
RECONSTRUCTING CONSENT UNDER THE POCSO ACT: EARLY PUBERTY, ADOLESCENT AGENCY, AND ARTICLE 21

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ABSTRACT

The Protection of Children from Sexual Offences Act, 2012 (POCSO) was enacted to provide strong legal protection to children against sexual abuse and exploitation. By fixing eighteen years as the age of consent and adopting a strict liability framework, the Act treats all sexual activity involving persons below this age as non-consensual in law. While this approach serves an important protective purpose, its application over the years has revealed serious doctrinal concerns. A significant number of cases registered under POCSO involve consensual relationships between adolescents close in age, often arising due to parental opposition rather than allegations of coercion or abuse.

This paper argues that the rigid age-based construction of consent under POCSO creates a constitutional tension with Article 21 of the Constitution of India. Constitutional jurisprudence has consistently recognised dignity, bodily integrity, privacy, and decisional autonomy as essential components of personal liberty. At the same time, biological and developmental research shows that puberty and cognitive capacity emerge earlier and unevenly, challenging the assumption that all persons below eighteen lack agency in intimate decision-making. When criminal law ignores these realities, it risks becoming overbroad and disproportionate.

Through a doctrinal analysis of statutory provisions, constitutional case law, and judicial practice, the paper identifies an interpretive gap between child protection and adolescent agency. It shows how courts have repeatedly expressed discomfort in prosecuting consensual adolescent relationships under POCSO but remain constrained by the statute's rigid design. Drawing on comparative jurisprudence and established constitutional principles, the paper proposes a limited doctrinal reconstruction of consent under POCSO. This reconstruction aims to distinguish exploitative conduct from consensual peer relationships without diluting child protection. The paper concludes that such a constitutionally harmonised approach is necessary to prevent unjust criminalisation while remaining faithful to the protective purpose of the Act.

Keywords: POCSO Act; Child Rights Jurisprudence; Age of Consent; Article 21; Constitutional Morality

Introduction

The Protection of Children from Sexual Offences Act, 2012 (POCSO) was enacted as a child-protection statute to deal with sexual abuse, exploitation, and trafficking of children. The law adopted a strict protective framework to address gaps in criminal law that had failed to safeguard minors from sexual harm. At the centre of this framework is an age-based definition of childhood. Every person below eighteen years is treated as a “child,” and any sexual activity involving such a person is rendered non-consensual by law. The structure of the Act is one of strict liability. It rests on the assumption that minors lack the capacity to make informed sexual decisions and therefore require complete protection.

Over time, however, the working of the Act has shown consequences that were not fully anticipated at the time of its enactment. A large number of prosecutions under POCSO now arise from consensual sexual relationships between adolescents who are close in age. Many of these cases are initiated by parents or families rather than by allegations of coercion or abuse. Courts are frequently faced with situations where there is clear mutual participation and no element of exploitation, yet the statute leaves no space for contextual assessment. This has led to visible judicial unease. Several High Courts have noted the gap between the purpose of the Act and the outcomes it produces in practice.

These difficulties are made sharper by changes in the biological and social realities of adolescence. Medical and developmental research points to a decline in the age of puberty onset and increased awareness of sexuality among adolescents. These changes do not reduce the need for protection against abuse. They do, however, raise questions about the assumption that all persons below eighteen lack any decisional capacity in matters of intimacy. The law continues to rely on a fixed and uniform idea of childhood, even as lived realities show significant variation. This creates questions of agency, culpability, and proportionality.

In recent years, the Supreme Court has also expressed concern about the rigid application of the Act. Observations suggesting the need for a “close-in-age” or “Romeo–Juliet” exception reflect judicial awareness of the problem. These observations are not binding. Still, they indicate discomfort with the way consensual adolescent relationships are being drawn into the criminal process.

Against this background, this paper examines whether the age-based negation of consent under the POCSO Act can be reconciled with the Supreme Court's interpretation of Article 21 of the Constitution. It argues that the present framework creates a tension between statutory child protection and constitutional values of dignity and personal liberty. The paper suggests that the issue requires a constitutionally harmonised approach, rather than a rigid application of criminal law to all adolescent relationships.

