

INTRUSION ON CIVILIZATION: LOWERING THE AGE OF CONSENT— ANALYSING ITS IMPACT





Intrusion on Civilization: Lowering the Age of Consent - Analysing Its Impact

Report by

**Network for Access to Justice and Multidisciplinary
Outreach Foundation**

Support Partner

Sewa Nyaya Utthan Foundation

Research Partner

Shanti Suraksha Aur Sadbhav Trust

PREFACE

India's legal framework for child protection has evolved significantly over the past two decades, responding to the growing recognition of children's rights as fundamental, indivisible, and inalienable. At the heart of this framework lie the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015 — both landmark legislations that reflect the State's constitutional and moral commitment to safeguard the best interests of every child. While these laws are firmly rooted in child-centric principles, their implementation on the ground often presents challenges that require nuanced understanding, contextual application, and reformative intent.

This report is an attempt to engage with one such emerging area of legal complexity: the treatment of adolescent relationships under the existing statutory framework. With a growing number of POCSO cases involving adolescents in consensual relationships, questions have arisen about the appropriateness of prosecuting such cases under the same provisions meant to combat sexual violence and abuse. At the same time, the law must remain unwavering in its protection of minors — especially girls — from predatory adult conduct, coercion, and grooming, which continue to remain disturbingly prevalent.

The objective of this report is not to propose a dilution of legal protections, nor to advocate for lowering the age of consent. Rather, it seeks to highlight the need for a more informed, consistent, and rights-based application of the law — one that recognises the evolving capacities of adolescents, ensures the judicious use of provisions such as Section 15 of the JJ Act, and maintains a sharp legal distinction between developmental relationships and exploitative conduct.

Grounded in jurisprudence, field observations, and statutory analysis, the report aims to support lawmakers, judicial officers, enforcement agencies, child protection functionaries, and civil society actors in applying the law with clarity, compassion, and constitutional fidelity. It further underlines the critical role of legal awareness, stakeholder training, and community engagement in ensuring that every child is protected — not just in letter, but in spirit. The report also underscores experiences I have come across during my term as a JJB Member, reflecting practical insights and challenges observed first-hand in the application of child protection laws.

I would also like to state that the case studies and situations referenced herein are drawn from samples provided by our research partner, based on their research expertise and database, and are presented solely to illustrate systemic issues and legal interpretations, without identifying any specific individuals or proceedings.

The preparation of this report has been a collaborative effort. The contributions of Ms. Vijaylaxmi Anand, Ms. Jyotsna Singh, Mr. Sridhar Subramonyan, Mr. Shakti Singh, Mr. Sanat Saluja, Ms. Swati Goel Sharma, Sewa Nyaya Utthan Foundation and Shanti Suraksha Aur Sadbhav Trust are gratefully acknowledged. Their dedication, research inputs and critical insights have been invaluable in shaping the analysis and recommendations presented herein.

It is hoped that the insights and recommendations offered herein contribute meaningfully to the discourse on adolescent rights, strengthen the protective shield of POCSO, and enable a more sensitive and just implementation of the child protection framework in India.



Nidhi Sharma
Director

ACKNOWLEDGMENT

The report titled “Intrusion on Civilization: Lowering the Age of Consent - Analysing Its Impact” addresses a critical and increasingly debated issue within the domain of child protection. The document provides a comprehensive legal and policy analysis of how the current framework under the Protection of Children from Sexual Offences (POCSO) Act, 2012 interacts with the concept of age of consent, adolescent behaviour, evolving judicial interpretations, and the overarching mandate to safeguard children from abuse, while recognising their developmental realities.

This report comes at an opportune time, when there is a growing need to revisit implementation challenges under the POCSO Act, 2012 particularly in cases involving Adolescent Relationships. It underscores the importance of ensuring that enforcement remains child-sensitive, reformative, and consistent with India’s constitutional and international commitments.

I commend the rigorous research, contextual understanding, and policy nuance reflected throughout the document. It draws upon judicial precedents, comparative international practices, empirical data, and statutory provisions with precision. The recommendations outlined in the report are both pragmatic and rights-based, and I believe they will be of immense value to legislators, child protection authorities, judicial officers, and law enforcement agencies.

I take this opportunity to extend my appreciation to all those who have contributed to the development of this report.

It is my hope that this report serves as a constructive tool in guiding future legal reforms, judicial clarity, and administrative responsiveness—ensuring that the rights, dignity, and best interests of every child remains central to our collective efforts.



Priyank Kanoongo
Member, National Human Rights Commission

EXECUTIVE SUMMARY

The Protection of Children from Sexual Offences Act, 2012 (POCSO) is India's most comprehensive law to protect children under the age of 18 years from sexual exploitation and abuse. The Act of 2012 provides for a gender-neutral, child-friendly, and rights-based framework, criminalising all forms of sexual contact with persons below the age of 18 years — regardless of consent — in line with the Prohibition of Child Marriage Act, 2006 (PCMA) and India's constitutional obligations.

Over the period of time, public discourse has questioned whether the age of consent should be lowered from 18 to 16 years in cases of consensual adolescent relationships. This debate has been fuelled by certain judicial observations, selective case narratives, and advocacy reports suggesting that the law is too harsh on older teenagers in relationships. These portrayals have shaped a perception that the POCSO Act is widely used to criminalise innocent teenage romance rather than to address exploitation.

A close examination of case records reveals a reality far from this simplified image. The majority of cases under POCSO involve children well below the threshold of late adolescence that dominates the discourse. Even in matters involving older teenagers, many situations show clear signs of power imbalance, coercion, manipulation, grooming or exploitation by someone in a position of trust, or from someone belonging to another religion contrastingly described as consensual. In practice, the Act is applied primarily to protect children from any kind of harm or any form of abuse.

Lowering the age of consent would have far-reaching implications, including the possibility of unintentionally facilitating child marriage, increasing the likelihood of teenage pregnancy, and making it harder to prosecute relationships where exploitation is present but concealed as consent. India's social framework has unique features — strong family structures, evolving gender dynamics, and diverse cultural traditions — of all which must be taken into account when considering any legal change. At the same time, it is important to recognise that access to adolescent-friendly health services and support systems is still expanding, and any alteration to protective laws should be approached with care to ensure that progress in safeguarding children is sustained. International examples, including recent debates in the United States following *Dobbs v. Jackson*, highlight how changes to protective frameworks can have unintended consequences if not accompanied by robust safeguards.

Growing public discussion and differing narratives, the question of the legal age of consent began to gain prominence in policy forums. The matter eventually came before the Parliament. In those debates, the then Government, made it clear that they did not intend to amend the POCSO Act, 2012 to reduce the age of consent from 18 to 16 years. The then Government, also informed to the Parliament that the statutory threshold was consistent with other child protection laws and reflected India's obligations to act in the best interests of the child. These remarks served as a clear policy signal, that the government viewed the existing framework as an essential protective measure, not one in need of dilution or amendment.

This position has since been reinforced by judicial reasoning, notably in the case of *Gulam Deen* where the Hon'ble Supreme Court was pleased to issue notice on the Special Leave Petition filed against the judgement of the Hon'ble Punjab and Haryana High Court dated 30th September, 2022 recording that the said order may not be relied upon as a precedent in any other matter. The said matter is currently pending adjudication before the Hon'ble Supreme Court of India to decide upon the substantial question of law i.e. whether personal law permitting marriage of children below the age of 18 years can be allowed to prevail over a central legislation being Prevention of Child Marriage Act, 2006. This raises significant issues of Constitutional interpretation under Articles 14 and 21 of the Constitution of India, as well as the legality of child marriages in direct conflict with the protective framework of the POCSO Act, 2012.

In recent discussions/debates on whether the age of consent under the POCSO Act should be reduced from 18 to 16 years, largely in response to concerns that consensual adolescent relationships are being brought within the ambit of criminal law. Advocating such change, it is the argument that lowering the age of consent would prevent prosecution of older teenagers i.e above 16 years of age, who mutually and consensually agree to such relations. While this concern is understandable, the implications of altering the law is complex and require careful consideration.

Further, reducing the age of consent would inevitably introduce greater ambiguity into the law and could be misused by the offenders to present cases of sexual exploitation as consensual relationships. In particular, individuals in positions of trust or authority could use the pretext of "romantic relationship" as a defence, making it harder for prosecutors to establish the true nature of the offence as well as the circumstances in which the offence was committed. This risk is especially pronounced where the minor may have been influenced, groomed, pressurised, or manipulated into the relationship.

In this context, Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, and the guidelines prepared thereunder, assume critical importance. Section 15 provides for a preliminary assessment of children aged between 16 and 18 years alleged to have committed heinous offences, ensuring that the justice system differentiates between criminal intent and adolescent behaviour. The application of these guidelines can prevent the unnecessary criminalisation of minors in non-exploitative, consensual relations, while still enabling robust action in cases involving coercion, exploitation, or abuse. However, for this protective mechanism to function effectively, there is an urgent need for sustained sensitisation and capacity building of all stakeholders — including judges, prosecutors, police officers, and child welfare committees — so that these guidelines are applied consistently, fairly, and in the best interests of the child.

The current framework provides a clear, bright-line rule that any sexual contact with a person under the age of 18 years is unlawful. This clarity is one of its strengths, as it leaves little to no room for subjective interpretation at the investigation stage and offers strong protection to all minors. Changes to this standard would weaken that protection, even if unintentionally. Concerns relating to genuine adolescent relationships are best addressed through sensitive application of the existing law, proper use of prosecutorial

discretion, and awareness-building, rather than by reducing the legal threshold and potentially narrowing the scope of protection to cases which may be adversely affected by the proposed reduction in the age of consent i.e. from 18 to 16 years as there maybe cases wherein minors falling in such category i.e above 16 years & not in consensual relationship, maybe left remediless, specifically in light of the perils discussed herein above.

INTRODUCTION

India is home to an estimated 472 million children, constituting nearly 39% of the country's total population (Census 2011). This is not merely a demographic figure—it signifies a profound constitutional mandate and an enduring moral imperative. The children of India represent far more than the nation's future workforce, its cultural continuity, and its potential for innovation and resilience. Yet, paradoxically, they also remain among the most vulnerable sections of our society.

Ensuring their safety, dignity, and holistic development is a responsibility that transcends policy rhetoric—it is a duty shared equally by the State, society, and every conscientious citizen.

Mahatma Gandhi firmly believed that education, and particularly the role of teachers, is the key to guiding children towards moral discernment and self-control. As he stated, “... *I am, therefore, strongly in favour of teaching young boys and girls the significance and right use of their generative organs.*” Mahatma Gandhi believed true education must develop the whole person, integrating intellectual, physical, and ethical growth. Rejecting compartmentalized learning, he advocated for curricula that nurture self-reliance, moral integrity, and cultural preservation. Gandhi's emphasis on morally upright, trained educators delivering such instruction remains relevant today. Further Mahatma Gandhi philosophy promotes a multidisciplinary framework aimed at cultivating well-rounded, morally conscious, and socially engaged citizens. Mahatma Gandhi through his ideology on *Nayee-Talim* has also emphasized that “*The function of Nayee-Talim is not to teach an occupation, but through it to develop the whole man*”. However, his ideologies are only able to reach to each and every child who are either on the streets or have dropped out of schools or are studying in religious minority institutions such as Madrasas.

Over the past decades, India has made commendable progress in establishing comprehensive legal and institutional frameworks aimed at safeguarding children's rights and welfare. The enactment of progressive legislations such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012, and various child labour prohibition laws reflect the country's intent to address the multifaceted dimensions of child protection. However, the realities of millions of children remain deeply concerning. Despite legal safeguards, children across the country continue to confront persistent and evolving threats: sexual abuse, child marriage, trafficking, child labour, abandonment, neglect, and, increasing online exploitation. These violations are not confined to any single socio-economic class or geographic region. Yet, the harshest brunt is often borne by children from marginalized and disadvantaged communities—those trapped in cycles of poverty, social exclusion, and systemic barriers that impede their access to justice and protective services.

Numerous field studies, academic research, and civil society assessments consistently indicate that actual prevalent rate of crimes against children—particularly child sexual abuse—are significantly under-reported. The reasons for this are manifold: deep-rooted societal stigma, fear of social ostracization, potential retaliation by perpetrators, mistrust in law enforcement agencies, and the often-intimidating nature of judicial processes which is unfortunate however seen to be present in most cases. Consequently, a vast majority of victims remain voiceless, their trauma unaddressed, and their abusers unaccountable. The long-term impact of child sexual abuse is well-documented globally. Survivors frequently endure lasting psychological trauma, post-traumatic stress disorders, depression, and anxiety. Their educational journeys are disrupted, health outcomes compromised, and life opportunities diminished. The scars of abuse are not just individual tragedies; they represent societal failures that erode the foundations of justice, equality, and human dignity.

The National Crime Records Bureau's (NCRB) latest data for the year 2022 paints a stark picture. Over 1.6 lakh crimes against children were officially registered across India. A significant proportion of these cases were reported under the POCSO Act, indicating a rising trend in the reporting of sexual offences against children. While this rise can be partly attributed to improved reporting, it equally reflects the continuing prevalence of sexual offences against minors. Field studies and civil society assessments suggest that the actual prevalence is much higher, with many incidents going unreported due to stigma, fear of retaliation, mistrust of enforcement, and the intimidating nature of judicial processes. The long-term impacts of such abuse are severe — from trauma and mental health disorders to disruption in education and diminished life opportunities.

Addressing this crisis demands more than reactive measures. It calls for a holistic, multi-pronged approach grounded in prevention, early detection, child-sensitive justice delivery, and sustained rehabilitation. Victim-centric support systems must be strengthened to provide psychological care, legal aid, and socio-economic reintegration opportunities. Simultaneously, there is a pressing need to invest in community awareness, capacity-building of frontline responders, and fostering environments where children feel empowered to speak out without fear or shame.

In this context, cases involving adolescent sexual relationships, as well as those between an adolescent and a major in the guise of a romantic relationship, present a serious legal concern — particularly when such acts culminate in marriage. Any sexual act between a major and a minor constitutes, by definition, an act of paedophilia — i.e where an adult engages in a sexually abusive behaviour with a child. Such an act is inherently exploitative, irrespective of consent, personal law or custom, or in the guise of romance or marriage. Such acts must be criminalised under the Protection of Children from Sexual Offences (POCSO) Act, 2012, as well as the Prohibition of Child Marriage Act (PCMA). However, in situations where, both the parties are minors— the preliminary assessment mechanism under Section 15 of the Juvenile Justice Act becomes pivotal. This provision empowers the Juvenile Justice Board (JJB) to determine whether a child aged between 16–18 years who is alleged to have committed a heinous offence should be tried as an adult or not.

The purpose of this assessment is not to prejudge guilt, but to carefully evaluate the child’s mental and physical capacity, ability to understand the consequences of their actions, and the specific circumstances of the offence — always with a presumption of innocence until proven otherwise. It is a protective safeguard, not a punitive shortcut, and must be applied with the highest degree of developmental sensitivity. *Guidelines for Conducting Preliminary Assessment Under Section 15* of the Juvenile Justice (Care and Protection of Children) Act, 2015 has also been prepared by National Commission for Protection of Child Rights on the directions passed by the Hon’ble Supreme Court of India in case titled “**Barun Chandra Thakur v/s Master Bholu & Anr. Crl. Appeal No.950/2022**” while examining the proceedings arising out of preliminary assessment made under section 15 of the JJ Act, 2015. The guidelines stated that “ the aim of preliminary assessment is not to seek confession from the child nor to reach at a conclusion of any sort.”

