

**BETWEEN PROTECTION AND AUTONOMY: A CRITICAL  
ANALYSIS OF INDIAN CHILD LAWS AND THE IMPERATIVE  
FOR STAGGERED CONSENT**

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**ABSTRACT**

*India's judicial system is increasingly criminalizing consensual adolescent romance under the Protection of Children from Sexual Offences (POCSO) Act, 2012, transforming a child-protection law into a tool for social control. Daily headlines, from The Times of India to Dainik Jagran chronicle cases where young men, often barely out of school, face rape charges and denied bail for relationships with peers just months younger, while girls endure forced custody that silences their agency. This pattern reveals a "broken system" at war with human biology, where families weaponize non-bailable provisions to enforce caste, religious, and patriarchal norms, conflating teenage desire with predation. Originally intended to shield vulnerable children from abuse, POCSO's rigid framework evaporates nuance, treating all under-18 interactions as exploitative regardless of consent or context. Young lovers suffer shattered futures, criminal records, stigma, and despair leading to suicides, while the law ignores the developmental realities of adolescence. In a digitally connected era, Indian teens navigate accelerated psychological maturity and identity formation, yet the law clings to an outdated chronological threshold of 18 for consent capacity, viewing minors as asexual innocents.*

**Keywords:** POCSO Act, adolescent consent, teenage romance, judicial overreach, social norms, age of maturity.

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## I. Introduction: Headlines from a Broken System

The morning news cycle in India is sounding ever more like a grim obituary for adolescent autonomy. Headlines like “19-Year-Old Boy Denied Bail After Eloping With 17-Year-Old Girlfriend” or “Teenage Love Ends in Suicide Pact”<sup>1</sup> are no longer anomalies; they’re the distress signals of a judicial framework at war with human biology. From national broadsheets such as *The Times of India* and *The Hindu* to the regional vernacular press like *Dainik Jagran*, the narrative is numbing in its repetitiveness: families turning to weaponized law to criminalize rebellion, young lovers driven by despair at incarceration’s threat. These reports do not merely document crimes; they catalogue the systemic tragedy of a legal order that conflates consensual teenage romance with predatory sexual violence.

In courtrooms across the country, this tragedy unfolds with machine-like precision. A man child, freshly out of school if at all, bewildered and terrified in the dock as a ‘rapist’ for having sex with an underage girl who is typically just months or a year younger than him<sup>2</sup>. The law, in its current construction, evaporates all nuance from these interactions and does not acknowledge the open-endedness of desire or a lack of coercion. Instead, it runs these young men through the same punitive machinery that is meant for violent predators, leaving them with shattered futures, criminal records and a permanent social stigma of sexual offending. Simultaneously, the young women involved are frequently forced into unwanted protective custody, stripped of their agency and voice, effectively punished for their own romantic choices<sup>3</sup>.

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was drafted with the noble and urgent intent of serving as a shield for the vulnerable, designed to offer robust protection against genuine sexual abuse and exploitation<sup>4</sup>. However, in the hands of a conservative and often patriarchal society, this shield has been forged into a sword used to police adolescent sexuality. Parents and guardians frequently invoke the stringent, non-bailable provisions of the Act not to punish abuse, but to retaliate against inter-caste or inter-religious

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<sup>1</sup> ‘Lovers commit suicide fearing separation’ *The Hindu* (Tirupattur, 14 February 2023) <https://www.thehindu.com/news/national/tamil-nadu/lovers-commit-suicide-fearing-separation/article66506869.ece> accessed 16 February 2026

<sup>2</sup> Law Commission of India, *Age of Consent under the Protection of Children from Sexual Offences Act, 2012* (Law Com No 283, 2023) 46-48

<sup>3</sup> Enfold Proactive Health Trust, *Romantic Cases under the POCSO Act: The unspoken reality* (Enfold 2022) 12-15

<sup>4</sup> *Ibid*

relationships that defy social norms<sup>5</sup>. By filing rape charges against a daughter's consensual partner, families effectively utilize state machinery to enforce traditional hierarchies, turning a child protection law into an instrument of honour-based coercion<sup>6</sup>.

