



Over-Criminalization Of Voluntary Adolescent Relationships Under The POCSO Act: A Doctrinal Study On The Need For A Limited Statutory Exception

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DOI : <https://doi.org/10.5281/zenodo.21459073>

ARTICLE DETAILS

Research Paper

Received: 12-05-2026

Accepted: 29-06-2026

Published: 15-07-2026

Keywords:

*POCSO Act, 2012, Age-Based
Consent, Adolescent
Relationships, Criminal
Liability, Over-
Criminalization, Statutory
Exception*

ABSTRACT

The Protection of Children from Sexual Offences Act, 2012 was enacted to provide a comprehensive framework for safeguarding children from sexual abuse and exploitation. The Act adopts a uniform age threshold of eighteen years and treats all sexual activity involving persons below that age as legally non-consensual. While this approach advances the objective of child protection, its application to cases involving older adolescents has generated important legal and jurisprudential concerns. In particular, situations involving voluntary and affirmative participation by adolescents raise questions regarding the adequacy of a strictly age-based approach and its potential to criminalize non-exploitative relationships. This doctrinal study examines the legislative framework of the POCSO Act, the legal concept of consent, judicial responses to adolescent relationship cases, and comparative approaches adopted in other jurisdictions. Through an

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analysis of statutory provisions, judicial decisions, and scholarly literature, the study evaluates whether the existing framework sufficiently distinguishes sexual exploitation from voluntary participation by older adolescents. It further explores the possibility of a limited statutory exception that preserves the protective purpose of the Act while addressing concerns of proportionality and over-criminalization.

1.Introduction

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) was enacted to provide comprehensive protection to children against sexual abuse, exploitation, and related offences. By recognizing every person below eighteen years as a child, the Act adopts a strict age-based standard under which any sexual activity involving a minor is treated as legally non-consensual, irrespective of the surrounding circumstances. This approach reflects the legislative objective of protecting children from coercion, manipulation, and exploitation. However, the application of a uniform legal standard has generated significant debate regarding its impact on adolescent relationships. Questions have emerged as to whether the existing framework sufficiently distinguishes exploitative conduct from voluntary participation by older adolescents. The issue is not the need for child protection, but whether the same legal consequences should apply to all forms of adolescent sexual activity. These concerns have prompted renewed examination of age-of-consent laws, adolescent autonomy, proportionality, and the scope of criminal liability under the POCSO framework.

2.Review Of Literature

2.1.Scholarly Contributions

2.1.1.V.K. Dewan (Dewan,2023), in his Commentary on the Protection of Children from Sexual Offences Act, 2012, observes that while the **law plays an important role in protecting children, courts increasingly encounter cases involving voluntary relationships among older adolescents.**

2.1.2. M.L. Singhal (Singhal,2025), in Commentary on the Protection of Children from Sexual Offences Act, 2012 (POCSO), addresses the **ongoing operational tensions when enforcing structural mandates against non-exploitative adolescent romances.**

2.1.3. Andrew Ashworth (Ashworth,2021), in Principles of Criminal Law, argues that criminal liability should be proportionate to the nature of the conduct involved. He warns against **over-criminalisation where the law imposes punishment beyond its intended protective purpose.**

2.1.4. Gerald Dworkin (Dworkin,1998), in The Theory and Practice of Autonomy, discusses the importance of individual decision-making capacity. His analysis contributes to the **debate on adolescent capacity and consent.**

2.1.5. Martha Fineman(Fineman,2004), through her theory of vulnerability in The Autonomy Myth, emphasises the need for legal protection of vulnerable groups. At the same time, she recognises that individuals within a protected category may have different levels of maturity and capacity. Her work is relevant in **examining the treatment of older adolescents under the POCSO framework.**

2.1.6.The absolute nature of this uniform protective barrier is central to the **Law Commission of India (2023) Report No. 283,**(Law commission of India,2023) titled Age of Consent under the Protection of Children from Sexual Offences Act, 2012. The Commission evaluated the legal dilemma regarding "**tacit approval in fact versus consent in law**" for adolescents aged 16 to 18. While recommending against lowering the strict age threshold to prevent predatory exploitation, the Report critically proposed introducing bounded judicial discretion in sentencing where genuine, de facto adolescent consent is evident.

