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ADOLESCENT LOVE: NATURAL ACT OR CRIMINAL OFFENCE

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Abstract

One day I was discussing with my fellow classmates the provision of the POCSO Act. X said, "Consensual relationship is an offence under POCSO Act". Y said, "It's good na, good to protect children from sexual offences and do you know? POCSO Act is a gender neutral act". Z added, "Still a minor above 16 years can be tried under the Juvenile Justice Act. X said, "Even sexual act with your minor wife is an offence".

Too many questions in my mind, I started researching and I found there is an absence of adolescent love in the Indian legal system. This article is only about the consensual act between adolescents who are close in age. Before moving further ask yourself a question, in which age did you find your first crush?

Keywords - Adolescent, Teenage, Consent, POCSO, Juvenile Justice, Close in age.

INTRODUCTION

There was a girl who found a boy cute, she got his mobile number through mutual friend and started calling him, he was unaware that who is calling him, once he found out that girl, she was beautiful, they keep talking via call, they fall in love. But one day the girl's family got to know about this, they both were from different caste, the girl's family filed a false FIR against the boy. Sounds like a movie right, yes, it is, named "Court - State vs. A Nobody" (2025). The charges framed against him were, section 366A - procurement of minor girl, 354A - sexual harassment of a girl, 354B - assault or use of criminal force to woman, 354C - voyeurism, 354D - stalking, of The Indian Penal Code, 1860, and section 11 - sexual harassment, of The Protection of Children from Sexual Offences Act, 2012. Section 11 of POCSO Act was added because the boy was 19 years old and the girl was slightly less than 18 years. In this case even

if the girl says everything happened with consent this will not be considered because consent of a minor is no consent under POCSO Act. But at last she said to the court that no sexual harassment has been happened with her and the court acquitted him.

Children in their teenage years are vulnerable, their mind is still developing and learning about self and society, they need love, care, shelter, and protection for appropriate growth and development. Abuse against children will develop a sense of fear in their consciousness, this will restrict them to reach their full potential both physically and mentally.¹ To protect children from sexual offences. Indian legislature has made several efforts such as, The Prohibition of Child Marriage Act, 2006, The Protection of Child from Sexual Offences, 2012, The Juvenile Justice Act, 2015, The Bharatiya Nyaya Sanhita, 2023. These efforts were influenced by the civil societies, the Supreme Court judgements², as well as obligations under the Constitution of India, Article 15(3) *inter alia* and the United Nations Convention on the Rights of the Child, 1989 ratified by India on December 11, 1992.

The laws are made to protect the children from adults with malafide intentions, who want to outrage a child's modesty. But some people are misusing these laws to abuse adolescents coming into relationships out of pure love and affection. The data shows that it is not the victims but her family members who approach the police under the society's pressure to initiate the criminal procedure against the accused stating that their minor daughter has been kidnapped.³ In a case, the Kerala High Court remarked,

*“Unfortunately, the statute does not distinguish between the conservative concept of the term rape and the sexual interactions arising out of pure affection and biological changes. The statutes do not contemplate the biological inquisitiveness of adolescence and treat all ‘intrusions’ on bodily autonomy, whether by consent or otherwise, as rape for certain age group of victims”.*⁴

¹ Vinod Paul, et al., *Child abuse: A social evil in Indian perspective*, JFMPC, Jan. 2021, at 110-115. https://journals.lww.com/jfmpr/fulltext/2021/10010/child_abuse_a_social_evil_in_indian_perspective.19.aspx (accessed on Jan. 23, 2026)

² Sakshi v. Union of India, (2004) Writ Petition (crl.) 33 of 1997. https://jajharkhand.in/wp/wp-content/judicial_updates_files/13_Evidence_Act/17_rape_victim/Sakshi_vs_Union_Of_India_on_26_May,_2004.PDF (accessed on Jan. 23, 2025)

³ Bhumika Indulia, “Age of Consent” Under the POCSO Act, SCC TIMES, (Mar. 12, 2023). <https://www.sconline.com/blog/post/2023/03/12/age-of-consent-under-the-pocso-act/amp/> (accessed on 23rd, Jan. 2026)

