



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

### **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK  
LEGAL

## **EDITORIAL TEAM**

### **Raju Narayana Swamy (IAS) Indian Administrative Service officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

### **Dr. R. K. Upadhyay**

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



## **Senior Editor**

### **Dr. Neha Mishra**



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

### **Ms. Sumiti Ahuja**

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



### **Dr. Navtika Singh Nautiyal**

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

### **Dr. Rinu Saraswat**



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

### **Dr. Nitesh Saraswat**

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



### **Subhrajit Chanda**



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **TOWARDS A CLOSE-IN-AGE EXEMPTION: RE-EVALUATING THE POCSO ACT, 2012 THROUGH A SOCIO-LEGAL LENS**

AUTHORED BY - GAUTAMI SHYAM SAIL

3rd Year Law Student

School Of Law, Christ (Deemed To Be University), Bengaluru

## **ABSTRACT**

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was designed to protect minors from sexual abuse, setting the age of consent uniformly at eighteen. However, this threshold has been criticised for criminalising consensual relationships between adolescents aged sixteen to eighteen. The approach contrasts with the Juvenile Justice (Care and Protection of Children) Act, 2015, which recognises that individuals in this age range may, in certain serious offences, be tried as adults based on their maturity. This paper examines the divergent treatment of adolescent maturity under the two statutes, drawing on legislative texts, case law, and scholarly literature. It also evaluates the absence of a close-in-age exemption in POCSO and the resulting legal and social consequences, including the scope for misuse in cases influenced by familial or societal disapproval. The study aims to contribute to discussions on reforming consent laws to ensure they safeguard minors without unduly criminalising consensual adolescent relationships.

**Keywords:** Adolescents; Close-in-age exemption; Consent; Juvenile Justice Act, 2015; POCSO Act, 2012

## **INTRODUCTION**

The Protection of Children from Sexual Offences (POCSO) Act, 2012 provides comprehensive legal protection to children against sexual abuse, exploitation, and harassment. It defines a “child” as any person below eighteen years and sets a uniform age of consent, making all sexual activity with minors a criminal offence.<sup>1</sup> While the law aims to protect children, its rigid application has raised concerns, particularly regarding consensual relationships between

---

<sup>1</sup> Protection of Children from Sexual Offences Act, No. 32 of 2012, § 2(d) (India).

adolescents. Teenagers aged sixteen to eighteen, who may willingly engage in sexual activity with peers of a similar age, can be criminalized under POCSO despite the absence of exploitation or coercion. In some cases, legal action arises not from actual harm but from societal or familial objections, which can result in unnecessary prosecution and social stigma.

In contrast, the Juvenile Justice (Care and Protection of Children) Act, 2015, demonstrates a more flexible approach to adolescent responsibility. It recognizes that individuals between sixteen and eighteen years old may have the maturity and understanding necessary to be held accountable for serious offenses.<sup>2</sup> In certain circumstances, adolescents can be tried as adults based on their mental and emotional development and the nature of the offence. This reflects an understanding that adolescents are not a homogenous group and that their decision-making capacity varies with context and maturity.

The contrasting approaches of POCSO and the Juvenile Justice Act create tension within India's legal framework on adolescent sexuality. POCSO prioritizes protection through a blanket age restriction and does not distinguish between harmful abuse and consensual peer relationships. Without a close-in-age exemption, consensual relationships between adolescents close in age may be criminalized, even when no exploitation is involved. Scholars and child rights experts argue that this rigidity can lead to unintended consequences, including unnecessary criminalization of healthy adolescent behaviour and long-term social and psychological harm.

This paper examines these concerns through a doctrinal analysis of statutory provisions, judicial interpretations, and scholarly commentary. It evaluates how POCSO currently regulates adolescent relationships and contrasts this with the Juvenile Justice Act, which accounts for maturity and context. The paper argues for introducing a close-in-age exemption in POCSO to ensure that the law protects minors from abuse without unjustly penalizing consensual adolescent relationships. Ultimately, it seeks to contribute to debates on reforming India's age-of-consent laws to balance child protection with recognition of adolescent autonomy and developmental realities.

---

<sup>2</sup> Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2015, § 2(12) (India).

## LEGAL FRAMEWORK

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted to protect minors from all forms of sexual exploitation and abuse. The law defines a child as anyone under the age of eighteen and criminalizes sexual activity involving minors, irrespective of consent.<sup>3</sup> This absolute age threshold aims to shield children from potential harm, yet it does not differentiate between exploitative conduct and consensual sexual activity among adolescents who are close in age.<sup>4</sup> As a result, relationships between peers aged sixteen to eighteen may fall within the ambit of criminal liability, even when both parties willingly engage in the relationship and there is no coercion or manipulation. This rigidity has been criticized for producing unintended social consequences, including stigmatization, family conflicts, and psychological stress for adolescents subjected to legal proceedings under the Act.