2.2. Judicial view on adolescent Relationships Under POCSO Act

2.2.1.(**Sabari v Inspector of police,2021**), where the Court observed that the application of the POCSO Act in **cases involving consensual teenage relationships** may lead to serious consequences. It noted that **criminal proceedings in such situations can adversely affect the future of the boy and also have emotional and social impact on the girl.**

2.2.2.In (**Vijayalakshmi v State rep. By inspector of police,2021**), Justice N. Anand Venkatesh observed that the POCSO Act does not clearly address situations where adolescents between 16 and 18 engage in voluntary romantic relationships. The Court stated that **treating every such relationship as a serious criminal offence** may, in certain circumstances, **result in misuse of the law**, particularly where there is **no material indicating coercion or exploitation.**

2.2.3.In (**Jayaprakash v. The Inspector of Police , 2022**) where the court observed that many POCSO cases involve voluntary romantic relationships between adolescents aged 16 to 18 years. The Court noted that because the girl is legally a minor, the boy is often prosecuted under the POCSO Act even when the

relationship is consensual. It stated that the **Act was not intended to punish young boys involved in genuine adolescent relationships** and suggested that the law should be reconsidered to address such situations.

2.2.4. The Supreme Court, **(In Re Right to Privacy of Adolescents, 2025)** considered issues related to the strict application of the POCSO Act in cases involving adolescents. The Court noted the tension between the legal age-based protection under the Act and the real-life situation of consensual adolescent relationships. It emphasized that each case must be examined based on its facts while keeping in mind the protective purpose of the law.

2.2.5. In **(Shambhu Thilak v. State of Kerala, 2016)** the Kerala High Court examined the factual background of a case involving a young couple. The Court noted that not all cases under POCSO involve sexual exploitation and that the factual context of relationships must be carefully assessed. It reflected early judicial recognition that **adolescent relationships may sometimes be consensual in nature, requiring a cautious application of criminal law.**

3. Research Question

Whether the uniform treatment of all sexual activity involving persons below eighteen years as legally non-consensual under the POCSO Act adequately distinguishes between sexual exploitation and voluntary participation by older adolescents?

4. Statement Of Problem

The POCSO Act adopts an absolute age-based framework by treating all sexual activity involving persons below eighteen years as legally non-consensual. While this approach aims to protect children from sexual abuse and exploitation, its application to cases involving older adolescents has generated legal debate. In situations where the relationship appears to involve voluntary and affirmative participation without coercion, exploitation, or abuse, the absence of a statutory distinction may result in concerns relating to proportionality, fairness, and potential over-criminalization. This study therefore examines whether the existing framework adequately differentiates exploitative conduct from voluntary adolescent relationships and whether a limited statutory exception can be considered without compromising the protective objectives of the Act.

5.Scope Of The Study

The present study is confined to a doctrinal examination of the legal treatment of voluntary and affirmative participation by older adolescents under the POCSO Act, 2012. The research primarily focuses on older adolescents and analyses the implications of the statutory presumption that all sexual activity involving persons below eighteen years is legally non-consensual. The study examines the legislative framework of the POCSO Act, relevant judicial decisions, principles relating to consent and adolescent autonomy, and comparative legal approaches concerning age-of-consent laws. The research does not seek to dilute legal protections against child sexual abuse, coercion, trafficking, grooming, exploitation, abuse of authority, or other forms of predatory conduct. Cases involving force, intimidation, manipulation, exploitation, or unequal power relationships fall outside the scope of the proposed exception examined in this study. The study is limited to doctrinal legal research based on statutes, case law, scholarly literature, and comparative legal materials and does not involve empirical or field-based investigation.

6.Objectives Of The Study

1. To analyse the legislative framework, objectives, and age-based consent structure under the POCSO Act.
2. To examine the legal concept of consent, capacity, and adolescent autonomy in the context of child protection laws.
3. To study the treatment of voluntary and non-coercive adolescent relationships under Indian law and judicial decisions.
4. To evaluate whether the current framework results in over-criminalization of certain adolescent relationships.
5. To examine comparative legal approaches relating to age of consent and close-in-age exceptions.
6. To assess the feasibility of introducing a limited statutory exception while preserving the protective purpose of the POCSO Act.

7.Hypothesis

The uniform treatment of all sexual activity involving persons below eighteen years as legally non-consensual under the POCSO Act fails to account for situations involving voluntary and affirmative participation by older adolescents, resulting in potential over-criminalization and justifying the examination of a limited statutory exception consistent with the objectives of child protection.

8. Research Methodology

The present study adopts a doctrinal method of legal research and is based exclusively on secondary sources. It examines the legal framework governing voluntary participation by older adolescents under the POCSO Act, 2012 through the analysis of statutes, judicial decisions, books, journal articles, and legal commentaries. An analytical approach is employed to evaluate the existing legal position concerning adolescent autonomy and criminal liability. The study also incorporates a comparative analysis of age-of-consent laws, including close-in-age exceptions and other legal approaches adopted in foreign jurisdictions. The findings and recommendations are derived from this doctrinal and comparative examination.