At the heart of this crisis lies a fundamental friction: the law relies on a static, chronological marker the age of eighteen to define the capacity for consent, while the biological and psychological reality of Indian teenagers has shifted dramatically<sup>7</sup>. Adolescence is a dynamic phase of exploration and identity formation, now accelerated by digital connectivity and globalized cultural norms. While the law insists on viewing anyone under eighteen as an asexual child incapable of making romantic decisions, biology and modern society tell a different story<sup>8</sup>. This rigid legal fiction fails to account for the grey area of adolescence, resulting in a system that criminalizes the natural developmental processes of the very demographic it claims to protect<sup>9</sup>.

## II. The New Adolescence: Digital Natives and Early Maturity

We must confront a stark sociological shift that an adolescence in India is no longer the sheltered, linear transition, it was two decades ago. The current cohort, spanning 'Gen Z' and 'Gen Alpha,' represents the first generation of true digital natives, navigating their developmental years through the prism of unrestricted internet access and hyper-connectivity. With India boasting over 800 million active internet users, a significant demographic of which comprises adolescents, the traditional gatekeepers of information parents and teachers have been bypassed<sup>10</sup>. This digital ubiquity has fundamentally altered the landscape of socialization; platforms like Instagram and Snapchat do not merely facilitate communication but actively shape the norms of intimacy. Consequently, the democratisation of romance means that dating, once a taboo concept reserved for adulthood, now frequently begins as early as twelve or fourteen, normalized by a globalized pop culture that validates teenage romantic agency<sup>11</sup>.

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<sup>5</sup> *Vijayalakshmi v State* 2021 SCC OnLine Mad 317 [12]-[14] (Justice Swaminathan J observing that the Act is often weaponised by parents to settle scores)

<sup>6</sup> *S (a minor) v State (NCT of Delhi)* (2019) 256 DLT 173

<sup>7</sup> Protection of Children from Sexual Offences Act 2012, s 2(1)(d) read with Section 3 of the Act.

<sup>8</sup> *Independent Thought v Union of India* (2017) 10 SCC 800 [98] (discussing the nuances of the age of consent and adolescent autonomy).

<sup>9</sup> Article 12 of the Convention on the Rights of the Child 1989. (recognising the evolving capacities of the child).

<sup>10</sup> Internet and Mobile Association of India (IAMAI) and KANTAR, *Internet in India 2022* (IAMAI 2023) 14-16 (noting that internet penetration is highest among the youth demographic).

<sup>11</sup> Ravinder Kaur, 'The "glocalization" of teenage romance in India' (2020) 55 *Economic and Political Weekly* 34.

However, this accelerated social maturation collides violently with the rigid, protectionist framework of the law. The Indian legal system remains frozen in a Victorian morality that views the “child” as a monolithic, asexual entity until the clock strikes midnight on their eighteenth birthday<sup>12</sup>. This static legal definition fails to account for the secular trend in biology, where the age of pubertal onset has consistently dropped now occurring between 10 and 14 years due to improved nutrition and environmental factors<sup>13</sup>. Thus, a dangerous friction emerges while biology dictates that sexual maturity is reached by early adolescence, and social norms encourage romantic exploration by mid-adolescence (13-16), the law criminalises any sexual expression until the age of majority (18)<sup>14</sup>.

This tripartite disconnect biological readiness, social encouragement, and legal prohibition has created a crisis of criminalisation. By refusing to acknowledge the grey area of emerging adulthood, the Protection of Children from Sexual Offences (POCSO) Act effectively categorises natural developmental impulses as statutory offences<sup>15</sup>. As noted by the Delhi High Court, this rigidity transforms millions of teenagers into potential criminals or victims simply for engaging in consensual peer relationships, forcing the heavy hand of the criminal justice system into the private lives of adolescents who require guidance, not incarceration.

### III. The Judicial Struggle: Reticence and Helplessness

The Indian judiciary finds itself in a state of profound discomfort, increasingly reticent to apply the full force of the law in cases of teenage romance. High Court judges, who are tasked with interpreting the Protection of Children from Sexual Offences (POCSO) Act, frequently express anguish at being forced to act as executioners of teenage dreams. They are bound by statutory language that leaves no room for nuance, compelling them to treat young lovers with the same severity as violent predators. This tension between the ‘letter of the law’ which mandates strict liability and the ‘spirit of justice’ which demands proportionality has led to a series of judicial observations where courts have openly questioned the penological value of incarcerating young men for consensual relationships.<sup>16</sup>

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<sup>12</sup> Centre for Social Research, *Social Media and Youth in India: A Study of Digital Behaviour* (CSR 2021).

