

AGE OF SEXUAL CONSENT ARGUMENTS

Civil libertarians, found in abundance in Freedom of Expression institutions, also point to what they see as a discrepancy between the age of sexual consent and the age at which one may legally participate in pornography. In most countries, the "child" in "child pornography" is anyone under the age of 18 years, while, in the same countries, the age of sexual consent is 14. The question that civil libertarians ask is why should a 14-year-old be considered competent to choose to have consensual sex but incompetent to consent to the recording of that act or to possess images of his or her act?

Unfortunately, the answer is not straight-forward and involves legal, moral and child development issues. One reason is that a legal minor cannot consent to participation in child pornography and, as John Carr explains, "every part of the chain, from the original producer through to the distributor, publisher and possessor of child pornography is, therefore, touched by this inescapable legal and moral fact." (John Carr, *Theme Paper for ECPAT*(2001) Children, generally, should not be expected to fully understand the long-term consequences of their actions, particularly in the age of the WWW which allows for the existence and distribution of the images of their sexual activities for as long as a single computer exists anywhere in the world.

Those who see a discrepancy between the age of sexual consent and the age at which a person may legally participate in pornography ignore a fundamental fact: child pornography involves the abuse of children ranging in age from a few months to teenagers, focussing, perversely, on the "rights" of adults to sexual gratification rather than on the fundamental rights of children and the principle that in all matters

concerning a child, the child's best interests is paramount. How does the "age of sexual consent" apply to a three-month baby being sexually assaulted and tortured? How does the "consent" argument apply where there is an unequal power relationship, such as between father and child or teacher and learner? And what about the interactive child-rape-torture-to-order Internet sites where viewers can order their sexual fantasies with children acted out in real time using video streaming and voice-overIP or the bestiality genre of child pornography where young children are made to perform sexual acts with animals? And they also ignore, conveniently, the wider context of the international child sex trade and the linkages between child pornography, child prostitution, child trafficking and child sex tourism.

Only those interested in the sexual abuse and exploitation of children would see any merit in even discussing the question.

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