

The Participating Victim: Complement to Malón

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After several publications in Spanish (e.g., Malón, 2001, 2003, 2004), Malón (2009a, b, c) has made some very significant contributions in English to the understanding of the sexuality of children. He is to be complimented for his meticulous and incisive examinations of victimology, which Money (1988) described as “science only in the etymology of its name” (p. 9), and of the resultant child sexual abuse hysteria depicted by Jenkins (1998) and others. In his latest essay, entitled “The Participating Victim” (Malón, 2009c), he continues to argue very eloquently—and to provide extensive documentation—for the capacity of children to participate willingly in, and even to initiate, sexual activities not only with their peers, but with older people (e.g., Bender & Blau, 1937). He further points out that these consensual activities are not intrinsically harmful, but rather may be benign or even positive (e.g., Ingram, 1981; Riegel, 2009; Sandfort, 1987; Tindall, 1978).

Malón stops short of what Wilson (1981), in his book on the consensual sexual contacts of some 2,500 boys, described as “...conclusions [which] are... inescapable, even if they are bound to be unpopular” (p. vii), i.e., that “[C]hildren should have the right to conduct their sexual lives with no more restrictions than adults... [and] must be provided with all information about sex and related matters so that they are in a position to make reasonable choices.... For the reality is that boys have come to men and will continue, for time immemorial, to come to them in order to have their sexual and emotional needs met” (p. 133). Considering the recurring personal and professional harassment to which Wilson, as well as Sandfort (1987), have been subjected in the quarter century since they chose facts and truth over political correctness in their respective books, it is not surprising that Malón argues for the sexual capacities of children, but

avoids becoming embroiled in the issue of their sexual rights. On the other hand, the present author, who is closing in on his ninth decade, is not thus constrained.

Mangus (1953) stated that some children are “victims under the law, but not in fact. They are participant victims” (p. 147), which surprisingly suggests that the law disregards facts. Furthermore, the phrase “participant victim” both linguistically and factually consists of diametrically opposed terms. One cannot be a participant unless one is willing, and a willing participant cannot be a victim; only one who is unwilling can be a victim. All sorts of rationalizations have been proposed to give credibility to this strange semantic shotgun wedding (e.g., Mangus, 1953; Weiss, Rogers, Darwin, & Dutton, 1955), but the basic fact that these terms are essentially self-contradictory cannot be explained away.

The issue for those “participant” children who cannot be “victims” then becomes the question of their willingness, i.e., their capacity to “consent,” which, although disparaged by some (e.g., Finkelhor, 1984; Spiegel, 2000), is presented as an accomplished fact by, for example, Bender and Blau (1937), Weiss et al. (1955), and Sandfort (1987), and is supported by an amicus curiae brief by the American Psychological Association (1989), the research of Waber et al. (2007), and others. Absent this consent, the child is, as Mangus and others note, an “accidental victim,” a victim both in fact and under the law. But with this consent in place, we are left with a “participant” who is not a victim “in fact,” but only in the eyes of “laws seemingly designed for the protection of the young [that] are really intended to control them” (Mirkin, 1999, p. 503).

Malón has not seen fit to carry his reasoning as far as is being done here, and my arguments should not be misconstrued as trying to speak for him or suggesting that he has hidden motives or a covert agenda. Nevertheless, the logical and inescapable extrapolation of his presentations, and of the voluminous evidence he mounts, is that children do, in fact, have not only the

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capacity to willingly participate in, and even to initiate, sexual activities with peers and older people, but are entitled by their very humanity to the right to exercise that capacity (Levine, 2002). In the real world, significant percentages of children are involved in such sexual encounters, a majority of whom, especially males, report non-negative experiences which presumably indicate willingness (e.g., Ingram, 1981; Riegel, 2009; Rind, Bauserman, & Tromovitch, 1998; Sandfort, 1987; Tindall, 1978; Wilson, 1981). These are the consenting child “participants,” while the non-consenting child “victims” would seem to be a minority.

