

FOOT NOTES
at the Background Paper of
Tom O'Carroll

1. Paragraphs 93-5 of the British Columbia Appeal Court judgement in the Sharpe case discuss the basis of judicial support for these freedoms. (Regina v John Robin Sharpe, BCCA 1999 416, Docket CA025488, 30 June 1999, Vancouver registry.) The Honourable Madam Justice Southin wrote:

[93] "Since the great case of *Entick v. Carrington* (1765), 2 Wils 275, [1558-1774] All E.R. Rep. 41, 19 State Tr. 1029, a man's personal thoughts, opinions, expressions and beliefs as disclosed by his books and papers have been thought immune from intrusion.

[94] There is good reason for such freedom from intrusion being a profound constitutional value. This has been the century of the Gestapo and the KGB - of a state encouraging betrayal by children of their parents to the authorities, of smashing down doors and burning books, all in the name of some concept of the greater good. Even if the possession of material which advocates or counsels crime may lead to the inference that the possessor has bad thoughts and thence to the conclusion that he might or even will commit the crime thus advocated, it is not within our political ethic to make the possession itself a crime. It is that notion which goes deep in our history which is at the root of the requirement that proof of treason requires proof of an overt act."

[95] I conclude, therefore, that legislation which makes simple possession of expressive materials a crime can never be a reasonable limit in a free and democratic society. Such legislation bears the hallmark of tyranny.

Paragraph 172 of the Sharpe appeal judgement addresses the importance of privacy. The Honourable Madam Justice Rowles wrote:

"[172] In *R. v. Dymont*, [1988] 2 S.C.R. 417, 45 C.C.C. (3d) 244, the Supreme Court of Canada considered the interrelationship between privacy, liberty, and the essence of a democratic state. Mr. Justice La Forest, speaking for a majority, described the Court's *Charter* jurisprudence with respect to privacy as being (at 427-28 S.C.R.)

'... altogether fitting for a constitutional document enshrined at the time when, Westin tells us, society has come to realize that privacy is at the heart of liberty in a modern state; see Alan F. Westin, *Privacy and Freedom* (1970), pp. 349-50. Grounded in man's physical and moral autonomy, privacy is essential for the well-being of the individual. For this reason alone, it is worthy of constitutional protection, but it also has profound significance for the public order. The restraints imposed on government to pry into the lives of the citizen go to the essence of a democratic state.'

2. G A Moonen v Film & Literature Board of Review CA42/99, 8 November 1999.

3. The Regulation of Pornography and Child Pornography on the Internet; Yaman Akdeniz; 1997. Cyber-Rights & Cyber-Liberties (UK) web site at

<http://www.leeds.ac.uk/law/pgs/yaman/yaman.htm> author's e-mail address: lawya@leeds.ac.uk . [link did not work]

4. Sergeant Lloyd Martin, quoted by American lawyer Lawrence A Stanley on page 96 of his book Regarding Proposed Changes to Article 240b of the Dutch Penal Code. This work was published privately in 1994.

5. Berl Kutchinsky; Pornography and its effects in Denmark and the United States: A rejoinder and beyond; Comparative Social Research 8 (1985): 301-330.

6. Kutckinsky op. cit.; quoted in Stanley op. cit. p28.

7. Child porn law under spotlight at Canada's top court, by Randall Palmer; Reuters report datelined Ottawa, Jan 16, 2000.

8. Stanley op. cit. p34. These days "virtual" child porn is also a possibility, in which actual children do not appear at all, the images being created using photo-editing software. Youthful-looking adults who appear to be under the age of consent may be used, either with or without computer manipulation to make them look younger still.

One wonders how such images can constitute evidence of a crime against a child. Nevertheless, the US Child Pornography Prevention Act (CPPA) of 1996 made it illegal to have or exchange sexually explicit images that "appear" to involve minors. As J C Salyer, a lawyer for the American Civil Liberties Union, has put it "the government has decided that you can't think about children sexually so it's illegal". (Unreferenced report appearing on website Fresh Petals, 1999, dated September.)

In December 1999 this part of the CPPA was rejected as unconstitutional by the Ninth Circuit Court of Appeals. In a 2-1 ruling, the court said, "We find that the phrases "appears to be" a minor, and "convey the impression" that the depiction portrays a minor, are vague and overbroad and thus do not meet the requirements of the First Amendment." (Report by Lisa M Bowman, ZDNet News, December 17, 1999, 4.42pm, cited on website Fresh Petals, 1999.)

9. Stanley op. cit. p21.

10. Stanley op. cit. p31.

11. Stanley op. cit. p60. Grossly misleading exaggeration and distortion is more often introduced by the news media than the courts, although journalists may well be aided and abetted by police and prosecution authorities, particularly in the US when elective office is at stake in high profile cases.

One of the worst examples in the UK in recent years was an "investigation" series called "The most secret crime" in the *Guardian* newspaper that occupied seven broadsheet

pages over four days from 2-5 June 1998. Unfortunately, the fact that the series appeared in a newspaper of generally good reputation may have helped give it undeserved credibility. Its author, Nick Davies, won at least one major journalism award on the strength of these pieces. One can only imagine that the judges, uncritical and ignorant of the subject matter, allowed themselves to be impressed by sheer size. What the judges almost certainly failed to spot is one very telling discrepancy between "The most secret crime" and an earlier "Special investigation" covering overlapping ground. This earlier article, by Nick Davies and Eamon O'Connor, appeared the previous year, on 5 April 1997. Much play had been made in this earlier article of a pornographic video dubbed "the Bjorn Tape"; it was implied that this was a "snuff" movie and that a young boy in it called Bjorn had been murdered. But in the award-winning series the following year Bjorn is discovered alive and apparently well!

I drew attention to this discrepancy in an email last year to Christian Wolmar, a journalist who had approached me in connection with a book he was writing on abuse in children's homes. The name Nick Davies had come up in correspondence between us and Wolmar had asked me why I thought Davies' work was poor. This is what I wrote on the matter:

Davies' main stock in trade in his sensationalist articles is to start by describing a grave, horrible offence that is alleged to have been committed against one or more children. He describes this offence in lurid, loving detail, then uses an immense amount of trickery -- insinuation, rumour, innuendo, false generalisation, loose use of terminology, use of extremely dubious informants with an interest in telling lies, exaggeration, misuse of statistics -- in order to tar other people with the same brush, people quite unconnected with the alleged crime in question. If he were to use such tricks with black people, or Jews, instead of paedophiles, he would rightly be denounced as a fascist bully...

To return to Davies, what he does is rather like describing the Yorkshire Ripper case for a readership of Martians who do not know what the word "heterosexual" means. He starts with the crime, including all the nasty, gory stuff about how the Ripper would bash in the heads of prostitutes with a hammer (I think that was his method, wasn't it? I'm afraid I am not an aficionado of the True Crimes genre, so I can't be sure), all the while emphasising that the Ripper was "a heterosexual" and this is the sort of things heterosexuals do.

But there is one big difference. The Ripper's crimes are a well-established fact. A number of women were indeed murdered. Their bodies were found, their names are known, and a man was duly tried and convicted. The worst offences Davies describes, by contrast, have not even taken place at all in reality, so far as is known! ...

...Davies' series entitled "The most secret crime", run in *The Guardian* from 2-5 June 1998 mentions the "Bjorn tape", a video which allegedly depicts sexual assault against a boy. Following a police investigation in the previous year (1987), Davies told us, the boy, by then into adolescence, had been traced, and was found to be

living in the north of Holland.

The word "living" or "alive" does not appear in Davies' copy, a fact to which I imagine Davies would not wish to draw too much attention. Why not? Because Davies had written about the Bjorn tape earlier, before the boy depicted in it had been traced. On this earlier occasion his "special investigation" was supposed to be about "snuff movies", with children allegedly being murdered on camera. If a journalist has grounds to suspect such a thing is going on, then of course he has every justification to pursue the matter and if possible help the police investigate it. Far from having a quarrel with this I would support it totally.

But I would say this is far from being the case with Davies' work. It seems to me that instead of soberly considering the facts, his article of 5 April 1997 (written jointly with Eamon O'Connor) went out of its way to jump to conclusions and thereby to mislead readers. It was implied that the investigation had uncovered snuff movies and that the story would disclose evidence to this effect. *The Guardian's* sub-editing of the piece also colluded with this approach in important ways. *The Guardian's* large-type introduction said:

"It is being called the boy business -- little boys being kidnapped and sold to paedophiles. There were allegations that some of these boys were murdered on camera to produce lucrative pornography. After a two-year investigation, Nick Davies and Eamon O'Connor present new evidence that the trade in young boys has reached deadly extremes." Beneath this introduction there is a headline, if that's the word, which consists of an edited highlight quote from the story. It reads: "How old?" asked the officer. "About 13,15. He thought he was going to make 200 guilders and ended up being dead."