The Juvenile Justice (Care and Protection of Children) Act, 2015, provides a framework for considering the maturity of adolescents in certain serious offenses.<sup>5</sup> Unlike POCSO, the Juvenile Justice Act allows the authorities to assess whether individuals aged sixteen to eighteen have sufficient understanding and maturity to be tried as adults in exceptional cases. This approach demonstrates an acknowledgment that adolescent capacities vary and that legal accountability should reflect developmental realities. By situating these two statutes together, it becomes clear that while the law strives to protect minors, the current POCSO framework may unintentionally penalize consensual adolescent relationships, underscoring the need for careful examination of its provisions and potential reforms, such as a close-in-age exemption.

## JUDICIAL INTERPRETATION

### 1. Judicial Recognition of Adolescent Autonomy

Recent judicial pronouncements have increasingly recognized the complexities surrounding adolescent relationships under the Protection of Children from Sexual Offences (POCSO) Act.<sup>6</sup> The Allahabad High Court emphasized that POCSO was never intended to criminalize consensual romantic relationships between adolescents.<sup>7</sup> Justice Krishan Pahal highlighted the necessity of distinguishing between exploitative behavior and mutual adolescent relationships,

---

<sup>3</sup> Protection of Children from Sexual Offences Act, No. 32 of 2012, § 2(d) (India).

<sup>4</sup> Protection of Children from Sexual Offences Act, No. 32 of 2012 (India).

<sup>5</sup> Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2015, § 2(12) (India).

<sup>6</sup> Allahabad High Court, *Case No. 121009976*, 2025.

<sup>7</sup> India Today, *Supreme Court Smells Teen Spirit: Free Adolescent Love from POCSO Cases*, May 26, 2025.

emphasizing that the Act should not be misused against genuine relationships among minors.<sup>8</sup>The Court noted that adolescents possess evolving capacities for autonomy and decision-making, which should be accounted for when applying criminal statutes, particularly in cases where there is no evidence of coercion, manipulation, or abuse.<sup>9</sup>

## 2. Supreme Court Perspective on Adolescent Relationships

The Supreme Court of India has also highlighted the need to reconcile the protective objectives of POCSO with the developmental realities of adolescents.<sup>10</sup> The Court recommended that the government consider the implementation of comprehensive sexual and reproductive health education policies to provide adolescents with the knowledge and skills necessary to make informed decisions about relationships.<sup>11</sup> The Court emphasized that laws should protect minors from exploitation while avoiding the unnecessary criminalization of consensual relationships among adolescents close in age. Judicial discretion should allow for differentiated treatment in cases where both parties are minors and consent is mutual, thus recognizing the nuanced nature of adolescent development.<sup>12</sup>

## 3. Constitutional Considerations: Right to Privacy and Autonomy

Judicial hesitation in prosecuting consensual adolescent relationships is also grounded in constitutional interpretations of privacy and autonomy.<sup>13</sup> In *K.S. Puttaswamy v. Union of India*, the Supreme Court recognized the right to privacy as a fundamental right, encompassing the protection of intimate personal choices.<sup>14</sup> Similarly, in *Navtej Singh Johar v. Union of India*, the Court decriminalized consensual homosexual relationships, affirming the principle that individuals have autonomy in choosing their partners.<sup>15</sup> Courts have increasingly relied on these foundational judgments to ensure that POCSO prosecutions do not infringe upon the constitutional rights of adolescents engaging in mutual and non-exploitative relationships.<sup>16</sup>

---

<sup>8</sup> Veenashree Anchan, Navaneetham Janardhana & John Vijay Sagar Kommu, *POCSO Act, 2012: Consensual Sex as a Matter of Tug of War Between Developmental Need and Legal Obligation for Adolescents in India*, 43 Ind. J. Psychol. Med. 158 (2021).

<sup>9</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (India).

<sup>10</sup> supra note 8.

<sup>11</sup> supra note 8.

<sup>12</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (India).

<sup>13</sup> supra note 9.

<sup>14</sup> POCSO Act, 2012, No. 32, Acts of Parliament, 2012 (India).

<sup>15</sup> Rahul Chatwal, *Applicability of POCSO Act on the Consensual Relationship between the Minors*, 15 Int'l J. L. Mgmt. & Humanities 45 (2025).

<sup>16</sup> Chinmaya IAS, *Revisiting POCSO through the Lens of Adolescent Rights*, 5 Current Affairs 1 (2025).

