

BETWEEN CONSENT AND CRIME: RETHINKING LEGAL BOUNDARIES FOR CONSENSUAL TEENAGE RELATIONSHIPS

Apoorva Bhardwaj¹ & Anjana Kumari²

Abstract

Recently, we have encountered an ongoing debate over the subject matter of adolescent sexuality and the laws being implemented for the safeguarding of children from sexual offences. The topic of conversation presently is to reconcile the welfare of children and them exploring their sexual identity. Since the age of consent is fixed at 18 years in India, the law does not acknowledge consensual sexual relationship between two minors or a minor and an adult and it is considered a rape or sexual assault. Today the courts in India have become flooded with the cases of teenage sexual relationships or even pregnancy. This paper examines the need to strike a balance between the welfare of children and their autonomy. We as a society should address the issue of whether the age of consent should need to change or not keeping in view the well-being of children. It also explores the age of consent concept while taking into consideration the judicial pronouncements and laws prevailing today.

Keywords: child, POCSO, law, courts, consensual sexual relationships

¹Research Scholar at Faculty of Law, University of Lucknow, Lucknow

²Research Scholar at Faculty of Law, University of Lucknow, Lucknow

Introduction

Recently, an Indian Telugu-language film named '*Court- State vs A Nobody*' (2025) got released. While narrative is fictional, it mirrors pressing societal issues. In the movie, a lawyer is fighting for a 19-year-old boy, navigating the complexities of POCSO Act. Story beautifully narrated how a young boy mired in intricacies of law, when a romantic relationship between a boy of 19 years and a minor girl turned into a turbulent legal battle. To maintain their prestige, the relatives of girl want to send the boy behind bars at any cost. But when the girl came to the court, the truth becomes evident to everyone and the boy got released. In reality, not everyone is lucky enough to get the chance of being free from legal shackles

This story, despite being a work of fiction sheds light on genuine social dilemmas. Various special courts and High Courts are addressing such cases and at various instances expressed concern over the criminalisation of adolescent relationships under Protection of Children from Sexual Offences Act, 2012.

The POCSO Act is for protection of minors from sexual offences. But it has created a situation where a minor sometimes gets caught in web of complications as Act does not draw a distinction between consensual sexual act between the minors or involving one minor. Sometimes, families take advantage of the provisions of Act and draw adolescent into legal proceedings. The word sexual whenever adds up to an offence, doubles the gravity of crime and before trial the accused becomes criminal in eyes of society. Such cases, not only cast a shadow over their future but also adversely impact their psychological and mental health.

A debate persists on resolving the dilemma of love and law. Legal fraternity has offered significant insights to draw a balance between the two. Now is the right time to settle the issue. Aim of this article is not to support and justify the illicit relationships and sexual relationships among children but it aims to understand and recognise the ongoing changes in society and to seek guidance in finding solution.

This paper examines the ongoing debate over the matter and explores the complexities involved in reconciling children's welfare and their evolving autonomy. It includes arguments in favor of and in against of changing the age of consent for adolescents while taking in view government report and various

judicial pronouncements. Lastly, it concludes with some suggestions which can be taken into consideration.

Navigating the Divide: Child Protection V. Adolescence Autonomy

“*The Child is father of the Man*” rightly said by renowned poet, William Wordsworth, suggests that thought process, nature, personality of an adult is shaped during person’s childhood. A fostering environment plays a great role in growth of a child into a confident individual. Children represent innocence. So, it becomes moral and legal duty of a human society to provide a safe hand to children. This duty includes protection of children from any kind of exploitation along with providing them education and healthcare. There is a dual responsibility on part of government to guarantee holistic development of child and to protect them from exploitation. Child abuse has been a grave social concern that affects and undermines the well-being of most vulnerable section of society, i.e, Children. To protect their best interest, child specific laws were brought up by legislation. Enactment of Protection of Children from Sexual Offences Act, 2012 has been a significant step in a journey of protecting and promoting the best interest of child for our country.

The aim of the act was to provide protection to children from sexual exploitation as the incidents of sexual exploitation are horrendous and they affect child’s mental, physical well-being and dignity. They also hamper natural or healthy growth of children towards future. *Justice D.Y. Chandrachud* while speaking on POCSO highlighted two myths; one is- only female child is victim of sexual assault and second- perpetrator is unknown (Deshwal, 2022). The act recognises the grim realities of the society and has been articulated accordingly. However, it left a loophole, leaving a room for interpretation. A grey area has emerged concerning adolescence autonomy, as the law does not create difference between the love and forced love making. It conflates sexual intimacy with criminal conduct, thereby fuelling the debate between protection and autonomy.