After a build-up like this, readers are bound to be bracing themselves to read about children being "snuffed". Davies and his co-writer do their best to oblige. The story starts off with a description of a scene from the Bjorn tape. The scene is said to show a man carrying a child: "The boy is limp, his legs trailing over the side of the man's arm. His head lolls backwards..." The text goes on to describe only what the man is doing, not the boy. The readers have been led to expect a corpse and that is what Davies gives them. But a year later, in Davies' next "special investigation", which also purports to be about "paedophiles" but not about snuff movies, the boy is alive and apparently well in Holland! It may be the greatest resurrection since Lazarus, but Davies is hardly keen to dwell on the fact!

So, if the Bjorn tape is not a snuff movie, how does Davies' story hold up? Answer: it doesn't. He quotes a dubious witness who talks about five such movies, but despite an extensive police investigation of the people allegedly involved not one snuff movie has been found. Another witness says he took police to a lake where the bodies of

murdered boys were dumped. Presumably police searched this lake. No bodies were found. No boy seen in any video tapes found by the police in the possession of the suspects has been found to correspond to children reported missing. In sum, there is and was zero serious evidence of snuff movies being made. As with the "Satanic abuse" that was so fashionable a few years back, the stories were nothing more than the product of fevered imagination and wantonly gullible reporting. On the basis, perhaps, that nothing succeeds like excess, *The Guardian* gave Davies his head for the later "The most secret crime" series. Having given the Bjorn tape as an example of Davies' methods (or the Bjorn Tape with a capital T, as they called it in the snuff movie article, when trying to dress it up as a star exhibit), I don't think I need go into a laborious dissection of this later nonsense. Suffice it to say the approach is similar. (email to Christian Wolmar, 10 June 1999)

12. On his release from prison Garry Glitter made a statement to the news media in which he apologised for his involvement with child pornography. His appearance was abject and he plainly saw no mileage in trying to defend his possession of the material in question ("Weeping Glitter wants to get life back after jail", Reuters, London, 11 Jan, 2000). Glitter's public handling of the matter was understandable but it was not the only available response to his predicament. In the British Columbia case, computer discs were seized by Canada Customs containing the text already referred to entitled "Sam Paloc's Flogging, Fun and Fortitude, A Collection of Kiddie Kink Classics". Bearing in mind what we have heard about the "whip-like device" in another case, the reference to flogging could easily have seen Sharpe pilloried as having a monster's interest in beating and hurting children. But, unlike Glitter, he stood his ground and robustly defended his right to private fantasies. The judges, perhaps to some extent taking their lead from this impressive defendant himself, did not allow themselves to be fazed. We should also be careful not to make unwarranted assumptions. Glitter may have had no interest in S/M images involving children at all. Indeed, he could well have found them repellent. His extensive trawling of the Internet could have involved downloading files each containing many images, only some of which were of interest to him. He may have had it in mind to delete the small number of bondage pictures he found, but simply had not got around to doing so.

13. I am indebted to the Danish Paedophile Association, from whose website (<http://danpedo.dk/english>) I have taken much of this paragraph and the previous one.

14. *The Sun*, 16 November 1995. The headline read: "Julia's lover took 28 nude pics of girl, 7". The italic emphasis on the number 28 was in the original.

15. "For one family in the south of England, the nightmare became a reality seven years ago," wrote Rebecca Fowler and Decca Aitkenhead in *The Independent* (6 November 1995). "After a family outing to a funfair, there were three shots left on the end of the film in their camera, and the parents decided to use them up taking pictures of their three-year-old daughter lying naked on her tummy in front of the fire after a bath.

"The first the family heard that the film had been handed over to the police by their local branch of Boots was when investigators arrived at their home.

'It was terrible, and I could only think they'd got the film muddled up with someone else's,' says the mother, who prefers to remain anonymous. 'Then when they showed us the pictures I couldn't believe it: they were ours. We'd been going to get one of them blown up for her Nanna, and here they were saying we'd done this terrible thing.

"They realised we'd done nothing wrong on the same day. One of them said he could tell we were innocent because our home was so nicely decorated. So what would have happened if we lived in a dumpy house?"

16. Stanley op. cit. pp90-92.

17. Stanley op. cit. p93.

18. Stanley op. cit. p69-70.

19. Anne Higonnet, *Pictures of Innocence: The History and Crisis of Ideal Childhood*, Thames & Hudson, London, 1998, p167.

20. Stanley op. cit. p65.

21. Stanley op. cit. p95.

22. Stanley op. cit. p75.

23. Rind, B et al, [A Meta-Analytic Examination](#) of Assumed Properties of Child Sexual Abuse Using College Samples, *Psychological Bulletin* 124, pp. 22-53 (1998). This paper has famously come in for a great deal of criticism. While some interesting points have been made amidst a torrent of academically unsound abuse, none that I have encountered is in my view substantial enough to merit discussion here. The "big picture" approach adopted by Rind and his colleagues is well complemented by the equally scientific investigation undertaken by Theo Sandfort in considering the question "Can a boy experience sex with an adult positively?". While Sandfort's research does not address the possibility of long-term harm (though a follow-up study of his now-adult child interview subjects possibly could do), and girls were not included in his study, the qualitative aspects of his work go a long way towards making the Rind et al findings comprehensible and credible to those who are suspicious of work based on statistics alone. ("Sex in Pedophilic Relationships: An Empirical Investigation Among a Non-Representative Group of Boys," *Journal of Sex Research*, vol 20(2), 1984, pp123-42) In my own work [Paedophilia: The Radical Case](#) (Peter Owen, London, 1980) I reviewed the then-extant literature on the supposed harm of adult-child sexual contacts and considered the related issues of consent and the possible abuse of an adult's power.

24. Hanson and Bussiere (1998), "Predicting Relapse: a meta-analysis of sexual offender recidivism studies", in *Journal of Consulting and Criminal Psychology* 66/2 pp. 348-362. [See [About Recidivism](#)]

25. The British columnist and former member of parliament Matthew Parris has been among the few high-profile commentators brave enough to acknowledge these realities publicly and to reconsider the actual sources of harm to children. In his regular column in *The Times* newspaper he wrote: "...on any reckoning of the myriad ways adults in modern Britain hurt children and children hurt each other, paedophilia ranks right down the scale - way behind neglect, bullying, indifference, divorce, cruelty, bad parenting and bad example." He also noted that "There are also people who drink and drive and kill children, and, on being freed from jail (if they are jailed at all) remain very likely to drink and drive again.

There are people who mug, stab, knife, bludgeon, shoot or blow people up. On being released from jail they are very likely to do so again. There are people who defraud old ladies; people who peddle drugs; people who cram their poor tenants into fire-hazards of boarding houses; people who steal, burgle, rape and maim. There are no statistics which suggest - I repeat, there are no statistics which suggest - that people are any less "compulsive" in their behaviour, any more likely to go straight on release, than those who have sexually abused children.

In response to the plain fact that reoffending rates for sexual offenders are lower than for most other crimes, the only explanation the panic-spreaders can offer is the claim that reoffending rates are a chimera because the vast majority of paedophile offences go undetected. But if this is so, then the whole alarm is futile anyway, for we could whip to Tyburn, hang, draw and quarter every sexual offender we catch, and still fail to lay a finger upon the great majority of those abusing children. ("Call off the lynch mob"; *The Times*, 10 April 1998, page 22)

Writers on avowedly paedophile websites and email groups are coming to express similar themes. Here is "Neil", in a contribution to an email list associated with the [this] Dutch-moderated Ipce website (<http://www.ipce.org/>):

"...we must insist that society recognises abuse in all its forms, including... exposure of the health of children to risk by parents smoking and drinking during pregnancy, and in the home. Or when parents break the speed limit or take other risks when their children are with them in the car. There are a large number of these types of abuse of children which escape any notice and penalty from society. These may seem exaggerated examples, but in fact their consequences can be seen daily in hospitals everywhere. We must insist that society watch parents, too. We must insist that society not be biased in favour of parents in responding to risks and damage to children."

Ironically, one of the greatest sources of harm to children is police and social work handling of child sex abuse. First Do No Harm is a cardinal principle of medical intervention that ought to be applied by everyone having responsibility for the child's wellbeing in such cases, not just medics. But the principle is often accorded no more than lip service, as pointed out by numerous commentators, including former child sex abuse industry insider Felicity Goodyear-Smith. (*First Do No Harm: The Sexual Abuse Industry*, by Felicity Goodyear-Smith, Auckland, NZ, Benton, 1993).

