



# WHY THE AGE OF CONSENT SHOULD BE THE SAME FOR HOMOSEXUALS AS FOR HETEROSEXUALS

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The age of consent for homosexuals, both male and female, to engage in sexual activity, should be exactly the same as for heterosexuals. This is a simple requirement of natural justice and the rule of law. It is to be welcomed that the abolition of this outmoded legal discrimination is now being seriously considered.

The case for treating homosexuals the same as heterosexuals does not depend upon any necessarily favourable view of homosexuality. It is irrelevant whether one believes that a person's sexual tastes are morally no different from their tastes in food, drink, clothes, cars or art, or whether one believes that homosexuality is a perversion, a psychological disturbance, sinful or simply personally disgusting. The position is the same as the classical liberal defence of free speech. People should be free to express their views, no matter how foolish or obnoxious. Believing that Marxists, Fascists, Muslims or Christians should have free speech does not mean that one approves of Marxism, Fascism, Islam or Christianity. It simply means that an open society and natural justice requires that all should be treated equally and that the State has no right to dictate what is true or false.

## SOCIAL APPROVAL?

It has been argued (most recently in *The Daily Telegraph*) that the present legal discrimination should not be abolished since a change would indicate that "Society" approves of homosexuality. It is right, in their view, that "Society" should actively discourage homosexuality. But as Margaret Thatcher correctly observed, "Society" does not exist, only individuals do. The anti-reformist position simply means that some individuals are using the law to impose their personal preferences upon others. It is no different from the view that used to be held that "Society" should discourage Roman Catholicism, or other allegedly heretical or sinful or dangerous religions. It is also no different from the contemporary health fascist assertions that "Society" should discourage such activities as drinking and smoking. The replacement of religious concerns by secular and materialist pieties and fanaticisms has been much noted by both conservative and classical liberal writers. They have rightly rejected the intolerance of the prefects of political and lifestyle "correctness". It is thus paradoxical and unfortunate that some conservatives still wish to engage in the imposition of sexual correctness. Contemporary legal discrimination in sex is no different from the religious paternalism of the past or the schemes of the enlightened inquisitors of political correctness today.

## THE RIGHT TO BE WRONG

As with free speech, to grant full legal equality to homosexuals does not mean personal approval of their tastes. Neither does it mean that anyone should be coerced into associating with, employing or approving of homosexuality. Those who wish to express their distaste for, and discouragement of, homosexuality are, and should be, free to do so. In fact it is ironic that those who would wish to use the law, in the name of "Society", to discourage homosexuality can offer

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no objection of principle to the multitude of crackpots who also wish to use the law to coerce others into *their* versions of morally and politically correct behaviour or opinions. The anti-reformists are the mirror image of those foolish gay activists whose attempt to use compulsory state education and local ratepayers' money to propagandise and inculcate their views so angered many parents. The answer to those gay activists who wish to make private discrimination against, or the expression of any criticism or disapproval of, homosexuals and homosexuality illegal is to establish the clear boundaries between legal equality and the free choices and free expression of all citizens. "A fair field and no favour", as the old liberal slogan put it, is what the State owes all its citizens, whatever social, sexual, ethnic or economic group they belong to.

## MORALITY

Some conservatives argue that the case for equalising the age of consent necessarily rests upon an inherently skeptical view of the nature of morality, a view that no rational or universal moral judgements can be made. But this is not so. Even if we are sure of the correctness of any particular moral position (and as an exponent of Natural Law I believe that true knowledge *is* accessible in the moral as well as the physical realm) it does not follow that the law should somehow dictate or impose personal or sexual morality. The idea that the State can or should dictate morality fundamentally misunderstands the nature of morality itself. The condition of genuine moral choice is precisely freedom and free choice. Coerced or constrained behaviour does not achieve true morality any more than religious persecution achieved true belief on the part of those coerced or constrained. Freedom and free choice (including the freedom to act immorally but non-coercively) is not only a moral right in itself but is the *essential precondition* of an act being moral.

## PROTECTING THE YOUNG?

It is sometimes argued that young people deserve special protection against so-called sexual corruption. While the law lays down a period of protection in many matters for minors, there can be no case for the age of consent in either sexual or other areas to discriminate as it now does. It is absurd that a young man should be forbidden to engage in homosexual activity when he can vote, serve in the armed forces, smoke, drink, drive, get a mortgage, get married, become bankrupt and be held fully liable for criminal or civil offences.

It is also sometimes argued that young men go through a potentially bisexual period when they are allegedly vulnerable to homosexual seduction. Homosexual experience at this age will supposedly dictate one's sexual preferences forever (and hence blight one's life, in the view of the proponents of this view).

But this is a piece of nonsense from the Freudian fantasy factory that has no objective support. There is no evidence that "natural" heterosexuals will have their potential or propensities for heterosexuality eradicated by homosexual experimentation or experience at any age.

The fear – which seems to haunt the advocates of discrimination – that large numbers of people are going to desert heterosexuality should "Society" or the law relax its discouragement is a patent nonsense that barely needs a refutation. (And it also undermines their other assertion that heterosexuality is inherently "natural" and homosexuality inherently "abnormal"). Certainly this does not seem to have happened in France, Greece, Poland, or Czechoslovakia where the age of consent for both heterosexuals and homosexuals is 15, or in Italy and Albania where it is 14, or in Spain where it is (since 1822!) 12, or in Holland where it has recently been made 12. Moreover, that it is actually possible for the law to prevent young men at the peak of their virility and sexual interest from engaging in the sexual behaviour of their choice is also patently absurd – and an unenforceable law has always been recognised as a bad law. It is also a law so obviously inhumane and vicious in its effects on individual happiness that it is hard to see how any reasonable or well-intentioned person can countenance it.

## THE BRITISH TRADITION

It is fitting that growing numbers of Conservative politicians now favour the equalisation of the age of consent. This is actually a return to the older British tradition in such matters. It is not widely appreciated how in most spheres of personal and sexual morality (including prostitution, alcohol, drugs, pornography and so on) the letter and practice of older British law was generally tolerant and laissez faire. It was only in the approximate period 1859 to 1920 that the sorts of restrictions with which we are now familiar were introduced. This was a result of an unholy alliance of statists and authoritarians of both "left" and "right": the "social hygiene" movement, authoritarian "feminists", a paternalist medical profession, and assorted social engineers and middle class busybodies. They achieved the abandonment of traditional British practice against the opposition of libertarians of many stripes: classical liberals, traditional Tories and socialist defenders of the freedom of the workers against what they correctly saw as middle class coercion. It was a 19th century Tory Bishop who opposed the alcohol prohibitionists with the words "Better a Britain drunk and free than a Britain sober and unfree". Modern Tories should indeed return to such traditional wisdom.

There is simply no case on either grounds of morality, justice or prudence for maintaining the current legal discrimination against homosexuals.