If we consider the emerging changes in contemporary society, involving in romantic relationships under the age of 18 is not an alien scenario. With the advent of web and social media, Children are getting mature considerably faster than before (Protection against misuse: on POCSO Act, Adolescent Sex, 2025). This development cannot be ignored. Adolescents seek broader personal liberty in making life choices, in choosing their partners. Formation of romantic

relationship is a striking feature of developmental stage. Healthy adolescent relationships help shape personal beliefs about intimacy and sexuality and leave a lasting impact on self-esteem and overall well-being later in life (Anchan et. al., 2020, p. 158).

There are some grave concerns about criminalisation of sexual relationships among consenting adolescents which form the basis for demand for Amendments to the Act. These concerns are:

- Blanket ban on all sexual activities among adolescents challenges their bodily autonomy and reproductive rights.
- This criminalisation under POCSO Act has become a weapon of revenge. The provision is highly misused by parents of girls.
- The social stigma, educational halts, fear, a criminal record affects the future of children which further defeat the true purpose of Act.

Conversely, there is reluctance to embrace change. It is considered that decriminalisation might further result into increased sexual exploitation cases. Accused with nefarious intent might get away with punishment by shifting the blame over minor girl. Extending sweeping the legal leniency may weaken the well-designed safeguards to guard children from sexual offenders, trafficking and online exploitation.

Arguments in Favor of Reducing Age of Consent

- Senior advocate *Indira Jaising*, acting as amicus curiae in case *Nipun Saxena and Anr v. Union of India* supported the argument that consenting adolescent should be protected not punished under the law. She pointed out the shortcoming in legislative framework which erroneously conflates consensual relationships between adolescent with sexual abuse, sidelining their autonomy and capacity to consent. It is the time to draw attention to the need of highlighting the relationship of Legal competency with the mental competency. Under POCSO Act legal competency to have sexual relationships is fixed as 18 years which means involving in sexual relation below the age of 18 is punishable irrespective of consent. This blanket criminalisation of sexual activity including adolescents between the age of 16 to 18 years makes no difference between perpetrators and innocent lovers. Advocate Indira Jaising supported her argument by pointing out the trends in different High Courts including Madras, Bombay and Meghalaya

where High Courts registered dissent over automatic statutory prosecution of adolescents under POCSO Act. (The Hindu, 2025)

- Over a long period of time, the legal age of consent has been 16 years. In 2013 it was raised to 18 years by Criminal Law (Amendment) Act, 2013. No rational reason was cited for this increase nor any data presented suggesting the need for requirement of increase in age. Justice Verma Committee Report suggested to reduce age at 16 but this recommendation was not accepted. If reducing the age at 16 is arbitrary then fixing it 18 is also arbitrary. As per National Health and Family Survey (Department of Health and Family Welfare, n.d.), “45% of teenage girls belonging to 15-19 age group have had sexual intercourse.” Over the eight decades, sixteen was the legal age of consent, reflecting recognition of teenage sexual activity. As stated by Enakshi Ganguli from Haq Centre for child rights it is better to acknowledge such relationships as valid in very first place. It is the time to accept the change and realize that teenagers are involved in sexual relations (Pandey & Bandopadhyay, n.d.).
- *Rohin Bhatt*, Advocate, expressed his views on the age of consent debate which re-emerged from PIL in Supreme Court in Case *Nipun Saxena and Anr vs Union of India*. Mr. Bhatt clarified that in present case, blanket reduction of age of consent has not been pleaded, what actually pleaded is decriminalisation of consensual sexual relations among adolescents by introducing close in age exception. There are significant number of cases where non-abusive relationships have been criminalised. Girls out of fear of non-acceptance of their love and violence from family choose to leave home with their romantic partners. When complaint for missing of girl or an FIR for rape is filed, the boy mired under stigmatizing criminal process and labelled as criminal. The Case frequently crumbles as the girl becomes hostile.