Regarding iatrogenic sources of harm, Prof Richard Green has written: "...research

suggests that cases leading to official legal action -- rather than being dealt with informally -- produce more severe and lasting ill effects on children." Green cites several studies, the first American (Walters, 1975): "Most of the psychological damage, if any, stems not from the abuse but the interpretation of the abuse and the handling of the situation by parents, medical personnel, law enforcement and school officials, and social workers." An English study (Howard League Working Party, 1985), found: "The degree of lasting harm suffered by victims... seems to flow predominantly not from the sexual nature of the experience, but rather from other sources of shock associated with it, notably the use of violence or intimidation or the abuse of parental powers. The subsequent intervention of parents, or other authorities, in order to bring the offender to justice often seems to aggravate the damage caused by the offence itself." (Sexual Science and the Law, by Richard Green, Harvard, 1992)

As Prof Donald West has pointed out, there are alternatives to heavy-handed forms of intervention that harm the child. As he says:

"Many children who have been the subject of nonviolent sexual incidents could be spared the stress of a protracted penal process if appropriate action, by way of treatment and supervision, could be taken without resort to the criminal justice process. This can be done in the Netherlands through the "confidential doctor," a state official who receives reports from complainants or concerned observers, assesses the situation, directs those suspected of offences to helping agencies, reporting them to prosecution authorities only if they fail to cooperate." ([Boys and sexual abuse](#): an English opinion, D.J. West, Archives of Sexual Behavior, Dec 1998)

26. Dr Collins recovered his footing to some extent in further cross-examination but remained reluctant to explore the theme of cultural relativism and its implications. In the interests of conveying accurately his position, and indeed that of the judge who chose to cite Dr Collins' evidence in her judgement (Madam Justice Southin), here is the remainder of the passage in question followed by the judge's comment:

A: I don't know. I'm not -- I couldn't answer that. Certainly one of the defences that pedophiles will tell me is that in certain societies in, let's say the Philippines or Sri Lanka, that it's generally accepted that sex with children is okay and is more tolerated, but then again, because it's not as enforced, it really just fits in with the cognitive distortions that these North American or European men have.

Q: Well, I was thinking, say, in terms of the Filipinos or Sri Lankans.

A: I just answered that, sir.

Q: So it might not be a cognitive distortion?

A: Oh, I believe they are cognitive distortions. I believe that the people, the citizens of the Philippines don't want their children to be sexually abused in the same way that the people of North America or Europe don't want their children to be sexually abused.

Q: So to the extent that you can determine, cognitive distortions are not relative; they are the same throughout all societies?

A: I think to -- well, cognitive distortions are the thinking that the men have. It's to describe the thinking processes of the pedophiles, not the thinking processes of the societies.

[43] In cross-examination, he said then:

Q: You don't know if it's a cognitive distortion?

A: I think that it depends who believes it. If it's -- depends on age-appropriate sex or if it's sex with adults. I mean, if it's told to me by a pedophile as an explanation why he should be allowed to have sex with a pubescent male, then that's a cognitive distortion. If it's told to me by an adolescent male who is dating and he's beginning to have exploratory sex with an age-appropriate individual, then it wouldn't be a cognitive distortion.

Q: Now, in this situation, can you really say that the pedophile is targeting the boys or that they both seek out each other?

A: No, it's the pedophile's wish to encourage the behaviour, but indeed as the adult who is responsible, they're the one who's seeking out the contact.

Q: So the boys in this case are not responsible.

A: I believe that the responsibility is more so on the shoulders of the pedophile.

Q: Do you accept that it could be a shared responsibility?

A: No, because I don't believe that, in the same way with girls, we don't want our -- because the argument has been made that boys should be allowed to express themselves sexually. We don't seem to encourage our 14, 15 and 16-year-old daughters to sleep with 65-year-old men. Why should we do so with our 14, 15, 16-year-old sons?

Q: Do you believe that there is basically no difference between boys and girls in terms of relationships with adults?

A: I don't believe that adults should have sexual relationships with either boys or girls.

[44] If Dr. Collins had limited his evidence on this point to children, I would have no difficulty with it. To believe that a child could not only not be harmed by premature sexual conduct, but also take pleasure in it, seems to me an absurdity, and, therefore, a "cognitive distortion". But to believe that sexual congress between an adolescent and an

adult (who may only be eighteen) may be a good thing or, at least, is not an unmitigated evil, is not, in modern Canada in which many adolescents, by their own choice, are not chaste, a "cognitive distortion". I may think it would be better if they were, but that is a matter of morality not reality.

27. See for instance David Cohen, *Soviet Psychiatry: Politics and Mental Health in the USSR Today*, Paladin, London 1989.

28. Gerald Moonen of New Zealand (the same Moonen whose successful appeal regarding the right to private possession of pornography has already been noted), made a complaint against the broadcasting organisation NZTV over its use of the word "paedophilia" as a synonym for a criminal act. His complaint was rejected by the broadcasting authority concerned and he took the decision to a court appeal.

This appeal was also rejected on the grounds that "ordinary usage" in the media and elsewhere has been shifting away from medical usage and dictionary definitions. These have until now regarded "paedophilia" as a sexual orientation, a state of mind rather than anything acted out. This New Zealand judgement is certainly correct in discerning a change in popular usage but indicates precious little interest in addressing its prejudicial effects. The word has been increasingly harped on in the media in recent years in connection with rare, but understandably headline-grabbing, cases of brutal child murder and rape, with the effect that medically-defined "paedophiles", who may never have any sexual contact with children or abuse them in any way, are tarred with the same brush.

Here are the essential parts of the judgement, given last year:

The appellant complained to Television New Zealand Limited, the broadcaster of a program which appeared on 27 November 1994 and which examined a therapy unit for convicted child sex offenders (and others) in Rolleston Prison. In the course of the programme the word "paedophile" was used on a number of occasions by the presenter in describing and referring to the men convicted of crimes and referred to in the program. The appellant's argument is that broadcasting standards require accuracy and balance and that these had been breached by the use of the word "paedophile" as a synonym for criminals and child molesters. It was his claim that, by misuse of the word "paedophile", people who were not criminal had been treated as inferior and discrimination against them had been encouraged. Television New Zealand Limited, declined to uphold the complaint in a written decision dated 13 February 1995. The appellant now appeals that decision of the Authority to the Court.

The essential focus of the complaint and the submissions on appeal was the contention that the programme used the word "paedophilia" as a synonym for the criminal conduct of a child sex offender or for criminal offending when it was argued paedophilia had and included a neutral and non-criminal meaning of sexual attraction to pre-pubescent children. Reference was made to dictionaries and other literature in support of the contention. It was plain, however, from a reading of the literature that was produced, that

in ordinary usage, at least in recent times, paedophilia has come to connote, in particular, criminal activity including what is sometimes referred to in the dictionaries as "paederasty". For example, in a report by the Parliamentary Joint Committee on the National Crime Authority in the Commonwealth of Australia in November 1995... the conclusion was that the word paedophile had no agreed meaning but it was noted (para 2.7) that "most popular discussion in the media and elsewhere uses "paedophile" without any clear definition but seemingly to refer to acts against children of up to at least 16 years of age" and in 2.11 that "the categories of child molester and paedophile overlap, but are not identical."

In my opinion the word now does have a wider connotation. What may once have been limited to a psychiatric or other expert meaning has now become a broader meaning which, in common usage, includes and refers to those who commit criminal offences between men and boys and other young people.

On either basis, therefore, the broadened meaning of the word "paedophile" or the limited context of its use in the program [it] could not be said that there was any breach of the standards.

Any discrimination was required to depend upon the meaning and application of the words "sexual orientation" in the Code standard. The Authority applied the definition contained in s 21(1) of the Human Rights Act 1993, which is as follows:

"(m) Sexual orientation, which means a heterosexual, homosexual, lesbian, or bisexual orientation."

That is an exclusive definition and does not include paedophilia. It was held, therefore, that this was not a subject upon which there could be a breach of that code [s] standards.

To the extent that the program referred to other sexual activity between adults and young persons or children it was also criminal in this country and equally outside the ambit of the provisions that I have mentioned.

The decision of the Authority was founded on a correct view of the law. There was no error of law involved, nor was there any irrelevant consideration taken into account or relevant consideration ignored. In the end the decision was plainly right and the appeal... is dismissed.

29. People whose sexual orientation is solely towards children but who nevertheless refrain throughout their lives from any sexual contact with minors get scant reward for their self-restraint. Christian and other ascetics who value sexual self-denial highly should regard such people as nothing less than heroic, and indeed more saintly than a great many canonised saints.

But it does not work like that. Instead these paragons often remain unmarried and, in the absence of a spouse or other adult partner to give them credentials of normalcy, they

are regarded with suspicion, especially if their professional or voluntary work is with children.

I have my own suspicions about them too: I suspect that by and large they are under terrible and unjust pressure. Not only do they have to cope with permanent celibacy, one may additionally expect that many of those committed to a lifetime of sexual restraint will have chosen this course not just out of a fear of being caught but because they have internalised the conventional view that sex with a child is always wrong. They will probably in most cases have had little or no exposure to any other viewpoint, and will almost certainly be socially isolated from other paedophiles, including radical activists like myself.

Coping with long-term celibacy, social isolation, and doubtless often holding entirely unjustified feelings of guilt about their orientation, these people have a heavy burden to carry. Their situation strikes me as to a certain extent comparable – though far worse – to that of Irish immigrants living the UK in recent decades, during which the opprobrium attaching to violent Irish nationalism has tended to be felt among the expatriate Irish community as a whole. This phenomenon has been investigated by Dr Patrick Bracken, who found that Irish immigrants "are 50% more likely to commit suicide than British-born people and are the only immigrant group whose life expectancy declines on arrival in England. They are 2.5 times more prone to depression and nine times more likely to suffer alcohol related disorders than others. Poverty is not a factor: many of today's immigrants are university-educated professionals with middle-class jobs."

