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ADOLESCENTS IN SOCIETY: THEIR EVOLVING LEGAL STATUS

INTRODUCTION

*Cynthia Godsoe**

The last few years have brought particularly significant transformations in the interplay between society and adolescents. On the one hand, the law is increasingly recognizing the key neurological and psychosocial differences between adults and adolescents. As the Supreme Court has concluded in a string of recent cases: there are certain “self-evident” and “universal” differences between children and adults confirmed by both science and common sense.¹ On the other hand, young people are increasingly asserting their independence, whether through the use of new technologies or in medical decisions, and are demanding a voice in matters that concern them.²

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¹ *J.D.B. v. North Carolina*, 131 S. Ct. 2394, 2403–04 (2011) (referencing the long common law history of differentiating between minors and adults); *see also* *Graham v. Florida*, 130 S. Ct. 2011, 2026 (2010) (confirming differences between juveniles and adults in finding life without parole to be an unconstitutional punishment for juveniles charged with non-homicide crimes); *Roper v. Simmons*, 543 U.S. 551, 569–73 (2005) (finding the death penalty unconstitutional for juveniles based upon their immaturity and differences from adults including greater vulnerability to peer pressure). For an earlier recognition of this truth, *see Bellotti v. Baird*, 443 U.S. 622, 635 (1979) (plurality opinion) (“[Youth] often lack the experience, perspective, and judgment to [make the right choices].”).

² *See, e.g.,* Susan Saulny, *Black? White? Asian? More Young Americans*

An initial question is: What exactly is an adolescent? Definitions vary but are uniformly vague: Black's Law Dictionary, 6th Edition, defines "adolescence" as "[t]hat age which follows puberty and precedes the age of majority."³ Other definitions are similarly unhelpful: "Of, relating to, or undergoing adolescence (i.e. . . . 1. The period of physical and psychological development from the onset of puberty to maturity. 2. A transitional period of development between youth and maturity: *the adolescence of a nation*)";⁴ or, "a young person who is developing from a child into an adult e.g. *adolescents between the ages of 13 and 18 and the problems they face*."⁵ The term adolescent is often used synonymously with teenager, but arguably also includes those aged ten to twelve, or "tweens," and those aged eighteen to twenty-one, the latter being adults for some purposes.⁶ The definition depends upon whether one is using the term to refer to cultural, physiological, or neurological maturity. Cultural maturity—engaging in typically adolescent behaviors such as seeking independence from parents and prioritizing socializing with

Choose All of the Above, N.Y. TIMES, Jan. 29, 2011, at A1 (outlining how young people are refusing to be defined along color lines or to submit to the racial classifications drawn by prior generations); Joey Peters, *Young Climate Activists Push Obama, Vow to Create More Local Awareness*, N.Y. TIMES (Apr. 18, 2011), <http://www.nytimes.com/cwire/2011/04/18/18climatewire-young-climate-activists-push-obama-vow-to-cr-82293.html> (discussing the leadership of young people in revitalizing grassroots movements).

³ BLACK'S LAW DICTIONARY 49 (6th ed. 1990).

⁴ THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 23 (4th ed. 2000).

⁵ OXFORD ENGLISH DICTIONARY 170 (2d ed. 1989).

⁶ See, e.g., Act of July 17, 1984, 23 U.S.C. § 158 (2006) (treating persons under age twenty-one as adolescents for the purpose of consuming alcohol); *Preteens and Teens Still Need Vaccines*, CTRS. FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/vaccines/who/teens/> (last updated Aug. 25, 2011) (grouping teens and tweens in the "adolescents" category for vaccine scheduling). Neurological and psychosocial research indicates that impulse control and other brain functions are not fully mature until the mid-twenties. See Jennifer Ann Drobac, *A Bee Line in the Wrong Direction: Science, Teenagers, and the Sting to "the Age of Consent,"* 20 J.L. & POL'Y 63 (2011) (outlining this research).

peers⁷—and physiological maturity are beginning to occur younger, whereas the latest research shows that neurological maturity may not be complete until the mid-twenties.⁸ Under any definition, adolescents comprise a significant number of Americans: as of 2010, there were 40,979,000 ten- to nineteen-year-olds (and 21,154,000 more twenty- to twenty-four-year-olds), comprising 13.5 to 20.5 percent of the population.⁹

Over the last half-century, adolescents have increasingly been seen as a unique demographic group with their own culture, strengths, and needs.¹⁰ Yet the law recognizes only two categories: childhood and adulthood.¹¹ And with a foot in each class, adolescents have claims to be both excused from and held responsible for their actions. The law has responded to this confusion by being, in a word, confusing. The legal status of adolescents has been variable and often inconsistent; adolescents are treated as mature adults for some purposes and as incompetent minors for others.¹² This area of law has never been more in flux.¹³

⁷ These examples are manifestations of cultural maturity in American society. As the name suggests, signifiers of cultural maturity will vary according to societal norms.

