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Blurring Fantasy and Action: The Problem of Virtual Sexual Ageplay

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Today...

- Aim = to consider evidence to suggest that sexual ageplay in Second Life may be problematic and question the need for legal responses
- Sexual ageplay = the virtual, simulated sexual abuse of child avatars by adult users in online environments



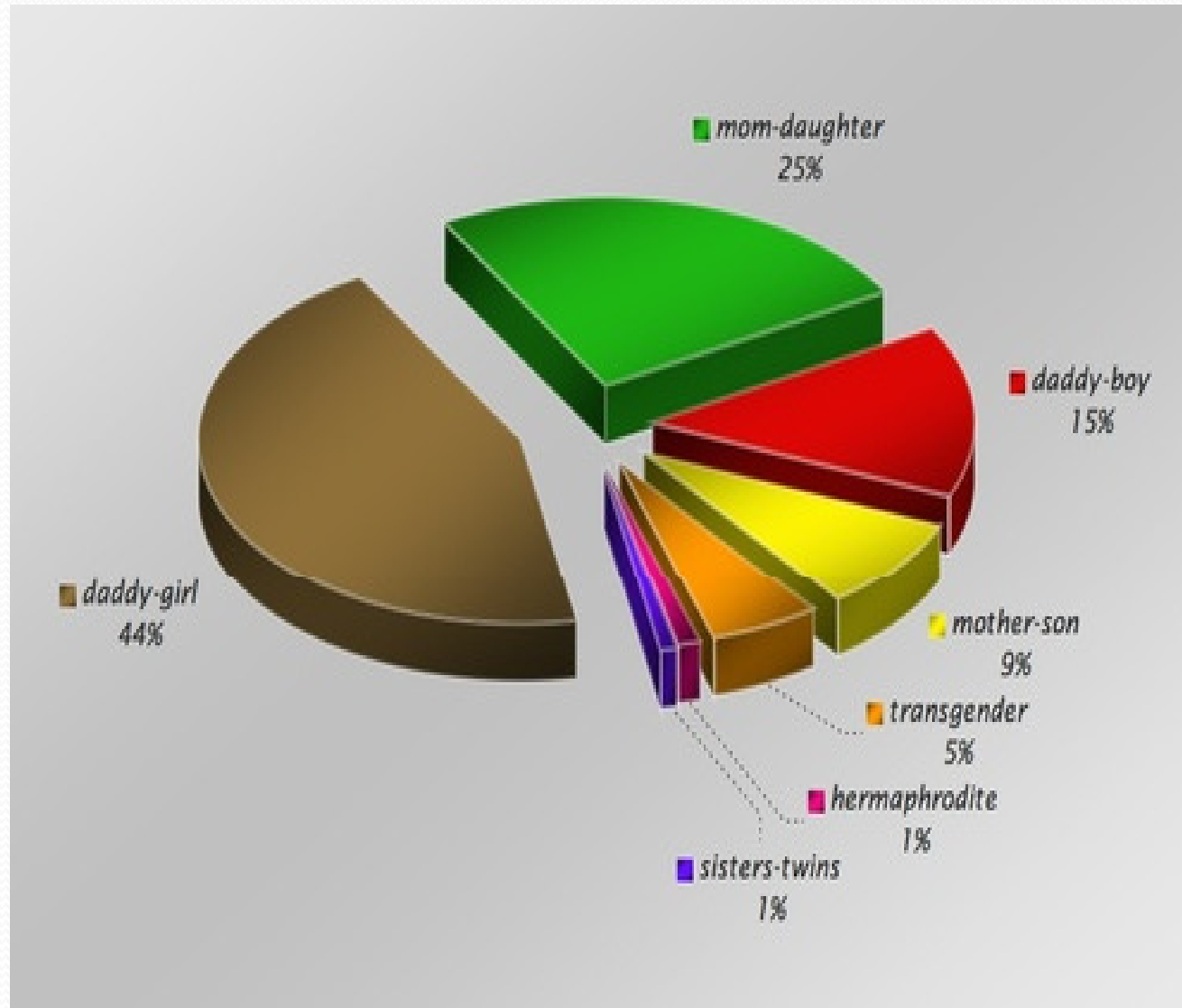
How much ageplay?



18.3% report operating pre-adult humanoid avatars



Sexualised interactions involving ageplay



Legally problematic

- No 'real' acts of csa – consenting adults in adult domain
 - SOA 2003 – prohibits real world acts where one party does not or cannot give informed consent
- Not 'real' csa abuse images nor indistinguishable
 - CJPOA 1994 – prohibits pseudo-photographs of csa
 - CJIA 2008 – prohibits tracings or other images derived from (pseudo) photographs of csa
- Therefore, police have tended to concentrate on less controversial, related acts, such as distribution of real abuse images that often accompanies ageplay rings
 - Use ageplay rings as a way of indentifying likely perpetrators