Dr Bracken said the picture was totally different for those who emigrate to the US, where there is no comparable problem in asserting and celebrating an Irish identity. He suggested that "decades of living in a country which has suffered enormous damage from IRA attacks must play on their minds. It makes them feel people will associate them with the guilty men and blame them." ("Concern over health of Irish immigrants": article summarising a report in the then current issue of the British Journal of Psychiatry; *The Guardian*, 9 February 1999)

The analogy with the situation of celibate paedophiles is obvious. Even paedophiles like myself, who have long benefited from being part of a circle of like-minded people, have trouble in "asserting and celebrating" a paedophile identity. How much more so must this apply to my less fortunate brethren? I would like to see some research in this area, like Dr Bracken's, investigating the suicide rate and so forth of celibate paedophiles. While such a category is far less easy to identify reliably than Irish immigrants, there are ways around this research problem, notably via the Internet.

30. On the subject of labelling I am indebted to Dr Frans E J Gieles, for a summary of a [lecture he gave on 22 January 1997](#), introducing a panel discussion on paedophilia at Alcmæon, the Utrecht Faculty Association for the Social Sciences. Dr. Gieles runs a [this] website (www.ipce.org) including this information and a great deal more of an academic nature on paedophilia.

31. D J West, [Boys and sexual abuse](#): an English opinion, Archives of Sexual Behavior, December 1998.

32. *The Independent*, 10 January 2000.

33. *The Independent*, 1 May 1999.

34. Admittedly, this huge number seems rather suspect. My information comes from the website Fresh Petals (<http://210.158.204.14/ro/fresh>), at which news items culled from major news agencies and newspapers are posted on a regular basis. The site is generally very reliable and a recommended source of academic and cultural (especially fine art) information of interest to child lovers. Unfortunately, Fresh Petals has not had a policy of giving full references for the news items.

35. We have already seen the dangers of overbroad child pornography legislation to ordinary families and legitimate artists. Other laws and law enforcement procedures introduced in the name of child protection are sometimes deliberately used in pursuit of a wider agenda, notably by homophobic legislators and police.

In Georgia, where the state sodomy law was upheld by the Supreme Court's *Bowers v Hardwick* decision, state officials have published a "Megan's List" that includes convictions for all sex acts considered criminal in the state. According to Laura Brown of the *Southern Voice* newspaper, that includes "consensual sodomy, solicitation for sodomy, public indecency, and sexual battery – all common charges resulting from cruising arrests." (Unreferenced report appearing on website Fresh Petals, 1999).

In Sacramento, California, last year openly gay veteran journalist Bruce Mirken, appeared before a Superior Court judge accused of attempting to commit a lewd and lascivious act on a child. There was never any child involved, only the fiction of a 13-year-old boy named "Anthony" created by the Sacramento Police Department in an Internet sting. Mirken, who has written extensively about issues of gay and lesbian youth, says that he drove 90 miles to meet "Anthony" in a park last year seeking an interview with a boy in trouble, but when he arrived there, he was arrested.

Mirken expressed the hope after opening arguments that the case would be thrown out after the prosecution had completed its presentation. Judge Rudolph R Loncke agreed with the defence's argument that the evidence against Mirken was insufficient and he dismissed the case. (Unreferenced report on Fresh Petals website, 1999)

36. For a sceptical view of the raids in the mainstream French press see "[The ambiguities in the campaign](#) against paedophilia", by Jean-Michel Dumay, *Le Monde*, 25 March 2000. In the wake of several suicides, even French justice minister Elisabeth Guigou questioned whether the police and media had gone overboard (Reuters report of 24 June 1997.) [[La texte en français](#)]

37. The mere exposure of paedophiles' private lives is plainly often devastating to them, especially in the current climate of opinion. The fear of exposure and possible prosecution is also bound to be ratcheted up drastically as sentences become ever more savage. In the US, where news media reports of executions and sentences nominally running to over a hundred years are common, the harsh treatment of relatively harmless paedophiles perhaps does not stand out. In the UK, however, it does, and it is my

subjective impression based on a regular reading of the UK press that sentences in Britain and Ireland are becoming much more severe. The most draconian of many heavy sentences I have noticed was that in the case of a 78-year-old priest, who was jailed last year in Cork, Ireland, for 38 years, in respect of offences involving children committed 40 years before, according to an international news agency report.

38. Unreferenced news item report on Fresh Petals website, September 1999.

39. "How I discovered the sinister truth about my daughter's internet 'boyfriend'", interview by John Harris, *The Independent*, 8 May 2000.

40. See "Child sex cravings of Lara Croft game man" by Daniel McGrory, *The Times*, May 23 2000. Also, "Judge calls for law to stop Net paedophile attacks, by Robert Verkaik, *The Independent*, 23 May 2000

41. Paedophiles have by and large been sitting ducks for surveillance and stings but there are some points of radical resistance, notably as regards the use of encryption. In the light of revelations about the US National Security Agency's Echelon system, which has been used to eavesdrop a vast range of phone, fax and e-mail communications, all citizens who wish to keep their business private should consider using encryption. An activist friend of mine in the UK, Ricky Turner, was raided by the police in March 1998 and charged with possessing child pornography. When the matter came to trial in September the following year it was accepted by the prosecution that a number of questionably legal images found in his house may have belonged to another occupant. The police were actually more interested in the contents of Ricky's computer, which they seized in their raid. They found no child porn on the computer but they did find Ricky was using a well-known encryption system, Bestcrypt, to store data. He was asked for the pass phrase, or code, but he refused to disclose it. The best efforts of the police to crack the code over the 18 months before the trial came to nought. The case was "discontinued" for want of evidence and at the time of this writing, in February 2000, Ricky is engaged in a legal battle to get his computer back. It had been a new one, incidentally, and he has had zero use of it for two years. Also taking the shine off his being able to frustrate the authorities is that the UK has announced the intention of bringing in a new law introducing penalties for anyone refusing to reveal encrypted data to the police when lawfully required – which, depending on the exact terms of the legislation, could involve a wide range of completely different circumstances, wholly unconnected with child porn.

42. "Mr Respectable' paedophiles face caution, not court" , by Ian Burrell, *The Independent*, 10 May 2000.

43. For an extensive scientific discussion of the possibilities see *Pedophilia: Biosocial Dimensions*, ed Jay R Feierman, Springer-Verlag, New York, 1990.

44. "Vigilantes blamed for wrecking paedophile watch", by Alan Travis & Geoffrey Gibbs, *The Guardian*, 25 April 1998.

45. Tabloid section cover story by Owen Boycott & Erlend Clouston, *The Guardian*, 10

June 1997.

46. *ibid.*

47. "[The abuse of child abuse](#)" by Sir Frederick Lawton, *The Spectator*, 1 November 1997.

48. D Howitt, *Paedophiles and Sexual Offences Against Children*, Wiley, Chichester, 1995, pp190-1.

49. As gay men and lesbians have become more visible, politically organised and culturally dominant in the last forty years or so, they have achieved, rightly in my opinion, many important gains along the road to social and legal equality with heterosexuals. But it is no accident that paedophilia is currently being repressed with ever greater severity at precisely the time when adult-oriented homosexuals are making their greatest civil rights breakthroughs, including support in law for specific aspects of their privacy rights. It would appear there is a reciprocal relationship between the two phenomena, no doubt based at least in part on the success of the gay movement in distancing itself from any sexual interest in children. Even in Britain, where there has been powerful pressure for a reduction in the gay age of consent to 16, the issue has been presented as one of the rights of young gay people and equality with heterosexuals: the thought that significantly older men might be attracted to boys of 16 has been successfully down-played – an amazing achievement given that not so long ago homosexuality and a sexual interest in youth were so closely identified in the public mind that they were literally synonymous in the word "paederasty".

I am not persuaded, though, that the reciprocal relationship hinges only on changing perception of the youth factor. When I was a young man in the early 1960s, popular revulsion and disgust at homosexuality were much more widely based – so much more widely based that even I, a paedophile then as now, tended to think of gay men, or "queers" as they were then known, more or less solely as limp-wristed, effeminate, pitiful creatures. At that time, coming out of my teens, I had no idea many gays are "butch" and just as macho as the John Wayne-type tough guys of the cowboy films I grew up with. These days, by contrast, images of mouchastioed, muscular gay men abound, and the more feminine aspects of male gayness have in any case also become more highly valued thanks to the cultural contribution of icons such as Boy George and the influence of feminism in encouraging the emergence of New Man – gentler, more emotional, more caring.

It may surprise some that I even took a dim view of male homosexuality (lesbianism was a much lower profile issue), much as others of my generation did, on the basis of disgust over anal intercourse. As a paedophile, the wish to do such a thing never crossed my mind, though of course it would certainly occur to some who are attracted to minors: we are not all the same. My feeling was that pre-pubertal boys have a fresh complexion, with bodies that are hairless, spermless and "clean" in the genital area. The sheer messiness of pubertal hair, sperm and quite possibly faeces encountered in an act of anal intercourse between men struck me as utterly gross.