⁸ Although cultural maturity begins earlier, it also continues later, with more young people in their mid-twenties remaining financially dependent on their parents, often even living in their childhood homes. See, e.g., Jennifer Rosato, Essay, *What Are the Implications of Roper's Dilemma for Adolescent Health Law?*, 20 J.L. & POL'Y 167 (2011) (discussing this trend).

⁹ U.S. CENSUS BUREAU, CURRENT POPULATION SURVEY, ANNUAL SOCIAL AND ECONOMIC SUPPLEMENT TABLE 1 (2011), available at http://www.census.gov/population/www/socdemo/age/age_sex_2010.html. In fact, the variable definitions of adolescence and the failure of researchers to collect data based on an exclusive definition of adolescence complicate discussion of this population. See Jonathan Todres, *Beyond the Bedside: A Human Rights Approach to Adolescent Health*, 20 J.L. & POL'Y 191 (2011).

¹⁰ It is important to note that adolescents are also incredibly diverse, with large differences based on race, class and other characteristics.

¹¹ The Supreme Court, however, did appear to recognize the difference between children and adolescents in the recent *J.D.B.* opinion. *J.D.B. v. North Carolina*, 131 S. Ct. 2394, 2407 (2011) (pointing out that a police officer or judge need only have “the common sense to know that a 7-year-old is not a 13-year-old [i.e. an adolescent] and neither is an adult”).

¹² New York, for instance, has a wide range of different minimum ages for purchasing and drinking alcohol, voting, driving and obtaining

The symposium “Adolescents in Society: Their Evolving Legal Status,” which took place in March 2011, focused on three key areas: criminal law, health, and technology. We were extremely fortunate to be able to bring together judges, lawyers, scholars, and other experts to address questions including: How has the status and role of adolescents changed recently, whether through court decisions, legislation or other means of social change?; What types of data or evidence, be it psychological, statistical, or anecdotal, are courts and legislatures relying on to craft protections and obligations for today’s youth?; How should young people be accorded increasing autonomy to allow them to mature, while also being protected against harms to which they are vulnerable?

JUVENILE JUSTICE

Michael Corriero, founder and director of the New York Center for Juvenile Justice (NYCJJ) and former judge, kicked off the symposium. Calling upon the audience to remember the key differences between youth and adults, and the original rehabilitative purpose of the juvenile court, Judge Corriero called for a system which “judges children as children,” while

contraception. *See* N.Y. CONST. art. II, § 1 (setting the voting age at eighteen); N.Y. ALCO. BEV. CONT. LAW § 65 (McKinney 2000) (prohibiting the sale of alcohol to people under twenty-one); N.Y. PUB. HEALTH LAW § 2504 (McKinney 2002); N.Y. VEH. & TRAF. LAW § 502(2)(d) (McKinney 1996) (allowing driving in some instances at age sixteen); N.Y. COMP. CODES R. & REGS. tit. 14, § 27.6(a) (2011) (allowing minors sixteen or older to access contraception without parental permission and allowing facility staff to provide contraception to minors under sixteen years at their discretion, encouraging consultation with a parent or guardian); *see also* GUTTMACHER INST., STATE POLICIES IN BRIEF: MINORS’ ACCESS TO CONTRACEPTIVE SERVICES (2011).

¹³ Even the Supreme Court, while affirming the difference between children and adults in *J.D.B.*, acknowledged that some adolescents may be closer to adults than to children and may therefore merit treatment more as an adult than a child. *J.D.B.*, 131 S. Ct. at 2406 (acknowledging that a young person’s age will not be a major factor in some cases, and that an older teenager will often react to a police interrogation in the same way as a young adult or eighteen-year-old).

