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THE "ROMEO JULIET" CLAUSE: A CRITICAL STUDY

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ABSTRACT

This article looks at the Romeo & Juliet Clause (also known as the Close-in-Age Exemption), a legal clause that protects adolescents from statutory rape accusations when they engage in consensual sex as long as they are within a certain age range (such as three years). In contrast to strict age-of-consent laws that treat all underage sexual encounters as criminal, regardless of mutual consent or similar age, it examines how these laws attempt to strike a balance between the need to protect young people from exploitation and understanding the reality of teenage romantic relationships. Drawing on cases and discussions about policies from countries like India, the US, and the UK, the study analyzes the legal justification, public perception, and effectiveness of these clauses, examining their impact on both boys (often perceived as accused) and girls (often perceived as the victims) in consensual teenage relationships.

I. INTRODUCTION:-

Shakespeare's well-known tragic play Romeo and Juliet tells the story of two young lovers from opposing families, the Montagues and Capulets, in Verona, Italy. Their intense, covert affair ends tragically with their suicides, putting an end to their families' long-standing conflict. One of Shakespeare's most performed and well-known love dramas, their forbidden love is introduced as "star-crossed lovers," and it explores fate, dispute, honor, and youthful passion.

The "age of consent" in India is sixteen. In other words, that is the legal age at which a girl can consent to sexual activity. A girl under the age of sixteen does not have legal recognition for her consent. Therefore, having sex with a girl under the age of sixteen exposes her partner to the charge of "statutory rape," regardless of consent. This is an exception to the general rule that consent-based sex cannot be classified as rape. In turn, the exemption is predicated on the general idea that a female under the age of sixteen lacks the mental maturity to make a sexual decision.

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In the Vijaylakshmi & Anr. v. State case², the Madras High Court declared that, "A teenage boy or girl who is experiencing hormonal and biological changes and whose capacity for making decisions is still developing should essentially receive the support and guidance of their parents and society at large." These occurrences should never be viewed from an adult perspective, and doing so will actually result in a lack of empathy. A teenage guy who is imprisoned in such a situation will face persecution for the rest of his life.

In State v. Akhilesh Harichandra Mishra³, was fifteen years old when she eloped and wed the defendant. Before the trial was over, they had a kid. Because the informant said that both of them was married and that she had no complaints, the accused was found not guilty. The matter had been compromised, according to the Special Court. It disregarded the PP's claim that the POCSO Act does not require permission.

In Sabari @ Sabarinathan @ Sabarivasan v. The Inspector of Police & Ors⁴., the Madras High Court ruled that agreements between The Protection of Children from Sexual Offenses (POCSO) Act, 2012, which imposes at least seven to ten years of hard imprisonment for such activities, should not apply to youths between the ages of sixteen and eighteen who are infatuated or innocent.

II. RESEARCH METHODOLOGY:-

The present study adopts a doctrinal (analytical) research methodology. It is primarily based on the systematic analysis of legal principles, statutes, judicial decisions, and scholarly writings relevant to the subject matter. The research aims to critically examine existing legal frameworks and identify gaps, challenges, and emerging trends.

III. AGE OF CONSENT: PER POCSO & OTHER LAWS

The idea that children are "powerless," "unknowing," and "unable to consent" has influenced how sexual behavior is understood, resulting in "a presumed lack of sexual knowledge" and "an inability to make or understand."

Sexual choices (Kaye, 2005). This idea is fundamental to the idea of the "age of consent,"

² Vijaylakshmi & Anr. v. State case

³ State v. Akhilesh Harichandra Mishra

⁴ Sabari @ Sabarinathan @ Sabarivasan v. The Inspector of Police & Ors.

which denotes the lowest age at which a person is deemed legally capable of giving their assent to sexual behavior (Black, 1990). Age of consent laws are essentially in place to protect children from exploitation. When people engage in sexual activity before reaching the social and emotional maturity required for informed consent, rather than just "willingness," negative outcomes could occur. While some topics, like STIs and unwanted pregnancies, are more frequently discussed and the focus of legislative attention (e.g., amending laws pertaining to due to their subjectivity and social stigmatization, other effects including depression, substance abuse, and low self-esteem are typically kept out of public discourse (Mathews, 2011). The unequal power relations between children and adult exploiters are inextricably linked to the sexual exploitation of juveniles, which may result in manipulation, control, and reliance.

IV. ROMEO JULIET CLAUSE IN DIFFERENT COUNTRIES:-

The Romeo and Juliet Law varies significantly across states in the U.S. and countries globally, particularly regarding age requirements, allowable age gaps, and legal protections. These variations reflect different approaches to handling consensual sexual activity between young people.

UNITED STATES:-

Romeo and Juliet provisions provide exceptions for consensual relationships between juveniles and others who are close in age. Each state in the US has its unique age of consent legislation. For example, Texas enables a three-year age gap between adolescents 14 or older and their partners, but Florida lets 16 and 17-year-olds to have consensual intercourse with someone up to 23 years old. Illinois permits a five-year difference if the younger partner is at least 17 years old, while Georgia offers a three-year age gap exception. Although courts may be lenient in some circumstances, states like California do not have a statutory Romeo and Juliet law.