The only justifiable restriction on the rights of individuals of any age or either gender to choose, or choose not, to express their own sexuality with other persons is that they do no real (as opposed to culturally imposed or imagined) harm to others or to themselves. Children are legitimate and sentient human beings with their own intrinsic sexuality, and they deserve, as Wilson observed above, to be informed, recognized, and respected as such by both academia and society.

References

- American Psychological Association. (1989). Amicus curiae brief to the United States Supreme Court, Nos. 88-805, 88-1125, and 88-1309.
- Bender, L., & Blau, A. (1937). The reaction of children to sexual relations with adults. *American Journal of Orthopsychiatry*, 7, 500–518.
- Finkelhor, D. (1984). *Child sexual abuse. New theory and research*. New York: Free Press.
- Ingram, M. (1981). Participating victims: A study of sexual offences with boys. In L. Constantine & F. Martinson (Eds.), *Children and sex. New findings, new perspectives* (pp. 177–188). Boston: Little Brown.
- Jenkins, P. (1998). *Moral panic*. New Haven, CT: Yale University Press.
- Levine, J. (2002). *Harmful to minors: The perils of protecting children from sex*. Duluth, MN: University of Minnesota.
- Malón, A. (2001). Onanismo y abusos sexuales: historia de dos obsesiones [Onanism and sexual abuse: A history of two obsessions]. *Anuario de Sexología*, 7, 75–90.
- Malón, A. (2003). Abusos sexuales infantiles: del discurso de la violencia a la violencia del discurso [Childhood sexual abuse: The discourse of violence and the violence of discourse]. *Revista Española de Sexología*, 120, 7–28.
- Malón, A. (2004). Infancia, sexualidad y peligro. El moderno discurso del abuso en las sociedades contemporáneas [Childhood, sexuality and danger. The modern discourse of abuse in contemporary societies]. *Revista Española de Sexología*, 121–122, Monografía.
- Malón, A. (2009a). On the iatrogenic nature of the child sexual abuse discourse. *Sexuality and Culture*, 13, 75–90.
- Malón, A. (2009b). Onanism and child sexual abuse: A comparative study of two hypotheses. *Archives of Sexual Behavior*. doi:10.1007/s10508-008-9465-3.
- Malón, A. (2009c). The “Participating Victim” in the study of erotic experiences between children and adults: An historical analysis. *Archives of Sexual Behavior*. doi:10.1007/s10508-009-9553-z.
- Mangus, A. (1953). Sex crimes in California. In F. Talman (Dir.), *California sexual deviation research* (pp. 9–46). California: State of California, Department of Mental Hygiene.
- Mirkin, H. (1999). The prohibited image: Child pornography and the First Amendment. In J. Elias, V. Elias, V. Bullough, G. Brewer, J. Douglas, & W. Jarvis (Eds.), *Porn 101: Eroticism, pornography, and the First Amendment* (pp. 501–519). Amherst, NY: Prometheus.
- Money, J. (1988). Commentary: Current status of sex research. *Journal of Psychology and Human Sexuality*, 1, 5–15.
- Riegel, D. (2009). Boyhood sexual experiences with older males: Using the internet for behavioral research [Letter-to-the-Editor]. *Archives of Sexual Behavior*, 38, 626–630.
- Rind, B., Bauserman, R., & Tromovitch, P. (1998). A meta-analytic examination of assumed properties of child sexual abuse using college samples. *Psychological Bulletin*, 124, 22–53.
- Sandfort, T. (1987). *Boys on their contacts with men*. Elmhurst, NY: Global Academic.
- Spiegel, D. (2000). The price of abusing children and numbers. *Sexuality and Culture*, 4, 63–66.
- Tindall, R. H. (1978). The male adolescent involved with a pederast becomes an adult. *Journal of Homosexuality*, 3, 373–382.
- Waber, D., De Moor, C., Forbes, P., Almli, C., Botteron, K., Leonard, G., et al. (2007). The NIH MRI study of normal brain development. *Journal of the International Neuropsychological Society*, 13, 1–18.
- Weiss, J., Rogers, E., Darwin, M., & Dutton, C. (1955). Study of girl sex victims. *Psychiatric Quarterly*, 21, 1–27.
- Wilson, P. (1981). *The man they called a monster*. North Melbourne, Australia: Cassell.