

Are Sex Offenders Okay?

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Abstracts

Social theory insists sex offenders (abbreviated SOs) are not okay. In contrast, new theories assert SOs are human, with a unique (if rather deviant) sexuality. Public perceptions hamper new theories by reliance upon labeling, prejudices, and maintaining fear and anger. These have led to vigilantes, hatred, and denial of equal opportunities for SOs. Promotion of hostilities continue oppressions. A new theory, however, includes therapies to help each SO manage their deviances. Conversely, treatment of SOs includes placement upon a sex offender registry, polygraphs, and other monitoring that is now facing challenges by new theories, which see these old actions as punitive and counter-productive.

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He that would make his own liberty secure, must guard even his enemy from oppression; for if he violates this duty, he establishes a precedent that will reach to himself.

-Thomas Paine

Are sex offenders okay? The question is **not** asking whether sex offenses are okay. Violations against another person remains detestable. The point-- I am not condoning abusive behaviors against anyone, at anytime. The focus centers upon the person behind the sexual offenses. Experiencing first hand the damages and dangers of sex offenses, I realize this topic remains taboo. It meets with tensions. However, having endured negative attitudes within society's theory that propagates that sex offenders (abbreviated as SOs) are not okay it is time to dispel prejudices, oppressions, ignorance and the dehumanization of the SO. New theories advocate that 1) old social theories are draconian and outdate, 2) SOs face punitive courses of actions beyond prison, and 3) SOs can become productive members of society and be "okay".

Broaching any sexual offense topic creates painful and uncomfortable feelings. It also stirs up anger and hatred. Nevertheless open and honest discussion remains the only path for society and SOs to find healing and prevention. First and foremost, my intent does **not** dismiss negative consequences upon victims of sexual abuse. However, to answer whether SOs are okay takes truth, scientific evidence, and a willingness to venture into the uncomfortable world each SO faces. Then, and only then, can we reach fair sentencing, a registry without punitive consequences, productive therapy, safety for all members of society, prevention and the reform of SOs. Through comprehension by exploring 1) the SO in their humanity and

sexuality, 2) public perception, 3) history of sexual offense laws, 4) SO registries, and 5) therapy and treatment both the SO and society can answer "Are sex offenders okay?".

Humanity and Sexuality

Within every SO exists a person. Evident in all persons a separation between attractions and behaviors allow for two parts forming the whole of one's humanity. The issue for the SO resides in perversions. The perverting of sexual norms of society, a deviation, causes the SO to be a deviant. Yet, attraction does not have to automatically include behavior. An existing sexual attraction to children, for example, does not dismiss active avoidance of children, exit strategies to vacate areas where minors become present, or other means of managing deviances. There always remains a choice. Therefore, sexual orientation is not synonymous with sexual behavior.

What motive drives the sexuality of SOs? Is it any different than other human beings? The debate of nature versus nurture attempts to comprehend sexuality. This includes the SO. Theories abound on whether one is born perverted or learns deviance. Alfred Kinsey, known for his study in sexuality, presents this complexity within humanity by "showing choices from environmental stimuli [nurture] and the inner state [nature] allow for intricate responses" (Klein, 1993, p. 3). Consequently, what motivates not just the SO, but all of humanity, rests in these developments of a unique sexuality.

An example of sexual complexity rests in trying to answer why one desires what one does. I once asked a gay friend what is it about men that attracts him. The same question can be posed to one attracted to a certain race, hair color, body type, gender, or children. What is the attraction? The answer remains complex. Yet, it is within this complexity that humanity reveals motives.

One motive rests within intimacy. "Every human being is born with the psychological potential and need for intimacy" (ibid., p. 35). However, the SO perverts and deviates from healthy forms of intimacy. There exists both a sexual intimacy and an emotional intimacy. When balanced, relationships become positive and constructive. Likewise, with an imbalance, comparable with sexual offenses, one attempts to normalize relationships and meet one's needs for intimacy. For this reason abuses often follow. For example, most pedophiles believe the child is emotionally attached to the adult. However, testimony of victims reveal their out-of-body episodes during abuse. Consequently revealing imbalance and incomplete intimacy. "Sex for its own sake is not enough for complete intimacy" (ibid., p. 34).