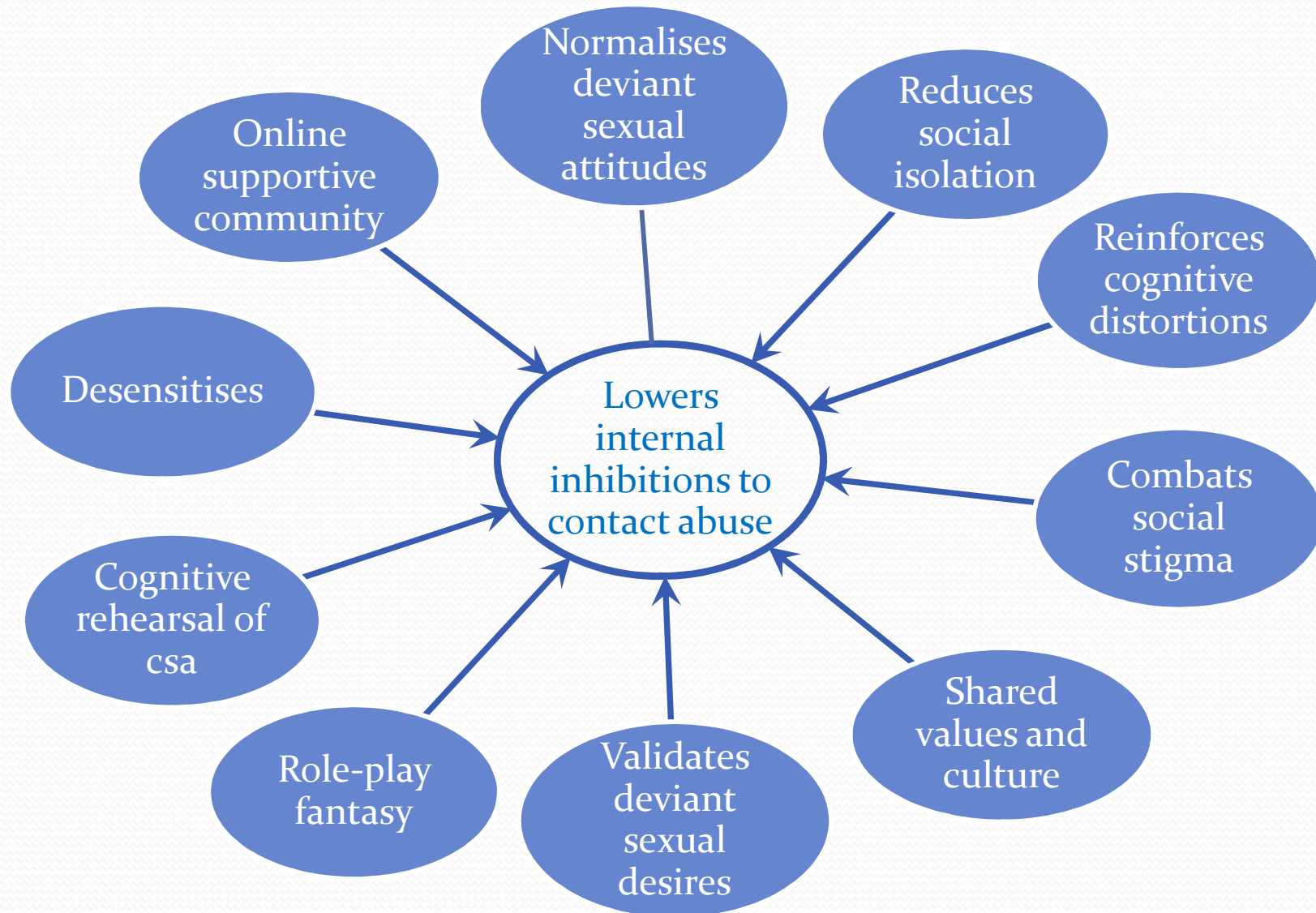
Coroners and Justice Act 2009

- S. 62-68 Prohibited the possession of still or moving depictions of fantasy child abuse images
 - Control and/or ownership – does this extend to sexual ageplay?
- Arguments underpinning legislation:
 1. Fantasy images may be disguising real csa images
 2. Correlated with collections of real csa images
 3. May be used in grooming
 4. Viewing fantasy images may 'encourage' contact offending

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 4. **Viewing fantasy images may 'encourage' contact offending**

Online sexual ageplay: gateway to contact abuse



However...

Premature to prohibit

- Little research undertaken
 - tends to be anecdotal
 - Based on retrospective case studies
- Wider research is inconclusive as to (negative) effects
 - Although is suggestive
- Some queries as to:
 - Cognitive distance
 - Possible catharsis effect

Disproportionate to prohibit

- Absence of actual harm caused
- No evidence of direct causal link to contact offences
- Criminalisation creep
 - 'thoughtcrime' (Nair, 2010; 227)
 - How risky is sexual ageplay?
- Virtual harms not legislated against in other contexts
 - Morality concern?

Where does the current evidence lead?

- Position 1:
 - “A mere notion of perception of harm is distinct from clear and present danger of harm” (Nair, 2010: 231)
 - Distortion or harm principle to criminalise behaviours that carry potential of risk of future harm, rather than proven harms (Ost, 2009: 123)
- Position 2:
 - Seriousness of harm caused IF causally linked may be such to prohibit ‘in case’:
 - The precautionary principle

Remaining issues...

- Ageplay is not harmful in itself
 - But is it an outrage against public morals?
 - Should not intervene to preserve freedom of sexual expression?
- Does the nature of ageplay mean it has a stronger affect than viewing child abuse images or chatrooms?
 - What is this affect?
 - Even if it does lead to increased likelihood or real world offending should we criminalise it? (where do you stop?)
 - Consent given and lack of actus reus by player (does avatar count? They are not a legal entity)
- If this likely to lead to real world offending don't we have similar problems with violent computer/online games?



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