

EVIDENCE ON THE LAW RELATING TO AND PENALTIES
FOR CERTAIN SEXUAL OFFENCES INVOLVING CHILDREN
FOR THE HOME OFFICE CRIMINAL LAW REVISION COMMITTEE

ABSTRACT

This paper proposes the abolition of ages of consent, and the removal of consensual sexual activity at all ages from the criminal law. It proposes a new non-criminal legal framework for determining whether a child's consent to sexual activity could have been communicated to an older partner, and for prohibiting the older partner from continuing the sexual activity. It proposes that children in certain age groups should be able to have consensual sex with each other without fear of prohibition. Certain recommendations are made for mentally subnormal persons. The paper begins by setting out the harm and suffering caused by the present laws, principles upon which the proposals are based, and research evidence for abolishing the ages of consent.

INTRODUCTION

The subject of sexual relations between adults and children is little discussed in our society except at a sensational level. It is a subject that provides fierce emotional, often violent, reactions. It affects the lives of probably hundreds of thousands of men and women in all walks of life. Many paedophiles (adults who are sexually attracted to children) are otherwise regarded as valuable contributors to the community. Yet they feel alienated from it because they know that they would be rejected by that same community for what is a central part of their character, and that some of them actually are punished, harrassed and rejected with exceptional vigour.

Paedophile Information Exchange was founded in October 1974. It has a membership of over 100 British paedophiles. It provides the means for them to feel less isolated and gain a sense of community. Other important functions of PIE are to provide a forum for the public debate of paedophilia and the sexuality of children; and to seek to alleviate through public education and law reform the very real suffering of many adults and children.

SOURCES OF HARM AND SUFFERING

To many it will seem odd, even eccentric, to suggest that laws which are ostensibly designed to protect children and society generally from psychological or physical harm should actually result in needless harm and suffering of several kinds. Whilst the present laws effectively inhibit

or punish acts of violence, force or intimidation, they also distort and destroy a great many relationships that are mutually desired and in which violence, force, or intimidation play no part. Two kinds of justification for this "bull-in-a-chinashop" operation of the law are frequently offered: that children are incapable of consent; and that for a child sexual experience is in itself harmful.

We have not been able to find any evidence to support the latter justification. On the other hand one does not have to look very far to find all too clear evidence of harm directly brought about by the operation of the law. Although statistics have yet to be collected (and the law would help make them difficult to collect) it is clear that the units of measurement would be in children humiliated, ostracised, separated from those whom they love, ridden with sexual guilt, committing suicide; some parents humiliated, ostracised, separated from their children; paedophiles humiliated, imprisoned, harassed, in solitary confinement, ostracised, and committing suicide.

Paedophiles involved in tender and loving relationships can be imprisoned for up to life. Objectively their crime involved loving another human being. Subjectively their relationships are viewed as "assaults" and they may themselves regard their sexuality in a negative way after a lifetime of experiencing disapproval. This, and the fear of worse punishment still, often makes paedophiles pliable in the face of pressures to undergo "treatment" - chemical castration or aversion therapy.

Paedophiles are a category especially subject to verbal and physical abuse by the arresting police, prison warders and other prisoners. This is true even when the paedophile is a young¹ person, as the recent case of a 15 year old boy testifies. This boy was beaten up every day of the initial period of his remand at Risley, near Manchester. Some prisoners cut his back with sharpened combs. The boy attempted suicide. The extent of such violent reactions is well recognised in the Prison Service. We have constant reports from paedophiles who have been treated in similar ways. Such attacks occur irrespective of whether the act for which the prisoner was convicted was a caring one or a violent one. A first-hand account was given in a recent magazine article.²

1 Reported in The Guardian, 9th August 1975

2 Time Out No 253, 3-9 January 1975

Much evidence of harm is necessarily anecdotal and would be difficult or impossible to corroborate without a high level investigation. A homosexual counselling organisation¹ heard the following story from one of its clients, "Jack". In the 1960's when he was about 40 Jack had a sexual relationship with a 16 year old boy. The boy was arrested in connection with another relationship and was interrogated by the police. Under pressure he divulged the names of other men including Jack. Subsequently the boy committed suicide. When the police arrested Jack he was told "Your young friend has killed himself: it's probably the best thing he could have done." Jack, who loved the boy, attempted suicide himself soon after, and several times since. In such a situation the paedophile and the younger partner are powerless and friendless.