SOs face learning appropriate outlets of intimacy. The challenge rests in the ranges of cultural norms each SO must conform with. "'Normal' is only a set of values defined for the purpose of maintaining, or securing economical, political, or other advantages for the society--or more likely, some portion of the society" (ibid., p. 55). For instance, much of the world enforces an age of consent set at 18 years of age. However, in some countries child prostitute is allowed, as part of the economy. Regardless of the world's diversity, all persons are expected to adhere to the law where he or she finds themselves. "Sex is a programmed event needed for the continuation of life" (Callahan & Buckley, 2005, p. 35). Nevertheless, there remains the need for healthy and lawful expressions.

Who is the SO? "There is no typical male sex offender. And because of the broad spectrum of sex offenses, offenders also run the gamut from single to married, straight and gay, educated to illiterate, rich and poor" (ibid., p. 60). One example of an SO rests in the pedophile. He, or she, is attracted to one gender or the other, but rarely both. "Sexual molestation becomes pedophilia when, according to the DSM-5, the assailant established a pattern lasting at least six months" (ibid., p. 38).

Continuing, other labels find application. One, the SO attracted to underaged boys becomes known as pederasty. Conversely, child molesters may not care if the victim is a boy or a girl. Furthermore, attractions includes whether the child has achieved sexual development. SOs may desire children that are either prepubescent, post-pubescent, or both. Lastly, the inclusion of rapists (of adult or children) and child pornographers presents more examples of the complexity of sexual offenses. While each SO remains a person with a unique sexuality, these complexities can be managed and channelled into acceptable expressions of healthy intimacy.

Public Perception

At times one speaks of that which one does not know. Community members each have a right to their opinions. However, only when based on facts and scientific evidence can society move towards a healthy conclusion. Thus, the plight of the SO becoming a productive member of society--being "okay"--rests in public perceptions. Therefore, fear, anger, prejudices and ignorance only leads to a motivation for longer prison sentences, revenge, and retaliation. Society is attempting to prevent behaviors through acts which leads to those very behaviors detested. Alfred Kinsey addresses social divides concerning sexuality:

The world is not to be divided into sheep and goats. Not all things are black and white. It is a fundamental of taxonomy that deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeon-holes. The living world is a continuum in each and every one of its aspects. The sooner we learn this concerning human sexual behavior the sooner we shall reach a sound understanding of the realities of sex (Klein, op. cit., p. 62).

Labeling by community members cannot allow for knowledge and understanding. Instead it breeds hatred, prejudices and ignorance. "The use of labels and

their being applied for longer than necessary, can stifle treatment goals and outcomes" (Callahan and Buckley, op. cit., p. 44). The danger of labeling SOs as predators, baby rapers, cradle robbers, "Cho-mo", or monster creates hostilities promoting aggression. "The insecure person tends to reject; the mature person to accept. Sexual labels divide us into the known 'we' and the feared 'them'" (Klein, op. cit., p. 61). Moreover, labeling acts as coping mechanisms. They define the scary into identifiable terms. "Labeling is a tried and true method of eliminating the threats of uncertainty, ambiguity, and fear" (ibid., p. 9). Derogatory expressions, though, prevent the actualization of confronting, exploring, and preventing sexual offenses.

Consequently, media influences public perceptions. News outlets, television shows, internet, and tabloids fill the public with fearmonging stories. Shows like To Catch a Predator and Law and Order: SVU frighten and stir up hatred through these staged and scripted sexual offenses. As a result, media exacerbation of public anxieties affects the criminal justice system. For example, Carla Stovall, legislator who helped pass Kansas laws in 1994 against SOs, declared, "We cannot let these animals [another label] back into our community" (Icon, 2019, "Shiitake Awards", para. 7). Thus reflecting society's theory SOs are not okay.

