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Sex in the Digital Age

It has recently become normal for teenagers to send sexually revealing pictures, videos and text messages to each other. Although common, this practice comes with numerous detrimental consequences.

Canadian society accepts an obligation to prevent seriously harmful consequences for young people. So, given the vulnerability of teenagers to harm from modern communications technology, sexting should be illegal for teens.

Social media allows teenagers to share images, texts and videos with millions of people. All it takes is a click of a button. The 81% of teenagers who use social media now have access to anything posted online, including private images. One serious danger for teens who sext is that intimate photos, meant to be viewed only by one's boyfriend or girlfriend, can speedily make their way round the world.

Some look to technology to prevent such harmful consequences. The application Snapchat, for example, is a social network where, theoretically, shared photographs disappear in seconds. However, third-party applications have allowed users to save images without the knowledge or permission of the person who has sent them. As a result, last year anonymous hackers leaked as many as 200,000 private photos and 90,000 videos they collected through a third-party website, Snapsave, and called the event "The Snappingen." Around 50% of Snapchat's users are between 13 and 17 years old, so this leak potentially includes images which deserve to be classed as child pornography. In short, the way teens communicate through social media has made them vulnerable to

having their private images shared widely and available to predators or to people who would seek to damage them.

During adolescence the brain undergoes great changes - changes that make teenagers subject to peer pressure and, hence, highly manipulable. This renders them vulnerable to exploitation.

In the case of sexting, participation can even be fatal. Jessica Logan, an 18 year-old high school senior, exchanged sexual pictures with her boyfriend. After they broke up, he shared her images with hundreds of others. Name-calling, taunts and cyberbullying led Jessica to commit suicide. Unfortunately, Jessica's case is not unique. In 2011 in Nova Scotia, Reteah Parson, age 17, died three days after her mother discovered her hanging in the bathroom of her home. Parson committed suicide after photos of her being sexually assaulted were posted online. Shaming and bullying of teens after photos are leaked have cost many teenagers their lives.

Both the Criminal Code and our common law are meant to reflect society's values. In many ways they do. In Manitoba, e.g., it is illegal for those under 18 to smoke tobacco or drink alcohol. Those under 16 are not allowed to drive. In other words, society already accepts that teenagers at risk of serious harm sometimes need the protection of the law. By making sexting illegal we would be uphold the same legal principle that protects teens from other detrimental consequences.

Making the practice of sexting illegal would not completely eliminate sexting but it would send an important message to society that the harms of the practice justify limiting the freedom of teens to use social media in ways that make them vulnerable to serious harm.

This essay has focused on the reasons sexting should be illegal for teenagers. But critics might argue that such a law would not be enforceable. They are right about this. However, there are already laws in Canada's criminal code that are difficult to enforce but are nevertheless valuable. Child pornography laws, e.g., are difficult to enforce. But it would not make sense to eliminate such laws. They serve to reflect our values and they contribute to the creation of a social environment more protective of children and youths.

Critics might also point out that in order to enforce these laws records of cellular and social communications would need to be collected and analyzed. This would constitute an invasion of privacy, that is, it would violate the privacy rights of teenagers.

On the other hand, young people would still have legal rights under the Canadian Charter of Human Rights and the Youth Criminal Justice Act, and these would still be protected. E.g., Article 8 of the Charter, ensures that everyone has the right to be secure against unreasonable search or seizure.

Law is an important tool for shaping the norms of society. The vulnerable position of teens, because of the way they communicate with each other, suggests that we should make teen sexting illegal. At present, cyberbullying and public shaming are widespread and occasionally even fatal. Intimate images of teenagers meant for viewing by one person may, through malice or stupidity, be spread worldwide. The benefits of making sexting illegal for teenagers, including the prevention of fatal consequences justify interfering with individual liberty. Therefore, this practice should become illegal.