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Age of Consent - Criminalizing Teen Sex

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Sex! We are obsessed, stimulating ourselves through the media, exposing ourselves to non stop sexual images, using sex to sell everything from shaving cream to children's underwear. We are also horrified by our concerns with sexual abuse, child molesters, Sexually transmitted diseases and a belief that sexually expression in childhood may lead to sexual misbehavior in adolescence and adult sexual offending. Our obsession with and horror about sex, have paradoxically generated both great sexual freedom and draconian laws which unfortunately have several (largely unintended) negative consequences. These may be summarized as follows:

1. Legal age of consent is out of sync with normal sexual development and adolescents are given conflicting and many confusing messages about sexual behavior. For example, they can generally consent to abortion and obtain birth control at age 12 but cannot consent to sex until 16 or 18 (depending on the state). As a result, many are being convicted of felonies for developmentally normal behaviors and having to register as sex offenders for the

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remainder of their lives.

2. Pre-pubescent children are being ostracized (and occasionally even criminalized) for sexual behavior that is often normal or at worst, an annoying means of attention seeking.

3. Mandatory child abuse reporting laws, originally designed to protect children have been expanded to identifying offenders, making it virtually impossible for them to enter treatment on their own initiative without first suffering severe legal consequences.

4. Under the guise of "protecting our communities," without a shred of empirical support and in spite of significant empirical evidence to the contrary, sex offenders who served their sentences are being forced to leave their homes (and sometimes families) because they live too close to a schools, playgrounds or parks. In most instances destabilizing these men is patently unfair and in some cases it tends to make them more rather than less dangerous.

In this article I will examine the first of these consequences in greater detail.

Beginning with puberty (average age around 12), sexual thoughts and urges become increasingly stronger and more frequent. Exploring, expressing and learning to manage sexuality is one of the most important developmental tasks of the teenage years and occasional behavior based on poor judgment is obviously inevitable. But the age of consent, which varies somewhat from state to state, is out of sync with normal sexual development in every state. Consequently, adolescents are increasingly being charged with felonies for ordinary, consensual and developmentally normal behaviors. Consider the situation reported by Pamela Manson of the Salt Lake City Tribune (<http://sadlynormal.wordpress.com/2006/12/06/ut-teen-both-a-perpetrator-and-victim-of-sex-offense-presents-legal-puzzle/>)

Utah Supreme Court justices acknowledged Tuesday that they were struggling to wrap their minds around the concept that a 13-year-old Ogden girl could be both an offender and a victim for the same act - in this case, having consensual sex with her 12-year-old boyfriend.

The girl was put in this odd position because she was found guilty of violating a state law that prohibits sex with someone under age 14. She also was the victim in the case against her boyfriend, who was found guilty of the same violation by engaging in sexual activity with her.

Clearly, normal adolescent sexual behaviors have been classified as illegal activities, often labeled "deviant" and therefore worthy of punishment and treatment.

Before we start labeling sexually active teens as deviant, it would be helpful to know what is considered "normal" sexual behavior for adolescents. The dictionary definition of "deviant" is:

deviating or departing from the norm; characterized by deviation: deviant social behavior. OR a person whose behavior deviates from what is acceptable especially in sexual behavior [syn: pervert]

According to the Child Trends Data Bank:
(<http://www.childtrends.databank.org/childbearing.cfm>)

1. Among young people ages 15 to 24 in 2002, 13 percent of females and 5 percent of males reported that their first sexual experience occurred at age 15 or younger with an individual who was three or more years older

2. In 2002,

approximately 25% of teens ages 15 to 19 who had not had sexual intercourse, engaged in oral sex with an opposite sex partner.

3. In 2005 47% of high school students had experienced sexual intercourse. The percentage of students who are sexually experienced increases by grade. In 2005, 34 percent of ninth graders had ever had sexual intercourse, compared with 63 percent of twelfth graders.

Age of Consent Laws were originally written to protect children from forced prostitution. Even 1890's reformers recognized that prosecuting post-pubescent teenagers was not only senseless but undermined the intention of protective legislation
(http://findarticles.com/p/articles/mi_m2005/is_4_35/ai_88583554)

The Society (for the Prevention of Cruelty to Children) concerned itself only with those under the age of sixteen years, arguing that by that age the onset of puberty would have occurred, bringing with it the physical strength and "higher intelligence and greater strength of will" that

distinguished adults from children.

When campaigns by other purity reformers succeeded in raising the age of consent to eighteen years, Elbridge Gerry, the NYSPCC President, complained that the age was now set beyond the time when "a girl became a woman." Not only would it be impossible to obtain any convictions in cases that involved the sixteen and seventeen year old girls, he lamented, but the effort to prosecute such cases would undermine the legitimacy of the law, making it more difficult to win convictions in cases involving girls under the age of sixteen (late 19th Century).

