

"Source: *Pornography and Prostitution in Canada: Report of the Special Committee on Pornography and Prostitution, Vols. 1 & 2*, Government of Canada, 1985. Reproduced with the permission of the Minister of Public Works and Government Services Canada, 2010."

TABLE OF CONTENTS

Volume I

	Page
PART I	1
Section I — General Introduction	3
Chapter 1. The Work of the Committee	5
1. Establishment of the Committee	5
1.1 Terms of Reference and Mandate	5
1.2 Members of the Committee and Staff	6
2. Research	7
2.1 Empirical Research	7
2.2 Legal Research	8
3. The Committee's Approach	8
4. The Public Hearings	9
5. Consultations	11
Section II — Philosophical and Constitutional Considerations	13
Chapter 2. Philosophical Considerations	15
1. Introduction	15
2. The Liberal View	15
3. The Conservative View	17
4. The Feminist View	18
5. The Role of the Criminal Law	22
6. Essential Principles	23
6.1 Equality	24
6.2 Responsibility	25
6.3 Individual Liberty	25
6.4 Human Dignity	26
6.5 Appreciation of Sexuality	26
7. Conclusion	27
Chapter 3. The Impact of the Charter of Rights and Freedoms and the Constitutional Division of Powers.	31
1. Introduction	31
2. Canadian Charter of Rights and Freedoms	31
3. The Division of Powers	35

PART II — PORNOGRAPHY	41
Section I — Pornography as a Social Issue	43
Chapter 4. What is Pornography?	45
1. Introduction	45
2. The Definition in the Present Law	45
3. What is Obscenity?	47
4. What is Pornography?	49
5. Pornography and Erotica	57
6. Conclusions	58
Chapter 5. Views from the Public Hearings	63
1. Introduction	63
2. The Prevalence of Pornography	64
3. The Effect of Pornography	67
4. Definitions of Pornography	69
4.1 Pornography as Part of a Continuum	70
5. The Link between Pornography and Violence	71
6. Municipal By-Laws and the Display of Pornography ..	73
7. Film Classification and Censorship	73
8. Canada Customs	74
9. Recommendations for Change	75
10. Organizations Opposed to Controls on Pornography ..	76
10.1 Civil Liberties and Professional Association	76
10.2 Periodical and Video Distribution and Retailers ..	80
10.3 Gay Rights Organizations	81
11. Conclusion	83
Chapter 6. Pornography in Canada Today	85
1. Introduction	85
2. The Availability of Pornographic Materials	87
3. The Use of Pornography	89
4. The Content of Pornography	93
5. Pornography and Harms	95
6. Views about Pornography	103
Section II — Pornography and the Law	109
Chapter 7. The Criminal Code Provisions	111
1. The Meaning of Obscene	111
2. Pornographic Materials	118
2.1 Sections 159(1)(a) and (2)(a) — Publishing, Distributing and Selling	118
2.2 Other Section 159 Offences	121
2.3 Section 159(3) (4) and (5) — The Public Good Defence	122
2.4 Section 160 — Warrant of Seizure	123
2.5 Section 161 — Tied Sales	125

2.6	Section 162 — Restriction of Publication of Reports of Judicial Proceedings.....	126
2.7	Section 164 — Mailing Obscene Matter.....	128
3.	Pornographic Performances.....	128
3.1	Section 163 — Immoral Theatrical Performance.....	128
3.2	Section 170 — Nudity.....	129
4.	Penalties.....	131
5.	Past Proposals for Reform.....	131
Chapter 8.	Pornography and the Charter of Rights and Freedoms.....	141
Chapter 9.	Canada Customs.....	147
1.	Introduction.....	147
2.	Customs Tariff and Customs Act.....	148
3.	Incidental Customs Data.....	153
4.	Film and Video Material.....	155
5.	Enforcement.....	157
6.	Computer and Information Services.....	159
7.	Trends and Statistics.....	160
Chapter 10.	International Mail: Joint Jurisdiction of Canada Customs and Canada Post Corporation.....	163
Chapter 11.	Canada Post.....	169
Chapter 12.	Broadcasting and Communications.....	173
1.	The Broadcasting Act.....	173
2.	The Canadian Radio-Television and Telecommunications Commission.....	176
2.1	Conditions of Licence.....	177
2.2	Regulations.....	179
2.3	Self-Regulation.....	183
2.4	Criminal Sanctions.....	185
2.5	Complaints Procedure.....	186
3.	The Reception and Distribution of Satellite Signals.....	187
4.	Bill C-20.....	190
Chapter 13.	Human Rights.....	195
Chapter 14.	Film Classification and Censorship.....	203
1.	Introduction.....	203
2.	Banning or Prohibiting Films.....	204
3.	Cutting Films.....	205
4.	Practices of Selected Boards.....	206
5.	Classifying Films.....	208
6.	Display of Classification Information.....	210
7.	Entrance Restrictions.....	210
8.	Advertising Controls.....	211
9.	Overview.....	212

10. Regulation of Videotapes	212
Chapter 15. Control and Regulation of Pornography by Municipal Law	217
Section III — Legal and Social Reactions to Pornography in Other Countries	223
Chapter 16. The United States	225
Chapter 17. Commonwealth Countries	231
1. England and Wales	231
2. Australia	235
3. New Zealand	238
Chapter 18. Continental European Countries	243
1. Introduction	243
2. France	243
3. West Germany	246
4. Denmark	248
5. The Netherlands	250
6. Sweden	251
Chapter 19. Conclusion	255
Section IV — Recommendations on Pornography	257
Chapter 20. The Criminal Code	259
1. Introduction	259
2. Terminology	260
3. Violent and Degrading Material	261
4. What to Control?	263
5. Offences Relating to Pornographic Material	272
5.1 Section 159	272
5.2 Section 160	279
5.3 Section 161	281
5.4 Section 162	281
5.5 Section 164	282
5.6 Section 165	283
6. Offences Relating to Pornographic Performances	283
6.1 Section 163	283
6.2 Section 170	286
Chapter 21. Canada Customs	289
1. Legal	289
2. Administrative	293
Chapter 22. Canada Post	299
Chapter 23. Broadcasting and Communications	301
Chapter 24. Human Rights Approach	305
1. Introduction	305
2. The Canadian Context	307

2.1 Canadian Law	307
Chapter 25. Hate Literature	317
Chapter 26. Film Classification and Censorship	327
1. National Action	327
2. Problems with Coordination of Provincial Regulation	328
3. Relationship between Customs and Film Classification	329
4. Problems of Substance	332
5. Advertising Restraints	334
6. Relationship between Provincial Film Review Boards and the Criminal Law	335
7. Regulation of Video Recordings	337