This makes it essential to ensure that the judiciary and Juvenile Justice Boards are equipped with the necessary training, guidance, and tools to apply Section 15 judiciously and effectively in adolescent relationship cases, so that the mechanism fulfils its reformatory intent while fully preserving the law’s protective mandate.

It is also necessary to confront the inconsistencies between secular child protection laws and certain personal law interpretations. The conflict was brought into sharp focus in *Gulam Deen v. State of Punjab & Haryana*, where the Punjab and Haryana High Court, by order dated 13 June 2022, granted protection to a couple whose marriage was solemnised under Muslim rites, even though the girl was only 16 years old. The Court accepted the validity of the marriage under Muslim personal law without examining its legality under the Prohibition of Child Marriage Act (PCMA) or the applicability of the Protection of Children from Sexual Offences (POCSO) Act, which criminalises all sexual activity with persons under 18 years regardless of marital status or purported consent. Such an approach undermines the protective intent of POCSO and PCMA, as the statutory safeguards for minors under these secular laws are intended to have overriding effect and cannot be circumvented or diluted by invoking personal law exceptions.

This collective endeavor aligns with the guiding principles enshrined in Article 39(f) of the Constitution of India, which mandates that children must be afforded opportunities and facilities to develop in a healthy manner, in conditions of freedom and dignity, and be protected against exploitation and moral or material abandonment. It is not merely a constitutional directive—it is a reflection of the values upon which the Republic of India stands.

As we navigate the complex challenges of child protection in a rapidly changing socio-technological landscape, the measure of our nation’s progress must not solely be judged by economic indices or infrastructural milestones, but by the extent to which we secure the rights, welfare, and well-being of every child. The safety of our children is not a sectoral issue—it is a litmus test of our humanity.

Pre-POCSO Legal Framework: The Legal Context And Protection Gaps

Before the Protection of Children from Sexual Offences Act, 2012 (POCSO), India lacked a dedicated, child specific legislation to address the full spectrum of sexual offences against minors. Instead, the protections available to children were scattered across different statutes, leaving critical gaps that allowed many forms of abuse to go unpunished and many survivors without justice unlike gaps in putting the accused to justice.

This was of particular concern given India's demographic profile. According to the Ministry of Health and Family Welfare's Population Projections Report, 2020, adolescents aged between 10–19 years now make up about 18% of the population, representing more than 230 million young children. This is not just a large demographic group but one that is uniquely vulnerable and therefore in need of strong, unambiguous legal safeguards.

At the time, the Indian Penal Code, 1860 (IPC) was the primary legal instrument for prosecuting sexual offences. Under Section 375 of Indian Penal Code, the legal age of consent for sexual intercourse was set at 16 years, making sexual activity with a person below this age statutory rape, irrespective of consent. However, the provision contained a troubling exception—Exception 2—which allowed marital intercourse with a wife above 15 years of age, even if she was under 18 years. This meant that the law effectively condoned marital rape of girls between 15 years and 18 years, a position inconsistent with India's Constitutional guarantees of equality and dignity as well as its obligations under the UN Convention on the Rights of the Child (UNCRC). Moreover, the IPC at the time did not provide comprehensive recognition for non-penetrative sexual abuse such as sexual touching, grooming, or exposing a child to pornography. These acts were often prosecuted under vague and less stringent provisions relating to “outraging modesty” or “obscenity,” which carried lighter penalties and failed to address the specific harm & trauma caused to children.

Other laws addressed only narrow aspects of the problem. The Immoral Traffic (Prevention) Act, 1956 (ITPA) targeted trafficking for commercial sexual exploitation but provided no protection for children who are victims of abused at homes, schools, or communities, or for those subjected to non-commercial sexual exploitation. The Juvenile Justice (Care and Protection of Children) Act, 2000 set out a framework for the care and rehabilitation of children in need of protection and those in conflict with the law, but it was never intended as a specialised sexual offences statute and lacked precise definitions or robust procedural safeguards for victims of sexual crimes. The result was a fragmented legal framework that was often inadequate to address the complexities of child sexual abuse and exploitation.

The urgent need for reform was made undeniable by evidence from within India. A landmark Study on Child Abuse in India conducted in 2007 by the Ministry of Women and Child Development (MWCD), Government of India, surveyed 12,447 children across 13

states. The findings were stark: 53% children reported experiencing one or more forms of sexual abuse, and more than 50% knew the perpetrator. The study revealed that abuse occurred at homes, schools, workplaces, and public spaces, and that incidents were chronically under reported due to shame, fear, and stigma. Officially published by MWCD in the year 2007, the report provided the first nationally representative evidence that child sexual abuse was widespread, cutting across social, economic, and geographic boundaries. It dismantled the myth that such abuse was rare or confined to certain groups and underscored the urgent need for a comprehensive, rights based legal framework dedicated to protecting children.

International obligations reinforced this call for reform. By ratifying the UNCRC in 1992, India committed itself to protecting children from “all forms of sexual exploitation and sexual abuse” (Article 34) and to taking legislative, administrative, and social measures to prevent such offences, prosecute perpetrators, and support victims. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) required India to act decisively to eliminate exploitation and harmful practices such as child marriage. Globally, comprehensive instruments like the Lanzarote Convention of the Council of Europe (2007) offered a model for criminalising all sexual offences against children and embedding child friendly justice procedures.

In backdrop, the Government of India introduced the Protection of Children from Sexual Offences Bill in 2011. The Bill defined a child as any person under 18 years of age, criminalised both penetrative and non-penetrative sexual assault, sexual harassment, and the use of children for pornography, and made consent legally irrelevant and inconsequential in cases involving minors. It mandated child friendly procedures in investigation and trial, required mandatory reporting of offences, and established Special Courts for speedy trials conducted in camera to protect victims from further trauma. While also valuing disclosure of identity of minor itself is a stand alone offence.

The Bill was passed unanimously by both Houses of Parliament, received Presidential assent on 19 June 2012, and came into force on 14 November 2012. The enactment of POCSO Act marked a turning point in India’s Child Protection Law. For the first time, all children under the age of 18 years were afforded uniform protection from sexual offences. The law closed major gaps in the existing legal framework, created clarity by removing consent as a defence in cases involving minors, and embedded child friendly procedures to protect the dignity of victims throughout the justice delivery process. It signalled a clear shift towards treating the protection of children from sexual abuse as a constitutional duty and a central priority of the Welfare State.

Personal Law and The Statutory Child Protection Framework

The POCSO Act, 2012 is a special central legislation which has been enacted to provide uniform protection to all children from sexual abuse, who are below the age of 18 years. Its provisions are of overriding effect and apply notwithstanding anything inconsistent contained in any other law, including personal or customary laws. The Prohibition of Child Marriage Act, 2006 (“PCMA”) criminalises and seeks to eliminate the practice of child marriage, prescribing 18 years as the minimum age of marriage for females and 21 years for males.

In certain personal law, particularly under Muslim Personal Law, the permissibility of marriage is linked to attainment of puberty rather than a fixed statutory age. This divergence has given rise to a conflict between personal law and the secular child protection regime envisaged by Parliament.

This is not simply a question of legal interpretation. It cuts to the very heart of what it means to guarantee protection to every child in India. Allowing parallel standards to exist means that a child’s safety, dignity, and rights would depend not on the law of the land, but on the personal law they are said to be governed by. Such an approach inevitably fragments the protective net intended by the Parliament, leaving gaps through which children — especially girls in socio economically vulnerable communities — can fall. Such a fragmented framework is in direct conflict with Article 14 of the Constitution, which guarantees equality before the law and equal protection of the laws to every person, without discrimination based on religion or personal law.

Experience shows that such gaps are quickly exploited. If personal law is treated as an exception to the POCSO Act and PCMA, individuals may use the cover of “marriage” to avoid accountability for what is, in fact, the sexual exploitation of a minor. This is not a hypothetical risk. Early marriage often places a child in a situation where she loses access to education, is pressured into sexual relations she cannot meaningfully consent to, and faces heightened risks of early pregnancy and childbirth, with well documented negative consequences on her health. These impacts are compounded by the loss of peer networks, economic dependency, and the curtailment of her personal liberty.

The point is simple: the minimum standard of protection for children cannot be negotiable. Parliament deliberately set the age of consent at 18 years and marriage for girls at 18 and 21 for boys to create a bright line rule that leaves no ambiguity for exploitation to hide behind. If the law begins to recognise exceptions based on personal or customary norms, that bright line becomes blurred. Further, perpetrators gain a ready-made defence by presenting their conduct as marital rather than criminal, which shall defeat the object sought to be achieved by the Parliament.

The socio cultural context makes this even more urgent/important. India still faces significant challenges in reducing child marriage. According to NFHS 5 (2019–21), nearly 23% of women aged 20–24 were married before the age of 18, despite the PCMA being in force for more than a decade. In states with higher prevalence of child marriage, personal law exceptions would become a loophole large enough to render the statutory framework

ineffective and defeat at the instance and choice of the alleged accused, if the provision of the POCSO Act, as it stands today, is to be given effect to, in its true letter and spirit. Such exceptions not only undermine legal protection but also send a dangerous social signal: that some children's rights can be compromised in the name of tradition/custom and/or religion and religious practices.

Recently, this conflict was brought to light in *Gulam Deen v. State of Punjab & Haryana*, before Hon'ble Supreme Court where the order of the Hon'ble Punjab and Haryana High Court was challenged whereby the Hon'ble Court dated 13 June 2022, granted protection to a couple whose marriage had been solemnised in accordance with Muslim Personal Law, notwithstanding that the female was only 16 years of age i.e. a minor. The Court proceeded on the basis that such a marriage was valid under Muslim personal law, without adjudicating upon its legality under the PCMA being secular and central legislation and without considering the applicability of the POCSO Act, which criminalises all sexual activity with persons below 18 years of age, regardless of marital status or purported consent.

Thereafter, a Special Leave Petition was filed before the Hon'ble Supreme Court of India, challenging that the impugned High Court order which overlooked the statutory mandate of the POCSO Act and the PCMA. It was contended that permitting personal law to validate such a marriage would amount to carving out an unwarranted exception to the POCSO Act, thereby enabling the sexual exploitation of minors under the cloak of marriage which unequivocally was not the intention of legislation. Such an approach is inconsistent with the Constitutional guarantees indiscriminately to all citizens under Articles 14 and 21, which secure equality before the law and the right to life with dignity for all children.

The Hon'ble Supreme Court, vide its interim order dated 13.01.2023, issued notice on the Special Leave Petition and recorded that the impugned order may not be relied upon as a precedent in any other matter. The matter, along with connected petitions, is currently awaiting adjudication on substantial questions of law of general importance, including whether any personal law provision purporting to permit marriage of persons below the statutory age can prevail over the PCMA, and whether such recognition would undermine the absolute prohibition contained in the POCSO Act against sexual activity with minors.

The determination of these questions shall have far reaching consequences for the uniform application of child protection laws in India. Upholding the importance of the POCSO Act and the PCMA would reaffirm that no child may be deprived of the statutory standard of protection by reasons of religion or customs, and that sexual offences against minors cannot be legitimised through marriage. Conversely, recognition of personal law exceptions would create a parallel and conflicting standard, weakening statutory safeguards and risking the perpetuation of practices that the legislature has expressly sought to abolish.

Reaffirming The Age Of Consent

In recent years, the applicability of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”) to cases involving older adolescents has been the subject of intense public discussion. Certain advocacy groups and individual commentators have argued that consensual relationships between older adolescents — particularly those aged between 16–18 years— should be treated differently under the law, despite there being absolutely no intent neither any room open for interpretation. They claim that the current age threshold of 18 years may result in consensual adolescent relationships attracting criminal liability, leading to the involvement of young people in the criminal justice system.

It was in this context that the matter found its way to the floor of Parliament. Clarity was sought from the Government on whether they were considering amending the POCSO Act to lower the age of consent from 18 years to 16 years. This was not merely a technical query — it was a question that touched the core of India’s child protection framework and had significant implications for the way the law treats vulnerable adolescents.

The then Government addressed these questions directly. The Govt. made it unequivocally clear that they had no proposal to amend the POCSO Act to reduce the age of consent. Speaking in the House, the Govt. emphasised that the statutory threshold of 18 years was deliberately chosen to align with the Prohibition of Child Marriage Act, 2006 (“PCMA”), which defines 18 years as the minimum legal age of marriage for girls. This alignment, was not incidental but intentional — it ensures that there is no contradiction between child marriage law and sexual offences law, and that all children enjoy a common, non-negotiable standard of protection completely unaffected by their individual ethnicity, cultural and customary practices as well as religion.

The statement by the Govt. underscored a critical point often overlooked in the debate: lowering the age of consent risks eroding the clarity that Parliament deliberately built into the law. A reduced threshold could make it more difficult to differentiate between genuine adolescent relationships and situations where a minor has been manipulated, coerced, or groomed into a sexual relationship by someone older or in a position of power. It would also create an avenue for the exploitation of minors to be disguised as consensual relationships — something the POCSO Act was specifically designed to prevent.

The Government’s position, reaffirmed the original legislative intent of POCSO Act: to provide all persons under 18 years of age with the highest level of legal protection from sexual exploitation, regardless of the nature of the relationship or the claim of consent. By publicly and firmly rejecting proposals to lower the age of consent, the Government sent a strong message — that safeguarding children is not a matter for compromise, and that the protective net established by law must remain intact.

The age which is fixed by the Government was done after due deliberation and is aligned with various other fundamental rights. A child is of 18 years of age when he/she completes his/her higher secondary education and further, the person gets access to

various other rights such as Right to vote, Right to obtain driving license, Right to enter into a contract and also a right to marry in case the person is a girl. These penumbrae of rights are vested by the State after duly considering all the relevant factors for the mental growth and capacity of a child. Lowering the age of consent to have romantic sexual relationship before 18 years of age will legitimise the sexual relationship of the child with either another child or even with a major and the fact of the minor girl getting pregnant cannot be overlooked as well. It is generally observed that when a girl child gets pregnant after falling in love then not only it is bad for her health but the child also suffers from many health related problems. In such a situation, when girls in their adolescence gets pregnant due to unsafe and unprotected sexual intercourse and give birth to a child, then the life of both mother and child becomes severely jeopardised.

The fact of opening up romantic sexual relationships for the children at a tender age will invite various problems which will ultimately affect the child only. In a place where there is inadequate sex education and awareness, there are chances that children will indulge in unprotected intercourse which may further lead to an unwanted pregnancy and in cases where a child gets born, legitimacy of the child and inheritance right of the child so born shall be left in conclusive. Religions, inheritance, proprietary laws as may be applicable to the child shall remain unanswered in cases where child is born out of such relationships. To take an example of Countries in Europe, Romania and Bulgaria have the age of consent as 16 years and 14 years respectively. Further, it is to be highlighted that Romania and Bulgaria have some of the highest teenage birth rates in Europe. As of 2015, Bulgaria had a birth rate of 37 per 1,000 women aged 15–19 years, and Romania of 34. Both countries have an occurrence of teenage pregnancies well above the local average. In addition, Countries like Netherlands, Norway, Iceland, Greece and Portugal have a higher rate of teenage pregnancy which further leads to higher abortion rates.

