

Uncommon Sense Edition 5

Uncommon Sense Magazine:

A quarterly digest of subversive minor-adult sexuality.

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Editorials

Intergenerational Sex: A Legal Proposal

By **Stephen James**

It is common for our opponents to portray us as advocating the abolition of all age of consent laws in order to create a free-for-all to sexually abuse young people. We need to be sure that our practical recommendations and proposals prove the mendacity of this charge. The editorial that follows is intended as a contribution to this process.

We know that positive intergenerational sexual relationships occur and are sufficiently common to require acknowledgement in our legal system. Anyone who denies this is simply ignorant of the available evidence. But what form should that acknowledgement take? Some of the possibilities are considered below. (There may be others, as well as variations on the ones mentioned here. I have not aimed at exhaustiveness—hence my conclusions can only be considered provisional at this stage.)

Lower the age of consent

The age of consent could be lowered, perhaps to 12, 13 or some similar age. The argument would be that nearly all of the positive relationships involve young people at this sort of age level or above. And a further advantage of the proposal is that it matches the situation in a number of countries already (such as Spain and Japan, where the age of consent is 13). Thus although in the present climate scarcely any relaxation of age of consent laws is conceivable, it can be argued that when the current wave of hatred passes (which it surely will eventually), a proposal of this sort would be a live option.

But there is a fundamental flaw with any proposal that retains a specific age of consent at any level. This is simply that there are bound to be cases of positive relationships involving youngsters below the chosen age. It might be countered that such children, though they might be capable of giving simple consent to a sexual contact, could not always give fully informed consent. Certainly this is true, especially when we are talking about very young children. But here I want to make a philosophical suggestion. It is that we stop viewing consent as the fundamental consideration here, and focus instead on quality of experience. Just because fully informed consent may not be possible for young children, it should not simply be assumed that sexual contact is always wrong where they are concerned. Consider the following situation. A lonely 10-year-old is befriended by a man and develops an intimate relationship with him that is highly valued by the child. The relationship happens to involve some mild sexual experimentation. The child may be unable to give fully informed consent to this relationship, but what really matters, it seems to me, is the quality of the experience and its likely consequences for the child's well-being. True, the dangers of being involved in such a relationship (possible guilt now or in the future, alienation from family and friends, and so on) could in practice outweigh the benefits, but this might not be so. Perhaps the child is so lonely, that only a relationship of this sort, despite its dangers, can prevent serious mental harm, and there is no-one else around (such as good parents) who are prepared to give this child the love he desperately needs. And we should also take into account the likely negative effects on the child of the process of criminal investigation required by the policy of criminalisation. Who is in a position to say, in all honesty, that cessation of the relationship would be better for this child in the long run? Because of cases like this, I reject this first proposal and favour only proposals that abandon ages of consent altogether. It is important to understand that this is not equivalent to 'anything goes', as the consideration of further proposals will make clear.

Abandon the age of consent for sex, but make it illegal to use coercion or manipulation in a sexual relationship with a child or adolescent

Scarcely anyone would deny that a violent assault should be subject to criminal sanctions, whatever the victim's age. What is a matter of debate, however, is how the law should respond to lesser forms of coercion and manipulation undertaken to obtain sexual favours from a young person. The stated proposal might seem like an attractive and enlightened measure that would afford real protection for young people, without impinging unreasonably on their sexual freedom. But there are grounds for doubting this.

I don't seek to question that coercion or enforcement in human relationships is morally wrong (with a few exceptions, e.g., when it is needed to deal with dangerous people). My worry concerns the just enforceability of a proposal like the above, whether we are dealing with intergenerational relationships or those between people of similar age. The fact is that it is often very hard for outsiders to judge whether there has been significant coercion or manipulation in a relationship. Doing so would mean knowing exactly what has gone on, and that can be difficult in relation to events that normally occur in private and where each party is likely to have his own story to tell. Also, even if we know what has happened, interpreting the events is often hard. For example, was a particular remark intended seriously or as a joke? It may be impossible to provide objective grounds for deciding one way or the other. For this sort of reason, I reject this second proposal.

Keep the state out of the issue entirely

This is the most radical proposal and will appeal mostly to libertarians. Its best rationale is the idea that the legal system is a clumsy tool, which when applied to intimate human relationships (and perhaps especially where the young are involved), can only lead to injustice. I am tempted to adopt this view, but I think that there is one useful thing that the law can do in this area, as I explain by means of my next and final proposal.