⁴ Anoop v. State of Kerala, (2022) SCC OnLine Ker 2982, SCC TIMES, (Jun. 11 2022). <https://www.sconline.com/blog/post/2022/06/11/pocso-section-376-ipc-sexual-offences-punishment-curriculum-supreme-court-legal-research-updates-news/> (accessed on Jan. 23, 2026)

An analysis of 1715 decisions in “romantic” cases by Special Courts from Maharashtra, West Bengal, and Assam discloses the disconnect between law and ground realities. Acquittals were the norm and were recorded in 93.8% of such cases. In 87.9% of these 1715 cases, the victim admitted to a consensual romantic relationship with the accused. Furthermore, 81.5% of victims provided no evidence to incriminate the accused during trial. Nearly half 46.5% of the "romantic" cases involved couples who had already married. The Special Courts showed a clear reluctance to convict the accused when they observed that it would disturb an established marriage. In cases where the parties were married, the acquittal rate climbed to 98.1%.⁵ The study suggests that Special Courts gave more importance to social stability of the victim and accused over strict punishment.

NATURAL ACT

Freud's theory of psychosexual development suggests that genital stage begins around the age of 13 years or puberty and continues throughout adulthood.⁶ Genital stage encompasses both adolescence and adulthood. During the first few years of the genital stage, which corresponds to adolescence, individuals are more inclined to live, socialize outside family, and attraction to members of the opposite sex increases, and Freud called this heterosexuality.⁷ Researchers have identified specific brain regions associated with the experience of romantic love. Falling in love is so pleasurable and almost addictive, it has a similar effect on the brain as using cocaine. Teenagers feel love more deeply than people in older age.⁸ Love is not just a feeling, the neurotransmitters in the brain work in a complex way that changes our sense of perception. Olds, an Harvard associate professor of psychiatry says that being in love creates a sense of happiness and reinforces the desire to be with the person and releases the dopamine, a chemical known as feel good hormone. Other chemicals responsible for romantic love are serotonin associated with obsessive compulsive behavior, oxytocin which creates emotional intimacy and vasopressin linked to long term commitment.⁹

⁵ Swagata Raha & Shruti Ramakrishnan, *Implication of the POCSO Act in India on Adolescent Sexuality: A Policy Brief*, EPHT, UNFPA & UNICEF, 2022, at 13. https://www.girlsnotbrides.org/documents/1960/POSCO-Act-Policy-Brief_wUIR95W.pdf (accessed on Jan. 23, 2026)

⁶ Kendra Cherry, *What Are Freud's Stages of Human Development?*, VERYWELL MIND, (Jan. 14, 2026) <https://www.verywellmind.com/freuds-stages-of-psychosexual-development-2795962> (accessed on Jan. 23, 2026)

⁷ ARUN KUMAR SINGH, *MODERN ABNORMAL PSYCHOLOGY*. 161 (Motilal Banarasidas 7th ed., 2013).

⁸ *Human Body & Mind*, BBC SCIENCE, (Sept. 17, 2014) <https://www.bbc.co.uk/science/humanbody/mind/articles/emotions/teenagers/love.shtml> (accessed on 10th Feb. 2026)

⁹ Scott Edwards, *Love and the brain*, HARVARD MEDICAL SCHOOL, (2015). <https://hms.harvard.edu/news-events/publications-archive/brain/love-brain> (accessed on 10th Feb. 2026)

With the above paragraph we can understand that attraction towards the opposite gender is a natural act which typically starts from 12 to 13 years of age. Kerala High Court observed in a case,

“A meaningful life could practically be snuffed out by an immature or negligent act arising out of human curiosity or biological cravings, which Psychologists regard as natural.”¹⁰

SOCIETY'S OPINION

Functionalists such as Talcott Parsons have long argued that sexual activity is primarily for reproduction, should only occur within a stable married couple so the child can be born into a social structure where his legal and economic rights are protected. Furthermore within a committed relationship, sexual intimacy strengthens the bond between partners, providing the emotional stability necessary to maintain a productive home.¹¹ Indian society has constructed the ideal notion of womanhood through the morality of pativrata dharma, the ideology by which the Hindu wives are expected, even women aspire to be chastity.¹² Similar customs can be observed in other religions. The first criticism would be that functionalists focus on macro, society and ignore micro, individual perspectives. Second, people do sex for love, pleasure, or personal meaning not to replace members of society.