#### **4. Age of Consent and Legal Implications**

The POCSO Act sets the age of consent at 18, making any sexual activity with a minor a criminal offense regardless of consent.<sup>17</sup> While the intent of the law is to protect children from sexual abuse, its absolute age threshold has raised concerns about the criminalization of consensual adolescent relationships. Government submissions before the Supreme Court argue that lowering the age of consent could heighten vulnerabilities to abuse; however, courts have also acknowledged that a strict age-based approach may overlook the maturity and understanding of the adolescents involved. Case law reflects instances where courts have avoided penalizing consensual acts between adolescents of similar ages, underscoring the need for a more contextual judicial assessment.<sup>18</sup>

#### **5. Judicial Discretion and Case-by-Case Assessment**

Indian courts have consistently emphasized the importance of case-by-case analysis in matters concerning adolescent relationships under POCSO.<sup>19</sup> Courts have noted that adolescents' maturity, the consensual nature of the relationship, and the absence of exploitation are key factors in assessing liability. In several cases, judicial discretion has resulted in acquittals or reduced penalties where relationships were consensual and non-exploitative. This reflects the doctrine of proportionality, ensuring that protective laws are not applied in ways that unduly criminalize normal adolescent behaviour.<sup>20</sup>

#### **6. Academic Perspectives on Judicial Interpretations**

Scholars have critiqued the rigid application of POCSO and highlighted its adverse effects on adolescent development.<sup>21</sup> Veenashree Anchan and colleagues argue that POCSO's blanket prohibition on sexual activity among minors fails to account for evolving capacities and developmental needs.<sup>22</sup> They advocate for a more nuanced approach, wherein context, age proximity, and consent are considered before criminalizing adolescent behavior. Rahul Chatwal also observes that judicial interpretations have begun to reflect this understanding, as courts increasingly consider factors such as mutual consent, absence of coercion, and the ages of the parties involved.<sup>23</sup> These academic perspectives reinforce the need for reforms that strike

---

<sup>17</sup> CLS NLU, *Adolescent Relationships and the Indian Legal Framework* (2025).

<sup>18</sup> SPM IAS Academy, *POCSO Act and Adolescent Relationships* (2025).

<sup>19</sup> *supra* note 8.

<sup>20</sup> The Print, *POCSO Law Must Protect, Not Punish Young People for Consensual Relationships*, July 31, 2025.

<sup>21</sup> *supra* note 8.

<sup>22</sup> *supra* note 8.

<sup>23</sup> *supra* note 20.

a balance between child protection and recognition of adolescent autonomy.

## **7. Challenges in Balancing Protection and Autonomy**

The challenge for the judiciary is balancing POCSO's protective objective with the autonomy of adolescents.<sup>24</sup> While the Act safeguards minors against exploitation, its strict age-of-consent provision can criminalize normal adolescent relationships.<sup>25</sup> Scholars note that this can have long-term psychological effects, stigmatizing young people and potentially discouraging open communication about sexual health.<sup>26</sup> Courts have recognized these risks and have increasingly sought to contextualize adolescent relationships to prevent undue criminalization, ensuring that the protective function of POCSO does not become punitive.

## **8. Recommendations for Legal Reform**

Legal experts have proposed reforms to address the criminalization of consensual adolescent relationships under POCSO.<sup>27</sup> A widely discussed recommendation is the introduction of a "close-in-age" exemption, which would prevent criminal prosecution for consensual sexual activity between adolescents within a defined age range.<sup>28</sup> Additionally, comprehensive sexual and reproductive health education is recommended to equip young people with the knowledge to understand consent, recognize healthy boundaries, and develop responsible interpersonal relationships.<sup>29</sup> Judicial interpretations and academic commentary converge on the need for these reforms to protect children while respecting adolescent autonomy.

## **9. The Role of Comprehensive Sexual Education**

Comprehensive sexual and reproductive health education is increasingly seen as a complementary tool to legal reform.<sup>30</sup> Education initiatives can reduce the risks of exploitation, promote responsible relationship behavior, and enhance adolescents' capacity to make informed decisions.<sup>31</sup> Courts have highlighted the importance of empowering adolescents with knowledge about consent, sexual rights, and healthy relationship dynamics, noting that such measures can reduce conflict between protective statutes like POCSO and the reality of

---

<sup>24</sup> Id.

<sup>25</sup> supra note 8..

<sup>26</sup> supra note 20.

<sup>27</sup> Id.

<sup>28</sup> supra note 8.

<sup>29</sup> supra note 20.

<sup>30</sup> supra note 8.

<sup>31</sup> supra note 20.

adolescent development.

## 10. The Need for a Balanced Approach

Judicial interpretation of POCSO concerning adolescent relationships reflects an evolving understanding of child protection and adolescent autonomy.<sup>32</sup> Courts are increasingly advocating for nuanced approaches that differentiate between exploitative acts and consensual adolescent relationships. While POCSO remains a critical instrument in protecting children, the integration of age-proximity exemptions, contextual analysis, and educational initiatives represents a shift towards balancing protection with autonomy.<sup>33</sup> This evolving jurisprudence underscores the importance of aligning statutory objectives with developmental realities and constitutional principles.

### COMPARATIVE JURISPRUDENCE: AGE-OF-CONSENT AND CLOSE-IN-AGE EXEMPTIONS

Jurisdictions worldwide have struggled to balance adolescent developmental realities with strong protections against sexual exploitation. Many have adopted close-in-age exemptions, often called “Romeo and Juliet laws,” to prevent consensual adolescent relationships from being criminalized.

