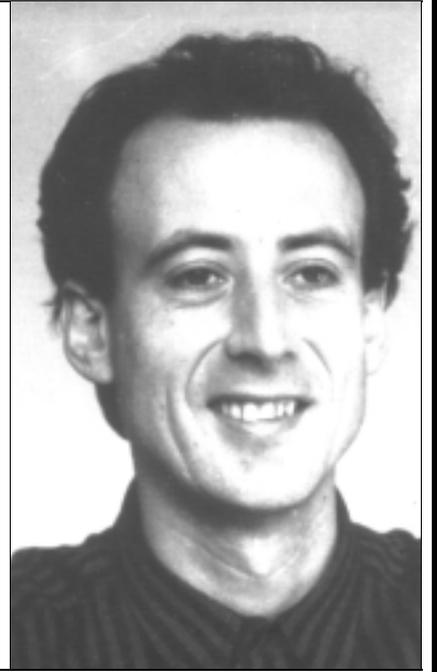


WHY THE AGE OF SEXUAL CONSENT IN BRITAIN SHOULD BE LOWERED TO FOURTEEN

PETER TATCHELL



Despite dire warnings from Baroness Young and the late Cardinal Winning, the equalisation of the age of consent has not resulted in the mass buggery of 16 year old schoolboys by predatory older men. Now that this myth has been nailed and the issue of equality has been settled, perhaps this is an appropriate moment to rethink the age at which consent becomes lawful. Should it be 16 or some other age?

WITHHOLDING INFORMATION

Equality at 16 is a great step forward. But what about the sexual rights and welfare of those under 16? Although we may wish otherwise, nowadays most teenagers — gay and straight — are having sex well before the age of 16. Many are sexually illiterate because of inadequate sex education. Few receive detailed safer sex advice, and most have no ready access to condoms. The age of consent is often used as a justification.

Teachers fear being accused of encouraging criminal behaviour. Their sex advice to pupils under 16 tends to be vague, euphemistic — and useless. They never dare promote the obvious: oral sex and mutual masturbation as safer alternatives to intercourse — even though these alternatives can reduce the risk of HIV infection and prevent unwanted pregnancy. This withholding of practical information is

partly due to the unrealistically high age of consent, which criminalises under-age relations.

CONSENT EQUALS INDECENT ASSAULT

Sixteen is a totally arbitrary age of consent. It originates from 1885, when consent was raised from 13. There is, however, no medical or psychological evidence that 16 (as opposed to 14 or any other age) is the age of sexual or emotional maturity.

The legal effect of consent at 16 is to criminalise youngsters below that age who have consensual sex. The law says that no person under 16 is capable of giving their consent to a sexual act. Any such consensual relationship is automatically deemed an indecent assault. Two 14 year olds who have a mutually agreed relationship risk maximum penalties ranging from 10 years to life imprisonment (depending on their sex and the nature of their sexual acts).

Romeo and Juliet is one of the greatest love stories of all time. But if these young lovers, aged 14 and 13, were living in Britain today, their fate would be equally star-crossed. The law brands as criminal anyone who is sexually active at those ages. In a modern-day equivalent scenario, the parents of a 13 year old girl would not have to plot and scheme like the Capulets. They could get rid of their daughter's



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FOR LIFE, LIBERTY AND PROPERTY

boyfriend by reporting him to the police and having him arrested. Some parents do exactly that!

Although the number of young people under 16 arrested for consenting sex is small, that is no consolation to those who are arrested. One unjust arrest is one too many.

There are, however, many more instances of young men just above the age of consent getting arrested for consensual sex with girls just under the age of consent — about 300 a year in the UK. Most are ratted on by disapproving parents or jealous ex-partners.

A DANGEROUS MESSAGE

For those of us concerned to protect young people against sexual abuse, the current consent law sends out a very dangerous message: no young person under the age of consent is deemed legally capable of consenting to a sexual relationship. In other words, people under 16 have no right to make their own decisions about when they are ready for sex. They have no sexual rights. This is exactly what child abusers believe. It plays straight into their hands.

