



Child Pornography and Sexual Grooming

Legal and Societal Responses

SUZANNE OST

CAMBRIDGE STUDIES IN LAW AND SOCIETY

CHILD PORNOGRAPHY AND SEXUAL GROOMING

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CHILD PORNOGRAPHY AND SEXUAL GROOMING

Child pornography and sexual grooming provide case study exemplars of problems that society and law have sought to tackle to avoid both actual and potential harm to children. Yet despite the considerable legal, political and societal concern that these critical phenomena attract, they have not, thus far, been subjected to detailed socio-legal and theoretical scrutiny. How do society and law construct the harms of child pornography and grooming? What impact do constructions of the child have upon legal and societal responses to these phenomena? What has been the impetus behind the expanding criminalization of behaviour in these areas? Suzanne Ost addresses these and other important questions, exploring the critical tensions within legal and social discourses which must be tackled to discourage moral panic reactions towards child pornography and grooming, and advocating a new, more rational approach toward combating these forms of exploitation.

SUZANNE OST is a Senior Lecturer in Law at Lancaster University. She is also assistant editor for the *Medical Law Review* journal and a member of both the Society of Legal Scholars and the Socio-Legal Studies Association.

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The law as discussed within this work is up-to-date as of September 2008.

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Below, in the first shadows, drooped hosts of little white flowers,
so silent and sad; it seemed like a holy communion of pure wild things,
numberless, frail, and folded meekly in the evening light ...
We have lost their meaning. They do not belong to us,
who ravish them.

From *The White Peacock*, D. H. Lawrence (1911)

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INTRODUCTION: CONSTRUCTIONS, THEMES AND CRITICAL TENSIONS

In writing this book, I have chosen to focus upon two highly sensitive and disturbing phenomena that tend to generate a commonly shared repugnance, matters which our contemporary society has chosen to target as one part of its attempts to protect children from sexual abuse and related acts. Social, medical and legal narratives upon the subject of child sexual abuse abound. However, despite the considerable political, legal and societal concern and media coverage that child pornography and sexual grooming attract, these critical phenomena have not, thus far, been subjected to detailed socio-legal and theoretical scrutiny. Moreover, legal research and literature on child pornography and grooming are, at this point, still fairly sparse. The time is thus ripe for us to engage in a critical analysis and evaluation of the way in which society and law are responding to these subjects. A close analysis of child pornography and grooming is particularly important, since they offer case study exemplars of problems that law and society have sought to tackle to avoid not only actual, but also potential and more remote, harms to children.

However, one of the consequences of the increased legal and societal attention paid to child sexual abuse and related acts over the last few decades is that anyone wishing to carry out critical socio-legal research does so only after much serious thought and with caution. There is an inevitable concern about the reception of a work that critically analyses society's attempts to address and eradicate what is considered to be an abhorrent evil in our society. Child sexual abuse, after all, is a subject that is capable of evoking strong and raw emotion. An author may be treading on dangerous ground if he or she tries to predict the way in which readers will respond to his or her work or the impact that it will have, but I can at least explain my rationale for writing this book. I intend to encourage a reassessment of the way in which we, as a society, endeavour to protect children from the threat of physical and psychological harm that child pornography and grooming represent. As a consequence, a central

theme explored within this work is that of children's vulnerability to harm and their exploitation.

My main objective is to expose and analyse what are, in my view, the critical tensions that exist within current legal and social discourses surrounding child pornography and grooming. These critical tensions form the principal themes of the book. Throughout, my analysis revolves around the framing and constructions of children, child pornography and grooming in legal, social, political and cultural narratives. There is a pivotal argument that runs through this book. It may not come as a surprise that I will reason that child pornography and grooming are both stark examples of adults exploiting children. However, I will argue that, in certain important respects, society is not dealing with this exploitation in an appropriate way. It is vital that we reframe the way in which this exploitation is ideologically presented if we truly wish to offer children the best protection that we can and, at the same time, respect and value them for who they really are. I develop my argument through socio-legal analysis, and there is also an empirical dimension to my research. The remainder of this chapter will introduce the main theories that inform the analysis within this book and highlight significant themes and tensions that the work addresses.

SOCIAL CONSTRUCTION THEORY AND A DISCOURSE OF MORALITY

All of the themes that I identify and analyse in the next section involve tensions that society must deal with so that it can get to grips with what it really wants to protect children from. Moreover, these tensions must be tackled in order to discourage a reaction to child pornography and grooming that inadvertently places children at further risk of harm. These tensions have emerged because of the way in which children are constructed as social and legal beings. Just as crucially, they exist because of the manner in which society and law construe the harms of child pornography and grooming. As a consequence, social construction theory and the concept of a morality discourse underpin my central analysis and method and thus it is to these that I first turn.

Social construction theory gained prominence in the late 1960s following the publication of Berger and Luckmann's influential work,