Author added that such criminalisation has deterred adolescents from accessing reproductive health services. Mandatory reporting provision is one of the reasons behind such deterrence. It is necessary to criminalise abusive sexual relationships without compromising the health rights of teenagers. Undoubtedly, child sexual abuse is a serious concern, but to apply law in a manner which curtails the fundamental rights of healthcare and personal autonomy of adolescents is rigid application (Bhatt, 2025).

Arguments in Against of Reducing Age of Consent

- Central Government is not in favour of reducing the legal age of consent from 18 to 16 as it was a well calculated and reasoned decision to set the age 18 years. Additional solicitor general, *Aishwarya Bhati* submitted a written statement before Hon'ble Supreme Court defending the centre. She argued that minimising age of consent would be legally unsound and dangerous as well. It took years for the government to come up with dedicated laws for child care and protection. Under Protection of Children from Sexual Offences Act, 2012, Juvenile Justice (Care and Protection of Children) Act, 2015 and Bhartiya Nyaya Sanhita, 2023, provisions were made and improved for protecting the best interest for the child. Departure from the spirit of these laws, even if in name of reform would undo the years of progress in protecting children. Further Centre argues that not departing from the fixed age under legislation is not arbitrary but necessary. It is pivotal as it signifies legal and Constitutional acknowledgement of the fragility of minors and protect their bodily integrity. The close in age exception would not only offer a shield of protection even to the abusers but also open the gate for trafficking of children (Press Trust of India, 2025).
- Report titled *“Intrusion on Civilization: Lowering the Age of Consent- Analysing Its Impact”* released by collaborating efforts of NGOs – Network for Access to Justice and Multidisciplinary Outreach Foundation, the Sewa Nyaya Utthan Foundation and Shanti Suraksha Aur Sadbhav Trust argues that ‘misuse of cases of teenage romance is an exaggeration (Tiwari, 2025). It shifts attention away from real and escalating issue of child sexual exploitation. Report supported its argument with the statistical data from National Crime Records Bureau 2022 which reveals brutal reality of a sharp 8.7 % year-on-year rise in crimes against children. Without resorting to lowering the age of consent, the primary concern should be on enforcing the law with sensitivity and careful judicial discretion.
- POCSO Act makes any sexual activity among minor a crime. It is not true that cases referred as consensual among teens under POCSO have very less chance of involvement of sexual exploitation. The reality is harsh and bleak. Many victims escape their homes for reasons such as violent family, sexual abuse within family, discrimination, threats forced marriage. In such situation if they find man who promises them love and a better life, they got easily manipulated. There is a tragic situation where vulnerable minor girls

had to make a choice between the frying pan and fire. Reason of eloping is to escape violence and exploitation in their own place with hope for better future. However, it pushes them to social isolation, intimidation and in numerous cases heightened violence from their parents, along with the trauma of navigating the daunting criminal justice system (Dmello & Agnes, 2025). Further the authors argued that Consent remains the most frequently invoked defence in the trials of rape cases. Expecting a minor to fully comprehend and effectively articulate consent is impractical. The POCSO Act stands as landmark victim centric legislation designed to safeguard rights and dignity of children. The blanket reduction of age of consent may risk the life of millions of girls from marginalised background. Authors made a suggestion that lawmakers should consider the ground realities, reasons and motivations behind elopement (Dmello & Agnes, 2025).

Committee and Commission Findings

Justice Verma Committee Report

The Report submitted in 2013 with an aim of suggesting amendments under Criminal Law, focusing on strict punishment for accused in offence of sexual assault against women and to facilitate expeditious trial. Report suggested that age of consent should be 16 years under POCSO Act to bring it into conformity with Section 375 of Indian Penal Code 1860 (*Now Section 63, Bhartiya Nyaya Sanhita 2023*). Committee made two important suggestions- one was regarding sixth exposition of Section 375, IPC that the drafting of the provision should be “*Sixthly, when the person is unable to communicate consent either express or impliedly*” and other was for introduction of a new section. Additionally, it recommended insertion of a new Section 376B which explicitly declares that a person having sexual relation with another person below the age of sixteen years, irrespective of consent shall be considered as rape. (Report 283, Law Commission of India, pg.44). The rationale behind the adoption of 16 years of age to classify as underage rape was to adhere to Article 34 of Convention on the Rights of Child which promotes the principle of best interest of child.

Law Commission of India Report

22nd Law Commission of India in its 283rd report titled Age of consent under the POCSO Act, 2012, 2023, presents recommendation on issue of determining the legal age of consent for romantic relations. Two High courts referred the issue to the commission after observing several cases of non-abusive consensual sex among adolescent partners being prosecuted as offender under POCSO Act.

