ummm no.

Students and young people just resolve it in their own group. (Audrey, 16)

Audrey conflated parents looking through a phone with non-consensual intimate image sharing, both of which she characterized as “really bad.” She added,

Like if people were policing us that would just be really annoying because for the people who are doing it for their own pleasure and their own satisfaction and it's consensual, then that would just be like you're getting into our business and you're messing with our lives kinda thing. (Audrey, 16)

Audrey took a strong stance against what parliamentarians called on parents to do—surveil their kids’ online behaviour. For Audrey, this would be “really annoying” and would infringe on young people’s pleasurable, consensual sexual expression.

Conclusion

While Conservative members of Parliament lobbied and were successful in implementing a criminal law response to NCDII (see Bill C-13 debates discussed in Chapter Four), and some legal feminist scholars have framed criminalization as a victory in the fight against image-based sexual abuse (Citron & Franks, 2014; Hill, 2015; Kitchen, 2015), the data collected for this study offer different perspectives about criminal law’s efficacy and legitimacy in response to NCDII among youth and how these perspectives impact whether young people consider mobilizing criminal law in these cases. My findings provide insight into some of the reasons that youth perceive criminal law as an unhelpful, even aggravating response to acts of NCDII. These findings offer an additional perspective on the debate regarding criminal law’s value in responding to non-consensual intimate image distribution. Participants were clear that, while they generally do not want law or adults to intervene in their day-to-day engagement with digital intimacy, and while they have their own rules around what is considered acceptable intimate image sharing among their peer groups, they would like the legal system to take it seriously when they themselves experience harm and report it to police. For a variety of reasons, youth explained that this decision should not be up to the adults in their lives or even to the police, but rather up to the youth themselves. As this chapter has argued, young people often do not involve adults because in so doing, such a situation can quickly slip into a protectionist reaction. Additionally, careful attention needs be paid to the reasons why most youth, particularly those whose social location increases the likelihood that they themselves would be criminalized for violating not only formal laws but

also the normative sexual order, are more likely to manage situations on their own without telling adults, even when they find themselves in in harm's way.

Chapter Seven – Conclusion

Research on the legal regulation of intimate image sharing among youth has developed importantly in recent years. There is limited literature, however, that foregrounds the voices of young people in discussions of this shifting legal landscape—that explores how these changes impact their image-sharing practices, and how they understand or perceive the role of criminal law in addressing the harms that might arise in certain cases. My dissertation offers a socio-legal analysis of youth legal consciousness as it pertains to intimate image sharing—by engaging with young people in Nova Scotia, I have examined how youth are navigating justice. Through this, I have argued that there are tensions in how youth “live law” in relation to intimate image sharing and, therefore, how they perceive justice. These tensions arise due to several factors, including their positionality, limited sexual citizenship, peer norms, and structures/discourses of power. The Conservative government under former Prime Minister Stephen Harper amended the *Criminal Code* to include a new crime against the non-consensual distribution of intimate images (NCDII) in 2015. While some young people in this study did see a role for criminal law in NCDII cases, albeit in limited situations, many explained that they did not believe young people would mobilize the law in such a scenario. It is important to understand why these young people do not think that they or their peers would mobilize legal redress in NCDII cases. As such, this dissertation was guided by three central questions. First, what were the processes involved in transforming the Rehtaeh Parsons case from an alleged sexual assault into a narrative about the dangers of technology and youth sexuality? The second asked if this dominant narrative had any impact on young people’s legal consciousness as well as how they understood their own sexual agency, sexual violence, and sexual image creation and distribution. Finally, I asked how young people were navigating intimate image sharing in this new legal landscape. In this conclusion, I will

provide a summary of my thematic findings, responding to each of these questions. Before exploring these central contributions, however, I discuss some of the limitations of this research study. I conclude by sharing what questions remain and plans for future research.

One limitation of this study was the number of individual interviewees. It was very difficult to recruit young people for interviews—in the end, I only interviewed ten participants. This limited my ability to draw broad conclusions and to generalize from the data. The majority of the interviewees were also cisgender young women, which may have influenced the prominence of certain themes in the interview data. Nonetheless, the study employed a mixed methods approach, supplementing individual interviews with art workshops, discourse analysis of legislative debates, and a survey with adult respondents. My original plan was to conduct four focus groups, which I had trained to do; however, the York University Research Ethics Board turned down my request to conduct focus groups. The rationale given at the time by the ethics committee was that confidentiality could not be guaranteed in focus group discussions. In many ways, this attitude toward teenaged research participants was one of the dominant protectionist attitudes that this dissertation sought to explore and critique. This changed my research approach in that the art workshops were made less formal and were not recorded, and notetaking was done in the form of handwritten notes for the entire group to see and respond to during word association and brainstorming sessions. Instead of recording formal notes during the art workshops, I recorded events, discussions, and impressions afterwards and thus some of the discussions did not make it onto paper due to memory and time constraints (sometimes I was heading directly into an individual interview and had to wait to transcribe my notes).

