

Mediating Conflicting Constructions of Childhood Sexual Experience: A Case Study

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ABSTRACT

This paper describes a case study involving two primary school age children and their sexual experience together. The young girl interpreted the experience as abuse, and the young boy defined the experience as exploration. The cultural, environmental and structural factors which may have contributed to this difference of interpretation are presented. The author discusses the criterion used to distinguish between sexual exploration and sexual abuse between two children and addresses the difficulty in applying these standards to the normal sexual behavior of children. A case study is presented using the constructionist paradigm to mediate the conflicting interpretation of events, so that both definitions of the situation are recognized as authentic. The case study presents a situation where it may be in the best interest of all involved to validate both childrens' perceptions of reality. Finally, the author concludes with a detailed discussion of the mediation methods used to resolve the intractable conflict and the ethical issues raised by their use.

Introduction

A growing recognition of child-to-child and adolescent-to-child sexual abuse has increased the need to understand normal sexual behavior between children. Unfortunately, research in the area of childhood sexual

play is not sufficient for us to easily make that distinction (Lamb and Coakle 1993). This paper describes an attempt to distinguish between abuse and exploration between children, and explores the consequences of the current dichotomous system of classification. I use the social constructionist paradigm to describe the differences in the childrens' construction of their sexual experience. I begin by relating the criterion used to distinguish childhood sexual exploration from sexual abuse between children to the case at hand. I will discuss some of the cultural factors which contribute to the different interpretation of childhood sexual events. I will then describe the consequences of the adversarial structure of our criminal justice system. Finally, I review the methods I used to mediate the two conflicting constructions of this sexual interaction between the two children.

The social constructionist paradigm helps us understand the process by which the children "make meaning" of their sexual experience (Berger and Luckman 1973; Lincoln and Guba 1990). If reality is no longer considered to be an objective entity called "truth," but rather is seen as subjectively and "socially constructed," it becomes possible for us to entertain more than one "truth" for each reality. This is especially important for sexual behavior because "sexuality never means one thing once and for all. As children mature they redefine their past experiences in terms of their new knowledge. Interpreting children's sexual experience through adult meanings is a gross error" (Plummer 1991, p. 237).

The developmental perspective is most frequently used to evaluate children's sexual behavior and to distinguish between exploration and abuse (Sgroi, Bunk and Wabrek 1988; Bukowski, Sippola and Brender 1993). This perspective asks the question, is the sexual behavior displayed developmentally appropriate for the child? In this case, the children were both approximately primary school age (usually 6-10 years old). The sexual behaviors that are developmentally appropriate for children of this age group include touching oneself, looking at others, and creating opportunities to touch others, primarily their peers. We would NOT expect a child of this age group to engage in open mouth kissing or simulated intercourse (Yates 1978). This sexual touching is usually placed within the context of a game or "pretend" situation (playing doctor, playing house, etc.). Goldman and Goldman (1988) reported that nearly two-thirds of children report some sort of sexual experience with peers prior to the age of twelve. Thus it seems many children share sexual experiences in a non-problematic way. One study found that eighty-five percent of the women in the sample reported a childhood game experience (Lamb and Coakley 1993).

Another feature of primary school age children's sexual activity is secrecy. Even by the age of two or three, most children learn that masturbating in front of others is likely to get them into trouble. "In other words, the primary school child is likely to take for granted that secrecy and privacy are required to avoid detection and reproof or punishment" (Sgroi 1988, p.4). On the other hand, secrecy is also listed as a feature of sexual abuse. If an individual uses threats or force to secure a promise of secrecy, clearly this is beyond the level of secrecy deemed "normal."

A third factor to consider when distinguishing abuse from exploration is the relative power held by the participants. An older sibling, or a young adolescent who has been left in charge of younger children has considerable authority and their requests can be interpreted as demands. The best way to determine the level of power of the participants is to examine what statuses they occupied at the time of the incident, and the emotional intensity of the relationship between them. When the two children involved are siblings, it is a combination of the status relationships (both are children, but one sibling is older) and the emotional relationships within the family which help distinguish exploration from abuse. In relationships of greater social distance (class mates, neighborhood friend), the greater the status difference, the greater the likelihood of abuse.