CANADA:-

Although 16 is the legal age of consent in Canada, there are close-in-age exceptions that permit voluntary sexual behavior under certain conditions. For instance, a 12- or 13-year-old may have consensual intercourse with someone who is fewer than two years older, but a 14- or 15-year-old may do so with someone who is up to five years older. As long as the age difference is not considered exploitative, these exemptions aid in safeguarding consenting interactions between pairs.

UNITED KINGDOM:-

With no official Romeo and Juliet Law, the United Kingdom adopts a different strategy. In England, Scotland, Wales, and Northern Ireland, the age of consent is 16. Regardless of age differences, having intercourse with someone under 16 can result in criminal prosecution. However, in real, consenting relationships between adolescents, prosecutors may decide not to file charges due to the circumstances.

AUSTRALIA:-

The age of consent in Australia varies by state and is often set at 16 or 17, while some have close-in-age exemptions. For instance, in Victoria, a 12- to 15-year-old can consent to sexual activity if their partner is within two years of their age, whereas in New South Wales, a close-in-age exemption is applicable if both parties are under 18.

INDIA:-

India has ratified international agreements that stipulate that children must be at least 18 years old. According to the Juvenile Justice Act, the POCSO Act, the National Commission for Protection of Child Rights, and other relevant Acts, a boy and a girl is regarded as a youngster. When a person reaches the age of 18, they are able to vote, create a bank account, and purchase real estate. However, POCSO has lowered the child's age to 16. It is neither "alien" or "unnatural" for a female under the age of eighteen to be in a relationship with a teenage guy or somewhat older. In a significant development, the Supreme Court has suggested that the Union Government consider introducing a "Romeo-Juliet" clause in the POCSO Act to exempt adolescents who engage in consensual relationships from criminal prosecution, despite being below the age of consent (18 years) and having only a minor age.

V. COMMON MISUNDERSTANDINGS ABOUT THE ROMEO AND JULIET LAW

1. It Legalizes Underage Sex.
2. It Applies to All Age Differences.
3. It Eliminates All Legal Consequences.
4. It Protects Relationships Involving Very Young Minors.
5. It Applies Uniformly Across the Country.
6. It Applies to All Types of Sexual Activity.
7. It Is a Defense Against All Statutory Rape Charges.

VI. CASE LAWS:-

Teddy Bear Clinic for Abused Children v. Minister of Justice and Constitutional Development.

The legal age of consent in the UK is sixteen. It varies by state in the United States from 16 to 18. In France, it is fifteen years, and in Germany and Italy, it is fourteen. In 2010, our National Commission for Protection of Child Rights also suggested that any When two people who are both older than 14 and who are either the same age or have an age difference of no more than three years engage in a consensual sexual act, it shouldn't be illegal. In 2013, the South African Constitutional Court ruled that the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007's provisions, which made it illegal for teenagers over 12 and under 16 to engage in consensual sexual activity, were unconstitutional.

Vijayalakshmi v. State (2021)

It is a significant [Madras High Court case](#) highlighting issues with the POCSO Act in consensual adolescent relationships, where the court noted the law wasn't meant to punish teenage love and suggested judicial sensitivity, influencing debates on consent and age-gap exceptions for adolescents. The judgment recognized that while legal consent for minors is fixed at 18, POCSO shouldn't over-criminalize intimate relationships between adolescents of similar age, advocating for distinguishing between abuse and youthful romance.

Vijay Chand Dubey v. State of Maharashtra and Anr

Refers to a case heard by the **Bombay High Court in February 2025**, where Justice Milind N. Jadhav presided, involving Vijay Chand Dubey against the State of Maharashtra and another party, likely concerning a significant legal matter as it appeared in court records like [Court Book](#). While details aren't fully specified in snippets, it's a notable 2025 ruling mentioned in legal discussions, possibly related to "Romeo & Juliet laws," suggesting a sensitive social or criminal context in Maharashtra

VII. SUGGETIONS:-

We contend that a close-age gap exemption with an allowable age difference of three years should be included to the POCSO Act in light of the aforementioned review of international jurisprudence and study of the Indian situation. A 16-year-old minimum age requirement. This would be in line with India's age of consent policy, which was in place until 2012. The

permitted age gap, on the other hand, is an average of the majority of international jurisdictions having similar rules, ranging from two to five years. This would be a first step toward creating teenage sexual agency, even though it wouldn't be a cure-all for decriminalizing consenting adolescent relationships.

VIII. CONCLUSION:-

When young individuals have consensual relationships with someone their own age, the Romeo and Juliet Law is essential in shielding them from severe legal repercussions. These rules try to protect people from being wrongfully classified as criminals or sex offenders for engaging in consensual actions with a peer, acknowledging that not all relationships involving minors should be treated equally. But it's crucial to realize that local laws might differ greatly and have restrictions, such as age disparities and prohibitions on particular kinds of relationships.

Even while the Romeo and Juliet Law offers significant protections, it does not apply to all circumstances, thus anyone involved in these situations should be aware of their rights as well as the particular legal peculiarities in their locality. Expanding rights, particularly for LGBTQ+ kids, and ensuring that the law keeps up with contemporary relationships are the two main goals of the ongoing fight for legal reforms. Ultimately, the legislation strikes a careful balance between recognizing the existence of consensual relationships between teenagers and safeguarding youth from exploitation.