The weight of the law and public prejudice (the latter bolstered by the former) remove all possibility of redress.

Even those paedophiles who never come into direct conflict with the law often live in a state of perpetual fear. They recognise that whatever esteem they have built up in their working and domestic lives stands to be totally destroyed should they be arrested for a paedophile offence. Even family and friends may disown them.

The child involved suffers no less. The privately experienced horror and shock of some parents is magnified by the public involvement of police, court and press. What he or she had seen as a pleasurable and perhaps loving experience is transformed into a traumatic parade of guilt, hate and retribution. Often the possibility of such reactions is well-known by the child and can - to use the word in its proper sense - corrupt the relationship from its inception, through guilt, fear, secrecy, even blackmail. Children who have sought out sexual relationships have been the subject of care orders under the Children and Young Persons Act 1969 even in circumstances where the parents and the child want to remain together. To the child this can only be seen as punishment. It is ironic that a law designed to protect is seen by the "protected" person as punishing.

Not all parents of children involved in such relationships react with shock and rejection. From reports reaching PIE it seems to be a not uncommon occurrence for parents to be supportive to the adult charged with an offence against their child; for example by acting as a surety or providing accommodation on release from prison. Some parents have condoned a sexual relationship between their child and an adult, seeing it as actually beneficial to the child.

¹ Toebreakers.

But for many adults and children the process of legal action can result in depression, mental breakdown and suicide, if the mere knowledge of public attitudes and the legal situation has not already had this effect for the paedophile. In the words of a Dutch government committee considering the sexual laws, "A condition or situation of permanent threat can be considered as extremely detrimental for the moral welfare of a man".¹

PRINCIPLES

We have read the Sexual Law Reform Society's Report of its Working Party on the Law in Relation to Sexual Behaviour². We concur with many of the general principles set out in Section 3 of their report. We reproduce below those with which we do concur.

- " (1) There should be a general freedom, upheld by the law, for individuals to engage in such sexual activities as they may freely choose, subject only to restrictions which are clearly socially necessary, as set out in the following paragraphs.
- (2) These exceptions arise, and arise only, from the need to....
 - (ii) avoid the infliction of involuntarily sought pain, anguish or physical damage upon participants, and
 - (iii) punish affronts given to third parties, whose complaints are held by the Courts to be justified.
- (3) It follows that only those sexual activities should be illegal
 - (a) which are not willingly consented to...; or
 - (b) which result in clinically demonstrable mental or physical damage or suffering; or
 - (c) which have given rise to reasonable complaints from a member of the public.
- (4) It should also be an offence to indulge in any sexual activity or display where this is observed by others and causes them actual annoyance; but it should be a defence that no such observation could be reasonably expected, or that the observer did not object. (This defence should apply regardless of the numbers involved or the nature of the activities in question).

1 Report of the Speijer Committee of the Dutch Council of Health for the Ministers of Justice and of Social Affairs, 1969

2 Duplicated, 1974.

- (5) Where an offence contravening any of the above principles is alleged, the burden of proof should in all cases lie on the prosecution, (except in the special defence mentioned in (4) above). "

The only sections of the Sexual Law Reform Society's principles with which we do not concur are, therefore, those concerned with the ages and conditions of "responsibility" or "consent".

We regard the concept of an "age of consent", where persons below a certain age are held to be incapable of giving consent to sexual activity, to be based on a quite false - even dishonest - view of human psychology. There is now a wealth of evidence of the sexuality of children, as we shall later outline briefly. Some children actually seek out sexual contact with older people, and millions of others engage in sexual activity with their peers as a perfectly ordinary part of their lives. In whatever way the law tries to define "age of consent" or of "responsibility" it will be breached far more often than it is kept. There can be no doubt that children and young persons frequently do give their consent, whatever the law may deem.