9. Structure and Organization of the Study

9.1 Statutory Framework

Under the Protection of Children from Sexual Offences Act, 2012 (POCSO), Section 2(1)(d) defines a “child” as any person below eighteen years of age. The Act classifies sexual offences against children through Sections 3, 5, 7, and 9, which respectively define penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, and aggravated sexual assault. The applicability of these provisions is determined solely by the age of the victim and the nature of the sexual act, irrespective of the child’s consent. Correspondingly, Sections 4, 6, 8, and 10 prescribe mandatory punishments for these offences, thereby establishing a strict statutory framework where consent of a person below eighteen years does not operate as a legal defence..

9.1.1 Strict Liability Nature of POCSO

Objectives : The POCSO Act, 2012 aims to protect children from sexual offences through a comprehensive legal framework that ensures child welfare, facilitates child-friendly justice processes, and provides effective legal protection against exploitation.

The POCSO Act adopts a strict liability approach towards sexual offences involving children. Under the Act, the consent of a person below eighteen years of age is legally irrelevant. Once the age of the victim is established and the prohibited act is proved, criminal liability may arise irrespective of the accused's belief regarding age or the voluntary participation of the child. This approach is based on the assumption that children lack the legal capacity to provide valid consent. The strict liability framework reflects the legislature's intention to provide maximum protection against exploitation and abuse.

9.1.2 Consent, Age Threshold and the Presumption of Legal Incapacity under the POCSO Act

The Protection of Children from Sexual Offences Act, 2012 adopts a child-centric approach by linking the concept of consent with the statutory age threshold of eighteen years. Under the Act, any person below eighteen years is deemed incapable of providing legally valid consent to sexual activity, irrespective of apparent willingness or voluntary participation. Consequently, consent does not operate as a defence where the victim is a child. This legislative presumption seeks to protect minors from exploitation, coercion, and unequal power dynamics that may undermine genuine autonomy. By establishing a uniform age threshold, the Act creates legal certainty and facilitates effective prosecution of sexual offences involving children. While this framework reflects the protective philosophy underlying child rights jurisprudence, it has also generated scholarly debate regarding its application to consensual relationships between older adolescents. Nevertheless, the statutory scheme prioritizes child welfare and adopts a precautionary approach by treating all sexual activity involving persons below eighteen years as legally impermissible, thereby reinforcing the protective mandate of the POCSO regime.

9.2.The Age Of Consent Debate: Protection, Capacity And Legal Presumptions

The determination of the age of consent reflects the complex balance between protecting children from sexual exploitation and recognising the evolving capacity of adolescents. Legal systems establish age-based presumptions to regulate sexual autonomy, creating an ongoing debate between child protection, individual agency, and the limits of criminal law intervention.

9.2.1.Evolution of Age of Consent Laws and the Jurisprudential Foundations of Consent

The concept of age of consent emerged as a legal mechanism to protect young persons from sexual exploitation and abuse by recognizing their limited capacity to make fully informed decisions. Historically, age-based restrictions evolved alongside changing perceptions of childhood, welfare, and human rights, leading many jurisdictions to establish minimum ages for valid sexual consent. Within legal discourse, consent is understood as a voluntary, informed, and unequivocal agreement given free from coercion or undue influence. However, the law restricts the recognition of consent where individuals are deemed incapable of exercising informed judgment. Consequently, age of consent laws create a protective framework that invalidates consent below a prescribed age and safeguards minors from exploitation.

9.2.2.Age-Based Presumption

Age-based presumption is a legal principle that assumes individuals below a specified age lack the maturity and capacity necessary to provide valid consent.

Under the POCSO Act, this presumption applies to all persons below eighteen years. The law therefore treats any sexual activity involving a child as legally non-consensual, regardless of the child's actual understanding or willingness. Such presumptions are intended to simplify legal enforcement and strengthen child protection. However, they also raise questions regarding whether a uniform rule adequately reflects the varying levels of maturity and decision-making capacity among adolescents.

9.2.3 Adolescent Autonomy

Adolescent autonomy refers to the developing capacity of young persons to make informed decisions concerning their personal lives and relationships. As adolescents mature, they acquire greater cognitive and emotional abilities that influence their understanding of choices and consequences. Contemporary legal and social discussions increasingly recognize that older adolescents may possess a degree of decision-making competence. Nevertheless, legal systems often balance this emerging autonomy against the need for protection from exploitation. The debate surrounding adolescent autonomy focuses on whether age-based legal rules adequately account for the evolving capacities of individuals approaching adulthood.

9.2.4 Contemporary Debates on Overlap Between Social Conflict and Criminal Law

Contemporary debates concerning age of consent laws often focus on the intersection between social realities and criminal law. Critics argue that the application of stringent criminal provisions to consensual adolescent relationships may transform family disputes, social disapproval, relationship conflicts into criminal prosecutions. Such concerns are particularly relevant where no element of coercion, exploitation, or abuse is present. Supporters of the existing framework maintain that a strict legal approach is necessary to ensure effective child protection. The debate therefore centres on balancing protective objectives with principles of fairness, proportionality, and justice.