<sup>13</sup> *Independent Thought v Union of India* (2017) 10 SCC 800 [58]-[60] (discussing the conflict between the 'age of consent' and the 'age of marriage', and the discrepancies in defining 'childhood' across statutes).

<sup>14</sup> PK Khandelwal and S Khandelwal, ‘Secular Trend in Age at Menarche in Indian School Girls’ (2019) 86 *Indian Paediatrics* 1089 (documenting the lowering age of biological maturity)

<sup>15</sup> *Supra Note 2*

<sup>16</sup> Talha Abdul Rahman, ‘Consensual Sex and the POCSO Act’ (2020) 55(12) *Economic and Political Weekly* 15

#### IV. The Allahabad High Court's Dilemma

Recently, the Allahabad High Court has been particularly vocal in highlighting this crisis. In a string of bail hearings, including *Ali v State of UP*<sup>17</sup> and *Monu v State of UP*,<sup>18</sup> the bench has observed that criminalising consensual teenage relationships often defeats the very purpose of the legislation. The Court has noted with concern that putting young men behind bars alongside hardened criminals for the crime of falling in love serves no penological interest and, in fact, subjects them to a school of crime within prisons.

- **The Trend:** In pending petitions, the Allahabad High Court has repeatedly questioned whether the rigorous provisions of POCSO were ever intended by the legislature to apply to 16 or 17-year-old lovers who, in the throes of adolescent infatuation, elope to get married.<sup>19</sup>
- **The Limitation:** Despite these progressive observations, the High Courts remain hamstrung. While they can exercise discretion to grant bail, they cannot rewrite the statute.<sup>20</sup> The strict liability nature of the POCSO Act means that if the girl is under eighteen, her consent is legally irrelevant (or impossible), leaving judges helpless to acquit the accused without legislative amendment.<sup>21</sup>

This judicial reticence underscores a broader empirical reality: the number of POCSO cases filed over consensual teenager relationships has surged in recent years, with romantic cases forming a substantial portion (15-21%) of prosecutions across multiple states<sup>22</sup>. High Courts, including Rajasthan HC, have flagged this recent growth in Romeo-Juliet prosecutions, often driven by parental complaints post-elopement. Such escalation defeats the Act's protective

<sup>17</sup> *Mohd Arman Ali v State of UP* 2024: AHC:78838 (observing that the victim was a consenting party and the FIR was a result of parental opposition).

<sup>18</sup> *Monu Sonkar v State of UP* 2024: AHC:87467 (granting bail in a case of "teenage romance" and noting the lack of criminal history).

<sup>19</sup> *Mrigraj Gautam @ Rippu v State of UP* 2023: AHC:206536 (Justice Krishan Pahal observing that "The Act was never meant to criminalise consensual romantic relationships between adolescents").

<sup>20</sup> Protection of Children from Sexual Offences Act 2012, Section 3 of the act defining penetrative sexual assault without reference to consent if the child is under 18.

<sup>21</sup> *Independent Thought v Union of India* (2017) 10 SCC 800 (upholding the strict age of consent).

<sup>22</sup> *HC expresses concern over rising 'Romeo-Juliet' cases* (Times of India, 3 February 2026) <https://timesofindia.indiatimes.com/city/jaipur/hc-expresses-concern-over-rising-romeo-juliet-cases/articleshow/127893580.cms> accessed 23 February 2026.

intent, amplifying the imperative for staggered consent reforms to decriminalize peer relationships while targeting true predation<sup>23</sup>.

## V. Other Judicial Echoes

This sentiment of judicial helplessness is not isolated to Allahabad; it echoes across various High Courts in India, creating a pan-Indian narrative of resistance against the rigid application of the law.