High Court of Karnataka, in *State of Karnataka v. Basavraj s/o Yellappa Madar (2023)1AIR Kant R 23* made a request to Law Commission of India to re-evaluate the established age parameters. Likewise, Hon'ble High Court of Madhya Pradesh, in case *Veekesh Kalawat v. State of Madhya Pradesh, Misc. Criminal Case No. 4521 of 2023* requested Law Commission to assess the necessity of amendment under POCSO Act and recommend Parliament to take necessary action.

These references led the Commission to examine this issue. The main question discussed in the report was whether reduction in age of consent could prevent the criminalisation of adolescent relationships and can lower the burden on the justice system. Although the commission conceded the overwhelming body of evidence derived from case laws, empirical analysis and public consultations- which substantiates the claim that a considerable number of POCSO cases are consensual, it ultimately refrained from advising reduction in age of consent. This decision culminated in an alternative recommendation to grant enhanced judicial discretion during sentencing. The Commission suggested a term "*Tacit Approval*" to describe consensual adolescent relationships. Intention of this introduction is to provide remedy in cases where child's conduct conveyed acquiescence in fact, but it could not amount to legal consent. Term as not defined in law can further place undue burden on judiciary to interpret its meaning (Pitre & Bandewar, 2024, p. 3). The reason behind not allowing change in age of consent is that the children under 18 years of age even if above 16 can be manipulated, they might lack the capacity of differentiating between right and wrong.

This cautious approach has attracted widespread criticism for overlooking the lived realities of adolescents and hardship created by the current framework and being termed as a lost opportunity for reform.

Age of Consent Across Jurisdictions

Age of consent is the age customs and legislations of every country has fixed for the age at which people can have sexual intercourse that it would not amount to offence of rape. This age is different for every country.

POCSO Act has fixed the age of consent at 18 years of age and it has got its backing from Bhartiya Nyaya Sanhita and Criminal Law (Amendment) Act, 2013 which has done the same to protect children from exploitation but it has to some point neglected the concept of sexual autonomy (Pitre & Lingam, 2021).

According to the Sexual Offences Act, 2003 in the U.K. the age of consent for boy and girl both is 16 years in matter of consensual sex implemented to safeguard the children. Although there have been many debates to reduce this age of consent as many persons are engaging in sexual activities before attaining this age but it has not been taken into account giving the reason that reducing the age of consent will give an idea to the society that it is acceptable to engage in sexual relationships as early as at the age of 14-15 years. Here it has been recommended that the most effective way to deal with is to provide sex education in the schools as keeping in pace with the modern, dynamic, sexualized and technologically advanced society (Singh, 2023). The valid age for consenting sexual relations in U.S.A. varies from 16 to 18 years among different states and any sexual act between minors or one adult and minor is considered rape under the statutes. but some of the states follow the Romeo Juliet clause and provide exemption to persons who are close to the age of consent. In thirty-one states the age is set at 16, in eight states at 17 and in eleven states at 18 (World Population Review, 2025). Many states in the U.S. have also enacted laws to permit the maximum age difference between the persons having sexual relationship to protect the exploitation and abuse of younger persons in the hands of their partners. For example, Alabama has the maximum age difference of 2 years.

Age of Consent	Countries
14 years	Italy, Germany, Austria, China
15 years	Thailand, Sweden, Denmark, Greece, France
16 years	United Kingdom, Norway, Israel, Canada, Switzerland, Russia & U.S. State such as New Jersey, Michigan, Japan, Singapore
18 years	India, Turkey, Egypt and U.S. States such as California, Florida

Romeo Juliet Clause

There is a concept known as Romeo Juliet clause according to which if two persons are in consensual sexual relationship, one of them is a minor and the other who has attained the age of consent a year or two before; then that case may be treated as an exception allowing a small amount of age gap between them as known as close-in age exemption, so that an innocent person is not treated as an accused and not labelled a sex offender for the rest of their life. This clause has got its name from the famous play of William Shakespeare

named Romeo and Juliet which explores the romantic relationship between two teenagers (Close in age exemptions/ Romeo and Juliet laws, n.d.). This notion is used only to differentiate between the consensual relationship from an exploitative one and to protect the interest of young people. In some cases, this exemption also gives liberty to the young people only exploring their gender identity as them belonging to LGBTQ+ community.