In future studies, I may decide to incorporate focus group discussions for deeper engagement and to probe certain questions, but I would retain the art workshops. They were

approachable for the young participants, enriching for me, and yielded some important conversations and pieces of art that brought this dissertation to life. They were also very well received by the organizations that helped host them and were educational for both staff and the youth that participated. These workshops offered a space for young people to actively engage in agentic conversations about sex, sexuality, and technology in ways that many of them told me they had never done before. This was empowering for all of us.

A related limitation is that I was not living in Nova Scotia at the time this research was conducted. This impacted the timeframe I had for data collection and ultimately the number of interviews and workshops that I was able to conduct. I did not change my geographical location for this research because of the centrality of the province in discussions around NCDII, but in different circumstances I would have preferred to be living in Nova Scotia or to have spent more time in the province collecting data. In future research, I would also attempt to conduct virtual interviews with young people, given that, as this dissertation has argued, they are highly networked citizens. I am now living in Nova Scotia and will continue building on this research. Despite these limitations, the data collected with the teenage participants in this study provides key findings and produces new knowledge about young people's legal consciousness and conceptions of justice in cases of NCDII in Nova Scotia.

Key Findings

This dissertation's intersecting focus on sexual citizenship, legal consciousness, and legal mobilization offers important and original insights into the topic of NCDII. My data reveals new findings that fill a gap in NCDII work by exploring questions about legal consciousness. It also highlights findings about young people's sexual citizenship in the digital era. Most importantly, this dissertation has demonstrated that: 1) the dominant narrative about the youth-sex-tech

relationship understands it to be a relationship fraught with risk and responsibility; 2) youth participants' are able to offer nuanced understandings about NCDII that vary from the dominant narratives that they receive; 3) the navigational work that young people have embarked on in this new legal landscape is imbued with tensions; 4) while the adult world might consider a criminal justice response to be most appropriate in cases of NCDII among teens, young people do not believe that they or their peers would mobilize legal redress and are instead more likely to employ extra-legal approaches in these cases. Youth participants are unlikely to mobilize criminal law because of the law's failures to support victims/survivors of sexualized violence, the fear of sexual shaming and blaming, their negative perceptions of police, and fear of personal criminalization and/or the criminalization of their peers.

1. The Dominant Narrative About the Youth-Sex-Tech Relationship

In the two legislative debates that I analyzed for this dissertation, there was no mention of technology as a space for positive sexual expression. The legislative narrative instead presented the online world as one that posed only grave threats for young people, arguing that their engagement in online spaces needed to be closely monitored by parents and guardians. Using cases like Rehtaeh Parsons, Amanda Todd, and other Canadian teens who died by suicide, parliamentarians called on each other and all Canadians to take urgent action to amend the *Criminal Code* to address cyberbullying. These dominant narratives relied on protectionist logics long seen in moral panics about new technologies but amplified when technology and youth sex and sexuality intersect. Thinking of public problems as "socially constructed" sheds light on the processes through which individuals and coalitions draw attention to issues in need of action, ascribe responsibility for fixing them, and outline a path or plan to rectify said problems. But generating social agreement that something is a problem entails another large task: building

consensus about the solution. In the case of NCDII, the policy solution has been a criminal justice response. But this approach is short-sighted, does not centre the experiences of youth themselves, and understands the issue as something that can be addressed on an individualized basis.