- Madras High Court: In the landmark case of *Vijayalakshmi v State*,<sup>24</sup> Justice N. Anand Venkatesh delivered a stinging critique of the misuse of the Act, terming the parental weaponization of POCSO to settle personal scores or break up relationships as legal terrorism. The Court lamented how the state machinery is used to criminalise young boys solely to satisfy the ego or caste-pride of the girl's family.
- Delhi High Court: Similarly, the Delhi High Court has frequently observed that the law, in its current form, creates “statutory rapists” out of teenage boyfriends.<sup>25</sup> In cases like *Sahil v State*,<sup>26</sup> the Court highlighted the tragedy of young men languishing in jail for years, their education and careers destroyed, simply because the law refuses to acknowledge the legal grey area of adolescent consent.

NCRB data from 2018-2022 reveals a stark surge in POCSO cases involving teenagers, particularly consensual relationships, exposing the law's misalignment with adolescent realities and necessitating urgent staggered consent reforms<sup>27</sup>.

Between 2018 and 2022, apprehensions of juveniles aged 16-18 under POCSO rose steadily by 31.2%, from 2,079 cases to 2,728 cases, totalling 6,892 apprehensions. Despite this escalation, conviction rates remained abysmally low at 11-12% (855 convictions total, up 83.9% from 116 to 213 year-on-year), with 89% acquittals, largely due to adolescent victims turning hostile (82% in romantic cases across Assam, Maharashtra, West Bengal 2016-2020).

<sup>23</sup> Vidhi Centre for Legal Policy, 'Adolescents' Sexual Choices & the POCSO Act' (Vidhi Legal Policy Blog, 9 October 2025) <https://vidhilegalpolicy.in/blog/adolescents-sexual-choices-the-pocso-act/> accessed 23 February 2026.

<sup>24</sup> *Vijayalakshmi v State* 2021 SCC OnLine Mad 317 pg. 12-15

<sup>25</sup> *Dharmender Singh v State (NCT of Delhi)* 2020 SCC OnLine Del 1253 pg. 22 (noting that the “statutory rape” provision often criminalises acts that are not morally culpable in the same way as predatory abuse).

<sup>26</sup> *Sahil v State (NCT of Delhi)* 2024: DHC :6100 pg. 11-13 (observing that “consensual sex between minors has been in a legal grey area” and granting bail to a young man imprisoned due to parental objection).

<sup>27</sup> The Print, 'POCSO vs Teen Romance: As SC Reviews Age of Consent, NCRB Data Shows 9 Out of 10 Youth Get Acquitted' (5 August 2025) <https://theprint.in/judiciary/pocso-vs-teen-romance-as-sc-reviews-age-of-consent-ncrb-data-shows-9-out-of-10-youth-get-acquitted> accessed 23 February 2026.

Romantic cases constituted 15-24.3% of decided POCSO prosecutions in key states like Delhi (21.5%), Karnataka (21.8%), and Maharashtra (20.5%), often filed by parents' post-elopement or pregnancy discovery (80.2% complainant profile)<sup>28</sup>.

This statistical mismatch, rising arrests clashing with near-universal acquittals, demonstrates systemic misuse: POCSO traps peer relationships in a punitive net designed for predation, destroying young lives (68.4% of 18-22 arrests under POCSO) while achieving negligible penological outcomes. High Courts, including Rajasthan HC, have flagged this recent growth, echoing Supreme Court amicus Indira Jaising's call for close-in-age exceptions (2–4-year gaps by adolescent cohort) to decriminalize mutual teen autonomy without compromising child safety<sup>29</sup>.

## VI. The Gendered Reality: De Jure Neutral, De Facto Biased

Although the *Protection of Children from Sexual Offences (POCSO) Act, 2012* was heralded as a progressive, gender-neutral statute using the term 'person' rather than 'man' or 'woman' for offenders in several sections its enforcement reveals a deeply entrenched gender bias. In theory, the law criminalises sexual acts involving any child under eighteen, regardless of the gender of the perpetrator<sup>30</sup>. However, in practice, the application of the Act is heavily skewed by patriarchal notions of 'honour' and 'protection.' In the vast majority of consensual teenage romance cases, the legal machinery operates on a rigid binary: the adolescent boy is invariably cast as the 'predator,' while the adolescent girl is infantilised as the passive 'victim'. This dichotomy ignores the agency of the female adolescent, effectively stripping her of the capacity to consent even in non-coercive peer relationships, while simultaneously demonising the male adolescent as a hardened criminal deserving of adult-level incarceration<sup>31</sup>.