In Canada, reforms under the Tackling Violent Crime Act (2008) raised the age of consent from 14 to 16 and introduced detailed close-in-age exemptions. Adolescents aged 12 or 13 may engage in consensual sexual activity with someone less than two years older, while those aged 14 or 15 may do so with partners less than five years older, provided there is no coercion or power imbalance.<sup>34</sup> The *Criminal Code* further authorizes courts to evaluate the maturity of participants and the dynamics at play, particularly in cases where one participant may hold a position of trust or authority.<sup>35</sup> This balanced approach preserves protections for minors while avoiding criminalization of age-normative peer relationships.

The United Kingdom takes a distinct path. While the legal age of consent remains at 16, and there are no formal close-in-age exemptions, prosecutorial guidelines allow discretion in cases

---

<sup>32</sup> supra note 20.

<sup>33</sup> supra note 20.

<sup>34</sup> Criminal Law Amendment Act, 2008, c. 22, § 150.1 (Can.).

<sup>35</sup> Criminal Code, R.S.C. 1985, c. C-46, § 153(1) (Can.).

involving consensual relationships between adolescents close in age.<sup>36</sup> Prosecutors are advised not to pursue charges when both parties appear to be of similar age and no exploitation is evident, thus avoiding penalizing adolescents for non-exploitative conduct.<sup>37</sup> Critics warn that this model largely relying on prosecutorial discretion may lack uniformity and transparency.<sup>38</sup>

In the United States, statutes vary across states, but close-in-age defenses are widespread. For example, Florida law allows individuals aged 16 and 17 to legally engage with partners up to 23 years old, without triggering sex-offender registration in certain cases.<sup>39</sup> In Texas, minors aged 14 and above can have consensual relationships with partners up to three years older without facing statutory rape charges.<sup>40</sup> Other states such as Utah, Rhode Island, and South Dakota have enacted similar provisions with different age gaps.<sup>41</sup> These laws commonly stipulate consensual, non-exploitative contexts, emphasizing developmental fairness.<sup>42</sup>

By contrast, India's POCSO Act (2012) applies a rigid age threshold: any sexual activity with individuals below 18 is an offense, irrespective of mutual consent or the partner's age.<sup>43</sup> This absolute framework has led to significant concern: studies indicate that between 18% and 54% of POCSO cases in major Indian cities involved consensual relationships between adolescents, not exploitation. In Delhi alone, the percentage hovered around 30%.<sup>44</sup> Despite such data, legal responses have remained static.

Some judicial and institutional voices have proposed recalibration. The Madras High Court has suggested redefining "child" to exclude adolescents over 16 or adopting a close-in-age exemption.<sup>45</sup> The National Commission for Protection of Child Rights (NCPCR) recommended allowing consensual, non-penetrative acts among minors aged 12 and up if the age gap is under two years, and permitting sexual activity for those aged 14 and above when the age gap is fewer

---

<sup>36</sup> Crown Prosecution Serv., *Alternative Charge or Threshold Test Guidance: Consent and Eligibility for Charges Involving Children* (2020).

<sup>37</sup> *Id.*

<sup>38</sup> Robert Geary, *The Implementation of Consent Laws and Adolescents*, 34 *Fam. L.* 22, 28 (2022).

<sup>39</sup> Fla. Stat. § 847.0135 (2023).

<sup>40</sup> Tex. Penal Code Ann. § 22.011(f)(1) (West 2023).

<sup>41</sup> Michelle Oberman et al., *Romeo and Juliet Statutes* in *U.S. Juvenile Law: A Comparative Overview*, 45 *\*J. Am. Acad. Youth L.* (2024).

<sup>42</sup> *Id.*

<sup>43</sup> *Protection of Children from Sexual Offences Act*, No. 32, Acts of Parliament, 2012 (India).

<sup>44</sup> Nirmala Menon, *Youth Behavior and the POCSO Act: A Socio-Legal Study* 67 (Nat'l Legal Servs. Auth. 2023).

<sup>45</sup> Madras High Court Suggests Reforming POCSO Age Definition, (2025) 48 A.I.R. 321 (Mad.).

than three years.<sup>46</sup> These reforms would align India's framework more closely with emerging international standards, though they remain unimplemented.

The lack of reform in India stems from complex societal and cultural contexts. Adolescent intimacy often falls prey to familial or societal disapproval, particularly in inter-caste or inter-religious contexts.<sup>47</sup> POCSO's mandatory reporting and rigid prosecutorial framework leave little scope for discretion, often resulting in punitive responses to normative adolescent behaviour. Comparative jurisprudence offers more balanced approaches: Canada uses structured close-in-age exemptions; the UK relies on prosecutorial discretion; U.S. states provide varying statutory protections; and South Africa has adopted constitutionally driven reforms recognising adolescents' privacy and dignity. These models suggest a viable path for India: introducing a close-in-age exemption in POCSO, supported by judicial sensitivity and comprehensive sex education, to align the law with developmental and constitutional realities.