II. Doctrinal Construction of Consent under the POCSO Act

A. Statutory Definition of Childhood and Consent

The doctrinal foundation of the Protection of Children from Sexual Offences Act, 2012 rests on a rigid, age-based definition of childhood. Section 2(d) of the Act defines a "child" as any person below eighteen years of age, and this definition applies uniformly across all offences under the statute. The consequence of this classification is categorical. Consent of a person below eighteen is treated as legally irrelevant for the purpose of determining criminal liability under POCSO.

This statutory design reflects a strict liability approach. Sections 3 to 10 criminalise a wide range of sexual conduct involving a child without requiring proof of the mental state of the accused in relation to the child's willingness or participation. Once the age of the victim is established as being below eighteen, the offence is complete in law. The legislative rationale behind this approach is protective. Children are assumed to be inherently vulnerable and incapable of making informed decisions regarding sexual activity, and the law seeks to insulate them entirely from sexual engagement.

The Act does not recognise any internal distinction within the category of "child." A thirteen-year-old and a seventeen-year-old are treated in the same manner for the purposes of consent and culpability. There is no statutory recognition of differing levels of maturity or capacity. Childhood is treated as a single legal status rather than a developmental spectrum. This approach prioritises certainty and ease of prosecution over contextual assessment.

B. Departure from General Criminal Law Principles

The approach adopted by POCSO departs sharply from general principles of criminal law governing consent and culpability. Under the Indian Penal Code, consent is treated as a

contextual concept. It may be vitiated by fear, misconception, or incapacity, but it is not rendered void solely on the basis of age in all circumstances. Even where the law intervenes to protect minors, such intervention is usually linked to the nature of the conduct and the presence of exploitation.

POCSO, however, collapses all sexual conduct involving minors into a single category of criminality. Proximity in age, relational context, and mutual participation are rendered irrelevant. As a result, consensual adolescent relationships are treated in the same manner as exploitative sexual abuse. Courts applying the statute are left with no discretion to assess culpability in light of factual nuances.

This rigidity has been repeatedly noted by High Courts. A significant number of cases under POCSO arise from romantic relationships between adolescents, yet the statutory framework leaves no room for contextual interpretation. Criminal liability follows automatically once age is proved, even where the facts disclose mutual consent and absence of coercion. This doctrinal structure—marked by strict liability, elimination of consent, and absence of proportional differentiation—forms the basis of the tension examined in the later sections of this paper.

III. Article 21 and the Constitutional Evolution of Autonomy

The constitutional concerns raised by the application of the POCSO Act to consensual adolescent relationships cannot be examined without reference to the evolution of Article 21 of the Constitution. Over time, Article 21 has moved beyond a narrow procedural guarantee and has come to embody substantive protections linked to dignity, autonomy, and personal choice. Any criminal statute regulating bodily conduct must therefore be tested against this expanded understanding of personal liberty.

This shift began with *Maneka Gandhi v. Union of India*, where the Supreme Court rejected a formal reading of personal liberty and held that any restriction on liberty must satisfy standards of fairness and non-arbitrariness. The judgment laid the groundwork for a dignity-based interpretation of Article 21. Liberty was no longer understood merely as freedom from restraint, but as the ability to make meaningful personal choices.

This understanding was developed further in *K.S. Puttaswamy v. Union of India*, where the Court recognised privacy as an intrinsic part of life and personal liberty. Privacy was linked to

decisional autonomy, bodily integrity, and the freedom to make intimate choices. The Court treated autonomy as central to human dignity and emphasised that the Constitution protects the individual's control over personal life decisions.

Subsequent decisions extended this reasoning to intimate and sexual relationships. In *Navtej Singh Johar v. Union of India*, the Court affirmed that consensual sexual conduct falls within a protected zone of privacy and dignity and cannot be criminalised on the basis of social morality alone. The focus was on individual choice and constitutional morality rather than societal disapproval. Similarly, in *Joseph Shine v. Union of India*, the offence of adultery was struck down for treating individuals as subjects of control rather than as autonomous persons. These cases reflect a consistent judicial move towards limiting criminal law where it intrudes upon personal autonomy without sufficient justification.