One of the purposes of this exemption is to promote the interest to minors while also recognizing consensual sexual relationships. In united states more than half of its states have recognized this exemption. This exemption is not recognized in India so the sexual relations between two minor or one minor and one adult is always considered a rape according to the statutes. The minors have not been given permission to explore their sexual and romantic inclinations. The Madras High Court and the National Commission for Protection of Child Rights gave suggestions about the close in age exemption that it should be taken into consideration keeping in view that the laws meant to protect children should not so frequently be misused. But these suggestions are yet to be implemented.

Judicial Outlook on Romantic Cases

In the case of In Re: Rights to privacy of adolescents the Supreme Court took suo moto action against the judgment passed by Calcutta High Court after realizing the sufferings of victim emotionally and socially and didn't convict her husband under the POCSO Act in spite the facts of the case suggesting that the victim was a minor when she married the accused who was an adult at that time and that she also had a child with him. Court concluded that the act was a crime in the eyes of law but not for the victim and she suffered more because of the consequences and the legal system that she had to fought for saving the accused and the power to do complete justice concept under Article 142 was invoked by the court observing that, "the facts of this case are an eye-opener for everyone and it highlights the lacunae in the justice system. The society judged her, the judicial system failed her and her own family abandoned her."

Delhi High Court

Delhi High Court in State v. Hitesh, 2025 said, "*Love is a fundamental human experience and adolescents have the right to form emotional connections. The law should evolve to acknowledge and respect these relationships, so long as they are consensual and free from coercion.*" In the present case, a minor girl of 16 years accompanied a boy willingly and maintained physical relations

with consent. A case under section 4 of POCSO Act was instituted against the boy, to which he pleaded not guilty. During trial, girl showed willingness to stay with the man. Trial Court acquitted the accused. In appeal, Hon'ble Delhi High Court upheld acquittal of accused under POCSO.

Hon'ble High Court emphasized on the earlier judgement (Court on its own motion (Lazza Devi v. State (Delhi), 2012) of the same Court that '*no straitjacket formula could be applied in such cases. Court should take caution while ensuring personal liberty of individual. Circumstances, age gap between boy and girl, maturity level, social background of parties must be taken into consideration.*' To set aside minor girl's testimony who is 16 years, 10 month and 21 days old, would not be right and just (The Telegraph Online, 2025).

Allahabad High Court

In the bench of Justice Krishan Pahal, the Court expressed concern over the coercive application of POCSO Act on Adolescents. The primary objective of this act was to prevent sexual exploitation of children. But the statute is being misused, particularly in romantic cases involving adolescents (Shukla, 2024).

The Hon'ble Court observed some consideration (Ramakrishna & Swagata, 2022) in case Satish alias Chand v. State of U.P. and 3 Ors., 2024:

- Each case is unique and should be addressed with a focus on individual facts and specific circumstances. The careful scrutiny should be given to nature of relationship and intentions of parties to prevent misuse of the law.
- Victim's statement should be valued. Mutual affection and consensual nature of relationship not only help in deciding the case but also affect decisions regarding bail. Ignorance of such circumstances and nature of relationship can lead to miscarriages of justice, such as wrongful imprisonment.

Bombay High Court

Bombay High Court in Imran Iqbal Shaikh v. State of Maharashtra (2023 SCC OnLine Bom 1040), observed that aim of POCSO Act was not to punish minors involved in romantic relationships. By the time Courts reach a decision, the accused had already lost his dignity, respect and a normal life in society. The act supports victim in every possible way including non-disclosure of identity of victim but has no mention of similar clause for accused. It tarnishes the reputation of accused within society in spite of his innocence.

In XYZ V. State of Maharashtra (2023 SCC OnLine Bom 1390), High Court of Bombay set aside the conviction of a young man being tried under POCSO Act (Juris Centre, 2023). Court said, “*Sexual autonomy means both the freedom to engage in desired sexual activity and right to be protected from unwanted sexual violence. Human Sexual dignity is fully respected when both of these rights of adolescents are given due recognition.*”

Madras High Court

In case Sabari @ Sabarinathan @ Sabarivasan v. The Inspector of Police & Ors. (Criminal Appeal No.490 of 2018), Madras High Court said that consensual relationships between adolescents who are infatuated should not come within the arena of POCSO Act, 2012 which provide strict punishment for such acts.