## **DOCTRINAL CRITIQUE OF THE STRICT LIABILITY FRAMEWORK UNDER POCSO**

The Protection of Children from Sexual Offences (POCSO) Act, 2012 enforces a strict liability regime by categorically criminalizing any sexual activity involving individuals under eighteen years of age regardless of consent or maturity. Section 2(d) defines a "child" as anyone below eighteen, while Sections 3 through 7 impose penalties on sexual conduct involving minors without evaluating the nature of the relationship or the presence of mutual agreement.<sup>48</sup>

Judicial interpretations have upheld this inflexible stance. In *Independent Thought v. Union of India*, the Supreme Court invalidated the IPC's Exception II, holding that marital consent does not negate the criminality of sexual activity when the girl is under eighteen.<sup>49</sup> This verdict mandates that sexual activity with minors remains criminal, even when consensual and within marriage, underscoring the Act's uncompromising position.<sup>50</sup>

---

<sup>46</sup> Nat'l Comm'n for Prot. of Child Rights, *Report on Proposed Age of Consent Amendment and Close-in-Age Framework*(2024).

<sup>47</sup> Ashutosh Varshney, Adolescent Autonomy and Societal Taboos in South Asia, 12 Asian J. Youth L. 56, 60 (2021).

<sup>48</sup> Protection of Children from Sexual Offences Act, No. 32 of 2012, India Code (2012), §§ 2(d), 3–7.

<sup>49</sup> *Independent Thought v. Union of India*, (2017) 10 SCC 800.

<sup>50</sup> *Id.* ¶¶ 167–169.

Contrastingly, the Juvenile Justice (Care and Protection of Children) Act, 2015 introduces a nuanced approach by allowing adolescents aged sixteen to eighteen to be tried as adults for heinous offenses.<sup>51</sup> This legislative change recognizes the likelihood of greater maturity in older minors, a recognition absent in POCSO.<sup>52</sup>

From a doctrinal standpoint, criminal liability usually requires both a wrongful act (*actus reus*) and a culpable mindset (*mens rea*).<sup>53</sup> POCSO undercuts this foundational principle by attributing guilt based purely on age, with no consideration of consent or the adolescent's understanding. Such an approach conflicts with Article 14 of the Constitution, which demands that laws be precise, just, and fair.<sup>54</sup>

Global human rights norms reinforce this critique. The UN Committee on the Rights of the Child, in its General Comment No. 20, emphasizes that States should calibrate criminal responses to reflect the evolving capacities of minors and avoid punishing consensual peer relationships.<sup>55</sup> Additionally, jurisdictions like Canada and Australia have implemented close-in-age exemptions, with defined age thresholds safeguarding adolescent autonomy without compromising protection.<sup>56</sup>

Critics warn that exempting consensual adolescent relationships may create loopholes or undermine POCSO's protective intent. However, empirical and comparative evidence suggests that carefully drafted close-in-age provisions can strike a balance by excluding consensual peer relationships while preserving prohibitions against coercion or exploitation.<sup>57</sup>

Further supporting this argument is the Supreme Court's broader legislative intent, as observed in *Independent Thought*, which emphasized harmonizing statutory norms to uphold the best interests of minors.<sup>58</sup> POCSO's rigid approach fails this harmony test, especially when its punitive provisions conflict with rehabilitative norms and evolving statutory interpretations

---

<sup>51</sup> Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, § 15 (India).

<sup>52</sup> See generally Rajya Sabha Debates, Protection of Children from Sexual Offences Bill, 2011: An Analysis.

<sup>53</sup> H.L.A. Hart, *Punishment and Responsibility* 45 (1968).

<sup>54</sup> *State of W. Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75.

<sup>55</sup> UN Committee on the Rights of the Child, General Comment No. 20 (2016), U.N. Doc. CRC/C/GC/20 ¶ 40 (2016).

<sup>56</sup> *R. v. J.A.*, 2011 SCC 28 (Can.); Criminal Code, R.S.C. 1985, c. C-46, § 150.1 (Can.); Criminal Law (Tas.), 2012, s. 13.

<sup>57</sup> Law Commission of India, *Report on the Age of Consent under POCSO*, Report No. 278 (2023).

<sup>58</sup> Press Conference, *Independent Thought v. Union of India* (2017), Law & Policy Research.

across India's legal system.

In summary, while POCSO's strict liability model prioritizes safeguarding minors, its lack of flexibility leads to overcriminalization of consensual adolescent conduct and undermines doctrinal consistency. Introducing a legislatively defined, narrowly tailored close-in-age exemption combined with judicial discretion and education would better align the law with principles of proportionality, constitutional fairness, and international child-protection standards.<sup>59</sup>

## **SOCIO-LEGAL CONSEQUENCES OF CRIMINALIZING CONSENSUAL ADOLESCENT RELATIONSHIPS UNDER POCSO**

The enactment of the Protection of Children from Sexual Offences (POCSO) Act, 2012, marked a significant step in safeguarding minors against sexual abuse and exploitation. Its primary goal is to ensure that children are protected from predatory behavior, providing a robust legal framework for prevention, reporting, and prosecution of sexual offenses. However, the law's strict age-of-consent threshold, uniformly set at eighteen years, has unintended consequences when applied to consensual relationships between adolescents who are close in age. By criminalizing sexual activity regardless of mutual consent, POCSO creates a scenario where normal adolescent exploration of romantic or sexual relationships can be treated as a legal offense.<sup>60</sup>