A Nation where 'Right to life' and 'Right to good health' is considered as a fundamental right and is safeguarded by the State under various Articles of the Constitution of India, it is unconscionable to put health of minor children at a risk. The State under **Article 15(3)** of the Constitution of India is duty bound to make special provision for women and children. Further, the State under **Article 39 (f)** of the Constitution of India is directed to make sure that "*children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment*". Furthermore, the State through **Article 47** of the Constitution of India is obligated to raise the nutrition and standard of living and to improve public health which is stated as under:

"The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health".

The laws in India have essence and values based on the principles of Gandhian philosophy. One can observe the same in the Constitution of India, wherein the Directive Principles of State Policy (DPSP) meaning principles which have been incorporated based

on the Gandhian ideology. Further, the said principles represent the programme of reconstruction enunciated by Mahatma Gandhi during the national movement.

Mahatma Gandhi in several instances in his life has quoted his views against Child marriage wherein he opined, ***“The custom of child marriage is both a moral as well as a physical evil. For it undermines our morals and induces physical degeneration. By countenancing such customs, we recede from God, as well as Swaraj.”*** The Government of India, in the year 2006-2007, enacted the Prohibition of Child Marriage Act, 2006. The said Act defines a “child” to be a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age and it defines “child marriage” as a marriage to which either of the contracting parties is a child. In order create a deterrence, the Act provides that if a male adult above eighteen years of age, commits to child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both.

The Debate on Lowering the Age of Consent

In recent years, the question of whether the age of consent under the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”) should remain at 18 years or should be reduced to 16 years has become one of the most contested issues in child protection discourse. The debate has been fuelled by certain judicial observations, advocacy reports, and case narratives suggesting that a notable proportion of POCSO prosecutions involve consensual relationships between adolescents aged 16–18 years.

Those Advocating lowering the age of consent argue, that the current threshold risks criminalising mutually agreed relationships between older adolescents, drawing them into the criminal justice system and disrupting their education and future prospects. They also suggest that such prosecutions consume investigative and judicial resources that could be directed towards cases of genuine exploitation. While no reasonable framework is ever suggested as to how without fearing any margin for error, a genuine case can be distinguished from a case where both parties unequivocally state to be consensually indulging in romantic sexual relationship, which consent is without any threat, pressure, coercion, or undue influence of any kind.

Opponents for lowering the threshold shall have unintended and serious consequences. The bright line rule in POCSO — that all sexual activity with a person under 18 years is unlawful — exists to avoid ambiguity and protect minors from exploitation. Reducing the age of consent shall weaken that clarity, enabling perpetrators, particularly those in positions of authority or trust, to claim a “romantic relationship” as a defence. In a social context where gender based power imbalances persist and coercion can be subtle yet powerful, this risks leaving more adolescents vulnerable to abuse.

The socio cultural realities of India amplify these concerns. According to NFHS 5 (2019–21), 23% of women aged between 20–24 were married before turning 18 years, despite the Prohibition of Child Marriage Act, 2006 (“PCMA”) being in force. Early marriage, school dropout, limited access to adolescent friendly health services, and stigma around adolescent sexuality remain widespread. Lowering the age of consent would inadvertently reinforce early marriage practices, normalise sexual activity with minors, and undermine the protective purpose of both the POCSO Act and the PCMA.

The United Nations and the World Health Organization consider that access to **safe, voluntary family planning is a human right** because it is essential for promoting gender equality, advancing the autonomy of women, and reducing poverty. The WHO has identified key elements in quality of care in family planning which include: having choice among a wide range of methods, confidentiality as well as the cultural and religious beliefs of the young woman; **providing evidence-based information on the effectiveness, risks, and benefits of the different contraceptive methods** etc. Further, the WHO has also highlighted about the risks of initiation of sexual activity at a tender age by stating that *“Initiation of sexual activity while they lack adequate knowledge and skills to protect themselves places adolescents at higher risk of unwanted pregnancy, unsafe*

abortion, and Sexually Transmitted Infections.”¹ In another study conducted by the Lancet Child and Adolescent Health, on “Social, biological, and programmatic factors linking adolescent pregnancy and early childhood under nutrition: a path analysis of India’s 2016 National Family and Health Survey” the study concluded that - Children born to adolescent mothers are at risk of being undernourished. Adolescent pregnancy is related to child under nutrition through poor maternal nutritional status, lower education, less health service access, poor complementary feeding practices, and poor living conditions². Legitimising such relationships will not only open up the risks of medical health for the girl but will also cause mental and psychological damage to the mother as well as the child which will be irreparable and irrevocable.³

Further in a brief titled “*Neuroscience, Public Health, and National Imperative: Why Lowering the Age of Consent is Disaster-* Authored by Sanjeev Newar⁴ – the brief concluded Lowering India's age of consent to 16 would contradict developmental neuroscience, increase public-health burdens from early pregnancy, and amplify psychological harm from pervasive sexualized media. He further stressed that the only defensible threshold is 18 years - reflecting upon brain maturation, reproductive health, and societal goals. Gist of the brief annexed as Annexure-A.

Further, in a brief titled “Lowering the Age of Consent to 16: An Unthinkable Disaster for Bharat”, - authored by Sanjeev Newar concludes that reducing the age of consent from 18-16 years in India would directly undermine neuroscience, public health, and long-standing civilisational safeguards. Scientific evidence highlights that early sexual activity substantially increases the risk of adolescent pregnancies, which are associated with serious maternal health complications such as hypertensive disorders, obstructed labour, and postpartum issues, as well as adverse neonatal outcomes including low birth weight, preterm birth, and elevated infant mortality. Moreover, research indicates that children born to mothers under 20 face lasting developmental disadvantages, including measurable cognitive deficits that persist into adulthood, regardless of socio-economic background.

Internationally, some jurisdictions like the United States of America have adopted “close in age” exemptions — often called “Romeo–Juliet” provisions — to prevent consensual sexual activity between adolescents close in age from being prosecuted as statutory offences. Typically, these provisions apply where both parties are above a certain minimum age (often 14–16 years) and the age difference between them is small. Their stated aim is to avoid criminalising consensual teenage relationships while still prohibiting sexual contact between minors and much older partners.

At first glance, such provisions may seem relevant to India’s debate. However, they function in countries where there is substantially lower and more controlled population growth, comprehensive sex education, strong adolescent health services, and robust

¹<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7053440/#ref10>

² Nguyen, P.H. *et al.* (2019) ‘Social, biological, and programmatic factors linking adolescent pregnancy and early childhood undernutrition: A path analysis of India’s 2016 National Family and Health Survey’, *The Lancet Child & Adolescent Health*, 3(7), pp. 463–473. doi:10.1016/s2352-4642(19)30110-5.

³<https://www.who.int/southeastasia/activities/adolescent-sexual-reproductive-health>

⁴ Sanjeev Newar is a Data Scientist, Vedic Sanskrit scholar, prolific author. He is an alumnus of IIT Guwahati and IIM-Calcutta

mechanisms to identify and address exploitation. India's social context is different so is its socio-cultural values. Here, the risk of coercion, manipulation, and exploitation under the guise of consent is high. A close-in-age exemption would be more susceptible to misuse — shielding perpetrators, legitimising relationships involving power imbalances, and making prosecution more difficult, if not a mere academic exercise.

It would be correct to say that, on one hand, international organisations are treating the matter sensitively by associating it with the human right to plan a family wisely, while on the other hand, some are advocating reducing the age of consent — which would indirectly legitimise pregnancies of minors as a “natural” consequence. This could create a dangerous legal vacuum concerning minors becoming pregnant. The dangers are not hypothetical. In states where child marriage remains prevalent, a Romeo-Juliet style provision would make it harder for the State to prosecute such marriages and easier for perpetrators to defend themselves as being in “consensual relationships.”

The experience of the United States following the *Dobbs v. Jackson Women's Health Organization* ruling — which significantly curtailed abortion rights — serves as a stark cautionary tale. In the U.S., the ban on abortions has forced many teenagers and minors to carry pregnancies to term, leading to a surge in adolescent births. If such a scenario were to unfold in India — where Romeo-Juliet provisions could enable more teenage pregnancies, and if abortion rights were also curtailed — the country would face an unprecedented crisis. Not only would there be a flood of teenage pregnancies, but India's already strained infrastructure, including a severe shortage of orphanages and child care institutions, would be wholly incapable of handling the surge in abandoned or orphaned children.

The consequences would not merely strain our legal and welfare systems — they would destabilise the very fabric of society. The civilizational wheel, which turns on the foundation of protecting and nurturing the next generation, would face a violent jolt. Overburdened families, collapsing child care systems, and generations of children born into neglect and deprivation could push the wheel to the brink of bursting, setting back decades of social progress and threatening the moral and developmental trajectory of the nation itself.

For India, the safer course is not to replicate foreign exemptions but to strengthen the fair and sensitive implementation of the existing framework. Genuine consensual relationships between older adolescents can be addressed through prosecutorial discretion, careful judicial interpretation, and improved investigative practices, without diluting the statutory age of consent or creating loopholes in all likelihood that could facilitate exploitation.

Ultimately, the debate is not about adjusting a number in the statute. It is about deciding whether India will maintain a uniform, non-negotiable standard of protection for all minors, or introduce exceptions that could weaken the shield Parliament intended to provide. The lesson from international experience is clear: the protective wall must in all eventuality remain high, and sensitivity in application should come from how the law is enforced — not from lowering its height.

The Age Of Consent Debate

The national debate on whether to lower the age of consent under the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”) from 18 to 16 years gained significant momentum pursuant to the directions of Hon’ble Juvenile Justice Committee (JJC) of the Supreme Court. Acting on these directions, the Juvenile Justice Committee and the POCSO Committee of the High Court of Madras undertook a critical review of the challenges arising from the implementation of the POCSO Act in cases involving consensual romantic relationships between adolescents. Such cases not only conflicted with settled principles of criminal jurisprudence but also, in effect, amplified the stringent provisions of the POCSO Act.

Consequently, through a circular/memorandum passed by the JJC of Hon’ble High Court of Madras, an attempt was made to alter the unequivocal legislative intent underlying the statute which was enacted to protect the minor children from any kind of sexual abuse. This amounted, in effect, to the State executive asserting legislative powers over a central legislation — an instance of executive overreach, to say the least. However, till date there is no answer as to what has been the outcome of that circular/memorandum passed by the JJC of Hon’ble High Court of Madras that is whether there has been any shift in the number of cases pertaining to romantic sexual relationships or there has a decline in number of cases pertaining to romantic sexual relationships. Copy of circular/memorandum is annexed as Annexure-B.

The complexity observed here is not regarding safeguarding the children from such activities but as to how to apply the law while safeguarding children.

The law is settled by the Hon’ble Supreme Court is clear to the effect to preserve the constitutionality of the legislation duly enacted by the Parliament as held in “**Subramanian Swamy v. CBI, (2014) 8 SCC 682** that-

.....49. Where there is challenge to the constitutional validity of a law enacted by the legislature, the Court must keep in view that there is always a presumption of constitutionality of an enactment, and a clear transgression of constitutional principles must be shown. The fundamental nature and importance of the legislative process needs to be recognised by the Court and due regard and deference must be accorded to the legislative process. Where the legislation is sought to be challenged as being unconstitutional and violative of [Article 14](#) of the Constitution, the Court must remind itself to the principles relating to the applicability of [Article 14](#) in relation to invalidation of legislation. The two dimensions of [Article 14](#) in its application to legislation and rendering legislation invalid are now well recognised and these are: (i) discrimination, based on an impermissible or invalid classification, and (ii) excessive delegation of powers; conferment of uncanalised and unguided powers on the executive, whether in the form of delegated legislation or by way of conferment of

authority to pass administrative orders--if such conferment is without any guidance, control or checks, it is violative of [Article 14](#) of the Constitution. The Court also needs to be mindful that a legislation does not become unconstitutional merely because there is another view or because another method may be considered to be as good or even more effective, like any issue of social, or even economic policy. It is well settled that the courts do not substitute their views on what the policy is."

As part of this review, a State-Level Consultation with key stakeholders from Tamil Nadu and the Union Territory of Puducherry was convened on 5 November 2022 at the Tamil Nadu State Judicial Academy, Chennai, chaired by the Hon'ble Chairpersons of both Committees. The Committees observed that nearly 60% of POCSO cases in the State related to consensual adolescent relationships, with male partners often prosecuted solely by virtue of the statutory definition of "child," even in the absence of coercion or exploitation.

The impact was found to be particularly severe in tribal and Adivasi communities, where customary practices permit unions involving girls under 18 years of age. The Committees highlighted that criminalisation of such relationships—often triggered when underage women sought deliveries in government hospitals—was deterring access to essential maternal healthcare and alienating marginalised communities from the justice delivering system.

An illustrative case involved a schoolboy tying a *thali* (mangalsutra) around his classmate's neck in public, leading to his arrest under the POCSO Act and the girl's placement in a Children's Home. Recalling the Supreme Court's decision in *Joginder Kumar v. State of Uttar Pradesh* (1994) 4 SCC 260, the Committees emphasised that arrest powers must be exercised sparingly and recommended that, in consensual adolescent relationship cases, arrest should ordinarily be avoided and Section 41-A of the Code of Criminal Procedure, 1973, be invoked to issue notices for appearance instead.

It was also noted that most such prosecutions culminate in acquittal—either due to subsequent marriage or the prosecutrix turning hostile—yet cause lasting stigma and educational or professional harm to the accused. Recommendations included permitting compounding of offences in appropriate cases de hors Section 320 of CrPC, vesting POCSO Court Judges (District and Sessions Judges) with discretion to allow such compounding, and strengthening supervisory oversight of investigations to prevent unnecessary trials based on weak evidence.

Simultaneously, the discourse on whether to amend the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act") to lower the age of consent from 18 to 16 years has, in part, been shaped by the findings of the 2022 study conducted by Enfold Proactive Health Trust in collaboration with UNICEF. This study, which was based on its review of certain POCSO case records, concluded that a significant proportion of prosecutions involved consensual romantic relationships between adolescents aged 16–18 further suggesting that the law was frequently being used to criminalise such relationships rather than to address exploitation or abuse.

While such findings have been used to bolster calls for reducing the age of consent, a closer examination reveals that the study's framing is partial, selective, and potentially misleading. The underlying suggestion — one which has been widely repeated in the media and by who advocate — is that the law is frequently being used to criminalise adolescent romance rather than to address serious sexual exploitation or abuse. Such a framework, while appealing to certain segments of public opinion, is both incomplete and potentially demolishing.