It is sometimes argued that while children do give consent, they are not sufficiently responsible to be free to give it. We do not see why a burden of responsibility should be involved in consenting to mutually desired and harmless sexual acts. One difficulty which the law should recognise is that the consent of a child, though potentially present, cannot always be communicated to an older person. We therefore set out our amendment to the principles for law reform of the Sexual Law Reform Society quoted above:

To principle (2) we add new exceptions (i) and (iv) to the general freedom proposed in principle (1), arising from the need to

(i) protect those whose consent to sexual activity can be communicated to an older person but is withheld.

(iv) avoid the seduction or procurement of children and young persons through intimidation, drugs, alcohol, etc.

To principle (3) we add the following clause:

(d) which involve the use of intimidation, drugs, alcohol, etc. to secure the seduction or procurement of children and young persons.

We propose additional principles (6) and (7) which have the effect of removing from the provisions of the criminal law certain sexual acts involving children or young persons or the mentally subnormal and instituting a new safeguard.

(6) In cases where the administrators of the Children's Acts decide that the consent or otherwise of a child or a mentally subnormal person to sexual activity involving an adult cannot be communicated, then the continuation of the sexual activity should be prevented by prohibition by the administrators of the Children's Acts.

(7) In the case of a child engaging in sexual activity with another child, principles (1) to (5) should apply but not principle (6) except in certain circumstances which are defined in the proposals.

EVIDENCE FOR ABOLISHING AGES OF CONSENT

1 Children's Sexuality

The argument for abolishing ages of consent is supported by the vast amount of evidence now accumulated showing that pre-pubertal children have sexual feelings and desires and willingly take part in sexual activity, with no demonstrable harm.

Kinsey¹ showed that orgasm and erection in boys can occur far in advance of the ejaculation that generally accompanies orgasm from puberty onwards:

" Orgasm has been observed in boys of every age from 5 months to adolescence (Table 31)"; ".....orgasm may occur without the emission of semen";
" In pre-adolescent and early adolescent boys, erection and orgasm are easily induced. They are more easily induced than in older males. Erection may occur immediately after birth and, as many observant mothers (and a few scientists) know, it is practically a daily matter for all small boys, from earliest infancy and up in age (Halverson 1940)."

Kinsey shows in his research that the early pre-pubertal orgasmic experience is similar to the post-pubertal experience.

1 Alfred C Kinsey et al., Sexual Behaviour in the Human Male, W B Saunders Co., 1948
and Alfred C Kinsey et al., Sexual Behaviour in the Human Female, W B Saunders Co., 1953

" There are observations of 16 males up to 11 months of age, with such typical orgasm reached in 7 cases. In 5 cases of young pre-adolescents, observations were continued over periods of months or years, until the individuals were old enough to make it certain that true orgasm was involved; and in all these cases the later reactions were so similar to the earlier behaviour that there could be no doubt of the orgasmic nature of the first experience."

Girls too, were found to experience orgasm early:

" Orgasm is in our records for a female babe of 4 months."

Kinsey's data showed a similar variety and distribution of sexual response in both adults and children. He found that children engage in heterosexual behaviour, homosexual behaviour, masturbation, and some have sex with animals. He gives a diagramatic¹ breakdown of sexual activity among pre-adolescent males. He found that most male children engaged in sexual activity at the age 12, with 38.8% of that age group involved (12.9% engaged in coital sexual activity). Although approximately 10% of boys were involved at the age of 5.

" Most of this pre-adolescent sex play occurs between the ages of eight and thirteen (Table 24, Figure 25), although some of it occurs at every age from earliest childhood to adolescence"

Work by Bender² has shown that usually the relationship between children and adults involve some co-operation from the child and that the child sometimes actively seeks out the sexual contact:

" This study seems to indicate that these children undoubtedly do not deserve completely the cloak of innocence with which they have been endowed by moralists, social reformers and legislators. The history of the relationship in our cases usually suggested at least some co-operation of the child in the activity, and in some cases the child assumed an active role in initiating the relationship. This is in agreement with Abraham's views. It is true that the child