It still does to some extent. But things have changed over the years, not just in my mind but in practically everybody's in western society. People in general, I believe, are more

accepting now of the natural and inevitable messiness and coarseness of sex in general. There is less sex "with the lights off" than in my mother's generation. Hard-core pornography, vastly more widely available now than in the 1950s, frequently depicts heterosexual anal intercourse and women fellating men. The latter, once seen as a rare perversion, is now widely regarded as a legitimate part of ordinary sex life – so much so that even a president of the United States can do it in the Oval Office and survive in his job.

So we can see that there have been at least three possible factors to account for the growing acceptability of adult-oriented, especially male, homosexuality at a time when paedophilia has been coming under ever fiercer attack: gays are now less likely to be seen as corrupters of youth; they are less likely to be viewed as effeminate or inferior because of effeminacy; and their sexual activities are less likely to be seen as uniquely gross. Only one of these factors – the youth one – directly supports my contention that there is a causal reciprocal relationship between gay and paedophile levels of public acceptability.

What this leaves out of the picture, however, is a less specific scapegoating factor: the familiar tendency to pick on particular ethnic, religious, political or sexual minorities as a source of society's perceived ills, primarily as an emotional rather than rational response. It is a tendency that requires little more than for the castigated group to be identified as "them" rather than "us". In the England I grew up in during the 1950s, homosexuals were definitely "them": anyone saying "He's one of *them*, you know," could rely on being understood.

Indeed, some people still use the expression to refer to gays, but the sting has largely gone out of it. In a world with so many human, pleasant, "just like us" gays visibly depicted in the movies and TV soaps, and seen on the chat shows and in the magazines as actual personalities from the worlds of sport, fashion, the arts and even politics, a different scapegoat figure has been required. "The paedophile" has fitted the bill perfectly. Like the witches of old and McCarthy's communists, he has been an invisible enemy within, a spectral horror lurking in the shadows until exposed. Sometimes he figures as a crude, depraved, rapacious brute; but modern law enforcement rhetoric has required that he be presented as demonically devious, smart enough to outwit detection unless the police get huge resources of manpower and equipment for his surveillance. He is supposed to be cruel and ruthless, yet cunning enough make friends with kids, winning their confidence (and maybe that of their parents too), with months or even years of "grooming", thus ensuring they are duped into not even realising any intimacy is abuse. In other words, whatever he does, and however mutually contradictory are the ways in which he is imagined, the paedophile figures as what James Kincaid has called "the Other" – that which distinguishes us, the good guys, from that which is not us, that which is alien and bad. (Kincaid, *J R Child-Loving; the erotic child and Victorian culture*, London, Routledge, 1993.)

Kincaid sees this mental distinction of "the Other" as a vehicle for projection: ordinary, regular folks are able to distance themselves from uncomfortable thoughts about their own attraction to children by projecting its unwelcome sexual implications onto the paedophilic Other. An additional possibility is that in an age when the family is under strain from seemingly ever more intense pressures of work and when divorce rates are

historically high, people can deflect the guilt they feel over their own inadequacies as parents by seeing paedophiles as a potential destroyer of families and "family values" – though some may also unconsciously fear paedophiles as rivals willing to offer children more time, affection and attention than they are able to give themselves. Yet another use for the "Otherness" of paedophiles as popular culture and sexual practice apparently become ever more sexually uninhibited, is for our notional regular folks to say to themselves something along the lines: "Okay, so we may be screwing around like bunnies, watch dirty movies and do stuff like blow jobs that our grannies wouldn't have done (maybe!) but we're good guys because we keep our kids innocent – not like those Others, those paedophiles..." (Kincaid has many interesting things to say about "innocence". He is particularly clear on the point that adults need children's innocence more than children do. He says, for instance: "...the cry that child molesting is worse than murder has been heard so often it has become a tired slogan, self-evident and vapid. Certainly it is better to take the child's life than its virtue, we feel, and we needn't waste time saying it. The 1993 siege of the Branch Davidian complex in Waco, Texas, was initiated and then justified through stories of child molesting, suggesting that eighty-one deaths can be outweighed by violated innocence. But if we teach ourselves to regard the loss of innocence as more calamitous than the loss of life, whose needs are we seeing to? Who is it wants the innocence and who the life? Ask any child." (J R Kincaid, *Erotic Innocence; The Culture of Child Molesting*, Duke University Press, London, 1998, pp16-17)

It is instructive for considerations of privacy rights to look back to the early and mid-1960s, to the time before the upward progress of the gay movement and the reciprocal descent of paedophiles into demon status. The prominent English lawyer Lord Devlin was at that time credibly able to oppose the very concept of sexual privacy rights; his support came from the conservative legal establishment and for him there was no area of private "immorality" that was not the law's business. He believed sexual behaviour should not be legally tolerated if the reaction to it of the "man in the street", or the "reasonable man" was one of "intolerance, indignation and disgust". Devlin proposed such a public opinion test because he saw a shared, consensus morality as the cement that binds society and distinguishes it from a mere collection of individuals. Those who broke the moral code were thus seen as threatening the fabric of society.

In the light of my comparison between the changing relative public perception of homosexuality and paedophilia, it is interesting to note that "Devlin considered homosexuality analogous to treason because he saw both as destroying society through the process of changing society." (R Green op. cit. p256. Green has an interesting discussion of the Devlin-Hart debate, including its 19th century philosophical roots in the work of John Stuart Mill and his critic James Stephen.) Only in a society generally acknowledged as already perfect could such a static, conservative position reasonably withstand challenge. Devlin's chief opponent in a protracted and celebrated public debate of the era, H L A Hart, argued "that if respect for homosexuals who are accomplished citizens changes society's views on sexuality, the analogy with government 'is not the overthrow of ordered government, but a peaceful change in its form'. To Hart, the risk of democratic rule by the majority is to tell the man in the street that if 'only he feels sick enough about what other people do in private to demand its suppression by law no theoretical criticism can be made of his demand'."

Society in Devlin's day was of course by no means either perfect or static and Hart's view has prevailed. Many, though significantly fewer than of old, still look upon homosexual behaviour with "intolerance, indignation and disgust" but that is now more likely to be considered a reason for according such behaviour legal protection than for outlawing it: the law is more likely to be seen as a tool for supporting social diversity and minority rights than for the imposition of conformity to a single standard.

In landmark judgements last December, the European Court of Human Rights on privacy grounds opposed discrimination against homosexuals in two highly contentious areas. The rulings were made with respect to gay orientation, rather than behaviour, but there can be little doubt that such judgements will be seen as reinforcing homosexual behaviour as a legitimate form of sexual expression. As a result of the first ruling (Agence France Press report, 13 December 1999), the British Government said it would lift its ban on gays serving in the military and has subsequently done so. The court had condemned the UK for sacking army staff after finding out they were homosexuals. In the second judgement (Reuters report, 21 December 1999) the court decided being a homosexual is no reason to ban a father from caring for his children. Judges were unanimous in finding that Portugal had violated the rights to "respect for private and family life" of a divorced father when it stripped him of parental responsibility for his nine-year-old daughter on the grounds that he was homosexual and lived with another man.

This dramatic turnaround, from a situation in which sexual privacy was not accepted as a principle in English law to one in which Britain and other European countries are accepting that homosexuals should enjoy such privacy – people whom it was previously regarded as right to treat with "intolerance, indignation and disgust" – is a change that has come about in the space of a mere 35 years or so.

These advances have so far been achieved by the gay movement at the expense of paedophiles, who are now more than ever execrated. However, the currently rapid pace of social and legal change is such that one has to wonder whether there will come a point at which it will be realised that discrimination against paedophiles is in principle not so different to that against homosexuals a few decades ago. As the rights of various minorities come to be fully secured, will the seemingly endless succession of measures to suppress paedophilia at last be seen as a stain tarnishing society's claim to fairness and justice for all?

Doubtless a liberal intellectual minority has already made such a realisation, and advances in sexual science are in my view potentially capable of providing further evidence that could lend significant support to a more tolerant stance. But, as Richard Green has amply demonstrated (Green *op. cit.*, pp262-4), there are limits to what can be achieved solely on the intellectual battlefield: minds are one thing, hearts – especially hearts steeped in prejudice are irrational fear – quite another.

50. Howitt *op. cit.* p205.

51. Howitt *op. cit.* p211.

52. Described thus in a letter Bob sent me: "The main detectable theme of the course – in explanation of paedophilic behaviour – is couched in the idiom of Thugsville, USA. It describes a scenario in which Joe Schmoe's life has turned to worms, he's a drunk, he's lost his wife, and kids. At this point – aged 35, or 50, he goes out and rapes a woman, or a child. He may never have felt the urge to do this before, but now he does it, then probably repeats the act, becomes addicted to it. I stuck it out for *weeks* before I finally lost my rag. I asked if – as I had suggested in my own case, at the beginning of the course – it was possible for a person to know what his sexual orientation was from the age of fourteen, and, thereafter, *feel* not one *scintilla* of violence towards children, let alone commit a violent act? Stony silence. Atmosphere that you could cut. I looked at the others and found them frozen in the task of counting the lace-holes in their shoes. I asked if violent acts against children were always carried out – as the course seemed to [be] insisting – by men who had never felt any physical attraction to kids before the age of 35, or 50 – but now that their lives have turned to worms, etc...? Mumblings. 'Well, we've found that this is the usual scenario'."