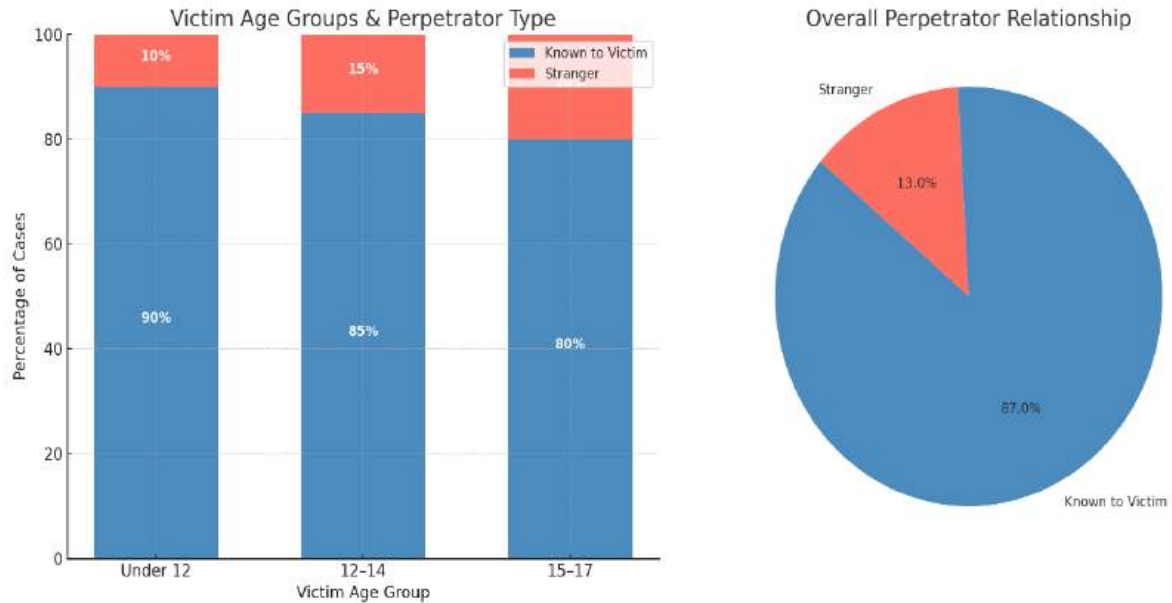
Firstly, One of the most problematic aspects of the study is its uncritical acceptance of the term “consensual” in relation to older- adolescent relationships. In many instances, the classification appears to have been based on limited information — sometimes only on initial statements given to the police or courts — without any rigorous inquiry into whether the relationship and/or the purported consent was free from manipulation, coercion, or undue influence. In the Indian context, where entrenched gender hierarchies, economic dependency, and community pressure weigh heavily on adolescent girls, the concept of “consent” cannot be read in the abstract.

A 16-year-old girl in a relationship with a significantly elder male may not have the ability to refuse sexual advances or end the relationship without fear of social or familial repercussions. In rural and peri-urban areas, where patriarchal norms remain deeply embedded, girls may also face intense pressure to frame their relationships in terms that are acceptable to their families, sometimes even characterising exploitative relationships as “romantic” to avoid stigma or violence. A research methodology that treats such statements at face value risks masking exploitation behind the veneer of mutual agreement.

Secondly, another major limitation of the Enfold study is its narrow focus. While it gives prominence to older adolescent cases, it does not adequately present/consider the broader statistical landscape of POCSO prosecutions.

The **National Crime Records Bureau's (NCRB)** data for 2021 and 2022 shows that a substantial proportion of victims in POCSO cases are below the age of 14, and many are under 12 years of age. In fact, NCRB's *Crime in India 2022* report notes that in the majority of reported cases, the perpetrator is someone known to the child — often a family member, neighbour, or person in a position of trust such as a teacher or employer.

POCSO Victim Profile & Perpetrator Relationship (NCRB 2021-2022)



By over-emphasising a sub-category of cases involving older adolescents and underplaying the reality of cases involving much younger children, the study risks creating a distorted public perception that POCSO is largely a “teen romance” law. This perception, while incorrect, has the potential to influence policymakers, dilute enforcement priorities, and undermine public confidence in the Act’s relevance as a tool for serious child-protection work.

Thirdly, the study also fails to situate its findings within India’s socio-legal context. This omission is critical. India continues to grapple with the challenges pertaining to early and forced marriage where practices that are deeply interwoven with economic vulnerability, lack of education, entrenched gender norms etc plays a substantial role. According to **NFHS-5 (2019-21)**, 23% of women aged between 20–24 were married before turning 18. In many of these cases, the marriage was preceded by a sexual relationship, whether truly voluntary or not.

Lowering the age of consent in such a context would not operate in isolation; it would interact with existing social practices in ways that could be highly detrimental. A reduced threshold could embolden those seeking to arrange or justify underage marriages, providing them with a convenient legal defence that the relationship was consensual and therefore outside the scope of POCSO. This would directly undermine the objectives of both the POCSO Act and the Prohibition of Child Marriage Act, 2006 (“PCMA”).

Fourthly, risk of creating legal loopholes - In a country with persistent gender-based power imbalances, any dilution of POCSO’s bright-line standard would create exploitable loopholes. An elder adult engaging in a sexual relationship with a 16 or 17 year old could claim mutual consent, even in situations where there was clear exploitation. The “romantic relationship” defence could be used to shield perpetrators from accountability, and the burden of disproving consent would fall on the prosecution — a particularly difficult task in cases involving vulnerable adolescents who may be reluctant or unable to testify openly.

International experience shows that once such exceptions are written and/or read into law, they are difficult to reverse. In jurisdictions that have introduced so-called “Romeo-Juliet” provisions, child-protection advocates have reported cases at times where there is an age gap of 4-5 years between victim and the perpetrators and the perpetrators are in the position to manipulate or coerce minors into relationships, later invoking the close-in-age exemption to avoid prosecution. Without the robust social safeguards present in those countries such as universal sexual-health education, accessible adolescent health services, and a strong child-protection workforce, India would be especially vulnerable to such misuse.

Fifth, selective amplification without context - The public discourse around the Enfold study has been amplified by selective coverage. Headlines have frequently highlighted the proportion of “consensual” cases without explaining the study’s limitations, the lack of representative sampling, or the socio-legal risks of interpreting such data without deeper analysis. This has created a simplified and at times misleading public narrative that POCSO is primarily being misused against young couples in consensual relationships.

Such narratives are attractive because they tap into popular ideas about youthful romance and parental overreach. But they obscure the primary reality that POCSO prosecutions overwhelmingly concern younger victims and serious offences involving coercion, abuse of trust, and violence.

Further, from the governance perspective, the danger is clear. Public perception, shaped by selective data, can influence policy in ways that weaken child-protection regimes. The principle of **non-dilution** that laws protecting children should not be weakened without overwhelming evidence and strong safeguards must remain central to any reform discussion. If legislation is altered on the basis of partial or misinterpreted evidence, the result may be not just the erosion of statutory protections but also an emboldening of exploitative practices.

The Government’s duty is to ensure that legal reforms are grounded in a complete, evidence-based understanding of the problem. In this case, the evidence supports strengthening investigative sensitivity and prosecutorial discretion not reducing the statutory age of consent. Training police officers, prosecutors, and judges to identify genuinely consensual adolescent relationships, and to apply discretion where appropriate, can address the concerns raised by older-adolescent cases without weakening the legal framework that protects all minors.

In October 2023, UNICEF withdrew from public circulation the 2022 policy brief after the NCPCR raised concerns over the accuracy and framing of its data. The brief’s claim that over 24% of POCSO cases were “romantic and consensual” was contested with NCRB’s 2021 figure of 18.4% for cases involving minors aged 16–18 years under serious sexual assault provisions. The NCPCR argued that the statistical presentation was misleading and risked distorting public understanding of the Act’s implementation. UNICEF publicly clarified that it did not endorse the conclusions of the document, suspended its circulation, and commenced a review of its methodology and findings with relevant stakeholders.

CURRENT LANDSCAPE OF CHILD PROTECTION IN INDIA: NAVIGATING DATA, REALITIES, AND EMERGING TRENDS

The landscape of child protection in India presents a paradox of robust legislative frameworks adjoining against ground realities that remain deeply challenging. Over the years, India has fortified its legal architecture with comprehensive statutes such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012, and constitutional guarantees that affirm every child's right to protection, dignity, and holistic development. Despite these advancements, the practical enforcement and reach of these laws are yet to fully bridge the gap between statutory promise and lived experiences of children on the ground. A nuanced understanding of the child protection scenario necessitates a closer examination of recent empirical data, victim demographics, offence typologies, and systemic patterns.

The National Crime Records Bureau's (NCRB) data for 2022 indicates a total of over 1.6 lakh cases of crimes against children registered across India. Offences under the POCSO Act account for a substantial share, reflecting not only the rising incidences but also a gradual improvement in the reporting of such crimes. However, this statistical snapshot, while alarming, merely scratches the surface. Ground-level assessments and multiple research studies suggest that a significant proportion of child abuse cases remain submerged in silence due to underreporting, societal stigma, fear of reprisal, and gaps in victim-sensitive legal processes.

Moreover, patterns of exploitation are becoming increasingly complex. While traditional forms of child exploitation such as child labour, trafficking, child marriage, and physical abuse continue to persist, emerging threats like online sexual exploitation, cyber grooming, and exposure to harmful digital content are rapidly escalating. These newer forms of abuse pose intricate challenges that require both policy innovation and technological preparedness. Victim profiles reveal that children from marginalized socio-economic backgrounds, including those belonging to Scheduled Castes, Scheduled Tribes, minority communities, migrant families, and urban slums, are disproportionately vulnerable.

Factors such as poverty, lack of education, absence of social safety nets, and limited access are not the only factors that amplify their risk. However, it is critical to recognise that child abuse is not confined to the margins of society; it pervades across economic strata, often concealed within familial and community structures that resist external scrutiny.

In essence, while India's legal framework for child protection are among the most progressive globally, the country faces a formidable task in translating legislative intent into tangible outcomes on the ground. A data-driven, victim-centric, and systemically coordinated approach is imperative to move from symbolic compliance to substantive justice for every child in India.

Overview of Crimes Against Children: Data and Insights

According to the **National Crime Records Bureau's (NCRB) CRIME IN INDIA 2022** report, a total of **1,62,449 cases of crimes against children** were registered across the country. This represents a **significant increase** from the **1,49,404 cases** recorded in 2021 — a year-on-year rise of nearly **8.7%**. Such an escalation is not an isolated statistical fluctuation; it is part of a continuing upward trajectory observed over the past decade, signalling that the **risk landscape for children is not abating** despite the existence of strong laws.

Among these reported crimes, offences registered under the **Protection of Children from Sexual Offences (POCSO) Act, 2012** constituted the largest single category, making up to **56.6%** of all cases against children. This translates to **91,068 cases** filed under POCSO in 2022 alone. These include:

- **Penetrative Sexual Assault & Aggravated Penetrative Sexual Assault** — often involving known persons such as family members, neighbours, or acquaintances etc.
- **Sexual Harassment** — encompassing both physical and verbal conduct intended to exploit a child.
- **Use of Child for Pornographic Purposes** — including production, possession, circulation, and online dissemination of child sexual abuse material (CSAM).

The **rise in reporting** can, in part, be attributed to:

- **Increased public awareness** of legal rights and reporting mechanisms.
- **Mandatory reporting obligations** under Section 19 of the POCSO Act, which require any person aware of an offence to report it to the authorities.
- **Improved police registration of FIRs** following capacity-building initiatives, media scrutiny, and judicial directions.

However, these figures also reflect the **persistent and pervasive nature of sexual violence against children** in both rural and urban contexts. Higher reporting does not necessarily mean fewer incidents; in many cases, it indicates that more survivors are **coming forward despite social barriers**, or that communities are less willing to ignore abuse.

This dual reality — a legal system that is increasingly responsive on paper, yet faced with a stubbornly high incidence of abuse — underlines the urgent need for **systemic reforms, survivor-centred justice processes, and prevention strategies** that work at the grassroots level.

Age-wise Vulnerability and Offence Patterns

While official crime statistics, such as those published by the National Crime Records Bureau (NCRB), provide a macro-level view of crimes against children, they often fall

short in offering detailed age-segregated insights across all categories of offences. However, field-level research, case law reviews, and tracking of judicial proceedings reveal distinct patterns of victimization that underscore age-specific vulnerabilities among children.

Adolescents in the 12 to 18 years age bracket form the largest cohort of reported survivors under the Protection of Children from Sexual Offences (POCSO) Act. A significant proportion of these cases, however, stem from relationships between teenagers. Given that the legal age of consent in India is set at 18 years, such relationships—even when devoid of exploitation, coercion, or abuse—are criminalized under the current legal framework. While the intention behind a stringent age of consent is to safeguard minors from exploitation. This unintended consequence often diverts limited investigative resources away from more severe cases of sexual violence involving actual coercion or abuse of power.

On the other end of the spectrum, children below the age of 12 years represent a an alarmingly higher proportion of aggravated penetrative sexual assault cases. These offences are most commonly perpetrated by individuals within the child's immediate circle of trust—family members, neighbours, caregivers, or acquaintances. The young age of these victims compounds their vulnerability, as they often lack the cognitive development, vocabulary, or emotional awareness to articulate experiences of abuse. Fear, confusion, and the grooming tactics of perpetrators further silence these children, making disclosure exceptionally difficult and delaying intervention.

In recent years, the digital ecosystem has emerged as a potent enabler of new forms of child sexual exploitation, particularly affecting adolescents. The rapid proliferation of smartphones and inexpensive internet access has exposed children to risks such as online grooming, sextortion, cyberbullying, and the creation and circulation of Child Sexual Exploitative and Abuse Material (CSEAM). Adolescents, who often navigate the digital world with minimal supervision and limited digital literacy, are especially susceptible to these forms of exploitation. Many lack adequate knowledge about online privacy, safety protocols, and the legal ramifications of sharing personal content, making them easy targets for cyber predators. These age-specific patterns of victimization highlight the urgent need for differentiated strategies in child protection—policies and interventions must be nuanced enough to distinguish between consensual adolescent relationships and exploitative offences, while also ensuring robust mechanisms for the early detection and prevention of abuse among younger children. Furthermore, the rapidly evolving digital landscape calls for proactive digital safety education, community awareness, and law enforcement's technological readiness to combat online sexual crimes effectively.

Offence Categorisation – Statistical Breakdown

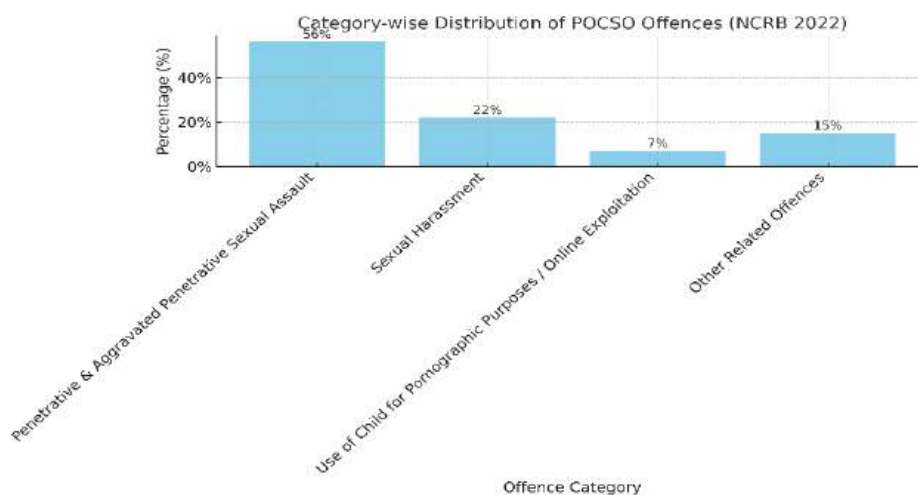
The bar chart illustrating the category-wise distribution of offences registered under the POCSO Act in 2012, based on NCRB data, offers a stark and visually compelling overview of the patterns of child sexual abuse reported in India. Among the total cases filed under the Act that year, the highest share—56%—comprised of Penetrative Sexual Assault and Aggravated Penetrative Sexual Assault. This category represents some of the most grievous and traumatic violations of a child’s bodily autonomy and dignity, frequently involving repeated abuse by known persons such as family members, teachers, employers, or caregivers.

The predominance of such offences in reported data underscores two crucial issues. First, it highlights the severity of sexual violence that children continue to face, even after a decade of legal reform and sensitization efforts.