Negative public perception creates harmful consequences for society and SOs. First, SOs are chased out of housing. For example, in Kenton county, Kentucky, Assistant DA Kyle Burns filed to open a park in Ft. Mitchel to drive out a SO registrant from Burns's neighborhood (ibid.) Second, SOs find employment denied, bans at public shelters as safe havens during dangerous storms, and even the wish of death upon the SO. Alabama State Representative Steve Hurst states, "My real feelings are they need to die" (ibid., para. 5). Lastly, the SO faces a modern-day witchhunt. "Why are we as a society so willing to forgive and embrace those who run afoul

in virtually every way but sexual?" (Narsol, April 2009, "Destroyed Lives", p. 2). The driving of SOs underground by public perception will only continue to lead to continuances of abusive behavior, creating an SO that is anything but okay.

History of Sexual Offense Laws

Upon antiquity civilizations build, amend, and change. Norms are in flux. One example rests within modern-day rejection of pederasty. However, it was not only accepted in ancient Greek civilizations--it was expected. Klein (1993) presents Hans Licht, author of Sexual Life of Ancient Greece, offering sexual and emotional intimacy towards Hellenic boys. Through such unions traditions and customs became preserved, to strengthen communities.

With the rise of Christendom replacing Greco-Roman ethics in the fourth century A.D., pederasty, bisexuality, and homosexuality were unacceptable. Yet, history reveals allowance of child brides. As late as the eleventh century, Roman Emperor Henry IV wedded the English princess, Matilda. She was six years old. Continuing into colonial times, the age of consent was set at ten years of age. Then, "...in 1875, New York became the first state to legislate the protection of children. Its laws served as a model for other states, all off which developed statutes designating child abuse as a criminal offense" (The New Encyclopedia Britannica, 2017, "Child Abuse", p. 267). As a result, during the nineteenth and twentieth centuries the age of consent was raised until it reached 18 years of age.

In 1977, the Federal government expanded sexual offense laws. Creation of the Protection of Children Against Sexual Exploitation became law. This brought an end to the sexual presentation of children in movies and periodicals. Child pornography became illegal. Yet, some citizens did not conform easily to these new norms for society. "By the mid-1980s child abuse

was considered a leading social problem in the United States and other Western countries" (ibid.).

In response to nonconformity to the new allowance by law, other Laws and Acts followed. 1986 witnessed the Sexual Abuse Act, aiming to protect citizens from rape, incest, exploitation, and other non-familial sex offenses. As a result, sex offenses witnessed higher base-level computation under the Sentencing Reform Act of 1984 (approved in 1987). The New Law led to disproportionate points determined by age of victims, use of a computer in the crime, types of abuses, and other mitigating factors. The higher these points, the greater the length of prison sentencing face by the SO.

The 90s witnessed Acts and Laws named for specific victims of sexual offenses. One, the Amber Hagerman Child Protection Act of 1996 led to a national alert system issued for missing or abducted children. Also in '96, Megan's Law sought to create a sex offender registry to identify known SOs. The theory advocates this protects families in communities. Megan's Law enhanced the National Protection Act of 1993, which allowed registrant information to be available publicly, for employment background checks.

Continuing in 2006, the Adam Walsh Child Protection and Safer Act witnessed harsher regulations of sex offenses registry. SORNA--Sex Offender Registration and Notification Act--enhanced Megan's Law. It enforces a maximum of ten years imprisonment for failure to register, civil commitment, watchdogging, and witchhunting of SOs by community vigilantes.

The progression of Acts has not solved the problem behind sexual abuses. The intent is to not allow the known SO to hide and possibly abuse again. Consequently, SOs face backlash, anger, oppression, lost housing, unemployment, and being driven from society as a result of these and other theories of social laws. Another consequence of these old theories motivating laws includes prisons becoming over populated and taxing of local law officials to whom the burden of monitoring SOs falls.