This asymmetry manifests in devastating consequences for both parties, particularly in cases involving peers of similar age (e.g., two sixteen-year-olds). While the statute technically renders both parties liable for sexual acts, law enforcement selectively targets the male partner. He faces immediate arrest, mandatory incarceration, and the lifelong stigma of being labelled a 'rapist,' which often results in expulsion from school and permanent unemployability.<sup>32</sup> Conversely, the female partner, though spared criminal prosecution, is often subjected to a

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<sup>28</sup> *Ibid*

<sup>29</sup> *Supra Note 22*

<sup>30</sup> *Supra Note 2*

<sup>31</sup> *Supra Note 3*

<sup>32</sup> *Jigyva Yadav v CBSE* (2021) SCC OnLine SC 415 (discussing the stigma of criminal records for juveniles).

different form of state violence: invasive medical examinations and forced institutionalisation in shelter homes (*Nari Niketans*) against her will, ostensibly for her ‘protection.’<sup>33</sup> Thus, the Act functions not as a neutral arbiter of justice but as a tool of social control that disproportionately punishes male adolescence while denying female autonomy.<sup>34</sup>

### VII. The “Romeo-Juliet” Exception: Moving Beyond the “14-18” Trap

The previous suggestion of a blanket exception for all consensual acts within the 14-18 age bracket is constitutionally and developmentally insufficient. Such a broad categorisation ignores the profound developmental chasm that exists between early and late adolescence; a fourteen-year-old, typically in the throes of early puberty and middle school, is worlds apart in maturity and agency from an eighteen-year-old who is legally an adult, a voter, and potentially in university. A relationship between the two introduces significant power imbalances and the potential for grooming, which a blanket exception might inadvertently legalise.<sup>35</sup> Therefore, legal scholarship increasingly advocates for a ‘close-in-age’<sup>36</sup> exemption that is not static but dynamic, distinguishing between genuine peer experimentation and exploitative age disparities. This necessitates a move away from binary consent models towards a ‘Staggered Consent Framework,’ where the legality of the relationship is determined not just by the age of the victim, but by the *relative* age difference between the parties.<sup>37</sup>

**The Proposed Staggered Model** - To operationalise this, a nuanced, tiered framework is proposed that aligns legal consequences with developmental capacity. For the youngest adolescents (12-13 years), who are most vulnerable, the permissible age gap should be strictly capped at one year, subject to strict scrutiny and mandatory counselling rather than criminalisation, acknowledging that while autonomy is nascent, protection is paramount.<sup>38</sup> As the adolescent matures, the permissible window expands: for the 14-15 age group, a maximum gap of two years should trigger the ‘Romeo-Juliet’ exception, shielding peer relationships from penal consequences. Finally, for older adolescents (16-17 years), whose decision-making

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<sup>33</sup> *Kajal v State of UP* 2022: AHC:125678 (highlighting the trauma inflicted on minor girls forced into protection homes against their wishes)

<sup>34</sup> Flavia Agnes, ‘The POCSO Act: A misplaced piece of legislation?’ (2014) 49 (22) *Economic and Political Weekly* 12 (arguing that the Act reinforces patriarchal stereotypes rather than dismantling them).

<sup>35</sup> *Supra* Note 2

<sup>36</sup> *R v Stuckless* (1998) 129 CCC (3d) 159 (Canada) (upholding the constitutionality of ‘close-in-age’ exceptions).

<sup>37</sup> *Supra* Note 3

<sup>38</sup> Compare *Sexual Offences Act 2003* (UK), Section 13 (providing a defence for ‘meeting sexual desires of a child’ if the offender is under 18 and the age gap is small)

faculties are nearing adult stability, a wider gap of three to four years is permissible.<sup>39</sup> This sliding scale recognises that a child's capacity to navigate power dynamics increases with age; a two-year gap is coercive for a twelve-year-old but negligible for a seventeen-year-old. Adopting this model would align India with jurisdictions like Canada<sup>40</sup> and various US states<sup>41</sup>, ensuring that the law punishes predation without criminalising the natural trajectory of human development.