Institute appropriate civil rights for young people

This final proposal, the one I advocate, involves placing the right of young people to engage in desired sexual acts as well as their right to reject unwanted sexual attention, firmly within a system of basic rights enforced by civil, rather than criminal, law. Here are the main principles:

1. There are no legal restrictions whatsoever on mutually enjoyed sexual relationships for people of any age, except where there is infliction of violence or clear risk of harm, e.g., attempted intercourse with a very young child.
2. In relation to sexual contacts involving young people (whether with other youngsters or with adults) in which there is coercion falling short of violence or clear risk of harm, there is no involvement of the *criminal* law, but such young people can, if they wish, avail themselves of civil law injunctions against certain people attempting or continuing to associate with them.

It is interesting that the civil law provision under point 2 (which is an adaptation of an idea put forward by PIE some years ago—see Tom O'Carroll, *Paedophilia: The Radical Case*) would be part of a system not exclusively geared towards ending unwanted sexual contacts. The idea is that a young person could obtain an injunction of this sort against an adult for any (non-frivolous) reason. And it could be taken out against *any* adult, even the young person's parents. However, in the latter case, the injunction would not be automatic—there would have to be a hearing to establish that the desire of the young person to break off her relationship to the parent was seriously intended and 'reasonable'. (In the case of children too young to express their wishes, a suitable neutral representative would be employed for that purpose.) In the case of an adult violating an injunction brought against him, some form of punishment would be necessary.

There are some very appealing aspects to this proposal. Point 1 provides just about the maximum degree of personal freedom in sexual relationships for young people that could reasonably be proposed for any society. Point 2 is a relatively uncomplicated way of bringing to an end a sexual relationship that is unwanted by the younger participant. The system does not attempt to establish guilt, merely to bring to an end a situation that the young person finds intolerable. It thus involves a lowering of the stakes as compared with the conventional legal approach, based on proving that sexual abuse has taken place. It has often been pointed out that what most young people want above all in a sexually abusive situation is for the abuse to stop. In many cases they do not particularly want to send the perpetrator to jail—indeed, in some cases they might love him, despite the abuse. And they are most unlikely to want to testify in court about intimate matters. The present proposal fits entirely with these wishes (although it should be conceded that in those cases where a detailed hearing was necessary to establish seriousness of intent, it might indeed be necessary for the young person to disclose such matters in a 'semi-public' way).

The main objection likely to be made against the above proposal is that non-violent abusers (i.e. those who engage in coercive but non-violent sex with young people) will not be punished unless and until an injunction is brought against them and they violate it. This might be thought too lenient and to neglect the opportunities that a tougher system might provide for deterring abuse at an earlier stage. You will recall perhaps the reason I gave for not punishing sexual abuse per se—the fact that it is often very difficult to know whether coercion alleged in relation to events that normally take place in private has actually occurred. I stand by this point, as it is essential to the moral acceptability of a punitive system, and to the maintenance of public confidence in it, that unjust outcomes should be as rare as possible, and the sort of uncertainty we are dealing with here would be bound to lead to unjust outcomes. So how do I defend a system that seems to set so little store by deterrence and which, because of this, would probably result in more cases of abuse? I concede that the tendency of the proposal would be to lessen deterrence, but what I would claim is that in the long run, the adoption of a scheme like this, in conjunction with other desirable social changes—such as the lessening of the social taboo on intergenerational sex and increasing awareness on the part of youngsters concerning their rights and their power to exercise them—will produce a much better overall situation for young people in this area. To put it simply, there is likely to be more (attempted) non-violent coercion and manipulation, but generally speaking it will be less successful and less dire in its effects. More adults will 'try it on' in various ways, but when they do, young people will know how they can deal with it, and they will not experience the fear and guilt that comes from involvement in what hitherto was treated as something taboo. Also, if they relit for a while, but then decide to end the association, they will normally need only to go through the non-judgmental process of taking out an injunction to bring this about. (Indeed, merely threatening to do this will often be enough.) Unwanted sexual advances from adults would come to be perceived as a 'nuisance', something to be dealt with, rather than feared, in the majority of cases. At the same time, those young people who want to get on with their mutually enjoyed intimate relationships with adults, unmolested by the state, will be entirely free to do so.