This dominant narrative has a strong influence over the educational messages that students in Nova Scotia receive about the youth-sex-tech relationship. Curricular approaches echo the legislative debates in how they are framed. This is especially apparent in the ways in which the provincial CyberScan unit has delivered its messaging to young people. Further, the lack of formal school-based education around NCDII demonstrates the reactive rather than proactive approach that the government has taken on this issue. One of the key shortcomings of Canada's legislative response to NCDII is its focus on criminalization given that, as scholars such as Shaheen Shariff and Ashley DeMartini (2015) have argued, "meaningfully responding to sexualized cyberbullying (including non-consensual distribution of intimate images) will require multipronged strategies that incorporate proactive educational initiatives" (p. 282). Shariff and DeMartini have advocated that as society becomes "increasingly immersed in online communication, it is essential that people be better appraised of their legal rights and responsibilities, and of emerging legal risks to their privacy and safety" (p. 283), and that legal literacy could "play a key role in raising young people's awareness about issues of consent in cases of sexting" (p. 283). My findings add empirical support for these positions.

Another important finding from this analysis demonstrates how within this dominant narrative, and as expressed in the legislative debates and educational responses that followed the Parsons case, the alleged sexual assault that Parsons experienced became a secondary issue. As I noted in Chapter Four, the Bill C-13 debates focused so intensely on the dangers of the online world and how it leads to "bullying on steroids" that only two MPs (both from Nova Scotia)

mentioned that the Parsons case involved a photo of an alleged sexual assault. The narrative that digital spaces pose a danger to young people effectively trumps a narrative about sexual assault. This speaks to the impact of moral panics about the youth-sex-tech relationship. This framing was not lost on my participants who, as I noted in the quotes at the beginning of Chapter Five, identified it as impacting young people's legal consciousness and their perspectives about the criminal justice system's treatment of survivors of sexual assault. Youth participants were particularly aware of victim-blaming, which has been well documented in research (Comack & Peter, 2005; Randall, 2010; Ricciardelli et al., 2020), including how female victims of sexual assault are often responsabilized for sexual violence committed against them when they are intoxicated (Craig, 2020).

2. Nuanced Understandings of NCDII from Youth Participants

Canadian legislators classified all intimate image sharing as dangerous, but there was a specific focus on the perceived inherent harms to victims of NCDII. In this narrative, where NCDII has been constructed as inherently harmful, there was no attempt to think about different levels of harm or eliciting effect outside the parameters of harm. As outlined in Chapter Six, the young people interviewed for this dissertation demonstrated a more nuanced understanding of NCDII. Every interviewee was clear that in cases involving images being shared of youth having non-consensual sex with other youth, these acts were wrong. Interviewees were less unified on their perspectives about the severity of more classic forms of NCDII (e.g., the non-consensual distribution of a nude image only intended for the receiver). Some described this practice as “horrible” and “mean” (see Chapter Six). Other youth participants talked about unsolicited dick pics as a form of NCDII (see Chapter Three). It seems, from my data, that dick pics are not

interpreted as harmful for the receiver, but they certainly seem to carry social consequences for the sender who might in turn be labelled a “fuckboy.”

Intimate image sharing (both consensual and non) was considered common practice by adult survey respondents, youth interviewees, and art workshop participants. All of the young people interviewed said that teens consensually share nudes regularly. A majority of adult survey respondents (59% n=64) indicated that they believed consensual image sharing was very common among teens, while 25% (n=64) said that it was somewhat common. Further, 22% of survey respondents said that NCDII among teens was very common, and 56% claimed that it was “somewhat common.” Therefore, my data reveals that the practice in both its forms, consensual and non-consensual, is likely quite common in Nova Scotia. As I outlined above and in Chapter Six, there was not clear consensus among youth participants with respect to how they conceptualized harm in these cases, but most were clear that “when something bad happens, we should act towards that, instead of stopping what’s already happening, stop the negative that comes out of what’s happening” (Audrey, 16). This quote demonstrates that young people do not want to be overpoliced, but they do want the legal system to take cases seriously when and if formal law is mobilized by youth themselves.

3. The Navigational Work Young People Have Embarked on in This Legal Landscape Is Imbued with Tensions

This dissertation traced the impact of dominant discourses about the youth-sex-tech relationship on youth navigational work within image-sharing practices. I investigated the ways in which teenage participants are socialized as not-yet-sexual citizens, and how, through this socialization, they come to learn about their sexual rights. I have argued that the process of socializing young people as not-yet-sexual citizens impacts their legal consciousness. Through interviews and art workshops, I found that young people also employ these dominant risk

narratives—sexist, racist, and classist scripts that are often mobilized to shape (and control) youth sex/uality find resonance in some of the ways in which participants talk about acceptable and unacceptable image-sharing behaviours. For example, some participants believed that youth who shared their own nudes with their romantic partners were naïve. Others employed the same logics that parliamentarians expressed in the Bill C-13 debates, explaining that young people need to take responsibility for what they do online because the consequences could be tragic. Recall the connections that one art workshop group made to human trafficking. Chapter Five explored the ways in which these messages might impact young peoples’ legal consciousness.