The Court has also recognised decisional autonomy in the context of personal relationships. In *Shafin Jahan v. Asokan K.M.*, it was held that the choice of a partner is an essential aspect of personal liberty under Article 21 and cannot be overridden by family or social pressure. The judgment reinforces the idea that once agency is established, individual choice commands constitutional respect even when it conflicts with prevailing norms.

Although much of this jurisprudence has developed in cases involving adults, minors have not been treated as constitutionally invisible. In *Independent Thought v. Union of India*, the Supreme Court invalidated the marital rape exception insofar as it applied to minors, holding that bodily integrity and dignity do not disappear by reason of age. While the case was framed around protection, it acknowledged that minors possess constitutionally relevant interests that the law must respect.

Taken together, this line of cases suggests that Article 21 treats autonomy as a continuum rather than a fixed threshold triggered only at the age of majority. Constitutional protection is sensitive to context and capacity, even while recognising vulnerability. This constitutional understanding sits uneasily with statutory frameworks that rely on rigid age-based presumptions to deny agency altogether. The resulting tension between constitutional autonomy and statutory absolutism forms the basis for the doctrinal conflict examined in the following sections.

IV. Early Puberty and the Law's Assumption of Static Childhood

The legal framework of the POCSO Act rests on the assumption that childhood is a fixed and uniform category marked by vulnerability and incapacity. This assumption is reflected in the Act's reliance on a single chronological threshold of eighteen years to determine criminal liability. While such age-based classifications offer clarity, they sit uneasily with contemporary scientific and social understandings of adolescence.

Medical and endocrinological research over the last two decades has shown a decline in the age of onset of puberty across populations. Factors such as improved nutrition, environmental exposure, and changing socio-economic conditions have altered patterns of physical development (Parent et al., 2003; Kaplowitz, 2005). These findings do not suggest that biological maturity should replace legal standards of protection. They do, however, expose the weakness of legal presumptions that treat all persons below a fixed age as occupying the same developmental position.

Research in developmental psychology further complicates the assumption of uniform incapacity. Studies indicate that the ability to engage in reasoned decision-making develops earlier than full emotional or psychosocial maturity (Steinberg, 2013). Adolescents may demonstrate cognitive capacity in non-coercive contexts while remaining vulnerable to pressure and imbalance in others. This points to a spectrum of capacity rather than an absolute absence of agency.

International child-rights discourse has responded to this complexity through the idea of "evolving capacities," which recognises that a child's ability to make decisions develops progressively with age and experience (United Nations Convention on the Rights of the Child, art. 5). This framework does not displace the need for protection. Instead, it calls for a balance between safeguarding and respect for emerging autonomy. The relevance of this idea lies in its rejection of rigid binary distinctions between childhood and adulthood.

From a legal perspective, age-based rules function as proxies intended to simplify criminal regulation. Their legitimacy depends on a reasonable alignment between the proxy and the reality it seeks to regulate. When social and biological conditions change, unchanged legal thresholds risk becoming overinclusive. In the context of POCSO, this overbreadth is visible in the criminalisation of consensual relationships between adolescents close in age, where the

protective purpose of the law is only weakly engaged.

Recognising the gap between biological development and static legal categories does not undermine child protection. It highlights the limits of a uniform approach in a domain that directly affects bodily integrity and personal development. This biology–law disconnect forms an important background to the doctrinal conflict examined in the next section.

V. Doctrinal Conflict and the Interpretive Vacuum

The central doctrinal problem with the application of the POCSO Act to consensual adolescent relationships lies in the absence of any middle ground between childhood and adulthood. The statute treats every person below eighteen as legally incapable of consent, without regard to age proximity, relational context, or absence of exploitation. This produces a situation where consensual peer relationships are brought within the same criminal framework as predatory sexual abuse.

The stated object of the POCSO Act is the protection of children from sexual exploitation. This objective is legitimate and constitutionally valid. The difficulty lies in the means adopted to achieve it. The strict liability structure of the Act collapses exploitative conduct and consensual adolescent intimacy into a single offence architecture. This creates a problem of overbreadth. Conduct that does not implicate the core harm the statute seeks to prevent is nevertheless subjected to severe criminal sanction.