In the present climate it may seem utopian to be considering schemes as radical as the above. High ages of consent are likely to be the norm in virtually every country for the foreseeable future. But we need to do our radical thinking now, so that we are ready to take advantage of the thaw when it comes.

I would welcome comments on these proposals. Interested readers are invited to E-mail me (stephenjames5000@hushmail.com) or write to *Uncommon Sense* to give their reactions.

An Exciting New Project in the Works

By **Pyro**

Throughout the past month on the Newgon forums, we've been discussing an exciting new project which aims to challenge the way society thinks of Child Lovers. The project will be in the form of a blog, hosted right here on Newgon and its primary participants will be people like you with something to say about our current situation.

This blog will be the beginning of a creative new approach at challenging society through artwork done by members of this community. Artwork in the form of paintings, drawings, photography, videos, music, creative writing... anything creative and relevant to our situation. This isn't a call out to the professional artists or professional writers amongst us, but **every CL has something to say and wants to say it in whatever way they feel comfortable!**

It's time we started to do something to stem the tide of unchallenged, constant lies in the media and legislation which etches closer by the day to threaten even our basic civil rights to voice our opinion.

This project is scheduled to come online within the next few months and will be announced in our *Uncommon Sense* magazine.

To follow this project closer see [our forums](#) for more details.

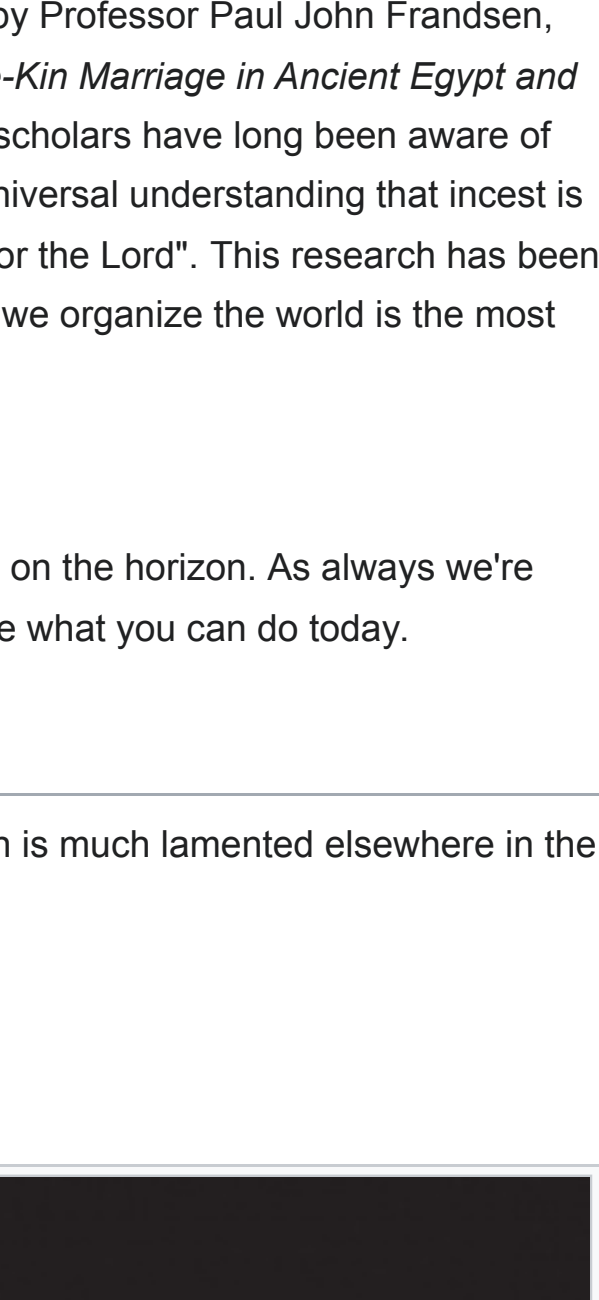
State of the movement

A change in the election laws in the Netherlands, has meant that the [Partij voor Naastelijde, Vrijheid & Diversiteit](#) (PNVD) now stands a better chance at contesting the 2011 elections. In order to contest the 2011 elections, the PNVD requires 570 signatures of support, previously signatories had to provide their full name and address, under the new law they will only have to provide their surname and initials.