SO Registries

SOs are the only persons who, having completed a prison sentence, continued to face punishment. SORNA ensures no known SO remains hidden. There remains no U.S. State or territory in which SOs may live and not be required to register. Nine states have mandatory lifetime registries for all SOs. Fifteen states enforce registration fees, apart from court fines, restitution, and assessment costs. These result in economic hardships. Also, twenty-five states enforce proximity laws to deter SOs from visiting parks, schools, libraries, malls and churches. For example, *Doe v. Cooper*, 2016, in North Carolina, bans SOs from attending church services where one child might be anywhere on the property. Lastly, thirty-two states enforce living restrictions, similar to Kentucky's 1,000-foot law that bans SOs from living a thousand feet from schools, licensed daycares, playgrounds and parks.

SOs on the registry face further stigmas. Already reviewed above, housing and employment become a challenge to secure. Also, registries place the SO at risk. "In April 2016, Stephen Marshall, of Nova Scotia, looked up sex offenders on Maine's sex offender website. He found dozens of names and addresses and drove to two offenders' home, shooting and killing both" (Callahan & Buckley, op. cit., p. 214). Evidently, the duty to register remains intrusive, damaging, and promotes vigilantism and hate crimes. Yet, social theory insists the registry is not punitive.

The logic behind the SO registry states it is to protect the welfare of society. However, there remains no other registration of other violent offenders and threats to the community. Consider *United States v. Luke*, 8th Circuit, 2005. Officers stopped Mr. Luke, arresting him for drunk driving. Known to have a history of methamphetamine abuse, before being Mirandized, Mr. Luke stated there was a shotgun in the car. He ended up being arrested and charged as a convicted felon in possession of a firearm. Other examples

of public fear factors exists, including other drunk drivers who have repeated offenses that may, or may not, be driving drunk through one's community. In summary, the logic behind SORNA can apply to all crimes.

Does the registry work? Research reveals it does not. More than ninety-five percent of sex crimes involve first time offenders, not on the registry. Although SOs on the registry are in therapy and learning appropriate coping skills to avoid relapsing, this is not a supportive argument the registry is working. Also, if the registration is working, what accounts for the protection of society from first-time offenders?

Perhaps the failure of SO registry and its punitiveness has run its course. Newer theories challenge *Smith v. Doe*, where the Supreme Court opinion views the registry as not providing public shaming, in 2003. Yet the registry has developed into what Narsol: The Digest (2017) calls, "Private commercial websites exploiting the information made available.... Public shaming and banishment are forms of punishment that may be considered cruel and unusual under the Eighth Amendment" ("Federal Judge Rules", p. 1). One such challenge arises out of Michigan. *Doe v. Synder* in the U.S. Court of Appeals in the Sixth Circuit deems SORNA, as based on case laws and scientific evidence--punitive in nature (Hamilton, 2017).

Therapy and Treatment

Diversity of SOs has led to numerous therapy models. One approach includes Cognitive Behavioral Therapy (CBT). It attempts to link relationships between thoughts, emotions, and behaviors. Having completed a Sex Offender Treatment Program (SOTP) which utilized CBT, I attest to its value. Open communication, victim empathy, relationship skills, coping techniques, and understanding cognitive distortions prepare the SO to choose an abuse-free life. Nevertheless, CBT has come under attack, as some believe, for "shaming" of SOs. Therefore, newer therapeutics try to reform deviant pursuits:

Successful treatment depends on the offender facing the facts and if learning is anchored in self-discovery, progress comes more quickly. Sex offenders are like the rest of us--we're motivated more from fortifying our strengths; not being shamed for our failures. That's why older models of sex offender treatment, such as Cognitive Behavioral Therapy (CBT), are being amended or replaced with other modalities, including Dialectic Behavior Therapy" (Callahan and Buckley, op. cit., p. 73).

DBT holds value through its course on coping skills. In contrast with CBT, which engages the past, DBT focuses on the here and now. The goal is to learn how to best tolerate life's ambiguities and imperfections. "DBT could help sex offenders accept their situation... while prioritizing goals and outlooks" (ibid., p. 129).