Second, it suggests that families and survivors are more likely to report cases only when they involve explicit physical assault, leaving subtler or non-contact forms of abuse underreported. In many communities, unless the offence causes immediate and visible physical harm or carries the risk of public shame, there is often reluctance to file a complaint, especially if the perpetrator is a relative or someone with power in the family or village.

Following this, 22% of POCSO cases are classified under Sexual Harassment. These include offences that may not involve physical penetration but are nonetheless psychologically damaging and legally prosecutable — such as unwanted touching, suggestive comments, flashing, stalking, and sexual gestures. While such behavior is widespread and often the first form of abuse many children face, these acts are often trivialised by society, including by some within law enforcement agencies. As a result, sexual harassment remains massively underreported, and even when reported, is sometimes reclassified under less severe provisions of the IPC, if not dismissed altogether.

Only 7% of the cases reported under the POCSO Act, 2012 fall under the category of Use of Child for Pornographic Purposes or Online Exploitation. This figure, although small in proportion, is widely considered an underrepresentation of the actual scale of such offences. With increased internet penetration, children particularly adolescents are increasingly vulnerable to grooming, sextortion, blackmail, and live-streamed abuse,



often at the hands of anonymous perpetrators. However, families often lack digital literacy and the tools to recognize these offences, and law enforcement units are not yet fully equipped with the cyber-forensic capabilities required to investigate and prosecute these crimes. As a result, many online offences either go unreported or are misregistered under general IT Act provisions without invoking the specific safeguards of POCSO.

The final 15% of cases include Other Related Offences such as attempt to commit a sexual offence, abetment, and trafficking of children for sexual exploitation. These cases are typically complex and may involve elements of coercion, migration, poverty and systematic abuse. The relatively lower reporting of such offences does not reflect their rarity but points to the difficulty of detection, as well as limited inter-departmental coordination between child protection systems and law enforcement. Children trafficked for sexual purposes, for instance, are often recovered during raids or interventions initiated by NGOs, not always through proactive policing.

The bar chart clearly shows that while penetrative assault dominates reported POCSO cases, this does not mean it is the only or most prevalent form of child sexual abuse. Instead, it reflects a bias in reporting, where only the most physically invasive or visible forms of abuse reach the legal system. The relatively lower statistics for other categories are not indicators of their rarity, but rather of society's failure to acknowledge the broader spectrum of abuse, particularly psychological harm, harassment, and cyber-facilitated exploitation.

Trends and Enforcement Challenges: Bridging the Gap Between Law and Ground Realities

India's legal framework for child protection, particularly through the enactment of the Protection of Children from Sexual Offences (POCSO) Act, 2012, stands among the most progressive in the world. It mandates stringent timelines for investigation and trial, prescribes child-friendly procedures, and seeks to ensure survivor-centric justice delivery. However, the translation of these statutory safeguards into effective on-ground protection remains fraught with systemic and operational challenges.

One of the most persistent bottlenecks is the delay in investigation and adjudication of POCSO cases. The Act stipulates that investigations should conclude within two months and trials within a year of cognisance. Yet, in practice, these timelines are seldom adhered to. It is not uncommon for cases to drag on for two to five years, prolonging the trauma for child survivors and severely undermining their faith in the justice delivery system. These delays have cascading consequences, witnesses turn hostile under community or familial pressure, memories fade over time, and crucial physical and forensic evidence loses its probative strength. The prolonged pendency of cases not only compromises the quality of justice but also erodes the child's emotional resilience, often leading to re-traumatisation through repeated court appearances.

Conviction rates under the POCSO Act remain alarmingly low in several states, with figures often stagnating. The reasons are multifaceted: lapses in evidence collection, inadequate forensic infrastructure, procedural lapses in adhering to child-friendly protocols, and the high prevalence of hostile witnesses. Many survivors and their families are coerced into retracting complaints through societal stigma, threats, or offers of informal settlements. Consequently, cases collapse due to lack of robust prosecution, reinforcing a perception of impunity among perpetrators.

Adding to these challenges are emerging forms of technology-enabled sexual exploitation. The rapid penetration of smartphones and affordable internet access has led to a sharp rise in cyber-facilitated crimes against children—ranging from online grooming and sextortion to the creation and dissemination of Child Sexual Exploitative and Abuse Material (CSEAM). However, the capacity of law enforcement agencies to effectively investigate and prosecute such offences remains uneven. Many police units, particularly at the district and sub-district levels, lack trained cybercrime investigators, standard operating protocols for digital evidence collection, and access to advanced forensic tools. These operational gaps are further exacerbated by socio-cultural barriers, deep-seated patriarchal norms, notions of family honour, and community-level resistance to formal legal intervention continue to deter survivors from reporting abuse, especially when the perpetrator is a known or influential figure.

Implications for Policy and Advocacy: From Legislative Intent to Effective Protection

The persistence of these systemic challenges clearly illustrates that while robust legislation forms a critical foundation, it is not, by itself, a panacea. Bridging the chasm between legal provisions and their practical enforcement demands a comprehensive strategy one that combines institutional strengthening with targeted social transformation. First and foremost, statutory timelines and child-friendly procedures must be enforced through robust monitoring and accountability frameworks. States should institute regular audits to track the progress of POCSO cases, examining investigation timelines, pendency rates, and adherence to procedural safeguards. Transparent, data-driven monitoring will not only expose systemic bottlenecks but also allow for timely policy interventions and resource allocations to address them.

Institutional capacity-building must be prioritised across the entire justice delivery chain. Law enforcement officials, prosecutors, judicial officers, and support personnel need sustained, specialised training on child-sensitive investigation techniques, trauma-informed interviewing, and procedural adaptations that prioritise the child's well-being. Every Special POCSO Court should be equipped with permanent infrastructural facilities to support survivor-friendly proceedings—this includes ensuring availability of video-link testimony, privacy screens, separate child-friendly waiting areas, and trained court staff sensitised to child psychology.

Equally critical is the urgent need to strengthen survivor support services at the grassroots level. The systematic appointment of trained support persons in every district, access to qualified trauma counsellors, and the expansion of specialised legal aid networks tailored for child protection cases are non-negotiable.

Addressing the surge in technology-enabled child sexual exploitation necessitates dedicated investments in cybercrime investigation infrastructure. This includes the recruitment of specialised cybercrime units, procurement of cutting-edge forensic tools, and the development of comprehensive Standard Operating Procedures (SOPs) for digital evidence collection, preservation and admissibility in courts. In tandem, public awareness campaigns must focus on promoting digital literacy, safe online behaviours and mechanisms for reporting cyber offences. Parents, educators, and children themselves need to be equipped with the knowledge and tools to navigate the digital space safely.

Criminalisation of Adolescents Relationship under the POCSO Act, 2012 viz-a-viz Protection of Adolescents under Juvenile Justice (Care and Protection of Children) Act, 2015

The Protection of Children from Sexual Offences (POCSO) Act, 2012, establishes a clear legal threshold by defining any person below the age of 18 as a child, and criminalises all forms of sexual activity involving a child, irrespective of consent. In practice, this includes cases where two adolescents, both under the age of 18 years, engage in a consensual sexual or romantic relationship. The Act does not provide exceptions for such relationships, and the law treats all such acts as offences, most commonly under Sections 4 and 6 (penetrative and aggravated penetrative sexual assault), and sometimes under Section 376 of the Indian Penal Code (now Section 64 under the Bhartiya Nyaya Sanhita, 2023 hereinafter, BNS).

While the conversation around adolescent relationships under the POCSO Act highlights the need for nuanced legal application, it is equally essential to draw a clear and uncompromising line in cases where a minor girl (under 18 years) is involved in a sexual relationship with an adult male (above 18 years). These cases are not instances of mutual adolescent exploration, but rather situations involving inherent power imbalance, grooming and possible coercive exploitation.

In such circumstances, the presumption of consent is legally inapplicable. The POCSO Act and the BNS unequivocally treat all sexual acts with a minor as offences, regardless of the mutual consent. Courts across jurisdictions have repeatedly rejected the framing of such cases as "romantic relationships" or "love affairs," stressing that adults cannot escape accountability for violating the bodily autonomy and developmental integrity of minors. These are not adolescent misdemeanours but acts of child sexual abuse and, in many instances, manifestations of predatory or pedophilic behaviour.

At the same time, it is critical to ensure that minors in consensual peer relationships are not subjected to unnecessary criminalisation. The Juvenile Justice (Care and Protection of Children) Act, 2015, through Section 15, provides an essential safeguard by allowing the Juvenile Justice Board (JJB) to conduct a preliminary assessment of a child aged 16–18 years who is alleged to have committed a heinous offence. This mechanism is a protective measure—not a punitive one—and plays a key role in ensuring that children are not pushed into the adult criminal justice system without due consideration of their mental and emotional maturity, understanding of the consequences, and the circumstances of the act.

Section 15 must be used to affirm the reformatory and child-centric intent of the JJ Act. In situations where two adolescents engage in a non-coercive relationship, the preliminary assessment provides a framework for evaluating whether the child in conflict with law genuinely requires adult trial. This helps prevent unjust outcomes, such as lifelong stigmatisation, incarceration, or loss of educational and rehabilitation opportunities. The

role of child psychologists, counsellors and social workers in guiding this assessment ensures a multidisciplinary, rights-based process.

From a policy and advocacy perspective, Section 15 should be recognised as a protective tool—not to legitimise unlawful conduct, but to protect adolescents from the consequences of blanket criminalisation. It is not meant for adult perpetrators, nor should it be misused to shield offenders who fall outside the statutory definition of a juvenile. On the contrary, it is vital to ensure that adults engaging in sexual activity with minors face the full application of POCSO and BNS provisions, with no scope for dilution.

Therefore, a dual approach must be adopted:

- Zero tolerance for adult–minor relationships, with such offences being prosecuted as sexual exploitation, and
- Balanced, child-friendly implementation of Section 15 in minor–minor cases, with a focus on rehabilitation, education, and psychosocial support.

This approach preserves the integrity of the law while ensuring it remains developmentally appropriate, sensitive to adolescent realities, and committed to the constitutional vision of child rights and justice.

Reflections on Preliminary Assessment under Section 15

The purpose of the preliminary assessment is not to declare guilt or innocence, but to evaluate whether the child possesses the requisite maturity, understanding and intent to be tried as an adult. The JJB is required to assess the child’s mental and physical capacity to commit the alleged offence, the ability to understand the consequences of their actions and the circumstances in which the offence was committed. This assessment must be completed within a maximum period of three months from the date of the child’s first appearance before the Board. The process must be supported by expert opinion, including from psychologists, psycho-social workers, or mental health professionals, to ensure that the determination is evidence-based and not solely reliant on the gravity of the charge.

The Supreme Court of India, through multiple pronouncements, has reiterated that the preliminary assessment under Section 15 must not be applied in a mechanical or routine manner. The objective of the JJ Act is reformative and rehabilitative, recognising that children in conflict with the law are themselves vulnerable and capable of change. In light of this, the Court has advised that the decision to try a minor as an adult should be taken with utmost caution, supported by credible expert evaluation and guided by the principle of best interest of the child, as mandated under national and international child rights frameworks.

In situations involving adolescent relationships, where both individuals are minors and the relationship is consensual in fact (though criminal in law due to the statutory age of consent being 18), the application of Section 15 raises complex legal and ethical

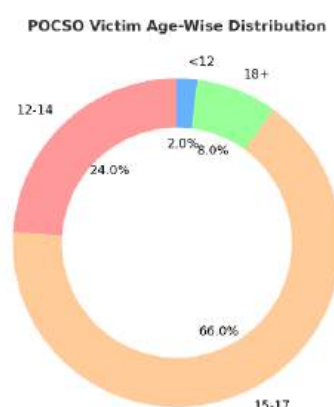
questions. There is an emerging concern among child rights experts and legal practitioners that the preliminary assessment process could be invoked even in such cases, leading to children being exposed to the adult criminal justice system in scenarios that lack coercion, exploitation, or abuse of power. This would defeat the protective intention behind both the JJ Act and POCSO.

In such contexts, there is a growing consensus on the need for clearer judicial and administrative guidelines to help JJBs distinguish between exploitative conduct and consensual adolescent behaviour. Preliminary assessments should be rooted in thorough psychological and social evaluations, not solely on the legal classification of the offence. Where the circumstances reflect mutuality and absence of abuse, the law must avoid pushing adolescents into the adult criminal justice system, especially in a manner that disregards their developmental stage and reformatory potential.

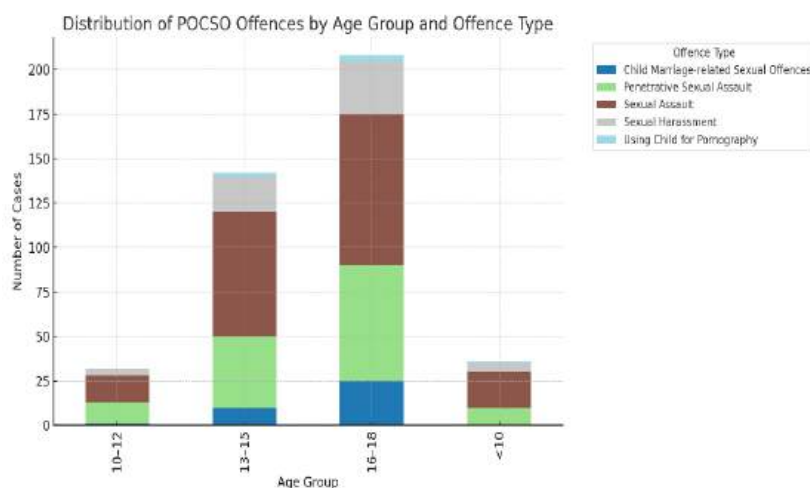
Thus, while Section 15 serves an important role in addressing serious offences committed by older adolescents, it must be implemented in a manner that is sensitive, evidence-based, and proportionate. The use of adult trial provisions should be reserved for truly heinous, intentional, and exploitative offences, and not extended to cases where the law's protective purpose is not being undermined. The process must uphold the child-centric values of the JJ Act and be consistent with India's Constitutional and international obligations to promote the rehabilitation, reintegration, and dignity of children in conflict with law.

Case Studies and Critical Analysis

Based on the data analysis conducted using statistical inputs provided by our **research partner, Shanti Suraksha aur Sadbhav Trust**, critical patterns have emerged in the profiling of victims and nature of offences under the **Protection of Children from Sexual Offences (POCSO) Act**. The findings reveal that a significant proportion of child victims are in the early adolescent and pre-adolescent age groups, underscoring the urgent need for age-responsive child protection interventions. Specifically, approximately **24%** of the victims were **below 12 years**, **26%** were **aged 13–14**, and the largest share—**41%**—comprised children in the **15–17 year age group**. Cases involving individuals **above 18 years** accounted for only **9%**, many of which were simultaneously booked under IPC provisions due to ambiguity in age documentation or the presence of a prior consensual relationship.