According to the 1994 National Survey of Sexual Attitudes and Lifestyles, 14 is now the average age of first sexual experience (sexual experience includes everything from heavy petting to mutual masturbation, oral sex and intercourse).

The law, however, says that any sexual act involving a person under 16 is a crime, even mere caressing and fondling. An age of consent of 16 therefore criminalises more than half the teenage population. That is not protection; it's persecution.

To end these injustices, there is a strong case for reducing the age of consent to 14, for both gay and straight relationships.

This is not suggesting that 14 year olds should have sex; merely that if they do have a consensual relationship they should not face legal penalties. It might also be sensible to introduce a policy of not prosecuting sex involving youngsters under 14, providing they both consent and there is no more than three years difference in their ages. Such a rule would strike a balance between affirming the right of young people to control their own bodies, while protecting them from exploitation by people much older.

A similar policy already exists in Germany, Israel and Switzerland. This sliding-scale age of consent reflects the reality that different people mature at different ages — some well before their sixteenth birthday. It also acknowledges the fact that lots of young kids engage in harmless, innocent sexual experimentation with each other. Prosecution is not the appropriate response. They need advice and counselling.

Ideally, of course, it is best for young people to delay sexual experience until they are older. But the reality is that 50 per cent of teenagers have some form of sex by the age of 14. Providing there is genuine mutual consent, they should not face legal sanctions.

Critics say that 14 year-olds are not mature enough to have a sexual relationship. It is true that some are not, but others are. Many are having sex anyway. Maturity is most likely to be ensured by improved sex education, not by illegalisation.

YOUNG PEOPLE FAVOUR A LOWER LIMIT

The vast majority of young people back a reduction in the consent law. In November 2000, a poll of 42,000 girls aged 12 to 16 found that 87 per cent think the age of consent of 16 is too high. Four out of five teenagers responding to a similar survey by the British Youth Council a few years ago favoured a legal limit lower than 16.

A switch to consent at 14 would achieve two positive things: it would reduce the criminalisation of young people under 16 who have consenting sex, and remove the legal obstacles to earlier, more effective sex education in schools.

Many teachers are reluctant to give frank advice to pupils below 16 because they fear being prosecuted by the police or sued by disgruntled parents for aiding and abetting illegal sexual acts. A reduction to 14 (plus the sliding-scale system) would give teachers greater confidence to provide pupils under the age of 16 with the explicit, detailed advice that is essential for their sexual health and well-being.

EDUCATION AND EMPOWERMENT — NOT CRIMINALISATION

Critics say an age of consent of 16 is necessary to safeguard the vulnerable. The consent laws are, however, a wholly inadequate protection. Despite having had a heterosexual age of consent of 16 for over a hundred years, it has not stopped the abuse of under-age girls. Abusers ignore the law. Even if consent was raised to 25 it would not stamp out abuse.

The key to protecting teenagers is education and empowerment. A reduction in the age of consent to 14 must therefore go in tandem with extending sex education to tackle abuse issues. Young people need to be given the skills and confidence to resist and report unwanted sexual advances. Schools should be required to teach pupils how to deal with sex pests, and to offer sexual assertiveness training so they feel confident to say 'no' to people who try to pressure them into having sex.

Canada, Germany, Italy and seven other European countries already have an equal age of consent of 14, which applies either in all or some circumstances. This policy is supported by a broad consensus among political parties, child welfare groups and education authorities. Why? Because it works. Compared to Britain, most of these countries have fewer teenage pregnancies, abortions and HIV infections. In the Netherlands, the teen pregnancy rate is seven times less than in the UK, and the average age of first sexual intercourse is slightly higher. This debunks the claim that a reduction to 14 will encourage earlier sexual experimentation and promiscuity.

In Britain, consent at 14 has been supported in the past by the National Council for Civil Liberties (now Liberty) and the Howard League for Penal Reform. Even the ex-Bishop of Glasgow, Derek Rawcliffe, and the late Bishop of Woolwich, John 'Honest to God' Robinson, have backed 14 as fairer and more realistic. I don't often agree with Anglican bishops, but in this case they are right: we do not protect young people by threatening them with arrest and imprisonment. Education and empowerment — not criminalisation — is the best protection.