4. Young People Are Not Likely to Invoke Legal Remedies in NCDII Cases

While the governmental response to NCDII called for criminal law reform, and adult survey respondents marked police as the second most important resource for teens to turn to if they had an intimate image shared without their consent, youth participants overwhelmingly indicated that they would be unlikely to turn to police or to formal law in these cases. As discussed above, most youth participants drew boundaries around different acts of NCDII, and most indicated that a formal legal response was warranted in cases that they perceived as harmful. Despite this, many did not believe that youth were likely to invoke formal law for several reasons, including being sexually shamed or blamed, negative perceptions of police, and fear of their own criminalization or the criminalization of their peers. This indicates that these participants do sometimes want formal protection and resources, but not necessarily criminalization. These findings are consistent with other research that has found that legal options are not often utilized by people who have experienced harm from NCDII (Dodge, 2023), and it contributes further insight specific to youth.

Alternatives to Criminal Justice Responses

There is a growing body of research that advocates for alternatives to formal legal responses to technology-facilitated violence and bullying (TFVB) more broadly (Dodge, 2023; Flynn & Henry, 2021; Hamilton, 2018; Hrick, 2021). My findings suggest that these alternatives may be useful resources for young people. At the time of data collection in 2017, alternatives to formal legal responses to NCDII were much newer. The Canadian Centre for Child Protection (C3P) established NeedHelpNow.ca in 2013, but none of the young people in my study referenced this resource. NeedHelpNow.ca is intended to help people seek the removal of sexual pictures and/or videos from digital spaces. The site offers three options for people: filing a report with Cybertip.ca; reaching out to the NeedHelpNow.ca support team to have an image removed; or reporting directly to platforms like Instagram, Snapchat, Facebook, TikTok, Twitter (X), YouTube, and Google. These types of removal resources are a good first step in providing anonymous services that do not necessitate direct adult involvement, providing youth with information that they can use to remove their own images if they so choose. In Nova Scotia, people who have been harmed by NCDII can also contact the provincial CyberScan Unit—as Dodge (2023) has stated, “since its inception, CyberScan has responded to the vast majority of cases using what agents refer to as ‘informal responses’” (p. 459), most commonly providing technological supports including the removal of harmful content. In her interviews with CyberScan agents in 2016 and 2020, Dodge found that, while one of the primary mandates of the unit is to assist complainants in navigating civil law options in Nova Scotia, people rarely take this route and instead commonly seek technological support from CyberScan. The agents who Dodge (2020) interviewed shared that CyberScan can offer guidance to complainants seeking to have an intimate image removed from a social media site or sites, making a request to “delist one’s image from

Google search results” (p. 462), or they can have an agent contact a respondent and ask them to delete images of the complainant that they have posted or that are on their device(s) (p. 462).

Since completing data collection for this study, new youth-centred Canadian projects like Digitally Informed Youth (DIY), led by Mendes, Dodge, Dietzel, and Dunn (<https://www.diydigitalsafety.ca/>), have been working diligently to mobilize knowledge about resources available to youth when they encounter technology-facilitated violence and bullying.

There are also quasi-legal options in NCDII cases. These include restorative or transformative justice, which many adult survey respondents believed would benefit youth. For instance, 77% (n=66) of adult respondents believed that youth-led alternatives to criminal processes were important for youth who had been charged with NCDII, and 85% (n=66) believed that these approaches were important for victims. When asked what justice would look like for someone who had experienced or was experiencing harassment (e.g., bullying, cyberbullying, sexual shaming, racism, sexism, homophobia, etc.) or other forms of violence as a result of their intimate image being shared without their consent, adult survey respondents expressed that this should include “support for the victim in regard to school, community, and family to ensure there is no shame” (P 1), “structural change that holds perpetrators accountable in ways self-determined by the victim/survivor” (P 4), “individualized options including restorative justice and counselling” (P 5), holding the person bullying accountable but also creating a teaching environment so they can learn how their actions affect everyone, including themselves” (P 6), “reconciliation/restorative conversations, narrative discussion, healing circles, therapeutic dialogue, and counselling” (P 10). In Nova Scotia, youth might be able to access restorative justice options by reporting NCDII to the provincial CyberScan Unit (CyberScan, 2019). On their website,