The Procrustean determination of the course leaders to fit all the participants onto a bed suitable only for Mr Schmoe seemed ever more ridiculous to Bob towards the end of the course: "It made no sense at all when, towards the end of the misery, they began to teach us about 'defensive behaviour' – avoiding temptation, and so on. Having learnt my lesson by this time, I didn't even bother to comment that Joe Schmoe – in the terms that they described him – would not *need* to act defensively with reference to kids if he were truly a het-guy before he got on the bottle, lost his wife, house, car... Now that he was off the bottle and in some stable relationship with an adult woman, he would be a red-blooded het-guy again!" (Emphases in the original).

53. Howitt op. cit. pp211-2.

54. Sensitive, caring individuals, people with a conscience, are ironically easier prey for such mind-bending than the psychopathic ones whose behaviour really needs to be changed: because they truly *care* about the effects of their behaviour on others they will more readily take criticism to heart, even when it is far-fetched. This may appear to contradict what I say above about well-educated people being difficult to brainwash, but the contradiction is more apparent than real: well-educated, intelligent people are more likely to know when assertions made against them are factually inaccurate, or logically unsound; while this armours them against inept propaganda, it offers no protection against a subtle assault on their "rationalisations".

The power of such an assault is frighteningly capable of reducing lively, interesting people to bombed-out zombies, woodenly mouthing the mantras of their oppression. Sometimes we see it on TV: some sad figure, silhouetted, ostensibly to protect his identity but also to emphasise his barely human status – a face too shameful to behold – will be paraded before the cameras to confess his crimes. His language will include odd expressions you would seldom hear down at the pub, such as "I gave myself all the permissions" and "as the grooming period proceeded", while the word "abuse" is plainly *de rigeur* to him, coming out in a constant stream like expletives from a drunken sailor.

To my mind such performances are even more horrible and alarming than the televised "confessions" they so much resemble, of haggard pilots captured behind enemy lines and made to say they are spies: at least one knows that the pilots are being forced, whereas the brain-washed paedophile has lost control of his mind and is being forced from inside his head – his oppressors have got right in there and are pulling the strings.

The *Guardian* newspaper in the UK ran an article with comparable confessions ("A cruel abuse of trust" by Malcolm Dean, Society section, pp2-3, 6 November 1996). The seven men whose stories appeared were in this case still in "rehabilitation programmes" in prison, so it cannot be assumed they had fully accepted the propaganda thrown at them: for the most part they use the stilted language of their oppression, but we cannot tell whether it is being used sincerely or whether they are "playing the game".

What struck me, however, is the paucity of what they actually had to confess. In most cases the sledge-hammer of brain-washing was being wielded apparently to crack a very modest nut of misplaced affection. This is what *The Guardian* said about former voluntary worker Kim, under the rubric *Why did they do it?*:

Kim, the volunteer, originally saw his abuse as part of relationships, which were based on love and affection, making them moral. "I had no guilt at all about them. I knew what I was doing was illegal, but I couldn't see that it was immoral, because what I was doing was giving love and affection in every sense of the word. There was none of that sort of thing around in their homes. There was no love, or compassion, or treats. Some of them lived in complete squalor.

"It started off with, sort of, friendship and then, as we got closer, it was just a cuddle, a kiss and then it just sort of developed from there. It seemed at the time a completely natural progression of feelings between two people. Of course, looking back at it now, the age difference was totally wrong."

No love and affection in these kids' homes? No compassion or treats? Living in squalor? I find myself wondering whether it struck any *Guardian* readers that if there was any "suitable case for treatment" on a drastic mind-bending course arising out of this story it was not Kim at all – it was the kids' appalling parents.

I started this note by making a distinction between "sensitive, caring" individuals and "psychopathic" ones, the latter being difficult to influence in the intended way because they lack the motivation to behave well towards others. An under-investigated problem in this regard is the *unintended* effects that confrontational talking therapies can have, effects that may serve to push borderline-psychopathic people *towards* anti-social behaviour, rather than away from it. The starting point for possible iatrogenic effects of this kind is the stripping away from paedophiles of their social support. We all need friends we can talk to, people we can share our joys and problems with in a relaxed and understanding atmosphere; without them we are likely to become unhappy and dysfunctional – and being less happy ourselves we may well become less caring about the happiness of others, or even resentful of it.

Therapists positively induce such dysfunctionality when they interfere with an

offender's right to a private life and to freedom of association. What frequently happens is that the offender is warned against writing to old friends, or seeing them again, for fear that such acquaintances will reinforce old patterns of "distorted thinking".

Unfortunately, this ignores the possibility of bringing about a mindset in which the offender's thinking is even more "distorted". Dr Agner Fogg calls it "[isolated minority syndrome](#)", the symptoms of which, he says, "can best be explained by the theory of deviancy amplification. One type of deviance leads to other deviancies. The sexual frustration, low self-esteem, social stigmatisation and isolation may often lead to substance abuse... non-sexual crimes, political extremism and suicide.

The psychological defence mechanisms include suppression and repression of the deviant impulses, projection of the deviant impulses on other persons, and violence against the sexual object. The paraphiliac may even kill the sexual object (e.g. children) in a symbolic attempt to kill his deviant impulses." ([Paraphilias and Therapy](#) by Agner Fog, Nordisk Sexologi, vol. 10, no. 4, 1992, pp. 236-242) [[Sexuelle Abweichungen und Therapie](#)]

We do not need to be sold on all the psychiatric concepts Fogg mentions in order to see that he has a point worth exploring. We need only ask ourselves a simple question: How many child murderers do we know who have also been members of paedophile organisations such as the North American Man-Boy Love Association (NAMBLA) in the US or the now-defunct Paedophile Information Exchange (PIE) in the UK? To my knowledge (and one may be sure the news media would trumpet such a discovery) none at all. By contrast, how many such murderers are said to be "loners" and "social misfits"? I know of no statistical evidence supporting the point I am making here: it would appear to be a fruitful topic for research.

55. Howitt op. cit. p211. N McConaghy, writing about similar methods in a paper on relapse prevention, comments: "Such techniques are disturbingly reminiscent of those used to provide data for political and religious show trials. Their underlying acceptance of a guilty until proved innocent attitude suggests the accused sex offender has become the contemporary witch, victim of the projected unacceptable sexual fantasies of the good citizen." (Howitt op. cit. p212)

McConaghy's point here about the "unacceptable sexual fantasies of the good citizen" is no mere flight of rhetorical speculation. There is now a considerable amount of research evidence to support the claim that sexual attraction to children is widespread, at least to some degree. For instance, Kathy Smiljanich and John Briere reported that in a university sample of 180 females and 99 males, 22.2% of the males and 2.8% of the females reported sexual attraction to at least one child." Also, John Briere and Marsha Runtz surveyed 193 male undergraduate students and found that 21% of them reported sexual attraction to small children." (Quoted from "[Interpreting the Satanic Legend](#)"; Journal of Religion and Health, Vol. 37, No 3, Fall 1998, pp. 249-263. This article gives the following references for the above: Smiljanich, K., and Briere, J., "Self Reported Sexual Interest in Children: Sex Differences and Psychosocial Correlates in a University Sample," Violence and Victims, 1996, 11, 1, 39-50. Briere, J., and Runtz, M., "University Males' Sexual Interest in Children: Predicting Potential Indices of "Pedophilia" in a Nonforensic Sample," Child Abuse and Neglect, 1989, 13, 65-75.)

Quinsey et al "found that normal men's erections to pictures of pubescent and younger girls averaged 70% and 50% of their responses to adult females". (Quoted in Howitt op. cit. p109. The Quinsey reference is: Quinsey V L, Steinman C M, Bergersen S G & Holmes T F (1975). Penile circumference, skin conductance and ranking responses of child molesters and "normals" to sexual and nonsexual visual stimuli. Behavior Therapy, 6, 213-219.)

D Howitt discusses work by Freund and Watson, notably their studies of penis volume (as opposed to circumference in other studies) for diagnosing paedophilia. Howitt says (Howitt op. cit. p111):

"In a preliminary assessment as part of a study for this, Freund and Watson (1991) compared offenders against adult women with community volunteers (believed not to be sexual offenders) in terms of their arousal to explicit slides (sometimes accompanied by an erotic commentary) of adults and children. Few of the offenders against women were actually diagnosed as having a preference for minors on the basis of the laboratory tests (only 3.1% of cases). In contrast, nearly one in five (19.4%) of the normal men were misclassified as having an erotic preference for minors. This has important implications for estimates of the prevalence of paedophilic tendencies in the general population." (The study referred to by Howitt is: Freund K & Watson R J (1991). Assessment of the sensitivity and specificity of a phallometric test: an update of phallometric diagnosis of paedophilia. Journal of Consulting & Clinical Psychology 3(2), 254-260.