The Act provides no internal mechanism to distinguish between coercive or exploitative relationships and consensual relationships between adolescents close in age. There is no statutory consideration of age proximity, absence of grooming, or lack of power imbalance. As a result, courts are left with no guidance to assess culpability beyond the proof of age. This absence of a constitutional filter forces judges to rely on ad hoc remedies such as quashing proceedings or granting bail, rather than applying a structured doctrinal test.

This gap is reflected in judicial practice. High Courts have repeatedly expressed discomfort with the use of POCSO in cases arising out of adolescent relationships. Courts have noted that many such prosecutions originate from parental opposition rather than complaints of abuse (*Sabari v. Inspector of Police*, 2019; *Vijayalakshmi v. State*, 2021). Despite this recognition, relief remains inconsistent because the statute itself offers no doctrinal valve. Judicial

discretion operates only at the margins and cannot cure the structural rigidity of the law.

The operation of the Act also produces a gendered effect. In most cases, the girl is treated as a victim by default, while the boy is prosecuted as an offender, even where the relationship is consensual. This framework denies agency to adolescent girls and imposes severe criminal consequences on adolescent boys. The law thus functions less as a tool of protection and more as a mechanism of social control over adolescent sexuality (Agnes, 2019).

This doctrinal gap becomes constitutionally significant when viewed through the lens of Article 21. The criminalisation of consensual adolescent intimacy intrudes upon dignity and decisional autonomy without any assessment of proportionality (*K.S. Puttaswamy v. Union of India*, 2017). While child protection remains a compelling state interest, it cannot justify the complete erasure of agency in every case involving adolescents. The lack of a tailored approach creates a persistent conflict between statutory protection and constitutional liberty.

The absence of any intermediate category between “child” and “adult,” combined with the lack of contextual assessment, results in an interpretive vacuum. The rigid design of POCSO leaves courts struggling to reconcile its application with evolving constitutional principles. This unresolved tension forms the core doctrinal gap that the subsequent sections address through comparative perspectives and doctrinal reconstruction.

VI. Comparative Jurisprudence and the Romeo–Juliet Principle

Comparative legal frameworks provide useful insight into how jurisdictions have attempted to balance child protection with recognition of adolescent development. While constitutional and social contexts differ, these models demonstrate that it is possible to protect minors from exploitation without treating all adolescent intimacy as criminal. Importantly, comparative law in this context is not invoked as a template for direct transplantation, but as an interpretive aid that helps illuminate the limits of rigid age-based criminalisation (Scott & Steinberg, 2003).

A common feature across several jurisdictions is the rejection of absolute incapacity rules in favour of calibrated exceptions that focus on exploitation, power imbalance, and age proximity. These approaches accept that adolescents may engage in intimate relationships with peers while remaining vulnerable to abuse by significantly older or authoritative partners. The law, accordingly, seeks to draw this distinction rather than deny agency altogether.

A. The United Kingdom: Gillick Competence and Contextual Capacity

The United Kingdom's approach to adolescent decision-making is anchored in the doctrine of "Gillick competence," articulated by the House of Lords in *Gillick v. West Norfolk and Wisbech Area Health Authority* (1986). In that case, the court held that a minor under sixteen could consent to medical treatment if they possessed sufficient understanding and intelligence to comprehend the nature and consequences of the decision.

Although *Gillick* arose in the context of medical consent, its broader significance lies in its recognition that capacity is not determined solely by age. The doctrine rejects the assumption that minors are uniformly incapable of making meaningful choices, instead adopting a contextual and functional assessment of understanding (Herring, 2020). This approach has influenced wider legal thinking in the United Kingdom, including discussions around adolescent autonomy and welfare.

It is important to note that Gillick competence does not grant unrestricted autonomy to minors. Rather, it operates within a protective framework that prioritises the best interests of the child. The relevance of this doctrine for the present analysis lies in its underlying premise: that law can recognise emerging capacity without abandoning protection. This stands in contrast to the POCSO Act's categorical negation of consent below eighteen.