The concern is if an unsocial act happens between adolescents, the girl's family or relatives files a case against the girl's partner.¹³ Society always sees sexual activity outside marriage as taboo. Bombay High Court raised concern about the increase in criminal cases involving minors in consensual sexual relationships and observed,

“The mere apprehension that adolescents would make an impulsive and bad decision, cannot classify them under one head and by ignoring their will and wishes. The age of

¹⁰ Anoop v. State of Kerala, (2022) SCC OnLine Ker 2982, SCC TIMES, (Jun. 11, 2022) <https://www.sconline.com/blog/post/2022/06/11/pocso-section-376-ipc-sexual-offences-punishment-curriculum-supreme-court-legal-research-updates-news/> (accessed on 10th Feb. 2026)

¹¹ Susan Rahman, et al, *Sociological Perspectives on Sex and Sexuality*, CC ECHO. [https://socialsci.libretexts.org/Bookshelves/Gender_Studies/Sexuality_the_Self_and_Society_\(Ruhman_Bowman_Jackson_Lushtak_Newman_and_Sunder\)/01%3A_What_is_Human_Sexuality/1.09%3A_Sociological_Perspectives_on_Sex_and_Sexuality](https://socialsci.libretexts.org/Bookshelves/Gender_Studies/Sexuality_the_Self_and_Society_(Ruhman_Bowman_Jackson_Lushtak_Newman_and_Sunder)/01%3A_What_is_Human_Sexuality/1.09%3A_Sociological_Perspectives_on_Sex_and_Sexuality) (accessed on 10th Feb. 2026)

¹² Uma Chakravarti, *Conceptualising Brahmanical Patriarchy in Early India: Gender, Caste, Class and State*, Vol. 28. No. 14, ECONOMIC AND POLITICAL WEEKLY, JSTOR, 579-585, (Apr. 3, 1993) at 582, 583. <https://www.jstor.org/stable/4399556> (accessed on 10th, Feb. 2026)

¹³ Geetika Jain, *Landmark Judgments Under POCSO Act, 2012 and Analysis*, MANUPATRA ACADEMY, at 47. <https://www.manupatracademy.com/assets/pdf/legalpost/Landmark-Judgments-Under-Pocso-Act.pdf> (accessed on Feb. 10, 2026)

consent necessarily has to be distinguished from the age of marriage as sexual acts do not happen only in the confines of marriage and not only the society, but the judicial system must take note of this important aspect.”¹⁴

AGE OF CONSENT UNDER DIFFERENT LAWS

The age of consent in India was 16 years from approximately 1940 until 2012, when the Protection of Children from Sexual Offences (POCSO) Act, 2012 raised it to 18 years.¹⁵

The Prohibition of Child Marriage Act, 2006

Section 2(a) defines “child” as a person who, if a male, has not completed 21 one years of age, and if a female, has not completed 18 years of age. The act sets the age of consent for females 18 years and 21 years for male. Section 3 of the act says that child marriage to be “voidable” not “void” as a matter of personal law except Karnataka. Prohibition of Child Marriage (Karnataka Amendment) Act, 2016 sets child marriage “void ab initio.” Voidable means the marriage is legally valid until the contracting party who was a child at the time of the marriage chooses to annul the marriage. The petition to annul the marriage can be filed anytime but before two years after attaining majority. The question arises, when the boy and the girl both are married, it is obvious they will do sexual activity. Further if any mishap happens between the married couple or their family this will attract offence under POCSO Act. The POCSO Act criminalizes sexual activity with minors under 18 years of age irrespective of consent or marriage.