Finally, Hall et al reported as follows: "Self reported and physiological sexual arousal to adult and pedophilic stimuli were examined among 80 men drawn from a sample of volunteers. Over 1/4 of the current subjects self-reported pedophilic interest or exhibited penile arousal to pedophilic stimuli that equalled or exceeded arousal to adult stimuli. The hypothesis that arousal to pedophilic stimuli is a function of general sexual arousability factors was supported in that pedophilic and adult heterosexual arousal were positively correlated, particularly in the physiological data. Subjects who were highly arousable, insofar as they were unable to voluntarily and completely inhibit their sexual arousal, were more sexually aroused by all stimuli than were subjects who were able to inhibit their sexual arousal. Thus, arousal to pedophilic stimuli does not necessarily correspond with pedophilic behavior. (Authors' abstract of their article "[Sexual Arousal and Arousability to Pedophilic Stimuli in a Community Sample of Normal Men](#)" by Gordon C Nagayama Hall, Richard Hirschman, Lori L. Oliver; Behavior Therapy 26, 681-694, 1995)

56. Analogies generally break down at some point and this one is no exception. *All* adults, especially males, are now finding it difficult not to be distanced from children, as noted above with regard to ordinary parents and teachers. *All* suffer in some degree from the stigma attaching to paedophile "blacks". A salient difference here between generational apartheid and the South African variety is that skin colour is visible, whereas paedophilia is not. Thus anyone can be suspected of paedophilic tendencies in a way that does not apply to racism, although I am reminded of the speculative white

racism implicit in the phrase "a touch of the tar brush". Another key difference is that whereas the Whites, Blacks and Coloureds (of Indian origin) in South Africa are visually fairly distinct, adult sexual attraction to children is more analogous with the mix in Brazil, where every shade of skin colour from very pale to very dark is much in evidence. As indicated in Footnote 55 above, studies have shown that "normal" adults exhibit "paedophilic" responses in both experimental conditions and surveys. It may well be possible to construct a Kinsey-like scale, showing paedophilic attraction distributed broadly in adult populations from high levels to low.

57. I am greatly indebted regarding thoughts on this theme to David Steinberg's "Art and the eroticism of puberty", presented at the 1999 Conference of the Western Region of the Society for the Scientific Study of Sexuality.

58. "Sex register fingers the young", July 1999, unreferenced news item on Fresh Petals website.

59. "Children organise sex ring", Associated Press news item datelined York Haven, Pennsylvania, 4 July 1999.

60. The most famous juvenile diary of all, that of Anne Frank, has been pried upon by the whole world, but only in recent years has her very revealing writing on sexual matters been included in a published edition. (Anne Frank, *The Diary of a Young Girl*, The Definitive Edition, Penguin, Harmondsworth, 1997)

The fuller picture of her life and thoughts that we now have shows a girl from the ages of 13 to just 15 who might have been pleased to learn about her posthumous fame – she expressed an interest in being a journalist and published author – but whose diary was most definitely unsuitable reading for her parents at the time it was written.

Their intrusion into its pages at that stage would have been a disaster for Anne if they had confronted her with certain entries, and a miserable experience for themselves even if they had kept their spying quiet. The special circumstances of this Jewish family's confinement in hiding from the Germans during the Nazi occupation of the Netherlands meant that they were all under terrible pressure, but much of what we read is also commonplace: the teenage angst expressed so lucidly by Anne has its counterpart in millions of other chronicles, albeit seldom so coherent.

Some of Anne's writing is so utterly private it even embarrasses herself. On 22 January 1944 she adds a comment to an earlier entry made on 2 November 1942. Even at this distance in time I cannot help feeling it would be unfair to drag the earlier entry out of context; it would be an invasion of her privacy. This is what she says about it not much more than a year later:

"I wouldn't be able to write that kind of thing any more.

"Now that I'm rereading my diary after a year and a half, I'm surprised at my childish innocence. Deep down I know I could never be that innocent again, however much I'd like to be. I can imagine the mood changes and the comments about Margot, Mother and Father as if I'd written them only yesterday, but I can't imagine writing so openly about

other matters. It embarrasses me greatly to read the pages dealing with subjects that I remembered as being nicer than they actually were. My descriptions are so indelicate..." (Anne Frank op. cit. p60)

The "innocence" Anne describes is not a lack of knowledge about sexual matters. On the contrary, it expresses itself as an earthy, matter-of-fact directness – an "indelicate" bluntness, to use the words of the later, fast growing up Anne. The earlier Anne is "innocent" of the adult requirement that bodily matters should be considered shameful.

Incidentally, for those who shake their heads at the idea children these days are becoming precociously "sexualised" as a result of pernicious modern exposure to sex on TV, in the movies and so forth, the unexpurgated Anne's diary is worth reading as a corrective. One wonders even whether these days she would be considered a sexual delinquent rather an heroic icon, in the light of passages like this one:

"...Sometimes when I lie in bed at night I feel a terrible urge to touch my breasts and listen to the quiet, steady beating of my heart.

"Unconsciously, I had these feelings even before I came here. Once, when I was spending the night at Jacque's, I could no longer restrain my curiosity about her body, which she'd always hidden from me and which I'd never seen. I asked her whether, as proof of her friendship, we could touch each other's breasts. Jacque refused. I also had a terrible desire to kiss her, which I did. Every time I see a female nude, such as the Venus in my art history book, I go into ecstasy. Sometimes I find them so exquisite I have to struggle to hold back my tears. If only I had a girlfriend!" (Anne Frank op. cit., p161, diary entry for 6 January 1944. Jacques [with a s] is referred to as a schoolfriend on p5. There appear to be no other references to any Jacque without an s; my assumption is that Jacque and Jacques are one and the same.)

Anne exhibits plenty of heterosexual interest too, indeed she is almost comical in her dogged pursuit of the less than ardent Peter, a fellow teenager who is part of the eight-strong community hiding together (Though her sexual harassment may have been none too comical for Peter, who was literally a captive audience for her endless sweet nothings; short of being blunt with her, or coming out as gay, he appeared to have no escape!) . She also has well-argued views on the merits of sex education and explicitly rejects the idea of maidenly "virtue".

61. For the background to COPPA and latest developments, see <http://www.epic.org/> the website of the Electronic Privacy Information Center (Epic).

62. Today's sanitised, sterile "bedroom culture" is something I am sure all but the youngest here will compare unfavourably with our own experience. There is an additional comparison in my mind too. It is to be found in Laurie Lee's *Cider With Rosie*, which is well known, in Britain at least, as a classic account of growing up in the rural England of some 80 years ago.

The book was itself published 40 years ago and on a recent reading I was struck by the fact that Lee addresses himself to the concern being expressed, even then, in 1959, about "rising crime", a concern Lee gives reason to suppose was misplaced. At that time the

anxiety was about society needing protection from wild kids, "juvenile delinquents", rather than children needing protection from wild men. Either way, the message would appear to be that anxieties are being built up unnecessarily. Lee saw the problem as one of growing urban anonymity: in the towns people do not really know their community and its people very well, so they become increasingly reliant on police crime statistics and such like as a guide to the community's state of health. We have the same problem today, but further amplified thanks to the more sophisticated symbiosis that has developed between populist politics and the increasingly pervasive media.

I find it ironic that vast numbers of British youngsters have read *Cider With Rosie* every year since its publication, thanks to its being a regular "set book" for the major public examinations, yet those same youngsters, as they have become adults and parents, appear to have forgotten some of Lee's most telling revelations. Perhaps they should be reminded.

After describing his own early childhood sexual experiences, Lee speculates that had he been a town boy he might well have found himself in trouble with the police and contributed to the criminal statistics; in his remote village, by contrast, there simply were no police or magistrates. He comments:

"It is not crime that has increased but its definition. The modern city, for youth, is a police trap.

"Our village was clearly no pagan paradise, neither were we conscious of showing tolerance. It was just the way of it. We certainly committed our share of statutory crime. Manslaughter, arson, robbery, rape cropped up regularly throughout the years. Quiet incest flourished where the roads were bad; some found their comfort in beasts; and there were the usual friendships between men and boys who walked through the fields like lovers. Drink, animality and rustic boredom were responsible for most. The village neither approved nor disapproved, but neither did it complain to authority. Sometimes our sinners were given hell, taunted, and pilloried, but their crimes were absorbed in the local scene and their punishment confined to the parish." (*Cider With Rosie* by Laurie Lee, Penguin, Harmondsworth, 1962, p206)

We certainly cannot accuse Lee of recollecting his childhood world through Rosie-tinted spectacles on the basis of this passage; nor should we ourselves fall into the trap of hankering after an illusory idyllic past, a lost "golden age". One could be robbed, raped, or merely bored, then as now, without even the consolations of hot running water and electric lighting.