A third therapy explores "replacement" techniques. "Good Lives Model of Offender Rehabilitation... encourages the development of alternative activities that are attractive and meaningful, thus creating a natural deterrence to unhealthy behavior" (ibid., p. 130). In critique, what are these alternatives? Far too often the SO finds himself, or herself, barred from many public activities, held in areas banning SOs. For example, what if an SO chooses "church" as a replacement; yet, finds the law prohibits him, or her, from attending? There remains no replacement in the absence of substitution.

A challenge faced by therapy and treatment centers on two contrasting approaches. One, representing much of the public perception, the belief exists the SO is a threat and dangerous. Therefore, society theorizes it must be protected at all cost--even at the expense of certain citizens. This type of ideology allows for extreme and punitive measures, even post-conviction.

A form of punitive pursuits includes chemical castration. Alabama passed a mandatory chemical castration law on SOs, September 1, 2019. Critics

question the ethics behind the use of Depo-Provera with its many physical and mental side-effects. The FDA has not approved this drug (Icon #49,2019). Conversely, courts have struck down forced vasectomies as being punitive. Yet, chemical castration, with the same results on the body, has not been deemed cruel, unusual, or a violation of the Eighth Amendment.

Another treatment of SOs for the protection of society includes civil commitment. 1997 witnessed the U.S. Supreme Court rule, in *Kansas v. Hendricks*, "that sex offenders who completed their prison terms can be locked away again. No new crime. No trial. No set time limits. Double-jeopardy? The court said, 'no'" (Washington Spectator, 2018, p.1). Civil commitment witnesses the imprisonment of SOs not for a crime committed, but for a crime in the future which has never happened. "Kansas Judge Frank J. Yeoman Jr.: 'Only in the rarest of instances does anyone, once committed, ever achieve release, except upon his death'" (ibid.).

The second, and contrasting therapeutic approach rests upon monitoring SOs through periodical polygraphs. Having experienced the ploys and techniques of polygraphs, I attest to the stress endured with each test. Most questions attempt to determine compliance to laws and probation/parole. Consequently, Polygraphers attempt to coerce and force SOs into admitting to, as the Polygrapher would say "a showing of deception" to something the SO knows he, or she, is telling the truth on. These are tricks used in attempts to have the SO believe he, or she, has done something wrong or illegal. However, the polygraph cannot be used in court. It is one's response to questions that can. Unfortunately, some SOs who may be introverts, passive, or may be unaware of these ploys find themselves admitting to just about anything just to get the questions and pressure to stop.

A third treatment of SOs includes the Penile-Plethysmograph (PPG). This testing places the SO in a chair, in front of a television set. The

plethysmograph is place around the penis, along with measuring devices to monitor heart-rate and breathing. Images of various ages of men, women, boys and girls in various states of dress, undress, and nude flash across the t.v. screen. The PPG measures arousal, to determine one's attractions. Fortunately, PPGs have been struck down by the courts as intrusive and a violation of the Eighth Amendment.

Conclusion

A light remains to be shined into the dark recesses and shadows of a deviance devouring decency in societies across the globe. Achievement for a knowledge and understanding comes by analyzing old theories under newer scientific evidence and truth. There is a humanity and sexuality within each and treatments have hampered SOs becoming productive citizens. Facts cannot continue to be ignored just because they do not agree with one's worldviews. Ignorance only motivates retaliation, instead of restoration. "If we can invite a repentant murderer.. or banker who bilked customers of billions... back into the community, why not give the same latitude to sex offenders who have done their time and atoned for their crimes?" (ibid., p. 5).

"Sex offenders can and do change" (ibid.). Achievement comes through the fertilization of compliment, support, and new theories based on facts and truth of the plight of SOs. Are SOs okay? Yes, if we all work openly and honestly toward the same goal of prevention of deviance and abuses.

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