1 Kinsey, 1948 op,cit., Fig 25,p169.

2 Laretta Bender, and Abraham Blau, The Reaction of Children to Sexual Relations with Adults, Am. J Orthopsychiat. 7;500-518, 1937

often rationalised with excuses of fear of physical harm or the enticement of gifts, but these were obviously secondary reasons. Even in the cases in which physical force may have been applied by the adult, this did not wholly account for the frequent repetition of the practice. In most cases the relationship was not broken until it was discovered by their guardians, and in many the first reprimand did not prevent the development of similar contacts. "

In this paper Bender and Blau studied "unselected successive admissions" to a psychiatric division of a hospital. These were pre-pubertal children who had had sexual contacts with adults. They concluded from their observations that those children who entered into a relationship freely, seemed to have derived some emotional benefit from it:

"the emotional placidity of most of the children would seem to indicate that they derived some fundamental satisfaction from the relationship. These children rarely acted as injured parties and often did not show any evidence of guilt, anxiety or shame. Any emotional disturbance they presented could be attributed to external restraint rather than internal guilt. Finally, a most striking feature was that these children were distinguished as unusually charming and attractive in their outward personalities. Thus, it is not remarkable that frequently we considered the possibility that the child might have been the actual seducer rather than the one innocently seduced. "

Gibbens¹ found that in a London sample of cases, two thirds of the child "victims" had participated in "indecentcies" on more than one occasion or with more than one "assailant". In a Californian study² of sexual offences involving children, two thirds of the children were considered to have been "actively participating victims".

An unpublished paper by Bernard³ reports from the point of view of adults who when they were children had had sexual desires towards and relationships with adults:

" The men I went along with were between forty and sixty years old. I had most of my contacts

1 T Gibbens, "Child Victims of Sex Offences", ISTD, 1963.

2 California Sexual Deviation Research, State of California Department of Mental Hygiene, 1954.

3 F Bernard, The Phenomenon of Paedophilia (Available from Dr F Bernard, Gijsinglaan 350 Rotterdam 7)

in Rotterdam. I always took the initiative. I used to put on my smartest and shortest breeches and strolled over the markets and through the busiest streets of Rotterdam, until I saw someone I thought 'like that'. Then I let him 'seduce' me"

" I have no regrets about those times, but its a pity that I never got what I was really looking for: an older friend to have sexual contact with, but also to do all kinds of other things. He'd teach me things. That was it, more or less. "

Quoting from another of Bernards' biographies:

" When I was seven, I got to know a man who was particularly kind to me. He took me along to the loft of his house and there we got into a sexual contact. I found it very nice and pleasant. I was always looking forward to the Wednesday afternoons, when we used to meet. That went on for quite some time.

Later I had numerous contacts with other men, but never with friends of my own age.

I am now an elderly man of 68, and I've been well off in life. I still consider that those contacts were beneficial for my development. I would not have wanted to do without them, and I don't envy the people who were not so lucky. "

A woman who fell in love with a man of fifty when she was twelve is quoted in Bernard's paper as saying:

" I'm married and I have four children. I would not have objected, if they, too, had been in contact with older people. My opinion is a favourable one. "

We recognise that deeply held beliefs in the sexual 'innocence' of children are not easily shaken by evidence to the contrary. The reluctance to acknowledge children's sexuality is greatly reinforced by feelings of sexual guilt all too common in our society; sex is seen as something 'dirty' by many or even most people, and therefore something from which children should be protected. The true 'innocence' of a child might be in its initial equable approach to sex; but this is very soon lost as the child learns feelings of guilt and shame from its elders.

One of the arguments most frequently used to suggest that - in the main, homosexual - paedophile relationships are harmful is that of the 'corruption' of the younger partner. Usually this is meant to imply that the younger partner will, as a result of an early experience, grow up to be exclusively homosexual. It is interesting that two government committees have rejected this theory. The Wolfenden Committee¹ concluded that "Seduction is in fact not more than an incidental event. The real causes of permanent homosexuality lie² much deeper." More recently the Dutch Speijer Committee² after considering extensive evidence stated that it shared the conclusions of one researcher that "Permanent homosexuality only occurs in our culture in individuals disposed to this; in other words, in individuals in whom the pattern of homosexuality already existed before the seduction occurred."

