

Correspondence

Even more against the stream

We all know the law is an ass, but when it comes to defining an age of consent it is more like a badly assembled chimera. You can become criminally responsible at the age of 8 or 10, liable to criminal prosecution from the age of 12, legitimately have sex at the age of 14 while on holiday in Germany, join the Army at 16 and perhaps later die for your country, vote and purchase alcohol or cigarettes at the age of 18, but not hire a car until the age of 25. What an Alice in Wonderland world we live in! Logic would suggest a similar age for all of these activities, perhaps with some allowance for variation justifiable by the extent of risk involved.

The appropriate legal age of sexual consent is not immediately obvious. However, as sexual intercourse with a child under the age of 13 amounts to statutory rape, this might provide a logical starting point. Incidentally, when I last checked, the lowest age of sexual consent in a European country was actually 12 (in Vatican City, somewhat ironically).

Of course, in reality, the limited availability of parliamentary time will make a logical alignment of the various ages for consent a complete non-starter. So perhaps a better question is 'Why have an age of consent at all?' This allegedly offers protection but in reality mainly just criminalises a substantial proportion of the juvenile population and potentially even criminalises an underage victim of a sexual assault. Surely criminal responsibility should only rest with the perpetrator? In this scenario, a perpetrator would commit a crime if, and only if, a sexual act occurred in the absence of consent, and not simply by reason of some arbitrary age. Can we not trust our children to reach their own decisions and just make consent, or rather lack of consent, the sole reason for engaging criminal law?

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Author reply: Lachlan Campbell has a point. My own view is that children under the age of 14 are unlikely to have sufficient emotional maturity or knowledge to make an informed decision as to whether to engage in sexual intercourse.

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