The Protection of Children from Sexual Offences Act, 2012

Section 2(d) of the act defines “child” as any person below the age of 18 years. The act sets the age of consent 18 years for any person. The act is a gender neutral act that means any person whether male or female under 18 years is protected from sexual offences. Any person above 18 years of age indulging in sexual activity with a minor, will be guilty of offences under the act. The question is, what if a person is slightly more than 18 years for example 18 and half years and a female is slightly less than 18 years for example 17 and half years and they do a

¹⁴ Amisha Srivastava, 'Sexual Acts Do Not Happen Only In Confines Of Marriage, Age Of Consent Has To Be Distinguished From Age Of Marriage': *Bombay High Court, LIVE LAW*, (July. 14, 2023, 08:00 AM). <https://www.livelaw.in/top-stories/bombay-high-court-sex-consent-age-teen-romance-pocso-act-age-of-marriage-232693?infinitescroll=1> (accessed on Feb. 10, 2026)

¹⁵ Kartikey Singh, *Rethinking the Age of Consent in India*, *THE INDIA FORUM*, (Sep. 11, 2025). <https://www.theindiaforum.in/law/rethinking-age-consent-india> (accessed on Feb. 11, 2026)

sexual act out of pure love and affection? The act has no scope for teenagers falling in love. Section 34 of the act says that if any offence under this act committed by a child, such child shall be dealt with under the provisions of the Juvenile Justice Act, 2015. This means if male and female both are between 16 to 18 years and the act is consensual, male can be tried under Juvenile Justice Act. Leaving no scope of defence for adolescents. The legislature need to understand that sexual acts do not happen only within marriage.

The Juvenile Justice (Care and Protection of Children) Act, 2015

Section 2(12) of the act defines “child” as a person who has not completed 18 years of age. The act sets the age of consent 18 years. Section 15 of the act says that in case of a “heinous offence” alleged to have been committed by a child, who has completed or is above the age of 16 years, on recommendation of the board the child can be tried as adult. Section 2(33) of the act defines heinous offences as the offences for which the punishment is seven years or more under the Indian Penal Code, 1860 or any other law. The point is both male and female under 18 years of age are defined as child, if any sexual activity happens between them with consent then only the male child would be guilty under Juvenile Justice Act.

Bharatiya Nyaya Sanhita, 2023 -

Section 2(3) of the act defines “child” as any person below the age of 18 years. Explanation 2 of the proviso under section 63 of the act says that sexual intercourse with one's own wife with or without consent is rape. The act sets the age of consent 18 years matching the age of consent under POCSO Act. The legal gap is state has made child marriage voidable under Prohibition of Child Marriage Act so the marriage can be contracted as a matter of personal law or custom at the same time state made sexual act with his own wife a punishable offence under the act. Legislature should separate age of consent from age of marriage.

With the above provisions we can say that society and the law both see consensual relationships between adolescents as misdeed. In a case the Supreme Court protected a person convicted under POCSO Act from a 20-year jail sentence. Justice Oka wrote,

“Though the victim did not treat the incident as a heinous crime, she suffered because of it. This was because at an earlier stage the victim could not make an informed choice due to the shortcomings of our society, our legal system and her family. In fact, she did not get any opportunity to make an informed choice. The society judged her, the legal system failed her, and her own family abandoned her. Now she is at a stage where she

is desperate to save her husband. Now she is emotionally committed to the accused and has become very possessive of her small family.”¹⁶

We can say that the sexual act with consent between adolescents is not a “rape” but a “statutory rape.”

JUDICIAL TRENDS

The Madras High Court recently observed in the case that consensual relationships between teenagers aged 16 to 18 which are usually driven by innocence or infatuation should be exempted from the rigid provisions of the POCSO Act. Under the POCSO Act, such acts can attract a minimum punishment of 7 to 10 years. The Court suggested that the age of consent should be lowered and the definition of a "child" should be revised to below 16 years of age instead of 18.¹⁷ In another case Supreme Court has suggested that the legislature consider introducing a “Romeo-Juliet” clause in the POCSO Act, this suggestion aims to protect adolescents in consensual relationships from criminal prosecution, when both parties are minors or are close in age and the act is consensual.¹⁸ In a case the High Court of Madras suggested a specific age gap threshold to differentiate between adolescent romance and predatory behavior. It posits that if a victim is 16 years or older and has given consent, the offender should not be prosecuted if they are within five years of the victim's age. The logic behind suggestion is to ensure that a teenager's impressionable age is not exploited by an older adult who has crossed the stage of presumable innocence.¹⁹ These suggestions reflect a growing judicial consensus that the law needs to evolve to better handle the realities of modern adolescent behavior without compromising the safety of children from actual predators.