It is worth pointing out that, in a society that intended treating homosexuals with equality, it would be intolerable to apply the term 'corrupt' to the status of being homosexual in any case.

A common assumption about paedophilic relationships is that the older partner always 'seduces' the younger. The notion of 'seduction' itself is frequently seen as immoral or harmful. The Dutch Speijer Committee preferred to see this term replaced by less ethically loaded ones such as 'initiation'.³ They concluded that:

"... a society which seeks to eliminate all seductive situations as much as possible, will not encourage public moral welfare. On the contrary, it is desirable for young people of both sexes that they are able to meet and cope with such situations. A normal development requires broad possibilities of introduction, experiment, contact and initiation."⁴

Dealing with homosexual relationships between adults and minors in particular the Speijer Committee was of the opinion that "...homosexual contacts could often be of positive help to the young person with homosexual tendencies, insofar as they might reduce⁵ or even eliminate the sensations of stress and frustration." They go on to say:

1 Report of the Departmental Committee on Homosexual Offences and Prostitution, Cmnd 247.

2 Op. cit., para 7.6 (2)

3 Ibid., para 7.1 (5)

4 Ibid., para 7.2 (2)

5 Ibid., para 7.8 (2)

for the most constructive way of adapting to his sexuality, it is necessary that the homosexual minor is admitted to environments with equals, when he or she will be able to meet persons of their own age group as well as older people... for the possibility of building up a friendship openly and freely, as well as in order to find and accept one's own identity and eliminate all feelings of guilt, fear and loneliness."¹

Despite evidence to the contrary the law and those concerned with administering it still see the child in paedophilic relationships as a 'victim'. This way of thinking results in tender consensual relationships and violent rape alike being defined as 'assaults'. Certainly this is in itself an assault on the English language and on the feelings and motivations of those involved in consensual sexual activity. The language of the law helps to establish in the public mind a quite false association between paedophilic relationships and force or violence. Also, as with other forms of sexual activity, those few involving force or violence stand a greater chance of being brought before the court.

Bearing this latter point in mind a recent paper by Virkkunen² contains some interesting findings. She showed that 75% of the sexual offences against children studied did not involve active resistance on the part of the child:

" According to Witter (1972) active resistance on the part of a child victim appeared only in about one-fourth of the pedophilia cases investigated criminologically. The offender's threats and intimidations increased resistance. According to Witter, however, this was not true of the majority of pedophilia offences, particularly when the offences were committed by the elderly. In situations of this kind many children passively allow events to take their course or even take the initiative by coming to the offender, often bringing their playmates as well."

Virkkunen studied a sample of 64 'victims' of which 64% were female and 36% were male. The average age of the children was 9-10 years. The offence was defined to be a 'victim-precipitated' offence if "the victim repeatedly, on his/her own initiative, visited the offender notwithstanding the fact that the latter committed unchaste acts, and/or the victim displayed some kind of initiative in the offence itself". 48% were found to be 'victim precipitated' relationships. The paper concludes:

1 Ibid., para 8.4 (4)

2 Matti Virkkunen (Helsinki), "Victim-precipitated Paedophilia Offences", Brit. J Criminol Vol 15, No 2, April 1975

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1 Ibid., para 8.4 (4)

2 Matti Virkkunen (Helsinki), "Victim-precipitated Paedophilia

" Aggressive features did not seem to be linked at all to the victim-precipitated offences. The study indicated that aggressive behaviour was not as a rule characteristic of these offenders; on the other hand they seemed to be in a pronounced manner gentle, fond of children and benevolent. "

Landis asked 1,800 students about their early sexual experiences. He found that 30% of the boys and 35% of the girls had had such experiences when they were children. Of those who had, only 2.2% of the girls and 0.4% of the boys thought themselves to have suffered from bad after-effects. But Landis concluded that even in these few cases the problems reported did not originate in the sexual experience itself.¹

The weight of evidence is overwhelmingly in support of the contention that children experience sexual feelings and have and enjoy sexual relationships with other children and with adults, of both a homosexual and a heterosexual nature. Evidence - even from cases which are brought before the courts which are more likely to include those where the child did not consent - shows that many of these do not involve seduction by the older partner, force or violence. All kinds of relationships, including those between adults, vary in quality: some of all kinds involve force, violence or intimidation. There is no justification for laws which assume that paedophilic relationships involve these qualities more than do others.