still retaining the power to deal effectively with the few youth who remain violent and dangerous. To illustrate his point, he told the story of Qing Hong Wu. In 1996, Judge Corriero sentenced a fifteen-year-old Wu for a string of robberies. The Judge urged Wu to use his time in a juvenile facility to turn his life around.¹⁴ The young man did just that: he was a model inmate and, upon his release, finished school and embarked on a successful career in technology, supporting his immigrant mother. Yet almost fifteen years later, Wu was about to be deported to China based on his juvenile crime. Judge Corriero successfully petitioned Governor Paterson to pardon Wu's crimes so that he could stay in America. Despite this success, Judge Corriero lamented the inflexibility of laws governing the juvenile justice system that do not let most young people have a second chance.¹⁵

A panel of experts, including Tamar Birkhead, Mark Fondacaro, Jeffrey Fagan, and Hillary Farber, then considered other issues related to juvenile justice. They considered a central ongoing debate—how society should address youth accused of crimes. Should these crimes be adjudicated in a specialized rehabilitative court for juveniles, or in the standard retributive system with most of the due process protections accorded to adults?¹⁶ Those arguing for the former cite the special characteristics and needs of youth and the harshness of the adult system, regardless of due process protections.¹⁷ Those arguing for the latter fear the potential for overreaching by even well-meaning judges under a “rehabilitative” system, and point to the

¹⁴ For a full description of this case, see Nina Bernstein, *Judge Keeps Word to Immigrant Who Kept His*, N.Y. TIMES, Feb. 19, 2010, at A1.

¹⁵ New York State's chief judge, Jonathan Lippman, recently called for a raised age of criminal liability in the state, so that sixteen- and seventeen-year-olds would no longer be routinely tried as adults. See Mosi Secret, *Judge Seeks New System for Juveniles*, N.Y. TIMES, Sept. 21, 2011, at A22.

¹⁶ See Tamar R. Birkhead, *Juvenile Justice Reform 2.0*, 20 J.L. & POL'Y 15 (2011) (for a concise yet informative outline of the original juvenile court model).

¹⁷ See, e.g., John Mahoney, *DW's Cautionary Tale*, 37 WM. MITCHELL L. REV. 769, 775–76 (2011); see also Elizabeth S. Scott & Laurence Steinberg, *Adolescent Development and the Regulation of Youth Crime*, FUTURE CHILD., Fall 2008, at 15, 15.

Supreme Court's recognition, in the seminal case of *In re Gault*, of the need for due process.¹⁸ Regardless of which system we select as the most fair and effective, questions remain about how best to achieve structural change and influence the actions of all of the players involved: police, youth, judges, parents and lawyers. Finally, there are empirical and practical concerns to consider. What interventions and programs have been shown to work best to rehabilitate or otherwise address the complex causes of youth delinquent and criminal behavior, and how should we best allocate scarce resources?

Rather than simply weigh in on the retributive or rehabilitative side of the debate, Professors Tamar Birckhead and Mark Fondacaro forge new approaches to these complex problems in their symposium pieces. In *Juvenile Justice Reform 2.0*, Professor Birckhead argues for a more nuanced approach to institutional change.¹⁹ She illustrates how the seminal case of *In re Gault*, which extended due process protections to juvenile offenders, did not result in changes advocates had hoped for. She posits that this is due to the lack of incentives for reform or substantive external oversight of the insular juvenile court world. As a result, many of the practices and policies of local courts, officials, and state legislatures remained relatively intact, and the forty years since *Gault* have seen an increase in the punitive nature of sanctions accorded juveniles, high recidivism rates, and disproportionate minority representation. Nonetheless, Professor Birckhead is cautiously optimistic that the recent decisions in *Roper v. Simmons*,²⁰ *Graham v. Florida*,²¹ and *J.D.B. v. North Carolina*²² may have a more profound impact on

¹⁸ See, e.g., Barry Feld, *Abolish the Juvenile Court: Youthfulness, Criminal Responsibility, and Sentencing Policy*, 88 J. CRIM. L. & CRIMINOLOGY 68 (1997) (for the view that the juvenile justice system should adapt the process to the special needs and characteristics of the adolescent population by allowing for their meaningful participation); see also Emily Buss, *Failing Juvenile Courts, and What Lawyers and Judges Can Do About It*, 6 NW. J.L. & SOC. POL'Y 318 (2011).

¹⁹ Birckhead, *supra* note 16.

²⁰ *Roper v. Simmons*, 543 U.S. 551 (2005).

²¹ See *Graham v. Florida*, 130 S. Ct. 2011 (2010).