CyberScan indicates that they can help victims of cyberbullying and/or NCDII in the following ways:

They can contact the person who shared the images or cyberbullied the victim to try to resolve the matter informally using dispute resolution, including advice, negotiation, mediation and restorative practices. These services are voluntary, so you don't have to participate if you don't want to. CyberScan can also help victims navigate the justice system and understand their options. (2023, para. 16)

However, research conducted by Dodge (2023) suggests that CyberScan “seemed to remain invested in the cultural belief that law is the best way to achieve justice and support in response to harm” (p. 462). We do not have data to know whether CyberScan has actually helped youth victims resolve these issues using dispute resolution, and that includes restorative justice approaches.

Research Contributions and Suggestions for Future Research

This dissertation makes important contributions to several areas of study. Since 2008, there has been a growing body of work around intimate image sharing among youth. My study adds to this body of work with research that engages questions of legal consciousness and mobilization. While there exists vast research within media and cultural studies on teen sexting practices (Albury & Crawford, 2015; Hasinoff, 2015; Ricciardelli & Adorjan, 2019; Ringrose et al., 2012; Ringrose et al., 2013; Ringrose & Harvey, 2015), the gendered logics in anti-sexting campaigns (Albury & Crawford, 2012; Karaian, 2014), legal responses to intimate image sharing (Dodge, 2018), the problems with applying child pornography laws in NCDII cases (Crofts, 2015; Karaian & Dillon, 2019), and image-based sexual abuse (Powell & Henry, 2018), there is very little engagement on the topic of young people's legal consciousness and how they navigate the changing legal landscape in relation to intimate image-sharing practices. Further, as a feminist sociologist and

socio-legal scholar, I hope that this dissertation will be an important contribution to critical youth and childhood studies that investigate the discursive production of childhood and youth sexuality. My work offers new thinking around the ways in which youth use online spaces, as sites to challenge their exclusion from sexual citizenship. This is a direction that I will expand on in future research.

This dissertation has demonstrated that, while lawmakers and some adults believe that criminal justice is the best response to NCDII among youth, youth are unlikely to turn to law. Instead, they are more likely to want to deal with these cases on their own. Some young people, like Avery, stated that when they deal with these cases on their own, it sometimes leads to fighting, name-calling, and students leaving school. While Avery was the only participant who told me this, it leads me to questions for future research. Given that most of the youth participants said they would be unlikely to turn to formal law, and given what Avery said about the negative experiences that young people might have when dealing with these cases on their own, future research in this area might engage with alternatives that include quasi-legal actions (e.g., youth-designed restorative approaches). In the time since data collection, there has been more research that considers extra-legal actions in NCDII cases that expand beyond the approaches outlined by participants in my study (Dodge, 2023). Researching alternatives to legal options is important to meeting the unique needs of young people who do not often mobilize legal redress.

Further, digital worlds continue to offer spaces for young people to explore and negotiate digital intimacy. In future work, I will explore how young people navigate and claim sexual citizenship in digital spaces. I am particularly interested in furthering some of the questions that I began to explore in Chapter Three, around gendered forms of resistance and how young people are taking up digital space to challenge hegemonic discourses of childhood and innocence, and to

centre themselves as agentic sexual actors. I am interested in how youth use spaces like “Finsta” (Fake Instagram) to avoid adult overreach into and surveillance of their digital lives, and how platforms like TikTok are being used for sexual expression. I am curious to explore whether image-sharing practices, preferences, and norms might look different in the age of TikTok, for example. At the same time, we know that panics around youth sending and receiving nudes remain prevalent, and that some of the largest tech companies have been influenced by these panics. For example, in August 2021, Apple announced plans to release new software as part of their child safety initiative that would warn parents and children if their child sent or received nudes through messages (Peterson, 2021; Robertson, 2021). Amid backlash from critics, including privacy advocates, Apple modified the feature so that it warns children but not parents when nudity is detected:

Apple says children will be given helpful resources and reassured that it's okay if they don't want to view the image. If a child attempts to send photos that contain nudity, similar protections will kick in. In either case, the child will be given the option to message someone they trust for help (Peterson, 2021, para 4)

Unlike the original iteration, parents will not be notified if nudity is detected, but they can opt-in to the feature by turning it on through a Family Sharing Plan. I suspect that the youth participants I interviewed for this study would express opposition to this—that it is another example of the adults in their lives attempting to police their digital sexual practices. Future research will explore the ways in which adult anxieties around the youth-sex-tech relationship have become entrenched, are not retreating, and continue to influence policy.

