



Zone of protection, zone of support

**Rape Crisis Network Ireland
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In the past three weeks members of the Joint Committee on Child protection have told us on many occasions that it is a mistake to refer to the 'age of consent' as that term is not used anywhere in the statute books. They asked us instead to conceptualise it as the age of protection. Yet, despite not being codified, the 'age of consent' is a concept all Irish people readily understand. We therefore have a dilemma, the age of consent does not exist in law but nevertheless has a very real social and cultural existence.

We have asked this committee to recommend legislative and policy reforms which will protect our children, particularly in light of the fall of statutory rape legislation. As part of that task we broadened the remit and asked the committee to also look at the age of consent and wider policy issues.

The committee have presented us with a 'zone of absolute protection'. This is a legal construct. It is constructed to serve lawyers, the Gardai and the judiciary in holding to account those who cross the line and engage in abusive underage sexual activity, whether they are older predators or younger peers. It is a code which delineates the reach and boundaries of the criminal justice system as it relates to sexual activity with young people.

Yet there is much more in the committee's 62 recommendations besides the tools necessary for the service of the criminal justice system and this zone of absolute protection.

The zone of protection is constructed through a raft of measures at the apex of which is the age at which strict liability applies. These measures relate to sentencing, juvenile offenders, rules of evidence, probation, sex offender registration and vetting procedures and capacities. This zone of protection sends out the signal that children enjoy the law's absolute protection under the age of 16 and that transgressions incur severe penalties. The message is if you are an adult and engaging in sexual activity with young people, it is your responsibility to beware. This is an appropriate, strong and welcome message.

However, this zone of protection is fully constructed without any need to engage or refer to the age of consent. The age of consent is somehow a left-over.

The committee, faced with this dilemma, decided the solution was to subsume the age of consent into the zone of protection thus conflating the two instruments of strict liability and age of consent. This serves to clarify and tidy up what is a messy part of the law. However, with the age of consent tied to strict liability one has to ask, what is the point of an age of consent – is it now a concept emptied of all function?

Before we give up on the age of consent and nullify it out of its legal, social and linguistic existence, it is our responsibility to know what exactly it is we are set to erase.

I would argue that the age of consent is left-over, because it in fact sits at the apex of a different zone. That is the societal and cultural zone – the zone of support and consent.

This zone includes a culture which sends out positive messages to teenagers about their sexuality, a society which is open about sex. It is a society where teenagers talk openly with

their parents about their sexual choices and decisions. It is a society where teenagers no longer engage in first sex in alleyways, numbed by alcohol, where contraception is an afterthought. It is a society where teenagers can readily access professional information, advice and treatment. It is a society where we know what our children are up to because they are not afraid to tell us.

The measures in this zone include mandatory sex education which not only explores the physicality of sex and safe sex but also focuses on building skills in self and mutual respect. This sex education would include building teenagers' skills in being able to identify for themselves when they want to become sexually active and not simply to buckle under peer pressure and inexorable sexualising market forces. It is sex education which trains and equips teenagers to negotiate their choices with confidence.

This zone of support promotes public awareness campaigns which challenge us to build a mutual understanding of consent, where currently there is no shared understanding only harmful myths, stereotypes and misinformation.

This zone of support would ensure that Sexual Health centres were located throughout the cities and country, which would be readily accessible to young people. Here they could go with confidence to receive the expert advice, information, STI testing and if necessary, treatments they required and where they could discuss and access affordable contraception.

Statutory guidelines for the professionals providing these services, based on the legal precedence of Gillick competency such as they have in the UK, would be developed. Professionals in Ireland would be protected when they seek to meet the needs of young people under the age of consent. Statutory guidelines would clearly delineate the advice and treatment that was to the benefit, health and wellbeing of the child. Where child abuse became an issue, we could all be confident that child protection guidelines and statutory obligations to report would be activated.

The zone of support would include parents acknowledging that if their children do not speak to them about sex then they need to address that in their relationship. Guidance and support for parents in addressing that would be widely available.

This is why the age of consent is a precious concept to us. It is why the age of consent cannot and must not be subsumed into a merely practical legal framework.

Further, we do not live in this ideal. This the committee are all to aware of. They have put forward many of the recommendations which would begin to construct an effective zone of support. However, we live in an Ireland where only recently a young couple driven by a shame so great they hid their pregnancy and gave up their child for adoption against their wishes. We live in an Ireland where they are not alone in hiding their pregnancy and where 80% of women now in their 30s regret their early sex.

When we have a society that treats sex and particularly early sex in an open and caring manner, then let us talk about the age of consent. But until then it is, disgracefully and miserably, all that we have.

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