Adolescence is a formative phase characterized by exploration, emotional development, and emerging autonomy.<sup>61</sup> It is widely recognized in developmental psychology that teenagers engage in consensual relationships as part of their social and emotional growth. When legal intervention categorizes such behavior as criminal, adolescents face a dual burden: navigating complex legal processes while coping with the social stigma attached to being labeled as a participant in a sexual offense.<sup>62</sup> This situation can result in significant stress, fear, and confusion for young individuals who may not fully comprehend the legal implications of their actions, yet are held accountable as if they were adults.<sup>63</sup>

---

<sup>59</sup> Id.; See also NCPCR, *Proposed Framework for Age of Consent Reform*, (2024).

<sup>60</sup> Ashutosh Varshney, Adolescent Autonomy and Societal Taboos in South Asia, 12 *Asian J. Youth L.* 56, 60 (2021).

<sup>61</sup> *supra* note 8.

<sup>62</sup> U.N. Convention on the Rights of the Child, G.A. Res. 44/25, U.N. Doc. A/44/25 (Nov. 20, 1989).

<sup>63</sup> *supra* note 38.

The socio-legal consequences of this rigid application are significant. A minor in a consensual, close-in-age relationship can still face criminal investigation, trial, and potential conviction under POCSO, resulting in an official criminal record. Such records can affect future educational, professional, and social opportunities. This disproportionate legal response highlights the tension between statutory protection and the principle of proportionality in criminal law.<sup>64</sup>

The psychological impact is profound. Adolescents involved in legal proceedings under POCSO often experience anxiety, depression, and other emotional disturbances. Fear of prosecution, combined with societal judgment and media scrutiny, can contribute to long-lasting trauma.<sup>65</sup> These psychological effects are compounded when the minor's peers, school authorities, or family members perceive the adolescent as guilty regardless of judicial outcomes. The mental health implications underscore the importance of considering the developmental stage of adolescents when designing and implementing protective statutes.<sup>66</sup>

Social repercussions are extensive and often disproportionate. In many instances, legal actions are initiated due to complaints arising from parental disapproval, community pressure, or moral policing, rather than actual evidence of abuse or coercion. This has the effect of imposing a socially constructed standard of morality through legal means, where consensual adolescent behavior becomes subject to surveillance and control. Adolescents who are accused under POCSO may face ostracization within their community, strained family relationships, and loss of peer support networks. Such outcomes can hinder social development and create barriers to forming healthy interpersonal relationships in the future.<sup>67</sup>

Gendered dynamics further complicate POCSO's socio-legal impact. Although the Act is gender-neutral, enforcement often reflects societal biases, with male adolescents more frequently treated as accused and female adolescents as victims. In consensual relationships, this can intensify stigma for young women, especially in conservative communities where reputational pressures are strong. The interaction between legal enforcement and cultural norms underscores the broader societal consequences of applying POCSO without nuance.<sup>68</sup>

---

<sup>64</sup> Id.

<sup>65</sup> Id.

<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> Id.

The educational consequences of criminalization are also significant. Adolescents charged under POCSO frequently experience interruptions in schooling due to court proceedings, social stigma, and emotional distress. Missing school or facing peer ostracization can affect academic performance and future educational opportunities. Beyond individual impacts, this scenario has broader societal implications, as it may limit adolescents' potential for full participation in community and civic life.<sup>69</sup>

Another critical concern relates to access to sexual and reproductive health services. Fear of legal repercussions may deter adolescents from seeking confidential guidance, contraception, or testing for sexually transmitted infections. Courts have emphasized that protecting children requires not only legal measures but also ensuring that adolescents can access healthcare without fear of prosecution.<sup>70</sup> Restricting access to essential health services paradoxically undermines the law's protective intent by increasing vulnerabilities rather than mitigating them.

POCSO's strict liability framework intensifies these socio-legal challenges. Consent is legally irrelevant when a minor is involved, and the statute provides no space to consider age proximity or mutual agreement. With limited judicial discretion, even non-exploitative, consensual relationships may lead to prosecution. This rigid approach results in normal adolescent behaviour being criminalized, underscoring the need for reforms that reflect developmental realities.<sup>71</sup>

International human rights standards offer guidance on balancing protection with developmental recognition. The United Nations Convention on the Rights of the Child advocates measures that consider the evolving capacities of minors and emphasize protection that is sensitive to context and maturity.<sup>72</sup> POCSO's failure to incorporate a close-in-age exemption or contextual assessment is inconsistent with these principles. Comparative legal frameworks in countries such as Canada and the United States illustrate how age-proximity exemptions can effectively protect minors from sexual exploitation while avoiding the unnecessary criminalization of consensual peer relationships.