In Vijaylamxi & Anr. V. State (Crl.O.P. (MP)No.3775 of 2012), Hon’ble High Court expressed that these incidents of romantic relations should never be viewed from an adult’s standpoint. Such perspective leads to lack of empathy toward the experiences of adolescents and distorts the true nature of these relationships. Court further said, ‘an adolescent partners whose decision-making ability is not fully developed or influenced by their hormones need parental as well as societal support and guidance (Venkateshwaran, n.d.).’

In year 2021, in course of quashing a case of romantic relationship filed under POCSO Act, Madras High Court expressed concern over the misuse of the Act in such cases and urged the Government to bring essential reforms within the Act (Madhav, 2021).

Taking in view the observation made by various Courts it can be concluded that incidents where teenagers face prosecution under the Act, without recognising the gravity of its provisions, raises significant concern for court’s conscience. These cases should be dealt carefully and empathetically to ensure that victim receives justice and innocent people are not purposefully harassed.

Striking an Equilibrium: Reconciling Child Protection with Adolescence Agency

Let us consider a Hypothical Example of a silent trial of adolescent love. Mitali aged 16 gets attracted to a boy Ritesh aged 17 in School. When feelings became mutual; their affection bloomed in quiet corners of the school corridors

which allowed them whispered conversations, hidden letters and a gentle euphoria of first love.

Till the time Mitali's Family became aware about their relationship, she was 17 and Ritesh was just turned 18. When their relationships disclosed in front of parents, the panic turned into wrath. Fear of being separated from each other lead them to a decision of eloping from the home, without realising the difficulties awaited outside home. Parents out of fear of social shame filed a complaint against the boy under BNS and under POCSO Act. Ritesh was taken away in handcuffs. Their love interpreted by law as Deviance. He faced a long detention, lost his dignity, liberty, school, friendships. Social verdict had been pronounced- stigma endured, destinies were disrupted and innocence perished, not by law but by rigidity of law.

If such case knocks the door of Court, what should be the decision to do complete justice with parties and what factors need to be considered to reach out a decision? Should Ritesh be punished? Their love or sexual relations were consensual, then why Ritesh alone should get punished why not Mitali? How reduction of age to 16 will impact the genuine sexual assault cases?

There are some suggestions and safeguards which can offer probable solutions-

- ***From conflict to solution-*** This dilemma consists of multiple aspects. Debates and discussion are required to understand and consider the impact of all these facets before arriving at final decision. Understanding the physical and emotional aspect involved in the issue is necessary. (Anuradha Sastrabuddhe, *pressreader*). Romantic cases expose deep seated conflicts between child protection and adolescent autonomy. Justice D.Y. Chandrachud, speaking at two-day National Consultation on the POCSO Act said, "*I have observed that cases in this category poses complex legal questions for judges across the board.*" (Deshwal, 2022). One of the leading principles of Indian criminal justice system is '*thousand culprits can escape but not even a single innocent should be punished*'. This principle should be taken care of while dealing with romantic cases under Act.
- ***A matter of criminal and family jurisprudence-*** Romantic cases not only transcend the realm of criminal law but also intersect significantly with family jurisprudence, involving overlapping concern of consent, matrimonial law

and parental authority. The social and legal aspects are deeply interconnected and left a lasting effect on social, cultural and financial life of people. In this socio-legal environment sexual relationships require both consent as well as responsibility. Who would take the responsibility of the child born out of these relationships. And Children born to adolescent mothers are at high risk of being undernourished (Tiwari, 2025). Consequently, designing a uniform law for sexual consent and age of marriage is crucial. The Law must follow a single policy and this duality should be removed as said by lawyer Jai Vaidya (Kuchik, 2025).