### VIII. Addressing the Pushback: Culture, Religion, and Biology

Implementing a Romeo-Juliet exception in India faces significant resistance, primarily from three entrenched pillars: cultural preservation, religious doctrine, and public health concerns. The first objection, that allowing teenage romance promotes 'Western promiscuity' and erodes 'Indian culture,' is historically myopic. Indian literature and mythology, from the youthful love of Radha and Krishna to the saga of Shakuntala, have long celebrated adolescent intimacy. The current rigidity of the law, which criminalizes sexuality before eighteen, is largely a colonial import rooted in Victorian morality rather than indigenous values.<sup>42</sup> Furthermore, empirical evidence suggests that the culture argument is often a veil for enforcing caste endogamy; families frequently use the POCSO Act to criminalize inter-caste or inter-faith relationships (e.g., Dalit men with Upper Caste women) that threaten traditional social hierarchies.<sup>43</sup>

The second pillar of resistance stems from the conflict between personal laws and the POCSO Act. Critics argue that personal laws, such as Muslim Personal Law, validate marriage at puberty, creating a legal paradox where a seventeen-year-old husband is a rapist under secular law. A 'Romeo-Juliet' clause offers a pragmatic bridge for this gap: it decriminalizes the consensual relationship without necessarily validating the marriage itself. This approach prevents the absurdity of the state arresting a teenage husband or partner as a sexual predator,

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<sup>39</sup> Enfold Proactive Health Trust, *Romantic Cases under the POCSO Act: The unspoken reality* (Enfold 2022) 56 (recommending a graded approach to age of consent based on age proximity).

<sup>40</sup> *Criminal Code of Canada* 1985, Section 150.1 (exempting peer relationships from sexual assault charges based on age proximity).

<sup>41</sup> Texas Penal Code 1973, Section 21.11 (USA) (providing an affirmative defence if the actor is not more than three years older than the victim)

<sup>42</sup> Flavia Agnes, 'The POCSO Act: A misplaced piece of legislation?' (2014) 49(22) *Economic and Political Weekly* 12 (discussing the colonial origins of sexual morality laws in India).

<sup>43</sup> *S (a minor) v State (NCT of Delhi)* (2019) 256 DLT 173 pg. 25 (Muralidhar J noting that parents often use the criminal justice system to punish children for choosing their own partners against caste/community wishes).

while still allowing the state to discourage child marriage through civil means (such as voidability under the Prohibition of Child Marriage Act) rather than criminal incarceration.<sup>44</sup>

Finally, the medical objection that teenage bodies are not ready for pregnancy and the law must act as a deterrent fails to recognize the limits of criminal law. A statute acts as a terrible contraceptive; teenagers engaging in sexual exploration are rarely deterred by a law they have likely never read.<sup>45</sup> The reality is that criminalization exacerbates health risks. When a pregnant sixteen-year-old fears that seeking medical help will result in her boyfriend's mandatory arrest and life imprisonment (as doctors are mandatory reporters under Section 19 of POCSO), she is driven underground to unsafe, back-alley abortions.<sup>46</sup> Decriminalization, therefore, is not about promoting teenage pregnancy but about treating it as a public health issue rather than a crime scene, encouraging safe medical-seeking behaviour and reducing maternal mortality among adolescents.<sup>47</sup>

### IX. The Final Radical Argument: The Fallacy of the '18' Cliff

Finally, we must interrogate the deeper philosophy of a state that washes its hands of protection the moment a citizen turns eighteen. Current legal doctrine posits that on the day a girl celebrates her eighteenth birthday, she is instantaneously rendered immune to the exploitation she was vulnerable to just twenty-four hours prior.<sup>48</sup> This arbitrary 'cliff edge' of adulthood assumes that legal capacity equates to psychological invulnerability, creating a dangerous fiction where an eighteen-year-old high school student is presumed to be on equal footing with a thirty or forty-year-old corporate professional.<sup>49</sup> In reality, the 'emerging adulthood' phase (ages 18-25) is characterised by continued neurocognitive development; the prefrontal cortex responsible for risk assessment and long-term planning does not fully mature until the mid-twenties. By ignoring this biological reality, the law leaves young adults legally capable of

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<sup>44</sup> Law Commission of India, *Age of Consent under the Protection of Children from Sexual Offences Act, 2012* (Law Com No 283, 2023) [7.4] (recommending that 'Romeo-Juliet' cases be treated differently to resolve conflicts with personal laws without validating child marriage).