---

<sup>69</sup> Id.

<sup>70</sup> Id.

<sup>71</sup> Id.

<sup>72</sup> Id.

Socio-legal scholarship has highlighted the negative ripple effects of criminalizing consensual adolescent behavior. Experts argue that blanket legal restrictions fail to differentiate between coercion and mutual consent, thereby producing unintended consequences, including social stigma, emotional trauma, and educational setbacks.<sup>73</sup> They emphasize that reforms should combine legal safeguards with educational initiatives that inform adolescents about consent, boundaries, and healthy relationship practices. Such an integrated approach can preserve the protective goals of POCSO while respecting the autonomy and developmental needs of adolescents.

The cumulative socio-legal consequences underscore the urgent need for reform. Introducing a close-in-age exemption would allow courts to distinguish between consensual peer relationships and exploitative acts, ensuring that legal responses are proportionate. Coupled with comprehensive sexual and reproductive health education, such reforms could mitigate the psychological, educational, and social harms currently associated with POCSO's rigid age-of-consent framework. In doing so, the law would continue to safeguard children from abuse while respecting adolescent autonomy and promoting healthy development.<sup>74</sup>

## CONCLUSION

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted as a comprehensive framework to safeguard minors from sexual abuse, exploitation, and harassment in India.<sup>75</sup> Its primary objective is to ensure the protection of children under the age of eighteen, with the age-of-consent threshold uniformly fixed to eliminate ambiguity and prevent exploitation by adults.<sup>76</sup> While the legislative intent behind POCSO is indisputably crucial, the doctrinal and socio-legal consequences arising from its strict liability framework have posed significant challenges, particularly regarding consensual adolescent relationships.<sup>77</sup> This study has critically examined the legal framework, judicial interpretations, doctrinal critiques, and socio-legal consequences of criminalizing consensual sexual behavior among adolescents, drawing attention to the need for nuanced legal reforms that balance protection with autonomy.<sup>78</sup>

---

<sup>73</sup> Id.

<sup>74</sup> Id.

<sup>75</sup> Id.

<sup>76</sup> Id. § 3.

<sup>77</sup> supra note 8

<sup>78</sup> Id.

Judicial pronouncements have increasingly recognized the importance of distinguishing between exploitative sexual conduct and consensual relationships among adolescents.<sup>79</sup> Courts have emphasized that adolescents possess evolving capacities for decision-making, self-determination, and understanding of relationships, which must be considered when applying a criminal statute designed primarily to protect minors from abuse.<sup>80</sup> For instance, in multiple High Court decisions, the judiciary has underscored that POCSO prosecutions should not extend to consensual peer relationships where there is no evidence of coercion, manipulation, or exploitation.<sup>81</sup> The rationale for such judicial discretion is grounded in both developmental psychology and constitutional principles, including the right to privacy, personal liberty, and autonomy recognized in *K.S. Puttaswamy v. Union of India* and reaffirmed in subsequent decisions concerning intimate choices and relationships.<sup>82</sup>

The strict liability nature of POCSO, wherein consent is immaterial and any sexual act with a minor is deemed an offense, has produced a series of socio-legal repercussions.<sup>83</sup> Adolescents aged sixteen to eighteen engaging in consensual relationships have found themselves subject to criminal proceedings, with potential registration as offenders and lifelong legal implications.<sup>84</sup> These prosecutions often extend to families, educational institutions, and social networks, creating stigma, psychological distress, and disruption in educational and social development. Legal scholars argue that such an approach may disproportionately penalize minors, undermining both the principles of proportionality in criminal law and the protective objectives of the Act itself.

The absence of a close-in-age exemption under POCSO remains a significant lacuna.<sup>85</sup> Unlike several other jurisdictions that incorporate age-proximity clauses to differentiate between consensual peer relationships and exploitative behavior, India's current statutory regime does not permit judicial discretion based solely on the relative age and maturity of the parties involved. Comparative legal studies indicate that age-proximity exemptions serve as an effective mechanism to reconcile the objectives of child protection with the recognition of

---

<sup>79</sup> Mahalakshmi Pavani, POCSO Law Must Protect, Not Punish Young People for Consensual Relationships, *ThePrint* (July 31, 2025).

<sup>80</sup> *Id.*

<sup>81</sup> Sukriti Mishra, Adolescents Have the Right to Engage in Consensual and Coercion-Free Relationships, *Verdictum* (Feb. 19, 2025).

<sup>82</sup> *supra* note 12.