To follow up from a story reported in [Uncommon Sense Edition 4](#), former webmaster of [BoyChat](#), Jon Schillaci (aka 'Dylan Thomas'), accepted a plea deal in the charges against him. He was [sentenced](#) to a minimum term of 20 years, which naturally generated much [discussion](#) on [BoyChat](#).

Academia

In their *Teens and Sexting* [report](#), the Pew Research Center's Internet & American Life Project, in a 'nationally representative' survey of those ages 12-17 conducted on landline and cell phones, announced - among others statistics - that 4% of cell-owning teens ages 12-17 say they have sent sexually suggestive nude or nearly nude images of themselves to someone else via text messaging. (Note that [a year ago](#), a survey of 1,280 teenagers (age 13-19) conducted by the National Campaign to Prevent Teen and Unplanned Pregnancy and CosmoGirl.com revealed that one out of five (20 percent) of teens have posted nude photos or video of themselves on the Internet.)



Susan Clancy - a former Harvard psychologist - has published a new book, *The Trauma Myth*. (Her previous book, *Abducted*, was an attack on repressed memory.) Clancy realises the blatantly obvious: that many people in the medical establishment have misrepresented the realities of child abuse. She says:

"The title refers to the fact that although sexual abuse is usually portrayed by professionals and the media as a traumatic experience for the victims when it happens — meaning frightening, overwhelming, painful — it rarely is. Most victims do not understand they are being victimized, because they are too young to understand sex, the perpetrators are almost always people they know and trust, and violence or penetration rarely occurs. "Confusion" is the most frequently reported word when victims are asked to describe what the experience was like. Confusion is a far cry from trauma."

Clancy suggests that feminists of the 1970s wanted to shock people in order to focus attention on the question of sexual abuse, and achieved this by comparing the activists to rape. "It wasn't until feminists and child-protection advocates misrepresented it that we were able to arouse massive medical and scientific attention to the topic." The book has been described as marking "a controversial break with the current line on sexual abuse" - yet clearly it perpetuates the same myths. Despite acknowledging that so-called "sexual abuse" is rarely traumatic, Clancy opines that:

"Just because it rarely physically or psychologically damages the child does not mean it is OK. Harmfulness is not the same thing as wrongfulness. And why is it wrong? Because children are incapable of consent. Children do not understand the meaning or significance of sexual behavior. Adults know this, and thus they are taking advantage of innocent children — using their knowledge to manipulate children into providing sexual pleasure."

In other words, the same tired fictions of "sex" and "consent" raise their ugly heads. A review of *The Trauma Myth* and an interview with the author is available [here](#), while a review from within the CL community is available [here](#).

Finally, new research debunks the myth that incest is a "universal taboo". Anthropologists from Claude Lévi-Strauss to Freud have frequently maintained that the prohibition of incest is a "universal feature of human civilization" - a view that has come to dominate the cultural field. Research by Professor Paul John Frandsen, associate professor emeritus in Egyptology at the University of Copenhagen [published](#) in his new book *Incestuous and Close-Kin Marriage in Ancient Egypt and Persia* demonstrates that incest was certainly not a taboo in Ancient Egypt or Late Ancient Iran. Professor Frandsen notes that scholars have long been aware of such textual evidence that incest was common practice in some cultures, but have 'ignobly ignored' it, afraid to challenge the 'universal understanding that incest is something abominable in all cultures. He suggests that too many academics in this field have served as "a gang of empiricists for the Lord". This research has been described as not only a "robust challenge to anthropology", but as a challenge to our general propensity to believe that the way we organize the world is the most natural.

Newgon.com

Since our last update, the Newgon forums have continued to grow and the future is looking brighter with the new artblog project on the horizon. As always we're looking for more volunteers to insert themselves into activism and involve themselves in our projects, so visit the forums and see what you can do today.

News Digest

"Sex Offender" registries and laws have been much in the news in the US and UK, while the "harm" suffered by cartoon children is much lamented elsewhere in the world.

From the US - Individual freedom takes another step back

[All stories](#)

A top topic in the United States media has been expanding the sex offender registry, while at the same time there appears to be a growing number of articles criticizing the registry and its consequences. Also creating controversy are the lawsuits for financial restitution for children who were featured in child pornography.