B. Canada: Statutory Close-in-Age Exemptions

Canada provides a more explicit statutory model for addressing consensual adolescent relationships. Section 150.1 of the Canadian Criminal Code establishes "close-in-age" exemptions that permit consensual sexual activity between minors and slightly older partners, subject to strict conditions (Criminal Code, R.S.C. 1985, c. C-46, s. 150.1). The age of consent is generally set at sixteen, but the law creates graduated exemptions based on age difference and the absence of authority, trust, or dependency.

For example, children aged twelve or thirteen may consent to sexual activity with a partner who is less than two years older, while those aged fourteen or fifteen may consent where the age gap does not exceed five years. These exemptions are expressly withdrawn where the older partner occupies a position of trust, authority, or influence, ensuring that exploitative relationships remain criminalised.

This statutory structure demonstrates a deliberate effort to separate peer intimacy from abuse. Rather than relying on judicial discretion alone, the Canadian framework provides clear legislative guidance that aligns protection with proportionality. The law acknowledges adolescent sexuality as a developmental reality while maintaining a firm stance against coercion and exploitation.

C. The Romeo–Juliet Principle as a Comparative Norm

Across several jurisdictions, including parts of the United States, similar ideas are reflected in what are commonly described as “Romeo–Juliet” laws. While the details vary, the core principle remains consistent: consensual sexual activity between adolescents close in age should not attract the same criminal consequences as exploitative adult–child conduct (National Conference of State Legislatures, 2023). These provisions often operate to mitigate liability or prevent mandatory sex-offender registration in peer relationship cases.

The significance of these comparative models lies not in their precise thresholds, but in their shared normative commitment. They reject the view that age alone can serve as a complete proxy for harm. Instead, they focus on relational context, age proximity, and the presence or absence of coercion. This approach resonates with constitutional principles of proportionality and reasonableness.

D. Relevance for Indian Constitutional Interpretation

The relevance of comparative jurisprudence for Indian law lies in its capacity to inform constitutional interpretation, not to dictate legislative outcomes. Indian courts have repeatedly drawn on foreign legal developments where domestic law confronts novel or unresolved questions of rights and regulation. In the context of the POCSO Act, comparative models illustrate that child protection and adolescent agency need not be mutually exclusive.

What these jurisdictions offer is a conceptual framework rather than a legislative blueprint. They demonstrate that the law can remain unyielding against exploitation while recognising that consensual peer relationships occupy a distinct moral and legal space. For Indian constitutional analysis, this supports the argument that a close-in-age exemption or similar mechanism would represent a refinement of protection, not its dilution.

Seen in this light, the Romeo–Juliet principle functions as a tool of constitutional calibration.

It allows the law to align its protective aims with evolving understandings of adolescence, dignity, and proportional restraint. The absence of such a mechanism in the POCSO Act reinforces the doctrinal gap identified earlier, underscoring the need for a more nuanced and constitutionally harmonised approach.

VII. Doctrinal Reconstruction of Consent under the POCSO Act

The analysis so far shows that the difficulty with the POCSO Act does not arise from its purpose but from the way consent is constructed within the statute. The objective of protecting children from sexual exploitation is legitimate and constitutionally sound. However, the Act adopts a fixed-age rule that treats all persons below eighteen as entirely incapable of consent, regardless of context. When this rule is applied to consensual relationships between adolescents close in age, it produces outcomes that appear disproportionate and disconnected from the harm the statute seeks to prevent.

Doctrinal reconstruction is therefore required, not to weaken child protection, but to align the operation of the law with constitutional principles under Article 21. Indian constitutional law recognises that statutory provisions, even in sensitive domains, must operate in a manner consistent with dignity, liberty, and proportional restraint (*Maneka Gandhi v. Union of India*, 1978; *K.S. Puttaswamy v. Union of India*, 2017). Where a statute generates systematic overbreadth, courts are not confined to mechanical application. They are permitted to read the law purposively and introduce constitutional filters to prevent unjust outcomes (*Navtej Singh Johar v. Union of India*, 2018).

A. Normative Basis for Reconstruction

At a normative level, reconstruction must be grounded in constitutional values rather than social or moral preference. Article 21 jurisprudence has consistently treated bodily integrity and decisional autonomy as central to the right to life and personal liberty (*K.S. Puttaswamy v. Union of India*, 2017). While children are entitled to heightened protection, this does not imply that they lack all constitutionally relevant interests until they attain majority. The law has recognised that autonomy and capacity develop progressively, not instantaneously (*Independent Thought v. Union of India*, 2017).