²² See *J.D.B. v. North Carolina*, 131 S. Ct. 2394 (2011).

the juvenile justice system due to their narrow and specific holdings and significant incentives to change the juvenile justice system to reduce recidivism rates and increase fiscal savings. These changes could range from the acknowledgment of youth as a mitigating, rather than aggravating, factor to the increased use of community-based rehabilitation programs. Yet Professor Birckhead concludes that “constitutional litigation is an unreliable path to social change” and it therefore must be accompanied by work with community-based organizations that include all the system’s constituencies to achieve truly lasting reform.

In *The Injustice of Retribution: Toward a Multisystemic Risk Management Model of Juvenile Justice*, Professor Mark Fondacaro also begins by acknowledging the failure of the current system to address juvenile crime effectively or treat juveniles fairly.²³ As an alternative, Professor Fondacaro posits a new model to deal with young offenders. Drawing on both psychology and law, Professor Fondacaro proposes a forward-looking, multisystemic model to understand and influence juveniles’ behavior.²⁴ He argues that the traditional retributive model of criminal justice draws upon antiquated and unsupported “folk psychology” concepts of human behavior. In its stead, Professor Fondacaro proposes a more pragmatic system that would contextualize the young person, by involving his or her parents, community, and service providers from multiple disciplines, and empirically assess risk and protective factors rather than adjudicate “moral” guilt. Such a system would rely on evidence-based interventions to treat behaviors and reduce recidivism. This model appears to be particularly suited to adolescents given the recognition that they are more susceptible than adults to outside influences, particularly their peers, and are also more capable of rehabilitation.²⁵ Departing from a more due

²³ Mark R. Fondacaro, *The Injustice of Retribution: Toward a Multisystemic Risk Management Model of Juvenile Justice*, 20 J.L. & POL’Y 145 (2011).

²⁴ See Professor Fondacaro’s recent book, MARK FONDACARO & CHRISTOPHER SLOBOGIN, *JUVENILES AT RISK: A PLEA FOR PREVENTIVE JUSTICE*, 63–121 (2011), for further discussion of this model.

²⁵ See, e.g., *Roper*, 543 U.S. at 553 (drawing these conclusions about

process-oriented model for youth, Professor Fondacaro cites the lower level of process accorded juveniles²⁶ as an opportunity to test this more pragmatic and efficient, yet fair, administrative justice approach.

The most frequent interaction that adolescents have with the juvenile justice system is with the police. Two panelists considered how police should and do interact with young people. Professor Jeffrey Fagan offered initial findings of his empirical research on police stops of young people in several high-crime neighborhoods of New York City. He focused on random or preventive stops, most of which did not result in the discovery of criminal activity or in an arrest. During such encounters, police often treat adolescents in a derogatory and even discriminatory fashion. Adolescents are left with an arguably justifiable distrust of, or hostility towards, the police and other state actors, just as they are developing civic maturity. These police practices persist, in part, because stops of young people are rarely recorded and largely fall below the public "radar."²⁷

The recent *J.D.B.* decision requires police officers to be more proactive in offering *Miranda* warnings to youthful suspects, since the court determined that age is a factor to be considered in the analysis of whether or not someone is in police custody.²⁸ Yet the decision may have an even broader impact on police interaction with juveniles. *J.D.B.* and its predecessor cases, *Graham* and *Simmons*, may serve a signaling function that the treatment of adolescents can no longer be covertly abusive, and that interactions with them must take into account their unique capabilities and vulnerabilities. In *J.D.B. v. North Carolina: Ushering in a New "Age" of Custody Analysis under Miranda*, Professor Hillary Farber considers the potential impact of the *J.D.B.* decision on police interactions with young people,

young people).

²⁶ For instance, juveniles accused of criminal behavior, unlike adults, are not entitled to a jury trial.

²⁷ Videotape: Adolescents in Society: Their Evolving Legal Status (Brooklyn Law School 2011) (*available at* <http://www.totalwebcasting.com/view/?func=VIDI&id=bls&date=2011-03-18&seq=1&mt=2&ext=1>) [hereinafter Videotape: Adolescents in Society].

²⁸ *J.D.B. v. North Carolina*, 131 S. Ct. 2394, 2399 (2011).

including *Terry* stops, as well as on other instances where young people interact with adults in the legal system, such as the attorney-client relationship and any waiver of a juvenile's right to counsel.²⁹ While adolescents may distrust these authority figures, they are nonetheless more deferential to them than are other adults. Justice Kennedy noted this tendency in *Graham v. Florida*, implying that this deference has consequences for due process. Professor Farber concludes that the recognition of adolescents as "categorically distinct from adults" in *J.D.B.* and related cases could lead to meaningful due process for children, according rights and protections commensurate with their development. In this way, the spirit of *Gault* may be "reinvigorate[d]."