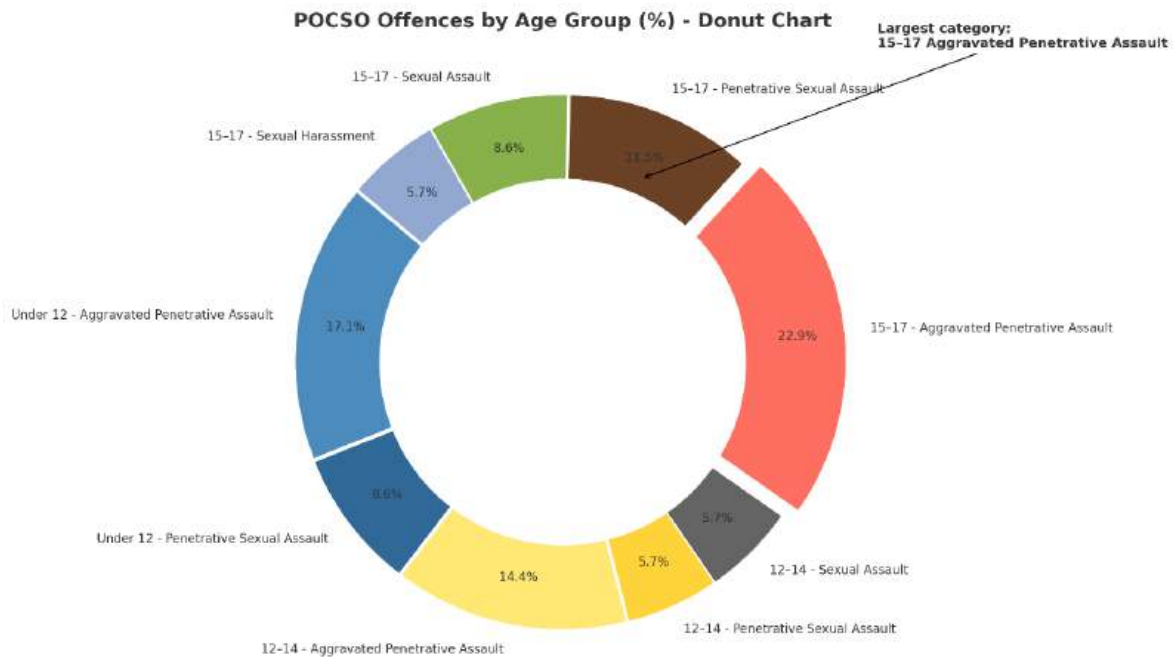


An age-wise mapping of offences indicates that **rape and penetrative sexual assault** (under Section 376 IPC and Sections 4 & 6 of the POCSO Act) are more prevalent among older adolescent victims, particularly those aged 15–17. This group also accounts for the highest instances of **kidnapping and abduction** (Sections 363 and 366 IPC), often in contexts involving coercion, elopement, or trafficking. Meanwhile, **younger children**,



especially those under the age of 12, are disproportionately represented in cases of **aggravated sexual assault, indecent touch, and exposure to pornographic content**, highlighting their extreme vulnerability and lack of agency. Other offences such as

harassment, threats, and unlawful confinement show relatively uniform distribution across age groups but are often underreported due to societal stigma.



The data further corroborates a long-standing concern in child protection: in a **majority of POCSO cases, the perpetrator is someone known to the child**—a family member, neighbour, teacher, or an employer. This relational proximity often impedes timely reporting, delays disclosure, and contributes to the traumatization of the child. Consequently, there is a pressing need to adopt a **victim-sensitive, trauma-informed, and rights-based approach** to investigation and prosecution under POCSO.

Case Study 1

A minor girl aged 16 years was reported to have been taken away by the accused, allegedly with the assistance of individuals involved in facilitating forceful religious conversions. Upon her return from their custody, the victim informed her family that the accused, who is also a minor, used to subject her to physical assault and made derogatory remarks based on her caste. An FIR was registered u/s 363/366/295-A/342/323/504/506 of IPC r/w S 16/17 of POCSO Act and 3(2) (v) of SC/ST Act.

Case Study 2

A 16 year old minor girl was in a romantic relationship with the accused of different religion. Upon her decision to end the relationship, the accused manipulated her into meeting him one final time at the residence of another individual. After bringing her to the said location, the accused physically assaulted her. The other individual allegedly recorded the incident secretly without her knowledge or consent. Thereafter, both the accused and the said individual threatened to leak the recorded videos on social media in

order to intimidate and coerce the victim. An FIR was registered u/s 61(2)/64 of BNS, r/w Sec 4 of POCSO Act r/w Sec 67(A) IT Act.

Case Study 3

A minor girl aged 14 years was reported missing and was subsequently traced and recovered. Upon inquiry, the victim disclosed that she had come into contact with an individual through the social media platform Instagram. The said individual misrepresented himself as belonging to the same religion as the victim and, thereby, gained her trust. Thereafter, he allegedly persuaded the victim to visit his residence, where he compelled her to perform religious rituals and consume meat and thereafter made physical relations with the victim on the pretext of getting married to her. An FIR was registered u/s 363, 376 of IPC r/w 3, 4 of POCSO Act 3(2)(v) of SC ST Act.

Case Study 4

A minor girl aged 17 years was allegedly subjected to molestation by an individual. When initially confronted, the accused apologised and assured that he would not repeat such acts. However, he continued to molest her and engage in inappropriate and obscene activities. After a few days, the accused took the girl to his maternal grandparents' residence, where he allegedly attempted to force her to convert her religion and marry him. While the girl's family was searching for her in the locality, the accused brought her back to her residence and fled from the scene. An FIR was registered u/s 137(2), 87, 74, 127(2), 351(1) of BNS r/w 7, 8 POCSO Act.

Case Study 5

A minor girl aged about 16 years old was walking past her neighbour's house at approximately 10:00 a.m. As a result of one sided attraction the said neighbour allegedly forcefully dragged her into his residence. He reportedly strangled her on the bed and tore her clothes with the intention to commit rape upon her. Upon the minor raising an alarm, her father rushed towards the neighbour's house to intervene. At that point, the accused allegedly attacked her father with a dagger, with the intent to cause grievous harm or to kill him. An FIR was registered u/s 75/62/118(2)/109/3(5) B.N.S. r/w Sec. 8 of POCSO Act,2012

Case Study 6

A 14 year old minor girl was returning from her tuition classes when she was allegedly instigated and kidnapped by an individual. The accused took her to a hotel room, where he sexually assaulted her multiple times during the night. The following morning, he left her at an undisclosed location and threatened her with dire consequences if she disclosed the incident to anyone. An FIR was registered under Section 365 of the IPC r/w Section 6 of the POCSO Act.

Case Study 7

A 17 year old girl entered into a relationship with an individual who, without the knowledge of her parents, financially supported her and paid for her expenses. The said individual sexually assaulted her on multiple occasions under the false pretext of marriage. An FIR was registered under Section 6 of the POCSO Act.

Case Study 8

A 17 year old girl had gone to a tailor's house for tailoring-related work. During her visit, while the tailor momentarily went to the washroom, the tailor's husband sexually assaulted the girl and took photographs of the incident. Thereafter, the accused (the tailor's husband) threatened to publish the said photographs if the victim disclosed the incident to anyone. An FIR was registered under Section 64 of the BNS, read with Section 4 of the POCSO Act.

Case Study 9

A minor girl had gone to a nearby pharmacy one day to purchase medicine. The man present at the pharmacy administered a medicine to her, following which she reportedly lost consciousness. She regained consciousness about an hour later and returned home. The next morning, she received some photographs of herself from the same man. When she confronted him, he proposed a romantic relationship and sexual relations and threatened to publish the sensitive content on social media if she refused. He further threatened to circulate the photographs on social media if she did not comply. Out of fear, the minor requested him to delete the photos and unwillingly agreed to his demands. A few days later, he called her to a particular location, where he allegedly sexually assaulted her. He threatened her again, this time brandishing a pistol and warning her not to inform her father or anyone else, stating that he would harm her if she did. Subsequently, the accused continued to call her to pharmacy and other locations and subjected her to repeated and forceful sexual harassment. When the matter was brought to the attention of the accused's father, he allegedly discouraged her from lodging an FIR and instead assured her that she would eventually be married to the accused. An FIR was registered under Sections 376 and 506 of the IPC, read with Section 6 of the POCSO Act.

Case Study 10

A 16-year-old girl had travelled with her family to another district in search of work. That same night, around at 10 pm she was reportedly kidnapped by four individuals. Her family immediately lodged a missing complaint with the police, also confronted persons directly, but the individuals in question later denied any involvement. Later on the said accused individuals killed the girl and portrayed her death as a suicide. The family of the minor suspects that one of the accused sexually abused the minor girl. Further, FIR was registered under Sections 137(2), 127(2), 103(1) and 3(5) of the BNS, read with Section 4 of the POCSO Act.

Case Study 11

A 04-year-old minor girl was sexually assaulted by the brother of her tuition teacher. The child had gone for her regular tuition class, which was known and considered safe by the family. Upon her return, her mother noticed blood stains on the minor's private part. The minor was rushed to the hospital by her parents where she was examined and informed to the doctor about the incident and mentioned that the accused had inserted a finger in private part leading resulting in sexual abuse. An FIR was registered u/s 376(2)(f), 376AB IPC and S. 6 of POCSO Act.

Case Study 12

A 5-year-old minor girl was sexually assaulted by a neighbour. It was stated that the neighbour visited the house of the victim, when no one was available at home except the minor. While taking advantage of the moment the accused gave some money to the victim and took her to the toilet of his house, where he sexually abused the minor by inserting his fingers in the private part of the minor. An FIR was registered u/s 276AB IPC r/w S 6 of POCSO Act.

Case Study 13

A 16 year old minor girl was reportedly harassed on multiple occasions by a neighbour, who also threatened to take her away with him. Though he was confronted and asked to refrain from such behaviour, something he initially agreed to, later he took the minor with him. Around 20 days after her disappearance, the family came to know that the accused had only taken her. When the family contacted over the phone, the accused warned the family not to disturb him, otherwise he would kill the minor and he would sell her. An FIR was registered u/s 506, 366, 363 of IPC.

Case Study 14

A minor girl aged 15 years was taken by the accused to his residence, where she was wrongfully confined for a period of 10 days, raped her, and threatened with dire consequences. Thereafter, the accused transported the minor to another State and instructed her to wait at a specified location before absconding. Subsequently, another individual approached the girl, claiming he would take her to the accused. However, he instead took her to an undisclosed location, where he unlawfully confined and raped her and also subjected her to torture for 15 days. The girl eventually managed to escape and returned to her home. An FIR was registered u/s 342/376(2)(n)/5061PC r/w Sec. 06 of POCSO Act.

Case Study 15

A minor girl, approximately 17 years of age, was allegedly abducted by two individuals one aged 19 years and the other older. It is reported that one of the accused coerced the

girl into a purported marriage and established forceful physical relation with her. The accused also threatened her family with death if they disclosed any information regarding the incident to anyone. He also allegedly threatened to create and circulate objectionable obscene videos on the internet. Although the girl was initially recovered, she was subsequently abducted once again. An FIR was registered in the matter u/s 137(2)/64 (1) BNS r/w S 9/10/11 of Prohibition of Child Marriage Act, 2006 and S. 6 of POCSO Act, 2012.

Case Study 16

A 16 year old minor became friends with the accused, forced the minor into his vehicle and took her to a place wearing a burqa to conceal identity. The accused stated that he likes the victim and would marry her. The accused sexually assaulted the minor and recorded the acts on his phone. The accused threatened the victim to kill her family if she reports the incident. The accused on various occasions threatened the victim using recorded videos and forced her to come to the lodge, against her will and forced her to engage in sexual activities. An FIR was lodged u/s 137(2), 64, 64(2)(m), 69, 336, 338, 340(2), 351(2), 352 of BNS and 4, 8, 12 POCSO Act.

Case Study 17

In, Rajasthan, a grave incident was reported wherein minor girls were allegedly traced and followed by certain individuals who, under the pretext of friendship, established contact with them, thereafter sexually assaulted them and clandestinely videographed the assaults. The said material was subsequently used to threaten, coerce, and manipulate the victims into undergoing forced religious conversion.

Case Study 18

In Bhopal, Madhya Pradesh, a grave incident was reported wherein minor girl students of a local college were initially subjected to ragging by senior students and, thereafter, under the pretext of offering protection, were administered intoxicating substances, surreptitiously photographed in compromising situations, and subsequently subjected to threats, coercion, and psychological manipulation to compel their forced religious conversion.

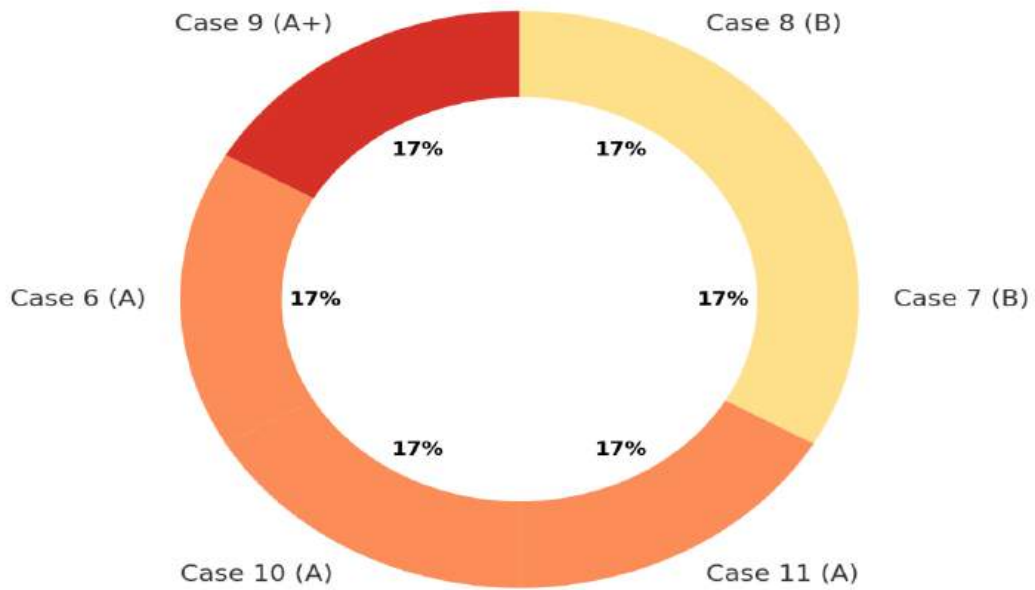
Critical Analysis of Selected Case Studies under the POCSO Act

The review of the sixteen documented case studies exposes a persistent and multifaceted pattern of sexual offences committed against minor girls, with a pronounced concentration in the **14–17 years age group**. This age bracket emerges as particularly vulnerable due to developmental, social, and digital exposure factors, rendering adolescents more susceptible to manipulation, coercion, and intimidation.