¹⁶ Gauri Kashyap, *POCSO convict spared from jail sentence*, SUPREME COURT OBSERVER, (Jan. 19, 2025) <https://www.scobserver.in/journal/pocso-convict-spared-from-jail-sentence-supreme-court-justice-delayed/> (accessed on 11th Feb. 2026)

¹⁷ Ritika Jain, *Why Blanket POCSO Criminalisation – and Exemptions – Both Fall Short*, THE WIRE, (Jan. 28, 2026). <https://thewire.in/law/why-blanket-pocso-criminalisation-and-exemptions-both-fall-short> (accessed on 14 Feb. 2026)

¹⁸ Yash Mittal, *Supreme Court Urges Union To Bring 'Romeo-Juliet' Clause In POCSO Act To Shield Consensual Adolescent Relationships From Prosecution*, LIVE LAW, (Jan. 10, 2026, 10:49 AM) <https://www.livelaw.in/supreme-court/supreme-court-urges-union-to-bring-romeo-juliet-clause-in-pocso-act-to-shield-consensual-adolescent-relationships-from-prosecution-518380> (accessed on Feb. 14, 2026)

¹⁹ Vijaylakshmi v. State, (2021) CrI.O.P.No.232 of 2021. <https://mhc.tn.gov.in/judis/index.php/casestatus/viewpdf/562396> (accessed on Feb. 15, 2026)

LAW COMMISSION REPORTS

In its 156th Report on Indian Penal Code, 1860, the Law Commission,²⁰ In consideration of recommendations made by the National Commission for Women, the commission accepted the proposal to raise the age of consent to 18 years. As a result the commission recommended that the age threshold specified in the sixth clause of Section 375 of the Indian Penal Code should be increased to 18 to ensure legal consistency. However, the Parliament did not consider it and continued the age of consent to be 16 years till 2012 when POCSO was enacted and under IPC till Section 375 was amended in 2013. The 2013 Justice Verma Committee opposed raising the age of consent to 18, recommended to remain at 16 years. The committee argued that an 18 year threshold would unintentionally criminalize consensual adolescent relationships and create a legal loophole to misuse particularly as a means for families to file false cases against adolescents in inter-caste or inter-religious relationships.²¹

AGE OF CONSENT IN OTHER COUNTRIES

The age of sexual consent in Canada is 16 years, the law includes "close in age" exceptions to account for adolescent relationships. However, consent is legally not valid if the older individual is in a position of trust, authority, dependency, or if the relationship is deemed exploitative.²² In Australia, the age of sexual consent is not uniform, typically falling between 16 and 17 years of age depending on the specific state or territory. To ensure the law doesn't unfairly criminalize peer relationships, most jurisdictions include "close in age" exemptions as a legal defense. It is illegal for an adult in a position of authority, supervision, or special care such as a teacher, coach, or employer to engage in sexual activity with a 16 or 17 year old.²³ In June 2023, Japan's parliament raised the age of sexual consent from 13 to 16, marking the first change to this legal limit in over a century.²⁴ In South Africa the age of sexual consent is 16

²⁰ *156th Report on the Indian Penal Code (vol 1)*, LAW COMMISSION OF INDIA, (Aug. 30, 1997). <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/09/2022092329.pdf> (accessed on Feb. 14, 2026)

²¹ *Submissions to Justice Verma Committee*, SAHELI WOMEN'S RESOURCE CENTRE, DELHI, (Jan. 05, 2013). <https://feministlawarchives.pldindia.org/wp-content/uploads/submissions-by-saheli-women.pdf> (accessed on Feb. 14, 2026)

²² Criminal Code of Canada, R.S.C., 1985, c. C-46, s. 151, s. 153(1). <https://laws-lois.justice.gc.ca/eng/acts/c-46/page-25.html#docCont> (accessed on Feb. 15, 2026)