Far from there being evidence of harm caused by mutually desired relationships of this kind, research points in the opposite direction. Such findings raise the grave question whether the very evident harm and distress brought about by present legislation can be justified in a civilised society. We firmly believe that it cannot and would urge that immediate steps be taken to limit the effects of the present laws while revisions are considered. Abolition of the ages of consent, as we have already argued, should be a central part of that revision.

1 J T Landis, 1956, Quoted by F Brongersma , a member of the Netherlands Senate, in an article on paedophilia in the Dutch weekly Intermediair (May 23rd, 1975)

PROPOSALS

We propose that the law should no longer define ages below which consent to sexual activity cannot be given, and that the criminal law should be concerned only with those sexual activities which:

- (a) are not consented to; or
- (b) result in clinically demonstrable mental or physical harm or suffering; or
- (c) have given rise to reasonable complaints from a member of the public; or
- (d) involve the use of intimidation, drugs, alcohol etc. to secure the seduction or procurement of children or young persons.
- (e) continue after prohibition by the administrators of the Children's Acts.

Note: We include in (d) any sexual approach made by arresting police, or those in charge of a child on remand.

Where the conditions (a) to (d) do not apply certain sexual relationships of persons below the age of eighteen would be regulated outside the criminal law by reference to a decision as to whether the consent of the younger partner could have been communicated to an older partner.

The legal framework that we propose to operate outside the criminal law needs to take account of the extents to which children of different ages are able to communicate their consent to sexual activity. Whereas we believe that children of any age are capable of considering a sexual act pleasurable or not pleasurable, the extent to which this information, and therefore the consent, can be communicated to other persons varies.

We propose a series of age groups where, under specified conditions, the provisions of the Children's Acts and other means could be applied. The lowest of these age groups would be 0-3. By the age of 4 the great majority of children are able to communicate verbally or in an equivalent way. Below the age of 4 it would be deemed by the law that children are unable to communicate their consent to sexual activity. Where sexual activity with a child of this age occurs it is assumed that consent or lack of it cannot be determined; therefore providing there is no aspect of the sexual activity to which we intend the criminal law to apply, on receipt of a complaint to the local authority action should be sought by the administrators of the Children's Acts. The form of this action should be a prohibition similar to an injunction and imposed by the

administrators of the Children's Acts. The prohibition would restrain the older partner from seeking out the child. If this is not possible, as in the case of a parent or guardian being the older partner, then the child could be brought into the care of the local authority. In the event of breaches of prohibition, fines or terms of imprisonment could be applied.

Whereas below the age of 4 it is assumed that consent cannot be communicated by most children, there will still be some above this age who cannot communicate their consent. The law should allow for this. In fixing 10 as the age of criminal responsibility the law assumes not only that most children should be held responsible for their actions at this age but also that they can communicate their intent. There can be little doubt that the majority of children at the age of 10 can communicate their consent or otherwise to a sexual act. We therefore suggest that doubt exists for only some children between the ages of 4 and 9.

In the cases of children between these ages, those closely concerned with the child will be the people most likely to be aware if consent could not be communicated.

In the case of a child aged between 4 and 9 no action should be taken to stop sexual relationships between it and an older partner except:

- (a) on the complaint of a parent or guardian or a person responsible for the care or welfare of the child; or
- (b) any other person having reason to believe that the sexual activity was not consented to; or had resulted in clinically demonstrable mental or physical harm or suffering; or involved intimidation, drugs, alcohol etc. to secure the seduction or procurement of the child.

Note: Persons responsible for the welfare of the child would include a doctor or psychiatrist attending the child, and teachers or social workers involved with the child.

On receipt of a complaint of a parent or guardian or a person responsible for the care or welfare of a child, and where no criminal sexual activities are involved, and where it has been shown that consent could not be communicated, the continuation of the relationship should be prohibited in the same way as a relationship with a child under 4.