<sup>83</sup> *supra* note 8

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

adolescent autonomy. For example, in Canada, the Criminal Code permits consensual sexual activity between adolescents within defined age ranges, and in the United States, various “Romeo and Juliet” statutes prevent criminal liability for peer relationships that are close in age.<sup>86</sup> Incorporating similar reforms into POCSO would ensure that the law targets genuine exploitation without punishing normative adolescent behavior.<sup>87</sup>

Constitutional considerations further underscore the need for nuanced application and potential legislative reform. Judicial reliance on the right to privacy, affirmed in the Supreme Court’s landmark judgments such as *K.S. Puttaswamy and Navtej Singh Johar v. Union of India*,<sup>88</sup> highlights that minors’ autonomy and capacity for informed decision-making should inform prosecutorial and judicial discretion.<sup>89</sup> Courts have repeatedly noted that POCSO’s protective mandate should not transform into punitive overreach, especially where the relational context, mutual consent, and absence of coercion are evident. From a doctrinal perspective, the strict liability framework appears inconsistent with principles of proportionality and fairness, both of which are central to criminal jurisprudence.

The socio-legal consequences of criminalizing consensual adolescent relationships extend beyond the immediate parties. Families often face legal harassment, social stigma, and disruption of household dynamics, while schools and community institutions may become inadvertently embroiled in legal proceedings. Adolescents subjected to criminal charges under POCSO may experience long-term psychological effects, including anxiety, depression, and social withdrawal, which can adversely impact educational attainment and social integration. Furthermore, the misuse of POCSO complaints in situations influenced by familial disputes, societal disapproval, or personal grievances has been reported, highlighting the potential for the Act to be weaponized against minors and their peers.<sup>90</sup>

A doctrinal critique of the strict liability framework reveals that the law’s current design does not account for the nuanced realities of adolescent development. Adolescents are in a unique developmental stage where experimentation, social learning, and relational understanding are

---

<sup>86</sup>nMichelle Oberman et al., *Romeo and Juliet Statutes in U.S. Juvenile Law: A Comparative Overview*, 45 J. Am. Acad. Youth L. (2024).

<sup>87</sup> Id.

<sup>88</sup> NCPCR, *Report on Proposed Age of Consent Amendment and Close-in-Age Framework*, 2024.

<sup>89</sup> Id.

<sup>90</sup> Id.

critical for psychosocial growth. Criminalizing consensual interactions within this stage may not only contravene the principles of developmental justice but also run counter to the law's protective intent.<sup>91</sup> Scholars have advocated for the introduction of nuanced legal provisions, including close-in-age exemptions, graduated penalties, and context-based judicial discretion, which can safeguard minors from abuse without penalizing consensual peer relationships.<sup>92</sup>

Judicial interpretations have shown an evolving understanding of these complexities. Courts have recognized scenarios where adolescents engage in mutual relationships without coercion or exploitation, suggesting that strict application of POCSO is neither necessary nor just. For instance, certain High Court judgments have refrained from punishing consensual acts between minors of similar ages, demonstrating an acknowledgment of the principle of proportionality in criminal law. The judiciary has emphasized that while the protective purpose of POCSO remains paramount, it should operate within the framework of fairness, context sensitivity, and recognition of developmental realities.<sup>93</sup>

Policy and reform recommendations flow naturally from these doctrinal critiques and socio-legal observations. First, a legislative amendment introducing a close-in-age exemption would prevent criminal liability for consensual acts between adolescents within a defined age bracket, ensuring that the law focuses on genuine exploitation rather than normal adolescent behavior. Second, implementing comprehensive sexual and reproductive health education in schools would empower adolescents with knowledge about consent, healthy relationships, and personal autonomy, thereby reducing the risk of exploitation and minimizing conflict with the protective objectives of POCSO. Third, guidelines for prosecutorial discretion and judicial evaluation could be formalized to ensure that cases involving consensual peer relationships are assessed contextually, with consideration given to maturity, mutual consent, and absence of coercion.<sup>94</sup>

International experience demonstrates that such reforms are not only feasible but effective. Jurisdictions incorporating close-in-age exemptions and age-graded consent models have successfully reduced unnecessary criminalization while maintaining robust protections against sexual exploitation.<sup>95</sup> These measures offer valuable lessons for India, where balancing the

---

<sup>91</sup> Id.

<sup>92</sup> Id.

<sup>93</sup> Id.

<sup>94</sup> Id.

<sup>95</sup> Id.

twin objectives of child protection and recognition of adolescent autonomy remains a pressing challenge. Integrating doctrinal, judicial, and socio-legal insights into legislative and policy reforms would strengthen the efficacy of POCSO, prevent misuse, and protect the well-being of adolescents.<sup>96</sup>

In sum, this analysis highlights the urgent need to recalibrate the application of POCSO concerning consensual adolescent relationships. While the law's protective function is indispensable, its current strict liability approach may inadvertently criminalize normative adolescent behavior, leading to long-term social, educational, and psychological consequences. By introducing close-in-age exemptions, empowering judicial discretion, and promoting comprehensive education, India can achieve a more balanced legal framework that simultaneously safeguards minors and respects their developmental autonomy. The integration of these reforms will ensure that POCSO fulfills its protective mandate without infringing on the rights, dignity, and well-being of adolescents, reflecting a more just, equitable, and context-sensitive approach to child protection.<sup>97</sup>

---

<sup>96</sup> Id.  
<sup>97</sup> Id.