Recommended stories:

- [Julia Tuttle Causeway sex offender enclave being dismantled](#), [5 years after Jessica Lunsford's death](#), [Florida revisits sex-offender laws](#), [Utah officials making more arrests for child pornography](#), [Art exhibit to be displayed at UoLl includes nude children](#), [Inside the Mind of a Pedophile](#), [Sex offender law could go global with lawmaker's bill](#), [Christopher Handley Sentenced to 6 Months for 'Obscene' Manga](#), [FBI wants records kept of Web sites visited](#), [Child Pornography, and an Issue of Restitution](#), [Vigil for homeless sex offenders found frozen to death](#), [Restitution ruling raises many questions](#), [Supreme Court rejects appeal in child pornography case](#), [What's child porn? Appeals court ruling has local leaders upset](#), [School system in Va. won't teach version of Anne Frank book](#).

From the UK - Hysteria on the rise in the United Kingdom

[All stories](#)

The past few months have seen a rise in the number of news articles in support of a publically-accessible sex offender registry, similar to that of the United States. These stories mixed in with the usual assortment of others about paranoia backfiring, which really make you realize why the UK is the hysteria capital of the world.

Recommended stories:

- [Anti-paedophile march 'not welcome' in Dorchester](#), [Dad Branded A Paedophile Over Pic Of Son](#), [Parents to learn of sex offenders](#), [Who's really exploiting children on the Web?](#), [Teenager detained for web abuse](#), [Paedo march: Angry protesters call for action](#), [Brand paedophiles family claims](#), [Child sex offender driven out of home](#), [Weymouth march against paedophiles](#), ['We're afraid of our kids, and we're afraid for them'](#).

From around the world - Censoring anything because it may be child pornography

[All stories](#)

New laws are being imposed around the world to censor child pornography, at the same time the definition of child pornography is being broadened in places to include fictionalized stories and cartoons involving children and sex.

Recommended stories:

- [Caught writing fictional child pornography \(Australia\)](#), [Polish newspaper claims "Pedobear" is 2010 Vancouver Olympic mascot \(Poland\)](#), [Child pornography cartoon collector sentenced \(Australia\)](#), [Man in court over Simpsons porn \(Australia\)](#), [Girl, 9, gives birth \(China\)](#), [New law to censor internet child pornography \(Germany\)](#), [InternetNZ: Child porn filter 'not the answer' \(New Zealand\)](#), [120 arrested in paedophile sting operation \(Poland\)](#), [Police bust suspected child sex ring \(Cambodia\)](#), [Vigilantes post paedophile warning signs \(Australia\)](#), [No. of child pornography case hits record high in Japan in 2009 \(Japan\)](#), [France files under Internet censorship \(France\)](#), [\(Anti\)Paedophile site reported for privacy violations \(Sweden\)](#).

Letters to the Editor

Strato writes in response to Stephen James's editorial in this edition of *Uncommon Sense*:

Stephen James' editorial argues that there is a need to present proposals by means of which legal systems might better incorporate the phenomenon of "intergenerational sexual relationships." In this brief response, I do not intend to deal with the scope and content of the proposals offered. While I empathize with the sentiments underscoring the inclination to construct such proposals, I disagree with the broader strategy.

Notions such as "sex", "sexual abuse" and "consent" are discursive, affective formulations, which our cultural machines manufacture, reproduce, and revel in. These figurations become entrenched as semiotic shorthand, such that "everyone knows" what such terms represent. Engaging with these hegemonic fabrications (as the legal proposals do) is to collaborate in their maintenance, to *contribute* to their perpetuation.

I suggest that our task is to refuse these constructions, and more importantly, to provide alternatives. To liberate thought from its arboreal straitjacket, we must attack the recognizable; we must focus our attention on mechanisms for introducing breaks and ruptures into the flow and propagation of that which passes as "common opinion".

This tactic neither looks to some Utopian social formation nor even acknowledges teleological agenda. (It may be the case, for instance, that a by-product of the eradication or irrevocable dilution of the notion of "sex" itself would be to render all "sexual offenses" and "age of consent" legislation both incomprehensible and otiose. Our concern is not with such a future, however, but with disrupting the present.)