²³ *Age of consent laws in Australia*, CFCA Resource sheet, AUSTRALIAN INSTITUTE OF FAMILY STUDIES, (May. 2021) https://aifs.gov.au/cfca/sites/default/files/publication-documents/2104_age_of_consent_resource_sheet.pdf (accessed on Feb. 15, 2026)

²⁴ Mari Yamaguchi, *Japan raises the age of sexual consent to 16 from 13, which was among the world's lowest*, PBS NEWS, (Jun 16, 2023 3:56 PM EST). <https://www.pbs.org/newshour/world/japan-raises-the-age-of-sexual-consent-to-16-from-13-which-was-among-the-worlds-lowest> (accessed on Feb. 15, 2026)

years, a two year age gap exception is available to protect adolescent relationships.²⁵

SUGGESTIONS

Child sexuality education and awareness program

To effectively empower India's adolescent population, the government must mandate comprehensive sexuality education in schools and utilise existing programs, such as the **Rashtriya Kishor Swasthya Karyakram**, to deliver essential health information. Comprehensive sexuality education will empower adolescents to navigate interpersonal relationships with respect and clarity.²⁶ It will not only provide knowledge, but also encourage the self awareness and social responsibility necessary for them to protect their rights and dignity throughout their lives. People in general may think that comprehensive sexuality education will tend to lead to more sexual behaviour in teenagers but studies show that when teachers utilize engaging and participatory methods for comprehensive sexuality education, students are making safer choices, such as coming into relationships at a later age and using protection.²⁷

Furthermore, some necessary changes in criminal laws are needed. The same has been recommended by the Law Commission in its 283rd report, "Age of Consent under the Protection of Children from Sexual Offences Act, 2012." Which can be taken into consideration by the legislature.

Amendment in section 4 and 8 of the POCSO Act, 2012

1. The age of consent of the child should be redefined as any person below the age of 16 years.
2. The Courts should be given discretionary power, so the minimum sentence can be given by courts on a case by case basis.
3. Close in age exceptions of three years should be added for consensual adolescent relationships.

²⁵ Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (South Africa), s. 15, s. 16. <https://www.justice.gov.za/legislation/acts/2007-032.pdf> (accessed on Feb. 15, 2026)

²⁶ *Comprehensive sexuality education: For healthy, informed and empowered learners*, UNESCO. <https://www.unesco.org/en/health-education/cse> (accessed on Feb. 16, 2026)

²⁷ Dolores Ramírez-Villalobos and, et al, *Delaying sexual onset: outcome of a comprehensive sexuality education initiative for adolescents in public schools*, Vol. 21, Art. 1439 (2021), BMC PUBLIC HEALTH, (Jul. 21, 2021), at 8. <https://link.springer.com/article/10.1186/s12889-021-11388-2> (accessed on Feb. 16, 2026)

Inclusion of proviso in Section 18 of the Juvenile Justice Act, 2015

A proviso should be added that the 'age of the child' and the 'difference in age' should be considered where a child in conflict with law is found to have committed any sexual offence under the Protection of Children from Sexual Offences Act, 2012.

Amendment in the Bharatiya Naya Sanhita, 2023

Even if Judiciary be given the discretionary power in POCSO Act, the husband can be guilty of rape under explanation 2 of the proviso under section 63 of the BNS. Thus a necessary change in BNS is also needed.

CONCLUSION

India society treats love as an unsocial act and there is a social norm that one should not be engaging in any sexual activity before marriage. It is evident that teenagers after attaining puberty they start exploring self and opposite gender. The Protection of Children from Sexual Offences Act, 2012 was enacted to protect children from inducement or coercion and exploitative sexual and pornographic activity. It is effective as well but in some cases it is ignoring the consensual adolescent relationships. Significantly the romantic cases are rising in criminal system which don't have the elements of rape, we can say it a statutory rape. The criminal system is compromising the object of child protection law.

Some necessary reformers are necessary in the criminal system so the adolescents above 16 years coming into consensual relationships can be protected. Insuring the close in age exception so that children under 18 years of age can be protected from actual sexual offenders. The government should implement the existing program, Rashtriya Kishor Swasthya Karyakram effectively to deliver health awareness and a comprehensive sexuality education should be mandated in schools.