This concern was expressly acknowledged by the Justice J.S. Verma Committee. While

recommending strong measures against sexual violence, the Committee cautioned against criminalising consensual sexual activity between adolescents by raising the age of consent to eighteen under the general criminal law (Justice Verma Committee, 2013). The Committee's reasoning was rooted in proportionality and harm. It distinguished between coercive sexual violence and consensual behaviour between young persons of similar age, warning that the latter should not be swept into the criminal justice system.

Law Commission reports addressing criminal responsibility and punishment reflect a similar normative stance. They emphasise that criminal law must be careful not to overreach, and that punishment must remain proportionate to culpability and harm (Law Commission of India, 2015; Law Commission of India, 2023). These sources reinforce the idea that the legitimacy of criminal law depends not only on protective intent, but also on fairness in attribution of guilt.

B. Substantive Doctrinal Tools for Reconstruction

From a substantive perspective, doctrinal reconstruction must operate through recognised interpretive tools. The first is purposive interpretation. The purpose of POCSO is to prevent sexual exploitation of children. Where the application of the statute to consensual adolescent relationships does not advance this purpose, a narrow and context-sensitive reading becomes necessary to avoid unintended criminalisation.

The second tool is proportionality analysis, which has been firmly adopted in Indian constitutional law (*Modern Dental College & Research Centre v. State of Madhya Pradesh*, 2016). Proportionality requires that rights-restrictive measures be necessary and balanced. In cases involving consensual adolescent intimacy, the blanket exclusion of consent often fails this test because less restrictive alternatives exist. Comparative legal frameworks demonstrate that close-in-age exemptions and contextual assessments can protect children without criminalising peer relationships (Scott & Steinberg, 2003).

A third doctrinal basis lies in constitutional morality. In *Independent Thought v. Union of India*, the Supreme Court intervened in a child-protection framework where statutory design resulted in ongoing harm to bodily integrity and dignity (*Independent Thought v. Union of India*, 2017). The judgment confirms that protective legislation is not immune from constitutional scrutiny, and that courts may correct statutory arrangements that undermine fundamental rights.

C. Reconstructing Consent through a Constitutional Filter

A reconstructed consent framework under POCSO would not recognise unrestricted adolescent consent. Instead, it would introduce a narrow constitutional filter to separate exploitative conduct from consensual peer relationships. Such a filter would operate at the threshold stage, without altering the core structure of the statute.

First, age proximity would be relevant. Where both individuals are adolescents and the age difference is narrow, the presumption of exploitation weakens.

Second, absence of authority or dependency must be ensured. Any relationship involving teachers, guardians, employers, or similar positions of control would remain fully within the scope of criminalisation.

Third, absence of coercion, grooming, or deception would be essential. The filter would apply only where participation is voluntary and non-manipulative.

Fourth, judicial satisfaction with recorded reasons would be required. This preserves oversight and prevents misuse of the exception.

This form of reconstruction mirrors approaches adopted in other jurisdictions, while remaining grounded in Indian constitutional doctrine (*Gillick v. West Norfolk & Wisbech Area Health Authority*, 1986; Criminal Code, R.S.C. 1985, s. 150.1). It does not dilute the protective purpose of POCSO. Rather, it refines its application so that criminal liability remains linked to harm and exploitation.

D. Institutional Support for Reconstruction

Institutional developments also support the need for doctrinal reconstruction. High Courts have repeatedly expressed concern over the prosecution of adolescent romantic relationships under POCSO, even while acknowledging the limits of their statutory discretion (*Sabari v. Inspector of Police*, 2019; *Vijayalakshmi v. State*, 2021). The Law Commission, while declining to recommend lowering the age of consent, has acknowledged misuse and suggested greater flexibility in judicial response (Law Commission of India, 2023).

Most recently, the Supreme Court's observations supporting consideration of a close-in-age or

Romeo–Juliet-type clause indicate growing constitutional unease with the present framework (State of Uttar Pradesh v. Anurudh, 2026). These developments show that the issue is not confined to academic debate. The absence of a structured doctrinal solution has forced courts into ad hoc relief, undermining consistency and predictability.