Finally, this dissertation has revealed an understudied area in need of further investigation, which I will prioritize in my next project: the study of NCDII practices among youth from a new angle, focusing on the point of view of young men. While most studies of intimate image sharing among youth to date have fallen under critical feminist studies, Girlhood Studies, and analyses of femininities, there is limited literature that explores the topic from a contemporary masculinities perspective. I will research the impact of shifting cultural norms around gender and sexuality—in light of movements such as #MeToo and a fourth-wave internet feminist uprising—on young men’s digital intimacies and the ways in which they are policed. This project will explore young women’s negotiation of online spaces and non-traditional forms of resistance employed in this digital era of fourth-wave feminism, and in response to the gendered prevalence of online sexual harassment. By mobilizing discourses of shame against young men, women are exercising resistance to the disciplining of their own sexual behaviour. My research will investigate how this resistance is enacted, and the impact this has on youth of all genders and their ability to engage in mediated sexualities. My research will pay particular attention to the mobilization of the term fuckboy in online spaces and the demarcation of dick pics as dirty, deviant, and unacceptable. Using the fuckboy phenomenon and the cultural status of dick pics as an entry point, this project will study emerging, formative, and normative constructions of masculinities in the context of (a) femininities and NCDII; and (b) fourth-wave feminism, which includes #MeToo and renewed debates around consent and the ways in which intimate images are produced, seen, and interpreted.

Closing Thoughts

While criminal law responses to NCDII might be perceived by adults and some young people as the best recourse for justice, young people are not likely to turn to formal law in these cases. Young people’s reluctance to see criminal law as a helping site is, in part, attributed to how

they understand their positionality as young people in a social world that limits their sexual citizenship. I do not aim to remedy the disconnect between some teenagers' desires to have the criminal justice system respond to digital harms and whether individuals would actually mobilize criminal justice options. This dissertation sought to understand youth perspectives on how to regulate non-consensual intimate image sharing, how these perspectives were shaped, and how they might differ from other actors, in particular the adults in their lives. Returning to Rehtaeh Parsons, this research has revealed another case where law reform made in the wake of a technopanic and a high-profile case does not necessarily meet the needs of the very community it is meant to benefit—young people with evolving sexual citizenship. There is much research examining moral panics around youth sexuality and technology (Angelides, 2019; Hasinoff, 2015; Kohm, 2020), but my dissertation explored the impacts of these panics on young people's sexual citizenship and their legal consciousness. Legal consciousness is the product of complicated and sometimes contradictory forces, and is produced in relation to others, as my work has shown—it is varied between different youth, and youth have different legal consciousness about types of intimate image sharing. This does not mean that legal responses to NCDII should be magnified or further promoted. Rather, it emphasizes the need to engage youth in policy responses to NCDII, understanding the practices from their perspectives, and centring youth sexual citizenship as a priority in policy development.

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Appendix A

Table 1: Interview Codes

Adult responses to cyberbullying	Views on how adults including teachers, parents, and other support people in their lives respond to instances of cyberbullying among youth.
Available support for students (alternatives to formal law)	The support systems that students have access to if they are experiencing or have experienced sexual violence, nonconsensual image sharing, or cyberbullying. These included peers, friends, school guidance counselors, teachers, and family members.
Consensual intimate image sharing → Monogamous dating relationships → Respect → Risk → Social consequences	Perceptions about which image sharing behaviours are consensual. This included some discussion about image sharing being normal and encouraged within dating relationships as well as acceptable if both partners practiced respect. This also included participants' views about perceived risks and social consequences of sharing one's own image.
Creating a peer culture of respect	Some participants discussed the importance of mutual understandings of respect within their peer groups, sometimes learned in school lessons, and the positive impact this had on their online and offline sexual relationships.
Definitions of cyberbullying → Catfishing → Doxing	How participants defined cyberbullying. In addition to overarching definitions, some participants mentioned catfishing and doxing.
Definitions of sexting	How participants defined sexting.
Definitions of sexual violence → Online sexual and gendered violence	How participants defined sexual violence including sexual violence in online spaces often targeted at women and girls.
Education	Discussion of types of education participants' had received around sexual violence, consent, intimate image sharing, intimate image