TECHNOLOGY

The increasing interaction of young people with technology raises numerous difficult questions. For instance, what policies or legal tools should be used to address adolescents who "sex," (send sexually explicit messages or photographs via their cell phones)? Should the sale of violent video games be banned or at least require parental controls? Our experts on the technology panel addressed these and other issues. Chris Hansen, Senior National Counsel at the American Civil Liberties Union discussed the First Amendment rights of adolescents, arguing that the recent use of child pornography laws to criminally prosecute minors for sexting is both ineffective policy and a violation of the right to free speech. Professor John Humbach from Pace Law School addressed a minor's First Amendment right to access certain material. Addressing a case recently before the Supreme Court, *Brown v. Entertainment Merchants Association*, Professor Humbach outlined some of the points for and against curtailing young people's access to these materials.³⁰

²⁹ Hillary B. Farber, *JDB v. North Carolina: Ushering In a New "Age" of Custody Analysis Under Miranda*, 20 J.L. & POL'Y 117 (2011).

³⁰ The opinion came out after the symposium. See *Brown v. Entm't Merchs. Ass'n*, 131 S. Ct. 2729 (2011). The 5-4 majority struck down the California statute at issue, which prohibited the sale or rental of violent video games to minors.

Amanda Lenhart, from the Pew Research Center's Internet and American Life Project outlined some of the data on adolescents and technology: Between nine and thirty-three percent of adolescents aged ten to eighteen have been cyberbullied or harassed online; four percent of teens owning cell phones have sent a sexually suggestive photo or video of themselves to someone else; and fifteen percent have received one.³¹ Although we are still struggling to achieve the appropriate balance between protection and autonomy for adolescents in this realm, it is clear that we cannot ignore the increasingly important role of technology in their lives.

HEALTH CARE

Whether and how to address the differences between adults and adolescents has also long been debated in the health care realm.³² Young people have historically been treated very differently in the criminal justice and health arenas. In the former, adolescents have often been held to adult levels of responsibility. In contrast, adolescents have typically been excluded from medical decision making beyond narrow exceptions, such as reproductive health or substance abuse treatment, or when their parents are denying them lifesaving treatment.³³ In such instances, "mature" minors may be allowed to make decisions about their own bodies, whereas those considered not yet mature will have their parents or other adults appointed by the court to do so.³⁴

The recent recognition of the neurological and psychosocial differences between adolescents and adults in the criminal context raises questions about the determination of consent in the health care arena as well. Panelists Jonathan Todres, Jennifer Rosato, Jennifer Drobac, and Abigail English discussed whether or not maturity means the same thing in various contexts, such as the criminal versus health care arenas. The panelists also

³¹ Videotape: *Adolescents in Society*, *supra* note 27.

³² *See, e.g.*, *Belotti v. Baird*, 428 U.S. 132 (1976).

³³ *See, e.g.*, Rosato, *supra* note 8, 173-179 (outlining cases).

³⁴ *Id.*

discussed how to define adolescent health. Is the current framework overly focused on political hot topics, such as minors' access to contraceptives and abortions, rather than also incorporating other public health problems that impact many young people, such as violence, nutrition and sexual exploitation? In addition to discussing how the new science should be incorporated into determinations of capacity, panelists also considered what meaningful consent and participation in medical decision making should entail for young people. Drawing the proper balance between protection and autonomy is particularly difficult in this field where the consequences of bad choices can be so detrimental.

Since our discussions about adolescent health tend to myopically focus on abortion and other reproductive health issues, in *Beyond the Bedside: A Human Rights Approach to Adolescent Health*, Professor Jonathan Todres seeks to expand the dialogue by addressing other key issues which have a great impact on adolescents' health: violence, substance use and obesity. Professor Todres outlines the harms resulting from these health problems, which continue from adolescence into adulthood.³⁵ For instance, over half of urban adolescents have witnessed or been victimized by violence; three quarters of adolescents have tried alcohol and about half have smoked cigarettes; and eighteen percent of American adolescents are obese, with many more overweight. These "systemic community" public health issues, Professor Todres argues, are best addressed through a human rights framework. Such an approach looks at adolescents and their communities holistically. It also gives a voice to the youth themselves, by incorporating their participation at every stage of health care assessment and delivery.