Between 10 and 17, where it is assumed that consent can be communicated except in the case of the mentally subnormal, restrictions on mutual and harmless relationships with adults should be minimal. The 'moral danger' clause of the Children and Young Persons Acts should be used

be stated in law to avoid the harm done by citing mutual and harmless sexual relationships between children, or between children and adults, as situations of 'moral danger'. (If the Sexual Law Reform Society's proposals for the use of the Children and Young Persons Acts including the 'moral danger' clause were accepted without more closely defining the situations in which the care and protection provisions would be appropriate, then their proposals may result in effectively raising the age of consent above the level that they have proposed.)

The mere involvement of children of 4 and above in consensual sexual activity whether homosexual or heterosexual, whether with other children or with adults, would not be a sufficient justification, in our view, for activating the care and protection provisions of the Children and Young Persons Act.

We believe that it would be intolerable if prohibition by the administrators of the Children's Acts could be sought concerning sexual relationships between children of similar ages. We therefore propose a series of three overlapping age groups where children within each group would be not subject to prohibition if they engage in sexual activity. These age groups are 0-9; 7-13; 10-17. A child of 8, for example, would be free to engage in consensual sexual activity with other children aged between 0 and 13. In the case of sexual activity between children where the prohibition process would apply then the prohibition may be sought against either the older child or the guardian of the older child.

We propose that the sexual relationships of mentally subnormal persons should be treated in a similar way to those of children aged from 4-9, so that each case should be considered on its merits. However we feel that in this case the next of kin or those concerned with the mental welfare of the subnormal person should additionally be free to ask the local authority to seek to have the sexual activity prohibited.

We have proposed that the local authority should be responsible for seeking prohibition by the administrators of the Children's Acts of certain sexual activity. We believe that if the parent or guardian in the case of a child (or next of kin in the case of a mentally subnormal adult) was responsible for seeking prohibition the possible financial burden to be incurred may deter action. Also, it is important to have machinery which can be brought into action other than by the parent or guardian or next of kin, in cases where the latter are insufficiently concerned with the welfare of the child or mentally subnormal person.

The onus for bringing any proceedings lies with the local authority and any complaint made by the parent, guardian or others concerned with the care or welfare of the child, or the next of kin or those concerned with the mental welfare of the mentally subnormal person, should be brought before the administrators of the Children's Acts without delay.

APPENDIX

ATTITUDES TO AGES OF CONSENT IN HOLLAND

In Holland since the law was amended in 1971 the ages of consent for both homosexual and heterosexual activity have been set at 16, largely as a result of the Speijer Committee report which we have quoted in the main part of the evidence. Only 5 out of 150 members of the Dutch Second Chamber voted against the proposed change in the Penal Code. No one voted against it in the First Chamber or Senate.

In 1969 the Dutch Minister of Justice appointed a committee to revise more comprehensively the sections of the Penal Code dealing with sexual matters. In 1971 this committee circularised many relevant national organisations with a list of questions concerning possible penal reforms. One of these was a proposal to abolish the whole part of the Penal Code which dealt with sexual crimes and offences. This far-reaching proposal was agreed with by the Netherlands Order of Attorneys; the National Federation for Public Mental Welfare; the National Council of Roman Catholic Youth; the Netherlands Institute for Sociological Research of Sex Problems; and the Synod of the Dutch Reformed Church, among others.

In addition the Order of Attorneys wanted to abolish completely the concept of an 'age of consent'. The Association of Secretaries of Councils for Youth Protection would have reduced the age of consent to 14, while the Netherlands Youth Community would have preferred 12. It was felt by the Roman Catholic Youth Council that more importance should be attached to actual physical puberty than years of age; where a child below puberty engaged in sexual activity with an adult it would be for the parent to choose whether the adult should be prosecuted. The Protestant Union for the Protection of Children declared itself against any fixed age of consent and wanted prosecutions limited to cases of evident 'seduction' or compulsion. The Coornhert League

(concerned with penal reform and crime policy) argued that there were sufficient provisions already in the Penal Code to deal with the use of violence or compulsion and that there was therefore no need to have sections dealing specifically with these where they occurred as part of sexual activity.