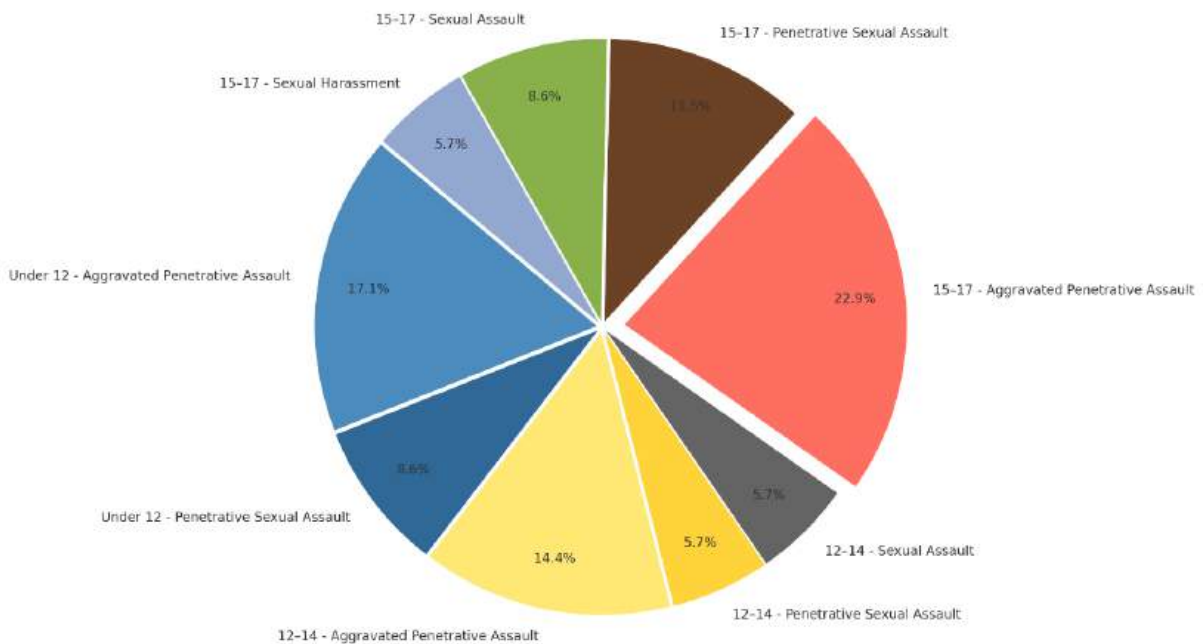
Graded Response of Case Study 6 to 11

Case	Victim Age	Primary Legal Provisions Invoked	Key Aggravating Elements (Study-Oriented Summary)	Grade
6	14	Kidnapping + POCSO Aggravated (S. 6)	Abduction from public place; confinement overnight; repeated offence within same incident; intimidation to deter disclosure	A
7	17	POCSO Aggravated (S. 6)	Financial dependency exploited; false promise of marriage; repeated incidents	B
8	17	Sexual offence + Threat/Intimidation	Coercion via sensitive images; abuse in a setting associated with legitimate purpose; threats of exposure	B
9	Mid-teen	POCSO Aggravated (S. 6) + Threats + Possible IT Act + Other Penal Provisions	Use of incapacitating substance; repeated offences; coercion using sensitive material; threats with weapon; third-party interference to suppress complaint	A+
10	16	Abduction + Homicide + POCSO (S. 4)	Group involvement; suspected sexual offence; fatal outcome; attempt to disguise cause of death	A
11	4	POCSO Aggravated (Under-12 Category)	Extremely young age; physical injury; breach of trust in educational setting	A

Severity Grades by Case Study (6-11)



POCSO Offences by Age Group (%) - Classic Pie Chart



While all cases fall squarely under the ambit of the **Protection of Children from Sexual Offences (POCSO) Act, 2012**, they frequently involve concurrent application of provisions from the **Indian Penal Code (IPC)**, **Bharatiya Nyaya Sanhita (BNS) 2023**, **Information Technology Act, 2000**, **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**, and in some instances, the **Prohibition of Child Marriage Act, 2006**.

1. GROOMING, FALSE PROMISES OF MARRIAGE, AND SEXUAL EXPLOITATION

A recurring and disturbing modus operandi emerges in **Case Nos. 1, 3, 5, 7, 14, 15, and 16**, wherein offenders cultivated trust or romantic involvement with the minor, only to leverage this emotional connection for sexual exploitation.

- These cases often involved **false promises of marriage**, religious identity manipulation, or coercive marriages.
- The victims, being minors, are legally incapable of consenting to sexual activity, making such acts **aggravated penetrative sexual assault** under **Section 6, POCSO Act**.
- The offenders' deliberate use of emotional grooming reveals a strategic intent to **circumvent family objections and exploit the minor's emotional dependency**, a pattern also associated with prolonged control over victims (e.g., Cases 14 and 16).

2. DIGITAL EXPLOITATION AND CYBER-ENABLED BLACKMAIL

Cases 2, 8, 9, and 16 illustrate the **increasing technological dimension of child sexual abuse**.

- Perpetrators recorded sexual acts or indecent images, often without the victim's knowledge or consent, and subsequently used these materials to coerce compliance or silence.
- This conduct constitutes offences under **Sections 4, 6, and 12 of POCSO**, and under **Section 67A, IT Act, 2000**, attracting enhanced penalties for creating and transmitting sexually explicit material involving minors.
- In some cases (e.g., Case 9), the abuse was preceded by **drugging the victim**, followed by repeated sexual exploitation, with threats involving **firearms**—a convergence of sexual, cyber, and physical violence.
- These trends underscore the need for **integrated child protection protocols** that span both **physical environments** and **online ecosystems**.

3. THREATS, VIOLENCE, AND PROLONGED CONFINEMENT

A significant subset—**Cases 1, 3, 9, 13, 14, and 16**—demonstrates the **weaponisation of fear** through:

- Threats to kill the victim or her family (Cases 1, 9, 13, 16).
- Prolonged wrongful confinement and inter-state or inter-district trafficking (Cases 3, 14).

- Repeated assaults during extended captivity (Cases 14, 16). Legally, these offences attract IPC/BNS provisions on **wrongful confinement (Section 342 IPC / Section 336 BNS)**, **kidnapping for illicit purposes (Section 366 IPC / Section 127(2) BNS)**, and **criminal intimidation (Section 506 IPC / Section 69 BNS)**, in addition to POCSO charges.

4. ABUSE OF VERY YOUNG CHILDREN IN POSITIONS OF TRUST

Case Nos. 11 and 12 bring into focus the **sexual assault of children aged 4–5 years** by trusted community members or neighbours.

- In both cases, **digital penetration** was detected through medical examination after the child exhibited physical symptoms.
- Offenders were in positions of implicit trust—either related to the victim’s tuition environment or residing in close proximity—falling under **Sections 5(m) and 5(n) POCSO Act** (aggravated penetrative sexual assault by a person in a position of trust or authority).
- These offences merit **maximum penalties** under Section 6 POCSO and point to **gaps in community vigilance and protective supervision**.

5. INTERSECTION OF SEXUAL VIOLENCE WITH CASTE AND RELIGION

Case Nos. 1, 3, 4, 15, and 16 incorporate additional dimensions of **forced religious conversion** and **caste-based intimidation**.

- Perpetrators sometimes concealed their religious identity (Case 3) or actively coerced the victim to convert (Cases 4, 15, 16).
- Caste-based derogatory abuse (Case 1) also featured, triggering applicability of **Section 3(2)(v) of the SC/ST Act, 1989**.
- These cases require an **intersectional legal approach** that integrates child protection with **anti-discrimination and social justice frameworks**.

6. OPPORTUNISTIC AND VIOLENT OFFENCES

Cases 4, 5, 6, 10, and 13 demonstrate sexual offences arising from sudden, often public acts of aggression:

- Kidnapping from public spaces (Cases 6, 10).
- Attempt to kill a family member intervening in the assault (Case 5).

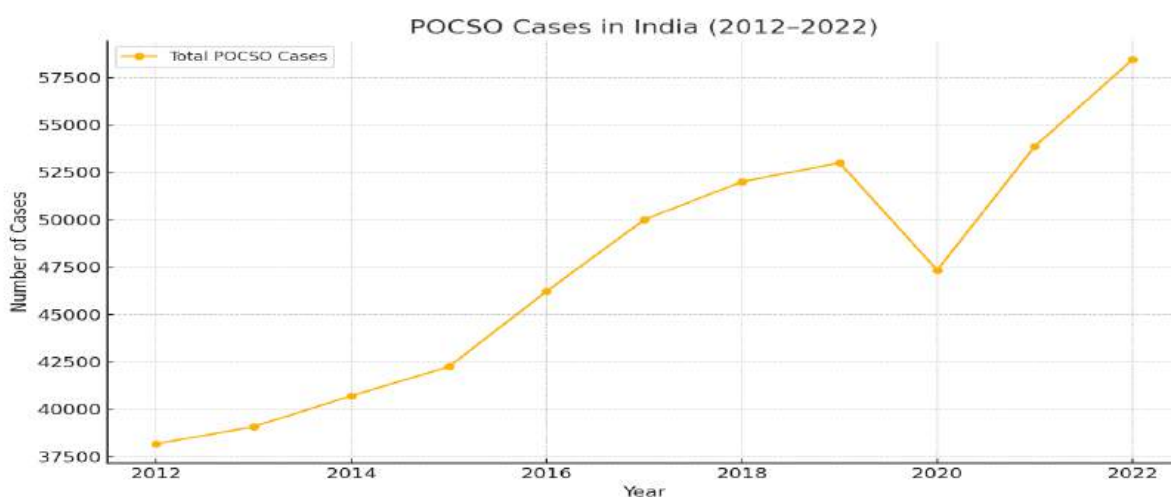
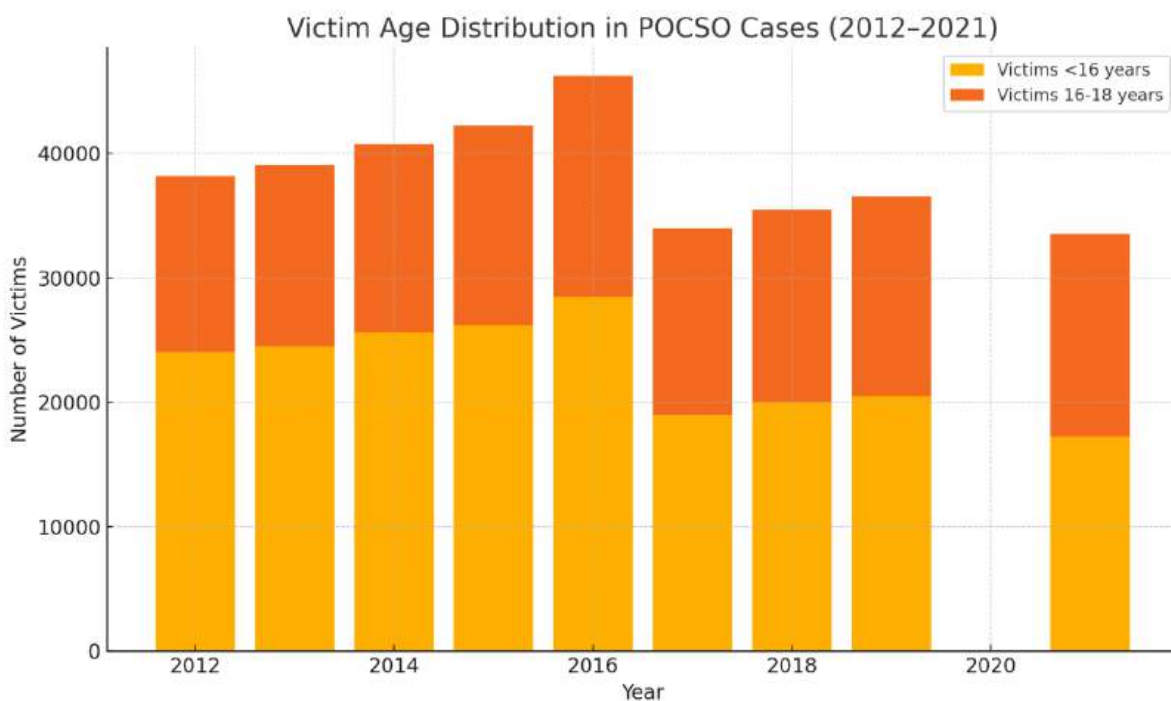
- Murder under suspicious circumstances following sexual violence (Case 10). These cases reflect **high-risk, opportunistic offending behaviour** that can be mitigated only through **preventive community safety mechanisms** and **rapid response law enforcement systems**

Derived Trends

From the above analysis, the following legal and systemic conclusions may be drawn:

1. **Prevalence of Grooming and Romantic Manipulation:** A substantial number of cases reveal that minor girls were deliberately targeted through grooming strategies disguised as romantic relationships or marriage proposals. Offenders exploited the emotional vulnerability of adolescents to establish control and facilitate sexual exploitation. This underscores the urgent need for structured educational initiatives on consent, emotional boundaries, and the dangers of manipulative relationships, particularly in school and community settings.
2. **Escalating Use of Technology in Child Sexual Abuse:** Several cases demonstrate the convergence of sexual offences with digital exploitation, where explicit content was recorded, stored, and weaponised to blackmail victims. The use of social media platforms, messaging applications, and covert recording devices to perpetuate abuse points to the necessity for integrated action between cybercrime investigation units, child protection authorities, and law enforcement agencies, supported by enhanced digital literacy and safety awareness programmes.
3. **Offences by Persons in Positions of Trust:** Multiple incidents involved perpetrators who were neighbours, family acquaintances, or individuals linked to educational or tuition environments. The exploitation of pre-existing trust magnifies the psychological harm caused to the victim and reflects the need for stringent community monitoring mechanisms, mandatory background checks for individuals in regular contact with children, and widespread parental sensitisation on safeguarding measures.
4. **Underreporting and Delayed Recovery:** Patterns of delayed FIR registration, prolonged victim tracing, and hesitant institutional response are evident across several cases. These procedural delays not only extend the period of victimisation but also erode trust in the justice delivery system. Addressing this gap requires the implementation of uniform, child-friendly reporting protocols, rapid response systems, and mechanisms for anonymous or technology-enabled complaints to ensure timely intervention.
5. **Intersectionality with Caste and Religion:** Certain cases involved layers of caste-based abuse, forced religious conversion, and identity manipulation alongside sexual exploitation. Such incidents demand an intersectional legal approach that simultaneously invokes the POCSO Act, SC/ST (Prevention of Atrocities) Act, and relevant anti-conversion statutes, ensuring that the compounded nature of these offences is adequately recognised in investigation, prosecution, and sentencing.

6. **Need for Comprehensive Victim Support Services:** The case studies reflect repeated trauma, prolonged captivity, coercion, and systemic failure to provide immediate and sustained support to survivors. This highlights the pressing need for robust victim assistance frameworks, including psychological counselling, legal aid, safe shelter, rehabilitation programmes, and expedited access to victim compensation as mandated under the POCSO Rules, 2020, with strict monitoring of compliance.



Policy And Operational Recommendations

Based on the data analysis, legal review, and implementation insights presented in this report, several key areas of intervention emerge that are essential to ensure the effective protection of children under the POCSO Act, while also aligning with evolving social realities and adolescent development needs. These recommendations are grouped under legal reforms, system strengthening, child-centric implementation, and community engagement.

1. Enhancing Institutional Capacities

- Invest in infrastructure for Special POCSO Courts and Fast-Track Special Courts (FTSCs) by equipping them with video-conferencing facilities, separate waiting areas for children, and child-friendly courtroom environments to reduce secondary victimisation.
- Strengthen the capacities of law enforcement agencies through mandatory, periodic training on child rights, trauma-informed interviewing techniques, cybercrime investigation, and digital evidence handling.
- Ensure timely appointment and training of support persons under Section 39 of the POCSO Act in every district to assist child victims and their families throughout the investigation and trial process.
- Expand availability of forensic and medico-legal services, particularly in remote and rural areas, and ensure that medical professionals are trained to follow child-sensitive protocols during examinations.

2. Addressing Online and Technology-Enabled Sexual Exploitation

- Establish dedicated cyber units within state police departments to monitor, investigate, and prosecute cases involving online grooming, child pornography, and digital exploitation under POCSO and the IT Act.
- Develop public-private partnerships with social media companies, internet service providers, and mobile network operators to improve real-time reporting and removal of child sexual exploitative and abuse material (CSEAM).
- Integrate digital safety education into school curricula, ensuring children are taught about safe online practices, privacy, and redressal mechanisms in case of exploitation.

