

Porn laws oozing with hypocrisy

Written by TheAge.com.au | David Marr
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This politically driven bill is deeply flawed, writes David Marr.

Such a sight has never been seen in the history of Labor: a favoured daughter of the party committing political suicide in defence of porn. But last Tuesday night Amanda Fazio left the president's chair in the NSW Legislative Council and crossed the carpet to vote with the Greens against her government's latest nasty little censorship bill.

Fazio is not a bleeding-heart lefty. She is a former party official from the right who was once an ally of the fixer Joe Tripodi. In June she raised the prospect of legalising the sale of porn in NSW. She got nowhere then and nowhere this week when the Classification (Films, Publications and Computer Games) Enforcement Amendment Bill 2010 sailed through the upper house 28 votes to five.

The new law is about making life easier for police and harder for sex shops. If the police catch you selling what they reckon is porn, then you either have to cop it sweet or face not only fines and threats of imprisonment, but the potentially huge cost of having your stock rated by the Classification Board.

The Greens MP David Shoebridge cast one of the five votes against a bill he claims "will potentially undermine swathes of long-standing common law tradition dealing with the state having to prove the case against the defendant and not to require the defendant to admit elements of the offence upfront or face the sting in the tail of having to pay the cost of the prosecution".

Australians condemn child porn all but universally; we have great concern about extreme porn; but there is an undiminished appetite for the sort of run-of-the-mill stuff rated X18+ by the Classification Board and sold legally in, and from, the ACT and Northern Territory. It is a big industry that has made Australia Post prosperous and Fyshwick the porn capital of the nation.

But it is a crime to sell exactly the same X18+ videos and DVDs in all the states. For morals grandstanders in the little parliaments of Australia it is a great outcome: they do not actually stem the flow of porn - that would cause grief in the suburbs - but they can present themselves

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to their people as guardians of decency.

As with gambling and prostitution before they were legalised, there is a thriving local trade in porn. Sex shops are everywhere. "It's disorganised crime," says an industry lobbyist, Robbie Swan. He is not surprised by recent dramatic crackdowns in NSW: elections are coming.

Police seized about 4000 DVDs from an Oxford Street sex shop this year and submitted 43 of them to the Classification Board which rated all but five X18+. Unable to pay the fine, the sex shop manager Daryl Cohen was jailed for three months.

Under the Keneally government's legislation, which awaits only the governor's signature, Cohen would also be billed for the work of the Classification Board: depending on the length of each of the DVDs that would come to about \$36,000.

Saving money is the government's justification for the legislation. NSW Police get 100 free classifications a year from the board. The Attorney-General, John Hatzistergos, told the Legislative Council "we will repeatedly agitate with the Commonwealth to try and obtain a greater number of free certificates" but the accused will be made to pay in the interests of "efficient" prosecutions.

This is how censorship works: by little steps. Each is not an outrage in itself; each has a bit of logic on its side; each is a little like something in other laws somewhere else. But each step takes us deeper into the web of censorship. And the appetite for X18+? As strong as ever.

"Why are we still censoring this material," asks the president of the NSW Council for Civil Liberties, Cameron Murphy. "Now is a good time to alter the law. An overwhelming majority of the public wants to be able to buy this material. That's been an offence for a long time. This law makes it easier for the police to prosecute. It's moving in the wrong direction."

The morning after the vote, Fazio was charged with "disloyal or unworthy conduct" and suspended from the Labor Party she joined more than 30 years ago. In a statement she says: "I accept that I have broken the rules of the party and will abide by the decision of the party."

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Untrained in the subtle arts of distinguishing X18+ (approved) from RC (banned) NSW police are on the job. Meanwhile in the upper house, an unhappy Fred Nile is calling for the sale of all porn to be made a crime.

The porn wars never cease.

David Marr is a member of Watch on Censorship.

Source: TheAge.com.au