

The sexless child and accountable youth: shifting concepts?

Christine Piper, Brunel Law School.

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Faculty of Law, University of Toronto

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Hansard (Transcripts of UK parliamentary debates)

- Lord Northbourne [4 Nov 2000]:
- Perhaps the Baroness can give an example of what she means by an "act of gross indecency on the Internet". My wife told me that when she was 17 her father used to tell her before she went out for the evening,
"Don't do anything you can't do on a bicycle".
- Is the noble Baroness saying that one can do things on the Internet that one cannot do on a bicycle? If so, what are they?

Hansard 15 July 2003: Mr Blunkett (then Home Secretary)

I need to lighten my mood ...

- [Re Lords' debates:] Let us take Lady Saltoun—or Opposition Members can take her. Between her more offensive comments, she came out with some gems. ... She suggested that oral penetration could be considered less serious on the ground that it could be prevented because:
- *"Clenched teeth can provide quite a good defence. Indeed, not only can they provide a good line of defence, they can be an aggressive form of defence because teeth can also bite."* [31 March 2003]

Adult/parental fears about the sexual activity of children.

- Potential to destabilise conceptions of the family by sexual relations within the family unit.
- Inherent potential of the 'pure and innocent' child to create sexual feelings in adults.
- The conflation by parents of sexual activity by their child and parental loss of control.

Debate on Criminal Justice and Court

Services Bill (to amend section 1 of the Indecency with Children Act 1960)

“The subject is horrifying. There are groups of paedophiles who network on the Internet. It is organised from Russia. **It is beyond Europe.** The police are concerned about that. The whole matter needs to be looked at.”

[Baroness Masham of Ilton 4th Oct 2000; emphasis added.]

‘The’ legal concept of the child?

- M. King and C. Piper (1990, 1995)
How the Law Thinks About Children
(1st & 2nd eds) Gower/Arena: Aldershot.
- Autopoietic theory.
- Systems of communication.
- Politics, Science (child welfare), Religion and Law.
- Dominant images that underpin particular policies, legislation and judicial decisions.

Historical Conceptions of Childhood

Innocence: Removing Sexuality

- In E. Heinze (ed.) *Of Innocence and Autonomy: Children, Sex and Human Rights* (2000, Dartmouth Publishing). [Pre-print copy @ <http://hdl.handle.net/2438/673>]
- ‘The image of the child and its sexuality which now underpins the policies and professional practices of Blair’s Britain was in place by the time Lloyd George was Prime Minister’.
- The ‘sex-less victim’: sexuality was removed from authoritative concepts of the ‘deserving’ child.

Innocent, fragile and dependent

- Innocent - so fully deserving: 'clean hands'.
- Dependent and vulnerable – so fed into paternalistic notions of (male) power.
- Fragility a spur to action: 'Childish innocence is very beautiful but the bloom is soon destroyed' (Booth, 1890).
- Portrayed as young – 'these babes'.
- **VERY USEFUL.**



Innocence & corruption

- Lack of (sexual) knowledge.
- Innocence is corrupted by sexual knowledge.
- Religion (Judaeo-Christian tradition, then Puritanism)
- Enlightenment:
 - ‘Everything is good as it leaves the hands of the Author of things; everything degenerates in the hands of man’ (Jean Jacques Rousseau, *Emile*).
- ‘Depraving’ public spaces – the city street, the factories and mines: mixing with (sexualised) adults and giving independence from the home.

How and why?

- Issues of class and social control played a part.
- The protection of children became bound up with the regulation of women.
- Socio-economic and political instability encouraged changing ideas.

Power, politics and morality: CLASS

- Fear of general moral decline: ‘the unrespectable poor’ – justified intervention in the family to criminalise parental cruelty (Act of 1889).
- Desire to impose a middle class ideal of family life.
- Fears focused on **‘The Great Social Evil’** – prostitution.
- Symbolic ‘crusade: to ‘rescue’ the victims of men not upholding the sanctity of the home – and demonise the (male) wreckers of home and morality.

W.T. Stead

The Northern Echo, October 27, 1871

- ‘The ghastliest curse which haunts civilised society, which is steadily sapping the very foundations of our morality, lies hidden behind the phrase of "the social evil." It must, however, be considered occasionally in all its horrible proportions: therefore we are compelled to draw the attention of our readers to the remarks of the Bishop of Manchester’
- ‘The Bishop abandoned the conventional term "ladies", spoke to audience as "women", and reminded them that it was their sisters who were thus offered to the lusts of mankind.’