Cultural/Structural Factors

American culture is satiated with sexuality. Our children are raised in an environment filled with sexual messages and images. Yet, even as we implicitly tell children how important sex is in our society, we discourage, even negatively sanction sexual exploration by and between children (Jackson 1982; Yates 1978). Some parents react more strongly than others, but it is considered unusual, perhaps even pathological, NOT to try to limit sexual exploration between children. The cultural sanctions received by a child who is caught exposing their genitals to another child are not a matter of law, but rather are dependent upon the individual who first learns of the behavior or activity (Finkelhor 1979, p. 65). The meaning a parent or other significant adult figure attaches to the sexual experience is shared with the child and they develop feelings based upon the interpretation of the event.

There are a wide variety of reasons why 'Jane' has interpreted her sexual experience with 'Jack' in a negative way, and why Jack inter-

preted his experience in a positive way. Culture furnishes the child with scripts which define and explain sexuality (Gagon and Simon 1984). Boys are socialized to talk about sex at a much younger age. "Prepubescent girls, unlike boys, are not inclined to discuss or joke about sexual matters. Also, the girl eavesdropping on conversation by adult females is less apt to hear of these matters than is the boy listening to adult males" (Elias and Gebhard 1973, p. 41). Additionally, the main source of sex education for boys is the peer group, that is, friends and classmates. Again, because girls are not as likely to discuss sex, they are less likely to be able to interpret the experience and place it within the context of normal development. Another important contributor to the likelihood that young girls will interpret sexual exploration differently than young boys, is gender role socialization and the double standard (Richardson 1988). Boys are expected to explore their sexuality and are generally rewarded in their peer group for their "achievements" in this area. Girls are sanctioned by their peers if they report their sexual exploration because there is no cultural model for feminine sexual development. Girls are also more severely sanctioned by adults for their sexual behavior. The masculine and feminine ideals may also play a part in shaping the events in this case. "Boys are encouraged to see themselves as the active pursuer of sex, and are more prone to organize sexuality around their own satisfaction. For girls, sexuality is much more a matter of something that another defines and is done to them" (Plummer 1991, pp. 241-242). Of the women in Lamb and Coakley's study who reported childhood sexual game experience, 44% described cross-gender play that involved persuasion, manipulation or coercion.

We cannot underestimate the importance of the adversarial nature of our criminal justice system, which assumes that victims and offenders are easily identified as one or the other. Others have commented upon the artificial dichotomy between victims and offenders and whose interests are served by this illusion (Quinney 1974; Simonson 1994). When we as a society decide to settle a certain type of dispute (sexual abuse) in the criminal courts, we subject that conflict to the limitations of the criminal justice system. Most importantly, it limits the ways we may interpret the conflict. In this case, it is the division of truth into fact and fiction that determines the victim and the offender. The social constructionist paradigm is far more useful in dealing with childhood sexual experience than is the adversarial criminal justice system.

Clinical Sociology

This case was presented to me in 1992, while I was the victim/witness advocate for a small rural county in North Dakota. I was called to the police station, where an eleven year old girl and her mother were waiting for me. The mother explained that her daughter (Jane) recently reported that when she was six years old, she was molested by an eleven year old boy (Jack, who is now 15 or 16). They were both in the same summer day care setting, and apparently they spent a great deal of time in the tree house together. On several occasions he asked her to show him her "private parts," and he would then show her his. It was unclear if touching had occurred, but no penetration or other sexual acts were reported. No force was used, however, on one occasion he did have another child "watch out" for the adult caretaker who was in the house. The young girl said she knew at the time that what they were doing was "bad" and that she has felt "dirty" ever since that summer.

The mother was quite upset and confided that she was an incest survivor. She said she felt a sense of failure because she was unable to protect her child from the same trauma she experienced as a child. She reported that her family of origin was still not on speaking terms since her own disclosure of sexual abuse ten years ago. The maternal grandfather was allowed supervised visitations with the grandchildren, but both maternal grandparents still mostly shunned the woman who reported the incest and "brought shame upon her family." Jane knew that the reason her mother did not speak to her grandfather was because "he had touched her mama's private parts when she was a little girl."

Matters were further complicated by the social position of the boy's father. The accused boy was the son of a police officer. The mother was sure that if she "pressed charges" the police would try to protect the boy and would be unnecessarily cruel in their treatment of the young girl.

Given these circumstances, her goal was to get the boy into "sex offender treatment" without submitting her daughter to a court proceeding. My role as the victim's advocate was to try and negotiate an outcome acceptable to the identified crime victim and her family. Due to the adversarial nature of our criminal justice system, each actor in the system must fulfill their role rather than strive for justice. The defense attorneys are required to work for the benefit of their clients even if they think or perhaps even know they are guilty. The victim's advocate must work towards the goals or wishes of their client.