- ***Close-in-age as solution-*** Introducing “Close-in-age” or “Romeo-Juliet Clause” will be safe instead of reducing age, suggested as an exception by 22nd Law Commission of India itself. Although, suggestion is limited to the sentencing stage. It permits consensual relationship within a close in age range of 2-3 years. Section 15 of Juvenile Justice (Care and Protection of Children) Act, 2015 has provisions for “preliminary assessment” for Children within the age group of 16-18 who are accused on heinous offence. It accesses whether these children acted with true criminal intent or it was just adolescent conduct. Report argues this kind of provision would be more helpful than reducing age. (*Intrusion on Civilization: Lowering the Age of Consent-Analysing Its Impact*).
- ***Sex Education-*** Supreme Court draws attention by highlighting the importance of age-appropriate curriculum on sex education. Philosophies of Mahatma Gandhi ‘Nayee-Talim’ needs to be adopted in new modern child protection policy. Schools should serve as safe space and a source of accurate information, empowering students to understand their bodies, make informed choice and exercise their rights carefully and responsibly (Naik, et al., 2025).
- ***Trauma Informed and Sensitive Legal Process-*** The legal process should be sensitive enough to avoid re-traumatization of adolescents. Police must be trained to make a distinction between consensual intimacy from exploitation so that genuine cases can be figured out at initial stage itself. Moreover, technology can help in protecting child exploitation. The participation of counsellors and child welfare office during preliminary stages of inquiry promotes interactions marked by sensitivity and care.

Conclusion

The debate over age of consent is commonly presented as a binary conflict; the inviolable duty of society to protect children verses the inalienable right of adolescents to autonomy. Simply choosing one side is to ignore the profound intricacies that lie at heart of human nature. This is not a contest for victory, but a balance to be perpetually calibrated. There is a delicate line between sexual intimacy and sexual assault. Consensual sex is a far cry from sexual abuse. Protecting best interest of the Children is a national as well as an international mandate. The highest consideration must be given to ensure that every child is nurtured under safe and supportive environment. For ensuring safety, strong and well-structured laws are required. But overly protectionist laws can paradoxically compromise the interests and autonomy of adolescents. Denying a 16 or 17-years old's agency turns the law into fiction that contradicts with their lived realities

Therefore, the most compelling resolution does not lie in fixing an "appropriate age" but in moving beyond the rigid dichotomy itself. Adoption of close in age concept can be one of the progressive actions along with strengthening fast tracks courts, promoting guided judicial discretion, bringing more sensitivity during initial inquiry and in legal proceeding, promotion of comprehensive sex education to empower adolescents with the awareness and clear understanding of consent.

Ultimately, the important question is what kind of society we want? One that insulates children from the world or one that equips them to face it. The most nuanced answer may be that we must endeavour to balance the two. Child protection and autonomy are not contradictory. The debate, then, should shift from "*protection v. autonomy*" to how "*protection nurture healthy autonomy*".

References

- Anchan, V., Janardhana, N. & Kommu, J.V.S., (2020). POCSO Act, 2012: Consensual Sex as a Matter of Tug of War Between Developmental Need and Legal Obligation for the Adolescents in India. *Indian J Psychol Med*, 43(2), 158-162. <https://journals.sagepub.com/doi/10.1177/0253717620957507>
- Bring down age of consent from 18 to 16 years, Supreme Court told. (2025, July 24). *The Hindu*. Retrieved from <https://www.thehindu.com/news/national/bring-down-age-of-consent-from-18-to-16-years-supreme-court-told/article69850501.ece>
- Close in age exemptions/ Romeo and Juliet laws. (n.d.). Age of consent. Retrieved August 16, 2025 from <https://www.ageofconsent.net/close-in-age-exemptions>
- Court on its own motion (Lazza Devi) v. State (Delhi) 2012(4) RCR(Civil) 821
- Department of Health and Family Welfare. (n.d.). National Family Health Survey. <https://www.nfhsiips.in/nfhsuser/index.php>
- Deshwal, P. (2022, December 10). *National Consultation On POCSO: Highlights Of Speech Delivered By CJI Justice DY Chandrachud*. Verdictum. <https://www.verdictum.in/news/national-consultation-on-pocso-1451971>
- Dmello, A. & Agnes, F. (2025, August 9). A blanket reduction of the age of consent won't make vulnerable girls any safer. *The Indian Express*. <https://indianexpress.com/article/opinion/columns/a-blanket-reduction-of-the-age-of-consent-wont-make-vulnerable-girls-any-safer-10178961/>
- In Re: Right to Privacy of Adolescents 2025 LiveLaw (SC) 617
- Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No. 2 of 2016)
- Kuchik, M. (2025, August 18) Teenage Love or legal trap? India grapples with consent dilemma. *Press Reader*. <https://www.pressreader.com/india/the-free-press-journal/20250818/281775635250806>
- Law Commission of India (2023). 283rd report on Age of Consent under the Protection of Children from sexual Offences Act, 2012
- Madhav, P. (2021, January 29). Bring about necessary amendments in strict laws like POCSO Act: Madras High Court. *India Today*. <https://www.indiatoday.in/india/story/bring-about-necessary-amendments-in-strict-laws-like-pocso-act-madras-high-court-1764094-2021-01-29>