3. Adolescent Protection with Respect for Autonomy

- Create a legal and policy framework that balances protection and developmental rights of adolescents, particularly in the 16 years–18 years of age group. This includes reconsideration of the uniform age of consent, taking into account evidence-based, rights-respecting international practices.

- Establish review boards or advisory committees at the state level to examine adolescent relationship cases booked under POCSO, and recommend suitable diversion or counselling-based approaches in appropriate situations.

4. Community-Based Prevention and Social Norm Change

- Design and implement large-scale public awareness campaigns to educate parents, teachers, community leaders, and youth about the provisions of POCSO, the importance of reporting, and the distinction between protection and control.
- Involve community-based organisations, religious groups, and grassroots workers in sensitisation programmes, particularly in rural and tribal areas where customary practices or social stigma often impede reporting.
- Strengthen the role of schools and educational institutions in prevention, early identification of abuse, and referral to appropriate authorities, through capacity-building and mandatory reporting protocols.

Conclusion and Way Forward

India's child protection framework, anchored in the Protection of Children from Sexual Offences (POCSO) Act, 2012 and the Juvenile Justice (Care and Protection of Children) Act, 2015, represents a progressive legal vision that seeks to uphold every child's right to safety, dignity, and development. These laws were designed not only to protect children from sexual abuse and exploitation, but also to offer reformative pathways for children in conflict with the law.

The recent debates surrounding adolescent relationships must be approached with care and clarity. While some cases involving peer-level consensual relationships among adolescents may raise questions about proportionality in prosecution, the larger framework of the law does not require dilution or amendment. The age of consent must remain at 18 years, not only to prevent the normalisation of early sexual activity but also to shield minors—particularly girls—from manipulation, coercion, and grooming by adults.

An amendment to the Protection of Children from Sexual Offences Act, 2012, to lower the age of consent is neither justified nor an appropriate legislative response to matters involving consensual romantic sexual relationship between adolescents, nor is it an appropriate response when it comes to sexual relationship between a minor and an adult. Such acts between a minor and an adult is not an act of romantic sexual relationship, they constitute paedophilia. The existing legal framework under the POCSO Act, 2012 addresses such cases for protecting minors who are sexually abused after being manipulated or groomed under the guise of love, romance and religion. Our position is not to defend such offences; rather, our focus is on protecting minors from such forms of sexual abuse,

It is reiterated that an amendment to the POCSO Act, 2012 to lower the age of consent to 16 years is neither justified nor an appropriate solution. The Juvenile Justice (Care and Protection of Children) Act, 2015 already provides a well-thought and adequate mechanism under Section 15 to address such cases. Strengthening the implementation of this provision, and interpreting it in a manner that upholds its true intent is the appropriate solution to safeguard and protect minors in consensual relationships. The safeguards under the JJ Act offer a balanced approach that ensures protection from exploitation while preventing the unwarranted criminalisation of consensual adolescent conduct.

Therefore, focus must be on enhancing the capacity and orientation of Juvenile Justice Board Principal Magistrates, rather than judges of POCSO courts, as the jurisdiction for such preliminary assessments rests with the JJB and not with the special POCSO courts. At present, targeted training and capacity-building of JJB Principal Magistrates and Members under the JJ Act by judicial academies — with a special focus on Section 15 — is the way forward and requires urgent attention.

Further the philosophy of Mahatma Gandhi on Naayi Talim must be practiced in its true sense. Every child from a very young age should be taught the importance of “doing what

is right” and given a logical framework for making ethical decisions, expanding in later years to address broader moral and social themes. There must also be a comprehensive health education—covering preventive health, mental well-being, nutrition, hygiene, first aid and a deep commitment to the safety and rights of all children, especially girls and adolescents. Therefore, it is suggested that under the NEP 2020 children be taught scientifically accurate, age-appropriate adolescent education universally across all universities, institutions, schools, religious minorities institutions such as Madrasas and uniformly for all children including out of school children and children on streets within this structure to create a holistic understanding of safety, respect, and bodily integrity .

Neuroscience, Public Health, and National Imperative: Why Lowering the Age of Consent is Disaster

Authored by Sanjeev Newar

Introduction

Lowering India's age of consent to 16 would contradict developmental neuroscience, increase public-health burdens from early pregnancy, and amplify psychological harm from pervasive sexualized media. For a nation building its human capital, the only defensible threshold is **18 years** - reflecting brain maturation, reproductive health, and societal goals.

1) Neurodevelopmental foundations: executive-control systems mature well after 16

Longitudinal MRI and histological studies confirm that the prefrontal cortex - the brain's center for planning, impulse control, and foresight - matures well after adolescence. [1-6]. White-matter connectivity and prefrontal synaptic pruning continue into the third decade, with late consolidation of executive functions [2-4].

Implication for consent: Individuals below ~18 remain in a developmental vulnerability window and do not reach adult-grade executive control until 18.

2) Dual-systems imbalance: reward drives outpace control in adolescence

The earlier maturation of subcortical reward/emotion systems and delayed maturation of prefrontal control systems creates a mismatch in adolescence [7-9]. This dual-systems imbalance drives impulsivity, peer susceptibility, and risk-taking before control networks are stable.

Policy reading: Setting consent at 16 would legalize sexual activity during the peak mismatch zone. Higher thresholds act as a structural safeguard.

3) Early pregnancy: measurable cognitive and public-health costs

Prospective cohort evidence shows children of teenage mothers score on average about **3 IQ points lower** at adulthood than those born to older mothers. **Even after adjusting for maternal IQ, socioeconomic status, breastfeeding, and parenting quality, a**

significant deficit of around -1.4 points persists, indicating that the disadvantage is not solely explained by environmental factors [10][11]. Adolescent pregnancies are also linked to higher rates of low birth weight, preterm delivery, neonatal mortality, hypertensive disorders, and obstetric complications [12-15].

India-specific reading: NFHS-5 data show persistent adolescent childbearing pockets. Teenage pregnancy fuels school dropout, malnutrition, and intergenerational poverty [16-19]. Lowering consent age would expand exposure to these risks.

4) Digital sexual content: a mounting psychological and behavioral risk factor

Reviews and longitudinal studies link adolescent pornography or sexually explicit media exposure to permissive sexual attitudes, earlier sexual debut, and riskier sexual behavior [20-23]. Frequent exposure is also associated with higher depression, anxiety, and compulsive use [24-27].

India-specific reading: With unfiltered smartphone access and weak age-gating, exposure pressure is already extreme. Lowering consent would remove a legal backstop when media influence is at its strongest.

5) Civilizational roots versus imported legal baselines

In Britain, the age of consent was raised to 16 from much lower ages - often 12 or 13 - in the late 19th century, not from neuroscience but as a political compromise [28-35]. In the U.S., many states once set it at 10-12 before Progressive-Era reforms [33-35]. These were historical accidents, not science.

Bharat, by contrast, has the aashrama life-stage system, with brahmacharya devoted to education and celibacy, followed by grihastha only after the educational stage was complete. This ensured intellectual, emotional, and physical readiness before marriage. The Self-Discipline Policy should draw explicitly on this heritage, framing it as a civilizational strength now vindicated by neuroscience, and positioning it globally as a model for human development.

6) Women and children remain vulnerable: lowering consent licenses predation

The NCW and NCPCR exist because women and children are systematically targeted [39-43]. Lowering the age of consent would create a legal opening for older men to exploit teenage girls with under-developed agency. Case records show repeated patterns of power-imbalanced sexual relationships causing lifelong trauma.

Policy reading: Reducing consent age in a country with enforcement gaps is tantamount to a predator's charter.

7) Biological age of childbirth: anatomical and physiological evidence

Obstetric and pediatric evidence identifies the optimal biological window for first childbirth as post teenage.

- **Pelvic maturity:** The bony pelvis is generally mature by late teens, but ligament stability and core muscular support continue improving even further - reducing obstructed labor and delivery complications [12][14][15].
- **Maternal risks at younger ages:** Teenage mothers face higher risks of hypertensive disorders, obstructed labor, and postpartum hemorrhage [12-14].
- **Neonatal risks:** Elevated rates of low birth weight, preterm birth, and neonatal mortality persist even after socioeconomic adjustment [12][14][17].

8) Self-Discipline Module: neurology-driven life preparation

Replace Western-style “sex education” with a **Self-Discipline Module (SDM)** that builds self-control and life readiness.

Core elements:

1. **Neuro-awareness:** Teach that the PFC does not mature in adolescence and that restraint strengthens decision-making [1-3,7-9].
2. **Benefits of restraint:** Delaying gratification boosts impulse control, academic persistence, and reduces addiction risk [1-3,5,7-9].
3. **Media-resilience:** Train adolescents to recognise and resist manipulative sexualized content [20-27].
4. **Whole-brain optimization:** Emphasise sleep, exercise, nutrition, and focus habits that support brain and body development into adulthood [1-5].

Policy reading: This is brain-development policy, aligned with Bharat’s civilizational model and modern science.

Key takeaways and ideal next steps for Bharat

1. **Consent thresholds:** 18 years- aligned with brain maturation and reproductive health [1-6,12-15].
2. **Affirm civilizational model:** Anchor policy in the Vidya Ashram principle of education before marriage.
3. **National SDM:** Roll out neurology-based self-control and life-readiness curriculum nationwide rooted in roots of Bharat.
4. **Fortify protections:** Expand NCW or NCPCR or NHRC enforcement and victim support [39-43].

5. **Curb harmful content:** Enforce age-gating and penalties for platforms without foolproof gating mechanisms for minors from accessing any age-inappropriate content [20-27].

Conclusion

Neuroscience shows executive control networks stabilise well after adolescence; adolescent pregnancies carry measurable cognitive and health costs; and sexualised media amplifies risks. Lowering the age of consent to 16 would expose youth to harm when they are least prepared. Bharat's own civilizational template and reproductive health science instead argue for a Self-Discipline Module that prepares young citizens for educated, disciplined adulthood.

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Rc.No.009464 /Crime-4(3)/2022

Office of the
Director General of Police,
Tamil Nadu,
Mylapore, Chennai-600 004

Dated, 03.12.2022

Circular Memorandum

- Sub : Police Department- Joint Meeting of the Hon'ble Juvenile Justice Committee and the Hon'ble POCSO Committee held, in pursuance of the State Level Consultation on POCSO Act, on 05.11.2022 - Discussed on the POCSO cases that are registered relating to mutual romantic relationships-Resolution Passed - Direction communicated to the Investigating Officers of POCSO cases - Regarding.
- Ref : Registrar General, High Court letter ROC.No.4020/2022/JJA& POCSO dated.01.12.2022

The Chairman of the Hon'ble Juvenile Justice Committee and the Hon'ble POCSO Committee of the High Court convened a State Level Consultation Meeting for the Stakeholders of Tamil Nadu and Puducherry in the Tamil Nadu State Judicial Academy, Chennai, on implementation of POCSO Act, 2012, on 05.11.2022, as was directed by the Hon'ble Mr. Justice S. Ravindra Bhat, Chairman of the Hon'ble JJC and Judge, Hon'ble Supreme Court of India. In pursuance of the State Consultation, the Discussion and the Resolution passed in the Meeting are extracted as follows:-

"Discussion No.7

Statistics clearly show that 60% of the POCSO cases that are registered relate to mutual romantic relationships on account of which for the sin of falling in love with a girl below 18 years of age, the male is criminalised by arrest and prosecution in view of the stringent provisions of the POCSO Act as they obtain today. This is more so in cases of youths in tribal communities in hilly areas.

*In several Adivasi and Tribal cultures, it is not a taboo for a male to marry a girl who is less than 18 years of age. The State is encouraging the tribals to use the facilities in Government Hospitals for delivery for good reasons. When a 17 year old tribal wife goes for delivery to a Government Hospital, information is sent to the police, a case under the POCSO Act is registered against her husband and he is arrested. If this continues, tribal women will not go for delivery to hospitals and would instead, avail the services of tribal midwives. That apart, Adivasis and Tribals will get more and more alienated from the main stream society, which is not conducive for the State. Superadded, very recently when school boy tied thali (mangal sutra) around the neck of his friend in a bus stand, a criminal case was registered against the boy and the girl was lodged in the Children's Home, thereby, bringing great shame to the already distraught families, due to which, the boy and the girl stood stigmatised for their playful act. In **Joginder Kumar v State of Uttar Pradesh ((1994) 4 SCC 260)**, the Supreme Court has held, in no uncertain terms, that the power to arrest need not necessarily mean that the same should be exercised mechanically. Therefore, as a policy, police can refrain from arresting the accused in such cases. Notice under Section 41-A Cr.P.C can be issued in lieu of arrest.*

Furthermore, most of these cases end up in acquittal either on account of marriage between the survivor and the accused or on account of the survivor turning hostile. Criminalising youths will have a deleterious effect on their career, life and future, as they would have to live with a stigma forever. This is a pan India phenomenon and therefore, an amendment to the POCSO Act is essential. Special Judges dealing with POCSO cases are fairly senior Judges in the cadre of District and Sessions Judges and ergo, they can be entrusted with the responsibility of compounding the offence in deserving cases, which option is not now available in the POCSO Act. An amendment to the POCSO Act accordingly would go a long way to address this issue legally and socially.

Resolution

It is resolved to direct the Registrar General to address a communication to the Director General of Police to issue a circular to the Investigating Officers of POCSO cases;

- a) not to show haste in effecting arrest of the accused in mutual romantic cases;
- b) instead issue a notice under Section 41-4 Cr.P.C to the person concerned for enquiry;
- c) record in the case diary, the decision for not arresting the accused, along with the reasons therefor; and
- d) resort to arrest only with the permission of the Superintendent of Police / Deputy Commissioner of Police, as the case may be."

"Discussion No.9

It is brought to our notice that because of the pressure given by the superior officers, the Investigating Officers invariably file positive charge sheets in all POCSO cases, even if the truth is otherwise. The Investigating Officers do not want to take risk in such type of cases, as they fear that non filing of positive charge sheet will place them in trouble. This kind of false positive charge sheets not only take away the precious time of the Court, but also make an innocent person face the trial and its related risks. If the progress of the case is monitored by the supervisory officers and they shoulder the responsibility for taking decisions at some challenging point of investigation, the Investigating Officers will be confident enough to take right action for the right case.

Resolution

It is resolved to direct the Registrar General to address a communication to the Director General of Police to issue a circular to the supervisory officers to monitor the progress of each of the POCSO cases, put a check on delay and countersign in the case diary whenever certain important or challenging decisions are taken, especially while filling a negative charge sheet so that the Investigating Officers conduct the investigation in a free and fair manner confidently."

2] Therefore, all Commissioners of Police in Cities and all Superintendents of Police in Districts are directed to ensure compliance with the above resolutions in letter and in spirit.

3] Failure to adhere to the above instructions will be viewed seriously.

4] The receipt of this circular memorandum should be acknowledged at once.

Sd/- C.SYLENDRA BABU
Director General of Police/
Head of Police Force

To

All Commissioners of Police in Cities
All Superintendents of Police in Districts.

Copy to

1. The Addl. Director General of Police, Crime against Women and Children
2. The Addl. Director General of Police, Law & Order, Chennai
3. The Addl. Director General of Police, Intelligence, Chennai
4. All Zonal Inspectors General of Police
5. All Range Deputy Inspectors General of Police

//True Copy forwarded by order//

28/000/3/12/2022
Assistant Inspector General of Police,
(Law and Order)

J. S. S.
(True Copy)