E. Reconstruction as Constitutional Consistency

Reconstructing consent under the POCSO Act is best understood as an exercise in constitutional consistency. The aim is not to erode child protection, but to ensure that protection operates in a manner compatible with dignity, proportionality, and reasoned criminalisation. A statute that treats exploitative abuse and consensual peer intimacy as legally identical risks violating the constitutional values that justify its existence.

By introducing a limited constitutional filter grounded in purposive interpretation and proportionality, Indian law can preserve the protective strength of POCSO while preventing its application from producing unjust and disproportionate outcomes. Such reconstruction reflects fidelity to both child protection and constitutional morality, and allows criminal law to function as a tool of justice rather than unintended harm.

VIII. Conclusion

This paper began with a simple but persistent problem. The POCSO Act was enacted to protect children from sexual exploitation, and that purpose remains unquestionable. Yet, over time, the application of the statute has revealed outcomes that the legislature did not clearly anticipate. Consensual relationships between adolescents close in age are increasingly being prosecuted under a framework designed for predatory abuse. This has created a legal situation where protection and punishment often collapse into the same response.

The doctrinal analysis shows that this problem is not accidental. It flows from the Act's rigid construction of consent. By treating every person below eighteen as entirely incapable of consent, the law removes all contextual evaluation from the criminal process. As discussed in earlier sections, this design may be defensible when addressing adult–child exploitation, but it becomes excessive when applied to peer relationships. The law, in such cases, punishes conduct without adequately examining harm, coercion, or power imbalance.

Article 21 jurisprudence does not support such mechanical outcomes. The Supreme Court has

repeatedly recognised dignity, bodily integrity, and decisional autonomy as central to personal liberty (*Maneka Gandhi v. Union of India*, 1978; *K.S. Puttaswamy v. Union of India*, 2017). While children undoubtedly require protection, constitutional law does not view them as rightless beings until they reach majority. Capacity develops gradually. The Constitution acknowledges this reality even if statutory law has struggled to reflect it.

The biological and developmental evidence discussed earlier reinforces this constitutional tension. Early puberty and adolescent cognitive development complicate the assumption that all persons below eighteen occupy the same position of vulnerability (Parent et al., 2003; Steinberg, 2013). This does not mean that adolescents should be left unprotected. It means that the law must be capable of distinguishing exploitation from mutual intimacy. A criminal statute that ignores this distinction risks becoming disproportionate.

Judicial responses across High Courts further expose the strain. Courts have repeatedly expressed discomfort with applying POCSO to adolescent romantic relationships, yet remain constrained by the statute's rigid design (*Sabari v. Inspector of Police*, 2019; *Vijayalakshmi v. State*, 2021). Relief is often granted through quashing or lenient interpretation, but such outcomes remain inconsistent and ad hoc. This uncertainty is itself a sign of a doctrinal gap.

Comparative jurisprudence demonstrates that this gap is not inevitable. Other jurisdictions have managed to protect children while recognising adolescent development through close-in-age exemptions and contextual capacity assessments (Scott & Steinberg, 2003; Criminal Code, R.S.C. 1985, s. 150.1). These models do not dilute protection. They refine it. Their relevance lies not in transplantation, but in showing that absolutist age rules are not the only way to safeguard minors.

The doctrinal reconstruction proposed in this paper responds directly to this gap. It does not argue for unrestricted adolescent consent. It argues for a constitutional filter that separates exploitation from peer intimacy. Such reconstruction is supported by Indian constitutional method, particularly the Court's willingness to read down or harmonise protective legislation when it produces constitutional injury, as seen in *Independent Thought v. Union of India* (2017).

Ultimately, the conflict examined in this paper is not between child protection and adolescent autonomy. It is between rigid criminalisation and constitutionally proportionate protection. A

legal system committed to dignity cannot treat exploitation and consensual peer intimacy as legally identical. Reconstructing consent under the POCSO Act is therefore not an erosion of child rights, but a step toward a more coherent, humane, and constitutionally faithful criminal law framework.

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