The Newgon collective, along with other groupings and organizations, has potentially unlimited artistic and intellectual capacity for the creation and dissemination of new understandings of affective intersubjective connections. (Art, for instance, is particularly well-placed to disengage the apparent synchronicity of language and experiences, and thereby to dislodge affective responses and sensibilities. Moreover, current technology offers the means for its utilization and widespread propagation.)

The production of narratives offering alternatives to those presently circulating should be our immediate priority, and it is here that our thought, activities and creativity should be focused.

Stephen James writes in response:

In response to my editorial **Intergenerational Sex: A Legal Proposal in Uncommon Sense** #5, Strato says: 'The production of narratives offering alternatives to those presently circulating should be our immediate priority, and it is here that our thought, activities and creativity should be focused.' It seems that he is objecting to my editorial on the grounds that it does not fit in with this immediate priority. He also says that "notions such as "sex", "sexual abuse" and "consent" are discursive, affective formulations, which our cultural machines manufacture, reproduce, and revel in. Engaging with these hegemonic fabrications (as the legal proposals do) is to collaborate in their maintenance, to *contribute* to their perpetuation." But one of the advantages of my proposals is that they do *not* use terms like 'sex' or 'sexual abuse'. The structures I envisage are intended purely as mechanisms for empowering individuals (of any age, incidentally) to end unwanted relationships. Even the notion of 'consent', as the system understood, is not needed. A person using this system will be someone who wants a relationship (in the broadest sense of the term) to end. The normally need not inquire into whether that relationship has been, up to now, 'consenting'. When Strato says that "our task is to refuse these constructions, and more importantly, to provide alternatives", I could argue that as far as these legal proposals are concerned, this has already been done. Of course, the proposals were not intended as final or definitive, something which I made clear in the editorial.

If I understand him correctly, Strato has indeed correctly identified at least part of our immediate priority, and it is to show how current attitudes and legislation oppress people attracted to minors. (This, I take it, is the purpose of producing 'narratives offering alternatives to those presently circulating'.) At the same time, I don't think that our activities should be *limited* to this, and for a simple reason. If people ask us 'So what would you do about age of consent laws. Would you keep them or not?' we need to have some kind of answer. We also need to be honest. 'Anti' who oppose projects like B4V-act, which seek rather limited changes to the status quo (on the grounds that these are achievable in the short run), tend to charge that those involved in these projects have a 'hidden agenda'. In my case, I suppose they would be right, the agenda being to work towards a world in which all kinds of mutually desired relationships are free to develop without harmful interference from the state. (I hardly need add that this does not mean that my commitment to the short-term goals is in any way deceptive—these goals are also important in their own right.) In my view, we shouldn't be in a great hurry to reveal this agenda to the 'outside world'. When I post on outside boards, I don't make 'utopian' proposals of this kind. However, when pressed, we should be honest about what we ultimately want and be prepared to defend it. But of course, first we need to decide what we do ultimately want, and I see my editorial as a contribution to this.

On the forums

BoyChat

Sincere tributes were [paid](#) to long-term poster Bill Evans, who died on 21 January this year of a cancer-related illness. Diverse views were [expressed](#) on the long-standing problematic of Age of Identifying BLs on gays and gay marriage. A visitor to BC [cavanned opinions](#) on a CL "no-trade day", generating some discussion about activism, while Steve Diamond [directed](#) posters' attention to an [online petition](#) calling for legislation to stop vigilante violence against "sex offenders".

Links and recommended reading

Marshall Burns, PhD: ["Look Who's a Sex Offender Now!"](#) critiques the US sex offender laws by providing numerous "heartbraking" examples of people placed on the US sex offender registry.

Professor Walden, a former trustee on the Internet Watch Foundation (the quasi-governmental, "self regulatory body" of UK Internet Service Providers), has [argued](#) that UK authorities have taken advantage of the terrorism and child pornography fears to justify the erosion of civil liberties and the imposition of 'Brother-like' scrutiny of all internet activity.

[CP Explosion](#) is a blog concerned with "Exploding the lies, myths, doublespeak, and shoddy journalism surrounding child pornography" and argues for "the establishment of a legal, safe, regulated market for child pornography."

Chris Ashford, a Principal Lecturer in the Department of Law at the University of Sunderland, UK, maintains a [blog](#) on Law and Sexuality, which frequently touches on questions of 'pedophilia' and related legal developments.