	distribution laws, and cyberbullying. This included formal and in-school programming.
Experiences of racism	Participants' experiences with racism in school, from police, in their community, from peers, etc.
Fuckboys	Discussion of the concept of a fuckboy, how youth defined the term, and what types of actions warranted the label according to participants.
Gender norms	Perceptions about 'normal' gendered behaviour, rules, and expectations.
How porn makes youth feel inadequate	The impact porn videos have on the ways youth think about their own sexuality and their body image.
Image sharing rules and norms among youth	Perceptions about the boundaries around acceptable and unacceptable intimate image sharing practices.
Information sharing among friends	How youth share or source information about sex, consent, image sharing, etc within their friend groups.
Labeling girls as having attitude if they resist harassment	Girls' experiences with being called 'angry' or having 'attitude' for resisting bullying, harassment, nonconsensual touching, etc.
Law's influence	Perceptions about law's influence on how participants' understand consent, image sharing, sexual violence, etc.
Law's role	Perceptions about the role of law to respond in cases of intimate image distribution. A common view from participants was that law's role was to serve as lesson (give youth a talking to) or to scare young people into not sending images.
Learning about law via television	Stories about how participants learned about intimate image laws and the meaning of consent from television shows (i.e. Law and Order and 13 Reasons Why).

Mediated sexuality and changing technology	The impacts of changing technologies on how youth engage in mediated sexualities.
Nonconsensual intimate image sharing → Social consequences	The types of image sharing behaviours that participants described as nonconsensual. Some participants discussed potential social consequences that could arise from sharing someone's image without their consent.
Perceptions about age	How participants thought about age and age boundaries around sexual activity, image sharing, etc.
Perceptions about consent	Participants' views around sexual consent.
Perceptions about legal responses to cyberbullying	Views and beliefs about how legal actors respond to cyberbullying.
Perceptions about legal responses to intimate image distribution	Views and beliefs about how legal actors respond to intimate image distribution.
Perceptions about legal responses to sexual violence	Views and beliefs about how legal actors respond to sexual violence.
Perceptions about sex	Views and beliefs about sexual activity.
Perceptions about the influence of drugs and alcohol	Discussion of the impact of drugs and alcohol on consent, sexual experiences, etc. This code includes both negative and positive beliefs about drugs and alcohol.
Reasons to not turn to adults	Discussion about why some youth do not consider adults (i.e. parents, teachers, police) a first point of contact if they are experiencing harassment as a result of their intimate image being distributed or if they have experienced sexual violence.
Same-sex intimate images	Discussions about experiences with homophobia for gay teens and a lesbian fantasy phenomenon making taking intimate or sexual images of two female youth appealing (at parties for example).
Sharing nudes of minors with adults (18 and over)	Perspectives about the appropriateness of sharing nudes of minors with adults including

	consensual sharing and minors sharing their nudes on pornography sites for adults to access.
Social media and mediated sexuality	How youth use social media and media apps for sexual expressions and practices.
Surveilling other students' image collecting practices	Discussion about calling peers out for having collections of images (not necessarily nudes) of other classmates on their phones.
Understanding consent laws and parametres of sexual violence	Participants' understanding of the legal meaning of consent and legal definitions of sexual violence.
Understanding intimate images law → Misinformation provided by police, social workers, and other adults	Participants' understanding of the new Canadian intimate image distribution law (162.1).
Unsolicited nudes → Dickpics	Views about instances where youth receive intimate images that they did not ask for. Participants most often mentioned 'dickpics'.
Views about their own sexual rights	I ended each interview asking what sexual rights meant to them. This discussion includes participants' beliefs about their own sexual rights.
When sexual violence is talked about as sexting and/or cyberbullying	Instances where sexual violence has been inappropriately classified as sexting and/or cyberbullying and how participants' felt about this. *This was a direct question and linked to my original research question.
Youth don't want to be overpoliced by adults	Views about adult surveillance of their sexual lives and their mediated sexualities.
Youth perceptions of police	Participant views and beliefs about police.
Youth resolving issues on their own	Discussions about approaches youth take to deal with nonconsensual intimate image distribution and cyberbullying within their own peer circles, on their own, or among friends.