GENDER

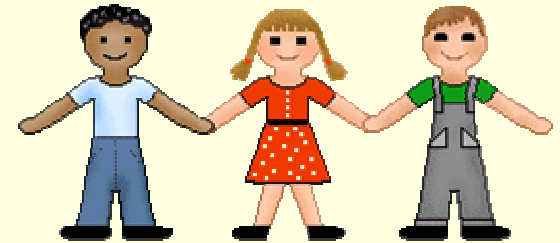
- Middle class fears re erosion of gender roles.
- Enforce 'protection' on 'sexual' women: 'protect women against themselves' (Jane Tyrell case).
- Images of children useful in campaigns for reform of prostitution laws: exaggerated the role of children but helped to pass the legislation.



Blair's (Brown's?) Britain

7 years on: are the answers different?

- 'For most parents, our children are everything to us: our hopes, our ambitions, our future. Our children are cherished and loved.
- But sadly, some children are not so fortunate. Some children's lives are different. Dreadfully different.'
- (Prime Minister: DfES (2003) *Every Child Matters: Foreword*)



S. Ost 'Children at risk'

JLS (2002) Vol 29(3) 436-60

- 'Deference to a conception of childhood innocence as sacred and deserving of protection is clearly evident' (p.456).
- 'in the case of R v Fellows and Arnold, Evans LJ referred to the "perverted tastes" of collecting and viewing indecent photographs of children, and noted the "public revulsion against paedophilia in all its forms" (p.446).
- In the Gadd case (Gary Glitter), 'Butterfield, J. commented that "the potential corrupting effect of such filthy and revolting material is obvious".' (p.446)

Paul Boateng, MP., 30 March 2001

Hansard HC col 1274.

- “We cannot be complacent. Protecting children from sexual abuse and **the theft of their childhood and their innocence**, and breaking what can become a cycle of abuse as the abused become abusers, must be a clear priority for Government, and it is.”
[emphasis added]

The internet as threat

- Internet established as an adult 'public space' - to assist state security, business and education?
- 'Taken over' by children – their competence and independence on-line is a threat to adult control.
- The internet is no longer a safe and familial place for children.
- It becomes another 'depraving' public space.
- Internet abusers threaten established moralities.



The Sexual Offences Act 2003

- New offences: pre-sex criminalised (grooming) – new constructions of child abuse. Concern re ‘re-victimisation’ through persistence of on-line images.
- Age (of ‘victim’) raised from 16 to 18 years for some offences.
- ‘For the first time, other actions against children under 13 that arise out of grooming mean a life sentence and 14 years when committed against those who are older than 13’ (Home Sec. Blunkett, HC July 2003).

Children and Families: Safer from Sexual Crime; The Sexual Offences Act 2003 (Home Office, 2004)

- **Sexual offences: putting children first**
- Sexual offences against children are terrible crimes, with a profound, damaging and long-term impact on the lives of victims and their families.
- The public, rightly, wants to ensure that children have the best possible protection from sexual abuse.' (p.2)
- **Protecting under13s**
- 'The Sexual Offences Act sets out important new laws to give children under 13 the extra protection they need from sexual abuse, and set the maximum penalties for abusers.'
- 'The law now makes it clear that sexual activity with a child under 13 is never acceptable, and that – regardless of the circumstances – children of this age can never legally give their consent.' (p.3)

The young female child

- ‘We should strike hard proactively rather than reactively **to save a child.**’
[Sir Paul Beresford, House of Commons 2003]
- 13th birthday is important – there is more emphasis on the distinction at age 13.
- Debate still often about children and women together.
- Examples given are mostly of girls and girls are more often targeted.
- Still part of a moral crusade.

Children + Sex = ?

- ‘Child + Sex = Abuse’ OR
- ‘Child + Sex = Adult’
- Rex and Wendy Stainton Rogers, ‘What is Good and Bad Sex for Children?’ in King, M. (ed., 1999) *Moral Agendas for Children’s Welfare*.
- *R. v Mansfield (John)* [2005]: ‘The fact that V was compliant and not inexperienced was immaterial as the law was in place to protect young girl against immaturity and to punish men who take advantage of them. There was a very substantial difference in age between M and V...’
- AND – new offences – children/persons.