Two experts address the thorny dilemma of adolescent capacity and consent: When is a young person adequately mature to consent to medical treatment or sexual activity? Who should determine such maturity and how? In *What are the Implications of Roper's Dilemma for Adolescent Health Law?*, Dean Jennifer Rosato considers how recent scientific findings

³⁵ Todres, *supra* note 9.

illustrating the differences between adolescents and adults, findings the Supreme Court has found persuasive, will affect health care decision making. Dean Rosato admits to being “a bit troubled” by *Roper*, *Graham*, and other recent decisions finding juveniles less culpable in criminal matters, since the same logic may be applied to deny young people a voice and consent powers in health matters.³⁶ She is also sensitive to the accusation, made by Justice Scalia in the *Roper* dissent, that children’s advocates seem to want to have it both ways: young people are sufficiently mature for decision making responsibility about their bodies, but not for accountability for their criminal behavior. Concluding that there is no tidy solution to “*Roper*’s Dilemma,” Dean Rosato nonetheless argues that decision making capacity is highly contextual, and thus some minors should be permitted to make some health care decisions. The maturity determination should be individualized and cannot be based upon science alone. That is, medical professionals, rather than courts, should assess a particular adolescent’s maturity in most cases, taking into account policy goals and context as well as empirical research.

Considering consent in the context of sexual interactions, Professor Jennifer Drobac also grapples with the definition of maturity, and how recent neuroscience and psychosocial advances in this field should impact legal determinations of consent. In *A Bee Line in the Wrong Direction: Science, Teenagers, and the Sting to “the Age of Consent,”* she points out the inconsistency between formulations of adolescent capacity in criminal and civil law even for the same acts: an adult who engages in sexual activity with a minor is criminally liable under statutory rape laws but may be able to defend against the young woman’s claim in a civil case because she “consented” to the sexual act.³⁷ Consent is contextual. Accordingly, Professor

³⁶ Rosato, *supra* note 8.

³⁷ Drobac, *supra* note 6, at 95–98 (discussing *Doe v. Starbucks*, No. SACV 08-0582 AG (CWx), 2009 WL 5183773 (C.D. Cal. Dec. 18, 2009); *Doe v. Bd. of Educ.*, 824 N.Y.S.2d 768 (Table), 2006 WL 240532 (2006) and other cases suggesting that statutory rape laws and other criminal formulations of consent may not be applicable in the civil context). A similar paradox exists between statutory rape laws and criminal laws punishing

Drobac does not advocate for one age of consent in all cases. She also does not support a bright-line rule of age eighteen for the civil context, because recent neuroscience indicates that most adolescents are still not reliably able to make mature decisions at that age and because it also denies adolescents who mature more quickly the benefit of engaging in decision making. Instead, she proposes “legal assent,” which requires no threshold level of legal capacity and is legally binding on the minor, unless he or she chooses to void it subsequently. It is voidable if in the minor’s best interest. This consent framework thus both helps the minor mature and develop, and allows for the “second chances” so essential to still developing young people.

CONCLUSION

The lively discussion among the panelists and authors at the symposium suggests several conclusions. First, the old dualities of consent versus incapacity, and retribution versus rehabilitation, do not provide an effective framework for assessing the status and role of adolescents today. Instead, we need to look for a more nuanced middle ground, which assesses the needs and abilities of youth in various contexts. Second, the determination of maturity is a complex process, which should take into account, but not rely exclusively on, scientific developments informing us about neurological and psychosocial capacity. Maturity determinations must also take into account cultural norms, the context of the right or responsibility at issue, and the actors involved in the determination. Third, the law continues to grapple with the key question of how to weigh adolescents’ need for increasing autonomy and maturation experiences with their vulnerability to adult exploitation and other harms.

minors for prostitution and related offenses. See Cynthia Godsoe, *Finally There’s a Safe Harbor*, NAT’L L.J., Nov. 10, 2008, at 26. In recent years, a number of states have attempted to rectify this disjunction in the law’s consideration of adolescents by decriminalizing juveniles charged with prostitution. See, e.g., New York Safe Harbor for Exploited Children Act N.Y. SOC. SERV. LAW § 447-b (McKinney 2010).

The next few years will be an exciting time for scholars in this field, as the recent line of Supreme Court cases recognizing differences between adolescents and adults plays out in the lower courts, legislatures, and fields beyond criminal justice. New neurological and psychological research will also undoubtedly provide us with more, possibly conflicting, information about adolescent development. The only certainty is that adolescence will remain a period of great change and some turbulence, bridging childhood and adulthood.