- Naik, M. & Bhardwaj, U. (2025, July 16). *Teenage Love Caught between Consent and Criminality under POCSO*. Oxford Human Rights Hub. <https://ohrh.law.ox.ac.uk/teenage-love-caught-between-consent-and-criminality-under-pocso/>
- Pandey, S., & Bandopadhyay, S. (n.d.). Romantic relationships: the case of special courts under POCSO Act of 2012. *NUJS Journal of Regulatory Studies* 2-3(1-4), 36-41. <https://www.nujs.edu/wp-content/uploads/2022/11/File-48.pdf>
- Pitre, A. & Bandewar, S.S. (2024, Jan-Mar). Law Commission of India report on the age of consent: Denying justice and autonomy to adolescents. *Indian J Med Ethics*, 9, 3-17
- Pitre, A., & Lingam, L. (2021). Age of consent: challenges and contradictions of sexual violence laws in India. *Sexual and reproductive health matters*, 29(2), 1878656. <https://doi.org/10.1080/26410397.2021>
- Press Trust of India (2025, August 8). *Shields minors': Centre Defends Statutory Age Of 18 Years For Consent In Top Court*. NDTV <https://www.ndtv.com/india-news/shields-minors-centre-defends-statutory-age-of-18-yrs-for-consent-in-sc-9040742>
- Press Trust of India (2025, February 19). *Law must 'evolve' to 'respect' consensual romantic adolescent relationships: Delhi HC*. The Telegraph Online https://www.telegraphindia.com/india/law-must-evolve-to-respect-consensual-romantic-adolescent-relationships-delhi-hc/cid/2084428#goog_rewarded
- Protection against Misuse: On POCSO Act, Adolescent Sex. (2025, July 28). Pwonlyias. <https://pwonlyias.com/editorial-analysis/protection-against-misuse-on-pocso-act-adolescent-sex/>
- Protection of Children from Sexual Offences Act, 2012 (Act No. 32 of 2012)
- Ramakrishna, S. & Swagata, R. (2022, June). "Romantic" Cases under the POCSO Act. Girlsnotbridges. [Romantic-cases-under-the-POCSO-Act_wUNsbKC.pdf](#)
- Right to Engage in Consensual Sexual Activity. (2023, October 16). *Juris Centre*. [Right to Engage in Consensual Sexual Activity – Juris Centre](#)
- Rohin Bhatt, R. (2025, August 13). POCSO and age of consent debate in India: Debunking the misconception. *The Indian Express*. [POCSO and age of consent debate in India: Debunking themisconceptions |The Indian Express](#)
- Satish alias Chand v State of U.P. and 3 ors. (2024 AHC 108011)

- Shukla, S. (2024, July 6). *POCSO Act Is Being Misused In Cases Of Consensual Romantic Relationships Between Teenagers: Allahabad HC. Verdictum.* <https://www.verdictum.in/court-updates/high-courts/satish-alias-chand-v-state-of-up-2024ahc108011-pocso-misuse-teenager-consensual-relationship-bail-1542953>
- Singh, S. (2023). Reviewing the age of consent in India: A comparative analysis of common laws dealing with sexual offences against children. *Indian Journal of Psychology*. 114-124
- State v. Hitesh (Neutral Citation No. 2025) DHC 944
- The Bhartiya Nyaya Sanhita, 2023 (Act No. 45 of 2023)
- Tiwari, S. (2025, August 18). *Age of Consent Debate: New Report Warns Against Weakening India's POCSO Act.* Lawbeat. <https://lawbeat.in/top-stories/age-of-consent-debate-new-report-warns-against-weakening-indias-pocso-act-1515626>
- Venkateshwaran, H. (n.d.). Approach of Romeo and Juliet Laws in India. Legalserviceindia. https://www.legalserviceindia.com/legal/article-5878-approach-of-romeo-and-juliet-laws-in-india.html#google_vignette
- World Population Review. (2025, August 22). *Age of Consent by Country 2025.* World Population Review. <https://worldpopulationreview.com/country-rankings/age-of-consent-by-country>