

Age of Consent in India - Law, Adolescent Autonomy, and Child Protection

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Age of Consent Latest News

- The Supreme Court has flagged the misuse of the **POCSO Act** in consensual adolescent relationships, reopening the debate on India's age of consent.

Legal Framework Governing the Age of Consent in India

- The age of consent refers to the legally defined age at which an individual is considered capable of giving valid consent for sexual activity.
- In India, this age is **18 years**, as stipulated under the **Protection of Children from Sexual Offences (POCSO) Act, 2012**, which classifies anyone below 18 as a "child."
- Consequently, any sexual activity involving a minor is treated as statutory rape, irrespective of consent.
- This position was reinforced by the Criminal Law (Amendment) Act, 2013, which aligned Section 375 of the Indian Penal Code with the POCSO threshold.

- The Bharatiya Nyaya Sanhita (BNS), 2023, has retained this framework, reaffirming that consent is legally irrelevant if the individual is below 18.
- Historically, India's age of consent has evolved from **10 years (IPC, 1860)** to **12 years (1891)**, then **14 and 16 years**, before being raised to **18 years in 2012**.
- It is distinct from the minimum age of marriage, which is **18 years for women and 21 years for men** under the Prohibition of Child Marriage Act, 2006.

Arguments Supporting a Review of the Age of Consent

- A key driver of the current debate is the sharp rise in POCSO cases involving adolescents aged 16-18 years, often arising from consensual romantic relationships.
- In many such cases, the minor involved testifies that the relationship was voluntary, yet the law mandates criminal prosecution.
- Empirical data strengthen this concern. The **NFHS-4 (2015-16)** indicates that 39% of girls reported sexual debut before the age of 18.
- Further, studies by civil society organisations analysing thousands of POCSO judgments show that nearly one-fourth of cases involve consensual adolescent relationships, with a large majority of victims refusing to testify against the accused.
- Supporters of reform argue that the current law fails to acknowledge adolescent sexuality and autonomy, leading to the criminalisation of normal teenage relationships.
- They point out that the original intent of POCSO was to combat sexual abuse and exploitation, not to penalise peer relationships.
- Many also cite international practices, where several countries fix the age of consent at **16 years**, often coupled with **“close-in-age” or “Romeo-Juliet” exemptions** to prevent misuse.

Concerns Against Lowering the Age of Consent

- Opponents of lowering the age of consent emphasise that the existing **bright-line rule** provides an unambiguous and uniform standard for child protection.
- Any dilution, they argue, risks creating loopholes that could be exploited by traffickers, abusers, and those in positions of trust.
- Evidence suggests that child sexual abuse is frequently perpetrated by known persons, family members, neighbours, teachers, or caregivers.
- A Ministry of Women and Child Development study (2007) found that over 50% of abusers were known to the child, raising concerns that claims of consent in such contexts may mask coercion or manipulation.
- Parliament has consistently upheld this protective approach.
- Multiple parliamentary committees and the **Law Commission of India (283rd Report, 2023)** have warned that reducing the age of consent could weaken POCSO and undermine efforts against child marriage, trafficking, and exploitation.

Judicial Responses and Emerging Nuances

- Courts have increasingly struggled to balance the **letter of the law** with the **real-life consequences** of its application.
- While several High Courts have acknowledged the need to view consensual adolescent relationships differently, they have also reiterated that, under POCSO, consent of a minor has no legal validity.
- The Supreme Court has reaffirmed this position, even while exercising extraordinary powers in select cases to mitigate harsh outcomes.
- Recent judicial observations suggest growing recognition of the trauma caused when consensual relationships are prosecuted, but without altering the statutory framework.

Way Forward

- The debate underscores the need for a calibrated legal response, rather than a binary choice between protection and autonomy.
- Many experts advocate limited close-in-age exemptions for adolescents aged 16-18, combined with judicial oversight to detect coercion or abuse.
- Beyond legal reform, long-term solutions lie in comprehensive sex education, accessible adolescent health services, and gender-sensitive policing.
- Strengthening social support systems can reduce misuse of the law while ensuring that genuine cases of abuse are addressed effectively.

Source: **TH**

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