The challenge is to bring back freedom and adventure into childhood while taking sensible measures to eliminate avoidable hazards: long bike rides in the countryside just with your mates, yes. Without a helmet? No. A major problem for parents is that their perception of risk levels is skewed away from reality: "stranger danger" is grossly exaggerated in the media, thanks to scare campaigns that owe more to the need of pressure groups to raise money than any genuine peril.

Fortunately, this is gradually coming to be understood. Last year an alarmist stranger danger campaign by Britain's National Society for the Prevention of Cruelty to Children

(NSPCC) was widely criticised, notably by the Mental Health Foundation, whose recent research had shown "Rising incidence of stress and more serious problems was linked in part to children no longer being allowed to take risks in unsupervised play." ("Charity campaign accused of fuelling parents' fears", by David Brindle, *The Independent*, 2 August 1999).

Jay Rayner, writing in *The Observer*, pinned down precisely what was driving the NSPCC: "There can be little doubt that the NSPCC's approach is defined by its funding base. Barnardo's and NCH Action for Children both receive almost half their income from contracts with local authorities for the services they provide. Both can deal in complex arguments and statistical analysis when applying to learned committees for funds. The NSPCC, on the other hand, depends on the public for almost 90% of its income. To keep that money rolling in they need a simple message, just as a soap manufacturer needs a 'washes whiter' slogan to shift the product. The NSPCC's message has to be 'children are at risk'. To put it at its baldest, the NSPCC needs cruelty to children to be seen to occur because, without that, it has no *raison d'être*." ("Why this NSPCC advert is harmful to children"; *The Observer*, 8 August 1999).

Colin Pritchard, professor of psychiatric social work at the University of Southampton commented in the same article: "The NSPCC are playing games... Our child murder rates have never been lower." He points out that the NSPCC is twisting the perception of risk so badly that children can be expected to die in greater numbers if their advice is followed. He drew attention to official figures showing that in 1995 only seven children were killed by strangers out of a total of 46 child homicides in the UK. Looking at average figures in recent years, he said: "While 50 children are murdered each year over 250 are killed in motor accidents...If, as a result of the NSPCC advice, more children ride in cars because their parents won't allow them to walk on the streets then statistically more children will end up being killed in car crashes."

63. The evidence for this is as yet very slim. My point is based more on an inference from the wider background of current public discourse: unless inspectors appointed under the Children Act are selected and trained specifically with sensitivity to children's right to sexual expression in mind, one may be sure many of them will interpret children's need for privacy wholly in a sex-negative fashion. They will think of a child's privacy *from* the sexual interest of his peers but will do nothing to advance privacy *for* occasions of intimacy.

64. Privacy is a buzz word right now. Everyone is talking about it. Emails, encrypted and otherwise, are zapping around in cyberspace discussing the subject; papers are written, conferences are held. The advent of personal computers, Internet communications and electronic surveillance have brought the topic into focus as a key area of political concern.

The sexual area is a site of especially intense concern over privacy for obvious reasons: one's sexuality is generally considered the very most private area of one's life. We even use the term "our private lives" as a euphemism for our sexual behaviour. And sexual expression has become a rhetorical, cultural, political battleground to a perhaps unprecedented degree in our times.

This battleground aspect sits rather oddly with the apparently consensus nature of many important pronouncements with regard to the privacy of family life, such as privacy clauses in the European Convention on Human Rights and in declarations of human rights by the United Nations; likewise employment contracts, trade union codes of conduct and so forth now express a widely accepted consensus against discrimination on grounds of sexual orientation, a principle which in itself can be taken to imply acceptance of the right to sexual privacy (it accepts, for instance, that the private lives of homosexuals should not be probed and vetted with a view to discrimination).

The consensus is only apparent, of course. The lofty, assured rhetoric of such legal and quasi-legal codes masks long wars over the validity and propriety of the concepts being forged, and the meaning of the words used. As is generally the case in raw politics, the battles have been fought with heavy shelling in the shape of soundbites and slogans; deep analysis may have been the province of ideological generals in their bunkers, but the thinking has often remained very subterranean indeed and the strategy by no means clear.

One of my favourite items of political ordinance is a soundbite, or slogan, with which I am sure you will all be familiar: "The state has no place in the bedrooms of the nation." – it has been deployed to great effect over the years by the gay movements of a good many nations. Wherein, I ask myself, lies the power of the assertion being made? It is clear that, superficially, an appeal is being made to the principle of privacy. The bedroom is traditionally a private place and its sanctity is being invoked. But *whose* privacy? Everyone must sleep somewhere, so at first glance the appeal seems to be very democratic and inclusive.

But appearances can be deceptive. Consider the difference when we say instead "The state has no place in the dormitories of the nation." The resonance is entirely different; the appeal falls flat. People sleep in hospital wards, barracks, residential schools, prison cells and even on park benches but we hear no ringing assertion of the right to sexual privacy in such locations. Maybe we should; but we don't.

The greater *power* of the original formulation lies largely, I suggest, in its implied audience. In the England of the 1960s, when the "nation's bedrooms" theme was first successfully invoked in the gay cause, the occupants of those bedrooms were largely married couples. They were the respectable majority; they were the visible, recognised, enfranchised classes, people whose own right to sexual privacy was supported by a vast edifice of law, tradition and religious sanction. An Englishman's home, however humble, was his castle; his marriage licence was in crude terms a licence to fuck with no questions asked behind the four walls of his own bedroom. A man's anal intercourse with his wife, or oral sex or bondage were matters of no concern to anyone else. Small wonder then, that within such households, an appeal to the right of domestic sexual privacy in "the nation's bedrooms" would have some resonance. Not wishing their own privacy to be questioned, they would be primed by this slogan to concede the principle to others.

You will no doubt have noticed my use of the male pronoun: an English *man's* home is *his* castle and so on. And one might also note that in the England of the 1950s and 60s

men were free to rape their wives in the privacy of the nation's bedrooms. This came within the terms of the official fuck licence and was sanctified by the Church's view that a woman should obey her husband. Less officially, but perhaps almost as effectively, a man could also force his sexual attentions on his children within the confines of his own household. While incest was invariably referred to with horror, a man might even attract sympathy in the event of his privacy being breached, if he could make as his excuse the fact that he has resorted to his children because his wife had been failing in her duties.

The "nations bedrooms" theme was successfully invoked in England in the 1960s when parliament, including the House of Lords, needed persuading that the law against homosexual acts between consenting adults in private should be abolished. Those parliamentarians were overwhelmingly male – men of property and substance too, whose home were literally castles in some cases. While such figures could not be expected to support the right of gays to cavort together in public toilets and other socially marginal spaces, the sanctity of the bedroom was another matter.

Implicit in the above are three propositions: (a) Sexual privacy cannot simply be invoked as a right; we need to be aware of the context of tradition and privilege within which it has been developed. (b) If, on examination, we find the concept of sexual privacy has merits we wish to promote, we need to consider issues and interests beyond the hegemonic assumptions of particular social classes and rhetorically ascendant interest groups. We might ask, for instance, about sexual privacy for traditionally non-powerful groups, including children – privacy behind the bike sheds, if you will, or in the long grass, rather than merely in "the bedrooms of the nation". We may wish to ponder the notion that the state – or even the parent – has no place in the children's bedrooms of the nation. (c) Privacy should be promoted only where its benefits are not outweighed by evils that may hide and flourish in its shadow.

65. A professed interest in protecting the privacy of children can all too easily be used to inhibit legitimate research into their sexuality. We have seen how the Children's Online Privacy Protection Act, even in its very title, stakes a claim to advancing children's privacy rights while actually tending to restrict them. In contesting spurious claims that scientific investigation of children's sexuality is bound to invade their privacy, researchers thus need to make out a case for the value to society of their work; it is a case that needs to include a careful articulation of what they mean by privacy, and why it could be important to children in contexts other than shielding their questionable "innocence".

A panel of the National Coalition Against Censorship met in Spring 1999, in New York, on the theme "Children's Bodies: What Are We Afraid Of?". A report of the meeting on the NCAC website puts the problem in a wider censorship context. In my view researchers need to confront and engage with the problem described in the last sentence, rather than passively accept children's sexuality as a no-go area:

"... author and critic Judith Levine, artist and writer Barbara Pollack, and clinical psychologist and professor Leonore Tiefer explored some of the tensions and contradictions in adult responses to children's sexuality and the ways in which these responses are socially constructed. Levine called the notion of children as innocent and passive, yet at the same time sexually desirable, a nineteenth century creation, and

discussed the historical context for current social and political conflicts centering on children's bodies. Today, the visual depiction of young bodies has become a viable marketing device, but, as Pollack emphasized, in the context of private, non-commercial expression, these same images are flashpoints for censorship.

"Yet, according to Tiefer there is no objective evidence that such images spur sexual abuse of children or that all sexual experiences in childhood are necessarily harmful. Indeed, Tiefer noted, the same anxieties and assumptions that underlie censorship have inhibited meaningful research on children's sexuality."