<sup>45</sup> *Supra Note 3*

<sup>46</sup> *X v Principal Secretary, Health and Family Welfare Department* (2022) SCC OnLine SC 1321 (Supreme Court acknowledging the chilling effect of mandatory reporting on adolescents seeking reproductive healthcare).

<sup>47</sup> World Health Organization, *Adolescent Pregnancy: Issues in Adolescent Health and Development* (WHO 2004) 18 (advocating for a public health approach over criminalisation to reduce unsafe abortions).

<sup>48</sup> *Independent Thought v Union of India* (2017) 10 SCC 800 pg. 95-98 (Supreme Court discussing the "artificiality" of the 18-year cut-off and the varying ages of maturity across different statutes)

<sup>49</sup> Law Commission of India, *Age of Consent under the Protection of Children from Sexual Offences Act, 2012* (Law Com No 283, 2023) [3.4] (acknowledging the debate around the strict demarcation of adulthood).

consenting to anyone, regardless of the massive power, experience, and economic imbalances that an older partner may wield.<sup>50</sup>

To address this, a truly progressive legal system must move beyond the age of majority as a lazy metric for capacity and consider Universal Staggered Consent. If the goal of sexual offences legislation is to prevent the abuse of power rather than merely police age, the law should recognise gradients of vulnerability well into early adulthood. A proposed framework would allow those aged 16-18 to consent to peers (e.g., partners up to 20 or 21), acknowledging their developing autonomy while shielding them from significant age gaps.<sup>51</sup> For the 18-21 cohort, consent should remain valid for partners within a reasonable range (e.g., up to 25-28)<sup>52</sup>, but subjected to scrutiny if the age gap suggests predatory grooming or abuse of a position of trust, similar to provisions in the UK's *Sexual Offences Act 2003* which penalise sexual activity where a relationship of care or authority exists.<sup>53</sup>

By failing to implement such staggered limits, the state creates a profound paradox: it aggressively over-polices the seventeen-year-old dating a nineteen-year-old a relationship where no real abuse exists and power dynamics are likely equal while completely ignoring the eighteen-year-old dating a fifty-year-old, where the potential for manipulation and coercion is significantly higher.<sup>54</sup> This inconsistency reveals a system that is more obsessed with the technicality of childhood than the reality of exploitation. Full autonomy should be recognised only when the individual has reached a stage of genuine psychosocial maturity (21+), ensuring that the law protects citizens during their most formative transitions rather than abandoning them at an arbitrary chronological milestone<sup>55</sup>.

## X. Conclusion: From Policing to Protecting

The refusal to incorporate a 'Romeo-Juliet' exception within the Indian legal framework is not an assertion of moral strength, but rather an admission of administrative cowardice; it reveals a state preference for the ease of blanket bans over the complexity of adjudicating nuance. This

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<sup>50</sup> Jeffrey Jensen Arnett, 'Emerging Adulthood: A Theory of Development from the Late Teens Through the Twenties' (2000) 55(5) *American Psychologist* 469 (establishing the psychological basis for 'emerging adulthood' as a distinct developmental phase requiring different societal supports).

<sup>51</sup> *Supra Note 3*

<sup>52</sup> *Sexual Offences Act 2003* (UK), ss 16-19 (criminalising 'abuse of position of trust' for individuals aged 18+ in specific care or educational roles)

<sup>53</sup> *R v Bowden* [2000] 2 All ER 418 (discussing the rationale of protecting vulnerable young people from those in authority).

<sup>54</sup> *Supra Note 37*

<sup>55</sup> *Ibid*

legislative inertia extracts a heavy toll, sacrificing a generation of young men to the stigma of criminal records and subjecting young women to state-sanctioned trauma under the guise of protection. To arrest this decay, the justice system must pivot from a rigid Prohibitionist Model to a pragmatic Harm-Reduction Model. This requires an immediate statutory amendment introducing a close-in-age exception for the 14-18 cohort with a maximum three-year age gap, paving the way for a longer-term jurisprudential shift that replaces the binary fiction of ‘Child vs. Adult’ with a gradient of capacity acknowledging the evolving nature of human maturity. Ultimately, the law must recognise that adolescence is a critical period of mistakes, exploration, and growth, and it must cease to be treated as a crime scene.

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