But now these same laws are being used to criminalize virtually all teenage sexuality. One can certainly argue that engaging in sex is not good for teens because it risks unwanted pregnancy, STD's, and social/emotional entanglements they may have difficulty managing. However for all the reasons Eldrige Gerry foresaw and some he didn't, criminalizing the behavior is one of the worst possible strategies for protecting them. Do we REALLY want to prosecute the 14 year old Utah girl and make her into a life-long registered sex offender? Is she THAT dangerous?

Criminalizing normative teenage sexual behavior has the unfortunate outcome of placing sexually active teens on the same sex offender registry as predatory pedophiles. For example, 18 year old Joshua Lunsford, the brother of Jessica Lunsford, for whom Jessica's Laws are named, was recently arrested (<http://www.moraloutrage.net/article.php?story=20070527141858433>) for "unlawful sexual conduct" with a 14 year old. If convicted, he will be required to register under the same laws as John Couey - his sister's murderer.

Or, ponder the fate of Genalow Wilson, who at age 17 had consensual oral sex with his 15 year old girlfriend. For this "felony" he is presently serving 10 years without possibility of parole in a Georgia prison.

What makes this case more absurd is that if Mr. Wilson and the young woman had sexual intercourse, he would have been guilty only of a misdemeanor and not required to register as a sex offender, thanks to a provision in the law meant to avoid just this type of draconian punishment for consensual youthful indiscretions, the "Romeo and Juliet" exception. (Free Genalow Wilson) (<http://www.nytimes.com/2006/12/21/opinion/21thu4.html?ex=1324357200&en=51de6bd7030c60c0&ei=5090&partner=rssuserland>)

As Wilson's trial was unfolding, a 27-year-old teacher was being found guilty just down the hall of sex with a 17-year-old student -- the kind of crime for which child molestation statutes were written. She got three years of probation and

90 days in jail.

<http://www.miamiherald.com/285/story/60572.html>

Our culture sensationalizes sex for profit ... whether we are selling clothing, toys television shows or 24/7 infotainment. One problem with this is that it's a kind of "addiction". Over time we become increasingly numbed to content that once excited us, so we demand more and better. Maintaining viewer interest requires the media to constantly find new things to alarm us. The end result has been moral panic about all sexual misbehavior. (If we were meth addicts instead of sexual infotainment addicts, we'd be "tweaking" at this point.)

Moral panics

(http://www.state.nj.us/corrections/REU/pdf/Moral_Panic.pdf) have been described as a condition, episode, person or group of persons, which emerge to become defined as a threat to societal values and interests. These threats are designed in a sensationalized fashion by the media as well as other agents of social control, including politicians, law enforcement and religious leaders, with the intention of establishing meaningful parameters for acceptable societal behavior.)

Moral panics

(<http://www.mediaknowall.com/violence/moralpanicnotes.html>) then, are those processes whereby members of a society and culture become 'morally sensitized' to the challenges and menaces posed to 'their' accepted values and ways of life, by the activities of groups defined as deviant. The process underscores the importance of the mass media in providing, maintaining and 'policing' the available frameworks and definitions of deviance, which structure both public awareness of, and attitudes towards, social problems."

So who are WE in the matter? We have become complacent and satisfied with expressing our outrage without exploring how we contribute to it. Advertisers use sex to sell products because WE buy more them when they do. We watch "To Catch a Predator" and feel comforted to know that Chris Hanson and Perverted Justice have already exposed 200 potential child abusers. But the producers don't ask us to consider what it says about human nature that so many men, even with the notoriety of the show, will seek out a sexual encounter with a teen. The audience would probably shrink away with the first mention that male sexual interest in teenage girls is normal or that research does not support that teens are always harmed by sexual experiences with an adult.

Movie legend Kirk Douglas

(http://www.contactmusic.com/news.nsf/article/douglas%20was%20willing%20victim%20of%20statutory%20rape_1019967) became a willing victim of statutory rape

when he lost his virginity to a school teacher aged just 15. In his forthcoming autobiography LET'S FACE IT - 90 YEARS OF LIVING, LOVING AND LEARNING, the veteran actor confesses he didn't realise (sic) his lover could face prison for their affair, but still doesn't regret a thing. Recalling the tryst he writes, "I had been a ragamuffin kid of 15 coping with a neighbourhood (sic) filled with gangs... Under her guidance I became a different person. I am eternally grateful. "By today's standards she would have gone to jail. I had no idea we were doing something wrong. Did she?"

But that conversation is not popular and not widely engaged in, at least openly. The blueprint for "To Catch a Predator", for the politics around sexual crimes, for the exceedingly harsh penalties for sexual misbehavior is in the message that it we need to watch out for "them" not "us.". As long as we language the dialogue in this fashion we will continue down the path of creating more victims than we protect. Just ask Genalaw Wilson, Josh Lundsford, and a 14-year old girl in Utah who we are "protecting" by withholding her name while ruining her life.