The cultural elements were compounded in this case due to Jane's mother's experience with abuse. Because her mother experienced so many negative consequences for telling, Jane may have expected that if she told anyone about her experience, it would significantly alter her relationship with other adults. Jane indicated that she was much more concerned with the reaction of adults to the events than with the consequences of noncompliance; she reported being afraid that "my mom can't take it." The focus of Jane's concern was not her own well-being, but rather the reaction of her mother to her sexual activity. When her mother told about her childhood sexual experiences, the entire family was thrust into chaos from which it has still not recovered. Jane had only one frame of reference in which to place her sexual experience, and that was "sexual abuse." Had she been presented with alternative interpretations of the events, as Jack had been, it is entirely possible that she may not have experienced the sexual events as traumatic.

However, I in no way wish to imply that her pain and suffering are not real or are of her own making. Rather I wish to point out the structural variables which influence social psychological processes of interpretation. Straus (1989) has illustrated the difficulty of conducting research in an area so closely associated with a social movement. Child sexual abuse is a central concern of the Victim's Rights Movement and any discussion of this very sensitive topic must recognize this association. My position as a victim's advocate further explicated the values that were to underlie my mediation efforts. Thus, reactions to my approach to this case have ranged from severe criticism to skeptical appreciation for the novelty of my interpretation and intervention. Let me be absolutely clear—this paper does not attribute innocence or guilt to either party. Rather it details some of the negative consequences of the existing dichotomy between abuse and exploration (exploitation and innocence).

If we assume an event must be abuse or exploration, we can evaluate it using the criteria described earlier in the paper. The sexual behavior in question appears to fall within the range of normal sexual exploration from a developmental perspective, but only if we include both of these children in the primary school age category. Jane is at the bottom of the range and Jack is at the very top of the range. The age differences between the children is five years, the maximum allowed between children during "normal" sexual exploration (Browne and Finkelhor 1986). Ideally, it would be important to interview the children and determine

the extent of their individual sexual development. However, this case came to me five years after the fact, and I could only speculate on this very important element.

Taking into consideration the fact that boys develop sexually at a later age than do girls, and my impressions of their current level of maturity, I felt comfortable placing both of them in the primary school age group at the time of their sexual experience. Although Jack did have another child "look out" for adults, he did not use force or threats to influence Jane to participate in the sexual activity. Jane certainly may have felt pressured and may not have considered any response other than conformity to his wishes. However, I did not believe that an unusual amount of secrecy was involved, considering our societal taboo against children and sexuality (Jackson 1982). The age difference did create some power differential between Jack and Jane. Jack was more experienced and was physically larger than Jane at the time of the events in question and this could have given him considerable authority in her eyes. On the other hand, they both were given the same status at the day care center (child). The status of child is one of subordination to adults, and conformity to others' requests is strongly encouraged. One must ask what Jane thought would be the result of noncompliance to the sexual request. If she believed Jack had the ability to harm her or get her into trouble, then power has played an important role. Jane reported no threats of harm or fear of Jack, and this leads me to think that the relative power status of the two children was acceptably similar.

Clinical sociology is distinguished by its interventions directed at the operational definition of the situation (Straus 1989). We bring a unique perspective to the processing of conflicts by taking into account the multiple interacting layers of social participation which frame human conflicts and their resolution. Conflict resolution strategies can be thought of as existing on a continuum ranging from avoidance to annihilation, with a wide variety of strategies falling between the two extremes (Volpe and Maida 1992:14). These strategies may be employed in either a collaborative or a competitive way. Because the criminal justice system is set up within a competitive framework, this is the standard approach used.

In this case, the best interests of the individuals involved would not have been served by pitting Jane and her family against Jack and the police department. My job was to advocate on behalf of the identified crime victim to the State's Attorney (and or anyone else who has the power to "fix" things for the victim), and to see that all individuals involved received the social or psychological services they needed. My

primary objective was to return the crime victim to her “pre-crime status.” In this case that meant finding a therapy program or counseling center where she would receive services. Although the victims’ assistance program (VAP) is situated within the criminal justice system, many of the interventions on behalf of victims occur outside of that system (Simonson 1994).

As the victim/witness advocate, I had a wide variety of conflict resolution strategies available to use in this case. It was possible to present this case to the State’s Attorney’s office with the hopes that he would agree to prosecute. However, due to the ambiguous nature of the events involved and the ages of the children at the time, it was unlikely that the State’s Attorney would decide to bring this case to trial. By taking this to the prosecutor, I would be providing an opportunity for someone in authority to tell Jane that what happened to her was not important enough for the state to do anything about it. Or, perhaps worse, I would be providing an opportunity for the prosecutor to advance her own agenda at Jane’s expense, and prosecute the case to harass the police department with whom she was feuding.