Child initiated sex = not necessarily evil?

- Child (victim) + Abuse (by child) = 2 victim children?
- Teenage internet abuser who needs help = victim in some circumstances:
 - “We should not ignore the estimate that about a quarter of all rape victims are children, and that about a quarter of the offences against them are committed by other children. We need to address the issue thoroughly, and to deal with it therapeutically rather than by criminalising the disturbed behaviour of children who commit such offences. ... Until we treat those people and deal with their extremely aberrant, dangerous and horrific behaviour, we cannot say that we are protecting children”. (Mr Dawson MP, 15 July 2003, cols 215-6).
- BUT reinforces the child as a victim.

Hansard – House of Commons

July 2003

- **Mr. Hilton Dawson:** I am grateful to my right hon. Friend ... Can he confirm that we have now reached the moment when it is possible to say that children who have been involved in prostitution or pornography are removed from any criminal liability whatever?
- **Mr. Blunkett:** Children are, and the intent behind the clauses is to get round the difficulty that in the past it had to be proved that the person exploiting the child did so for material gain. That was much more difficult to prove than the suspicion itself. We are now removing that difficulty and we are also for the first time criminalising the payer for sex with a child. Amazingly, that was not in itself a criminal offence. ... the penalty where children under 13 are concerned will be life, and it will be 14 years for similar offences with older children. That sends out a clear signal.

Bifurcation? - at 13

- law v practice.

- Sex OK for 14-17 year olds?
- “It is nonsense that we criminalise young people between 13 and 16 for what may be minimal sexual activity that is not of a predatory nature—when it is effectively consensual—and is part of the natural process of an adolescent growing up. ... Let us not be prudish and old fashioned. Throughout the history of the world, teenagers have explored themselves and each other, and that will continue. There is all the difference in the world between that and ensuring that activity with under-13s is unacceptable. That is what the Bill says, which is a good thing. There is no defence or excuse for interfering with under-13s.”
(Simon Hughes, MP, Hansard, HC 15 July 2003 col 202)

Rights?

Home Office (2004) *Children and Families: Safer from Sexual Crime: The Sexual Offences Act 2003.*

‘The aim of the law is to protect the rights and interests of young people, and make it easier to prosecute people who pressure or force others into having sex they don’t want.

Although the age of consent remains at 16, the law is not intended to prosecute mutually agreed teenage sexual activity between two young people of a similar age, unless it involves abuse or exploitation.’ (p.2)

The (accountable) child with rights?

- Reconstructing of protectionist concerns into a rights discourse?
- How far is the child still deemed by law to be accountable for taking part in sexual activity?
- THE legal concept – the innocent ‘un-knowing’ child (under 13) and the child (over 13) who is accountable for his/her use/abuse of sex.
- Rights and responsibility are merged and there is an even finer line between the child as victim and the child as offender in this area of law.

Fighting illegal content

- Discourse of a **war** against internet crime
- International concern re ineffectiveness of criminal justice: part of strategy to increase legitimacy.
- IWF authorised in the UK to operate an internet 'hotline' for the public and IT professionals to report their exposure to potentially illegal content online.
- 'tackle sex-offending'; 'a European-wide push'; 'intelligence'; 'combat illegal content'.

REPORT ILLEGAL CONTENT

<http://www.iwf.org.uk/reporting.htm>



The UK hotline for reporting illegal content specifically:

Child abuse images hosted worldwide and criminally obscene and incitement to racial hatred content hosted in the UK

Internet Watch Foundation Annual Report 2006

- The blocking initiative is supported by the Internet Services Providers' Association (ISPA): ISPA's work with the IWF has shown consistent and ongoing success as evidenced by the IWF's 2006 figures.
- Technological developments from within the UK internet industry have positioned the UK at the forefront of fighting illegal content" Nick Lansman, Secretary General, ISPA.



Children as (neo) adults?

- Concern by adults that the internet makes them unsafe: child internet user subsumed in 'the public'. Emerging concept of the young responsible surfer?
- Just visible are the following political concepts of the child:
 - as citizens now: “providing better information and advice so young people can make informed choices” (DfES 2005 *Youth Matters*: para 12);
 - as future productive citizens: the investment and inclusion agendas.

