

Criminal law and the canadian criminal code



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The laws which pertain to Canadian prostitution mean that the following are illegal bawdy houses (Criminal sections 210 and 211); the act of procuring and living on the avails of prostitution of another person (section 212); Procuring and living on the avails of prostitution are offenses deemed indictable which are accompanied by a term of up to ten years in a Canadian prison. If the charge is involved with a person under the age of 18, the term automatically increases to 14 years in a Canadian prison. Bawdy house is defined as a place, which is "occupied or used by at least one person for the purposes of prostitution". "Keeping" a bawdy house is known as running a brothel which is also an indictable offence and carries a term of up to two years in prison (section 210 (1)). Being found in a bawdy house is a summary offence and the offender faces a maximum term of six months in prison and/or a \$2000 fine (sections 210 (2) and 211). Simply stated, prostitution crimes are mainly focused on those acts committed in public. This includes but is not limited by a prostitute stopping a car in traffic or approaching a prospective client in the street and offering sexual services. (section 213(1)).

2. Under the Crimes Against Humanity and War Crimes Act in Canada, a person commits an offence under section 4, when he fails, to exercise control properly over a person under their effective command and control or fails to effectuate authority and control over their watch and as a result that person who is supposed to be under their watch commits an offence under section 6;(b), and further, the military commander knows, or is criminally negligent in failing to know, that the person is about to commit or is committing such an offence. Thus the two elements that must be present are first that there is an active war and second that the person during this time,

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a person under the control or dominion of the soldier is committing a crime.

3." Conduct is negligent if it creates an objectively unreasonable risk of harm. To avoid liability, a person must exercise the standard of care that would be expected of an ordinary, reasonable and prudent person in the same circumstances." Ryan v The City of Victoria (1999 1 SCR 201). Criminal negligence, stem from 219 of the Criminal Code: " Everyone is criminally negligent who in doing anything, or in omitting to do anything that it is his duty to do, shows wanton or reckless disregard for the lives or safety of other persons." Thus the difference is that in criminal negligence there is a duty whereas in civil negligence there is not.

4. The Canadian law mostly defines a social club as a place where meals and facilities are available to its' members. Usually the club will hold community events, annual meetings and dinners of various private and public organizations. There are regular functions for its membership including dinners, cribbage league, and numerous pitch tournaments.

5. Three offenses designated under culpable homicide are: Murder, Manslaughter and infanticide.

6. Infanticide may be difficult to prove because of its' own definition.

Infanticide is defined as " an offence of lessened capacity that is limited to a female person who, not fully recovered from the disturbing effects on her of a birth of her child or subsequent lactation, by a willful act or omission, causes the death of her newly-born child." The intent level is difficult to ascertain. The statute does not designate what constitutes " fully recovered" and it is confusing to ascertain why or how lactation influences a woman's mental state. Accordingly, because the mens rea part of this statute is difficult to even define, it would be nearly impossible to secure a conviction.

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7. 215. (1) Every one is under a legal duty: (a) as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of sixteen years;(b) to provide necessaries of life to their spouse or common-law partner; and(c) to provide necessaries of life to a person under his charge if that person(i) is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and(ii) is unable to provide himself with necessaries of life.

8. First degree murder is a planned or premeditated murder. Second degree murder is one that happened but was unexpected.

9. According to 216, everyone who undertakes to administer surgical or medical treatment to another person or to do any other lawful act that may endanger the life of another person is, except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing, According to 217, everyone who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life. The law and jurors cannot expect a person to be a good Samaritan if there is strict liability attached to the act.

10. As noted earlier, (Question 7) as the guardian of Jimmy, both Mr. Simon and his wife had the legal duty to provide necessaries of life to their child Jimmy. This obligation continues until Jimmy is 16. Rodger was not under the charge of Mr. or Mrs. Simon and was beyond the age of 16, thus there was not a legal duty to provide to him. Mrs. Simon had no right to have Jimmy walk into the freezing cold. While there may be some merit in not wanting her brother to live with her family in such close quarters, her duty was to make sure that her son was warm because it is a necessity to keep children housed. Mr. Simon could have and indeed should have stopped Jimmy from

leaving with his mother. Thus, Mr. Simon would be properly prosecuted. As to the death of Mrs. Simon, there is nothing in the fact pattern that indicates that she was not of sound mind. She was aggravated, understandably, by the circumstances but this does not equate into mental incapacity. Accordingly, she went into the cold of her own free will and therefore nobody can be held liable for her death.