If this case went to trial, Jane would have to tell a relatively large group of people what happened—something that is never easy. After she has done this very brave thing, the judge was not terribly likely to adjudicate Jack. Perhaps more significant, the fact that Jack’s father was a police officer would generate publicity in spite of the fact that the accused was a juvenile. This publicity would hurt Jane as much as it would hurt Jack. On the other hand, if I did not offer to take this case to the prosecutor, I would be putting the agency in a position to be sued for preferential treatment. Again, the influence of the adversarial nature of the current system cannot be over emphasized. Prosecutors, defense attorney’s and victim’s advocates cannot work cooperatively toward justice, but rather must work for the best deal for our clients.

For a wide variety of reasons, the victim’s family asked to resolve their conflict informally. By approaching this case from a collaborative perspective, I was able to facilitate services for both the “victim” and the “perpetrator” in this case, while preventing the public degradation and labeling that is likely to occur in a court setting. I began by having a long discussion with Jane’s parents about the prosecutorial process and the difficulties we might expect to encounter if we were to prosecute the case. I asked them what they would like to see happen in response to their complaint. Jane was already receiving counseling, and because it was not covered by their insurance, her parents wanted Jack

(or his parents) to pay for the therapy. Jane's mother was adamant that Jack should be sent to a "sex offender treatment program" some forty-five miles away. She believed this was necessary to prevent any future victimization by this boy.

As the victim's advocate I embraced the goal of preventing future victimization. Although I was concerned about labeling this young boy (now 15) a sex offender, my primary obligation was to the victim. This is contrary to the usual "objective" and impartial position taken by mediators (Volpe and Maida 1992). To solve this ethical dilemma, I contacted Jack's parents and suggested they retain an attorney and have her call me. Jack's parents were aware of the allegations and although they did not think what had happened was "sexual abuse," they took the situation very seriously and were concerned about its repercussions for their son. I explained that the attorney and I could possibly mediate an outcome that would be acceptable to everyone involved, without getting formally involved with the criminal justice system.

When Jack's lawyer called me I told her of the wishes of the victim's parents. She of course, refused to subject her client to the consequences of adjudication (sex offender treatment) without the formal adjudication. I had anticipated her objection and had spent a great deal of time explaining this to Jane's parents. After a good deal of discussion, Jane's parents agreed Jack could receive counseling locally, "as long as the counselor knew why he was coming to see them." The therapist was to be informed of the sexual interaction between the children and the contested meaning attributed to the behavior.

Unfortunately, Jane's mother had another demand in exchange for this modification. She wanted to know when Jack was "done" with his therapy. In spite of my best efforts to explain therapist/client confidentiality, she insisted that this was the only way she could be sure he was getting the help he needed. Jack's attorney was understandably concerned that this might encourage a violation of confidentiality. However, Jack's parents were equally concerned with the impact these accusations have had on Jack and his self-image. Rather than risk an adjudication on sexual assault charges and the psychological damages that might cause, they agreed to the informal outcome described below:

1. Jack would see a local counselor of his choice, and that counselor would be made aware, by the attorney, of the nature of the allegations against Jack. He would continue to see this counselor until such time as the therapist decides it was no

longer necessary. At that time, the therapist would call the attorney, who would then call the victim's advocate, who would then inform Jane's mother of the change.

2. Jack's parents would pay for the costs of Jane's therapy for as long as it was necessary.

Summary

Through the use of mediation strategies, the outcome of this case changed from a lose-lose situation to a win-win situation for both the victim and the offender. The victim and her family were pleased that they did not have to suffer through a formal court proceeding, and yet still received reimbursement for the therapy costs. The offender and his family were pleased to avoid a public scandal and the stigmatization that is associated with sexual offender treatment.

This paper used a case example to explain the consequences of the current dichotomous classification of childhood sexual experience, as either abuse or exploration. I showed how the social constructionist paradigm can be helpful when mediating conflicting interpretation of those childhood experiences. Finally, I discussed the mediation methods which allowed my intervention attempt to be successful. This information will be useful to other practicing sociologists or to those working with crime victims and their offenders. This paper contributes to the literature on childhood sexuality, and to our understanding of how cultural and environmental factors can influence the meaning of childhood sexual behavior.

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