Table 2: Debate Codes

Access to Justice	Discussion of how the Bill would give victims better and equal access to justice and justice resources regardless of diversity and background. Only discussed during Bill C-27.
Critiques of Bill C-13	Discussion of the downfalls of perceived limitations and shortcoming of Bill C-13.
CyberSCAN	Discussion of the Nova Scotia CyberScan Unit.
Empowering Victims	Discussion of the potential for Bill 27 to empower victims to come forward and report cyberbullying.
Intimate Image Law	Discussion of the implementation of a new intimate images law.
Harm Sub-code: Cyberbullying Sub-code: Gender-based Violence	Discussion of perceived harm caused by two primary types of harassment: cyberbullying and gender-based violence.
Institutional Responses Sub-code: Education Sub-code: Policing	Discussion of institutional responses to primarily cyberbullying which included education and policing.
Technology Panics Sub-code: Parent responsibility	Discussion of the perceived dangers associated with the online world and use of internet, including social media. This discussion sometimes included reference to a need for increased parental responsibility.
Naïve Youth	Portrayals of youth as naïve and unaware of the potential consequences of their actions.
Non-Criminalization Approaches	Discussion of alternative approaches to criminal law to respond to cyberbullying (which included intimate image sharing).
Protecting the Children	Expressions about the need to protect children and the responsibility of lawmakers to do this.
Rehtaeh Parsons	All mention of Rehtaeh Parsons.
Responsibilization Strategies	Discussions of victims as partially responsible for their online activities and how to

	implement programs to educate Canadians about how to protect themselves.
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Appendix B

Interview Guide for Interviews with Youth

Vignettes

- I will give you some scenarios and ask you to tell me what you think about them. Please feel completely open to say whatever comes to mind. If you have any questions about the scenarios just let me know! ☺
1. One youth sends a nude photo of themselves to another youth whom they are dating.
 2. One youth sends a nude photo of themselves to another youth who hasn't asked for the image.
 3. One youth shares a nude photo of another youth with peers without asking for the permission of the nude person.
 4. One youth shares a nude photo of another youth with adults with the youth's permission.
 5. One youth takes a photo of two other youth having consensual sex and sends it to other people without asking for their permission.
 6. One youth takes a photo of two youth having consensual sex at a party and sends it to other people.
 7. One youth takes a photo of a youth having sex with an intoxicated person and sends it to other people with the permission of only some of the people in the picture.
 8. One youth takes a photo of two intoxicated youth having sex and sends it to other people without first asking for their permission.

Use with Vignettes:

1. What do you think of these questions? Would you have worded them differently?
 - Sometimes alcohol is sometimes a positive thing not a negative thing.
2. Do you talk about these scenarios amongst your friends?
 - Try to get at what they mean as consensual and nonconsensual. How do we come to learn about sexual violence, consent, and sexual rights?
3. I told you that some of the actions in the vignettes were consensual but how would you know if they were consensual? Where does this understanding come from?
4. Where does the law come into your understanding of your answers?
 - When you talked about one thing as consensual and one thing as nonconsensual did

law influence your answer?

5. If I told you that one person was 19 and the other was 16 would that change the way you thought about it? What about if one person was 13 and the other was 16?
6. What if I told you that the people in the scenario were all young men? All young women?
 - How do gendered ideas influence their interpretation of the scenarios?

Additional Questions:

1. We hear a lot about sexting these days, we see advertisements on the buses, how would you define sexting?
2. What is cyberbullying?
3. We talked about consensual sex in the vignettes. How do we know if something is consensual or non-consensual?
4. Can you give me examples of behaviour that is sexual violence?
5. How are sexting, cyberbullying, and sexual violence talked about at school? Are they topics that are covered in your classroom curriculum?
6. Do you feel that your teachers and other adults at school take the non-consensual distribution of sexual images seriously? Too seriously? Or not seriously enough?
7. Do you feel that your teachers and other adults at school take cyberbullying seriously? Too seriously? Or not seriously enough?
8. Do you feel that your teachers and other adults at school take sexual violence seriously? Too seriously? Or not seriously enough?
9. *Have you noticed examples where cases of sexual violence are talked about as sexting and/or cyberbullying? In the media? On television? At school? At home? Among your peers?
 - How does this make you feel?
 - Do you talk about these cases differently than you heard in the media, school, home, etc?
10. *Do you feel that you have a good understanding of what the law considers sexual violence? Please elaborate.
 - If so, where did you learn these legal rules?
 - Do you think about these rules in relation to your own sexuality and/ or your sexual interactions?

11. Do you believe that the law takes sexual violence among youth seriously? Why or why not?
12. Do you believe that the law takes sexting among youth seriously? Why or why not?
13. Do you believe that the law takes cyberbullying among youth seriously? Why or why not?
14. Is there anything else that you would like to add in relation to these topics?

Thank you!