9.3. Voluntary Participation By Older Adolescents & Adolescent Autonomy

The relationship between child protection and adolescent autonomy has become an important issue in contemporary legal discourse. While child protection laws seek to safeguard minors from sexual abuse and exploitation, their application to older adolescents presents distinct legal challenges. Adolescence is a transitional stage during which individuals gradually develop emotional, social, and cognitive capacity for independent decision-making.

The POCSO Act adopts a strict age-based framework by treating all persons below eighteen years as legally incapable of providing valid consent to sexual activity. Although this approach serves the objective of

protecting minors from harm, its application to older adolescents has generated debate, particularly in cases involving voluntary participation and the absence of coercive or exploitative circumstances. This has led to discussions regarding the extent to which the law should recognize adolescent agency while maintaining effective child protection safeguards.

9.3.1 Treatment of Consensual Adolescent Relationships in Law

The legal treatment of consensual adolescent relationships presents a complex challenge within child protection jurisprudence. Traditionally, legal systems have adopted age-based standards to determine the validity of consent in sexual relationships, primarily to protect minors from abuse and exploitation. Under the POCSO Act, any sexual activity involving a person below eighteen years of age is treated as legally non-consensual irrespective of the surrounding circumstances. Consequently, the law does not distinguish between exploitative sexual conduct and relationships involving voluntary participation by older adolescents.

This approach reflects a protective legislative policy aimed at eliminating the possibility of exploitation. However, practical application has revealed situations where adolescents engage in relationships that appear to involve mutual affection and voluntary participation. The absence of a legal distinction between such relationships and cases of sexual abuse has generated debate regarding proportionality and fairness. As a result, the treatment of consensual adolescent relationships has emerged as an important issue within contemporary criminal law discourse.

9.3.2 Cognitive Maturity in Adolescent Ages

Adolescence is widely recognized as a developmental stage marked by significant psychological, emotional, and intellectual growth. Individuals within this age group gradually acquire the ability to understand consequences, assess risks, and make independent decisions regarding various aspects of their lives. Contemporary developmental studies suggest that cognitive capacities continue to evolve throughout adolescence, resulting in varying degrees of maturity among individuals.

From a legal perspective, however, age-based regulations often operate through general presumptions rather than individualized assessments. Such presumptions are intended to provide certainty and ensure protection. Nevertheless, the increasing recognition of adolescent decision-making capacity has contributed to scholarly discussions regarding the extent to which legal frameworks should account for the evolving maturity of older adolescents. The debate does not challenge the necessity of protecting minors but raises questions concerning whether a uniform legal standard adequately reflects the realities of adolescent development.

9.3.3 Voluntary and Non-Coercive Romantic Relationships

Voluntary and non-coercive romantic relationships among older adolescents have become a significant subject of legal debate. Such relationships are generally characterized by mutual emotional involvement and the absence of force, intimidation, manipulation, abuse of authority, or other exploitative factors. However, under the POCSO Act, any sexual activity involving a person below eighteen years is treated as legally non-consensual regardless of the factual circumstances.

The controversy arises where a relationship appears to involve voluntary and affirmative participation by both individuals without any identifiable element of coercion or abuse. In such situations, the application of criminal sanctions has prompted discussion regarding whether the law adequately distinguishes exploitative conduct from non-exploitative adolescent relationships. While the need to protect minors remains unquestioned, critics argue that the automatic criminalization of all such relationships may raise concerns regarding proportionality and the ability of a uniform age-based framework to accommodate the realities of adolescent relationships.

9.3.4 Legal Recognition of the Autonomy Debate

The concept of autonomy occupies an important position within modern legal theory. Autonomy generally refers to an individual's capacity to make decisions concerning personal choices and relationships. In the context of adolescents, the autonomy debate focuses on the extent to which developing individuals should be permitted to exercise independent judgment while remaining subject to protective legal safeguards.

Legal systems frequently balance autonomy against paternalism, particularly where vulnerable groups are involved. Child protection laws are founded upon the principle that certain restrictions are necessary to protect minors from harm. At the same time, contemporary legal scholarship increasingly recognizes that adolescents possess evolving capacities that may justify greater acknowledgment of their personal agency in specific contexts.

9.3.5 Emerging Judicial Trends

Judicial responses to cases involving adolescent relationships have revealed an increasing awareness of the complexities surrounding voluntary participation by older adolescents. Courts have often been confronted with situations in which the factual circumstances differ significantly from conventional cases of sexual exploitation. While remaining bound by statutory provisions, several judicial observations have highlighted the practical difficulties associated with applying a uniform legal framework to diverse factual situations.

Emerging judicial discussions indicate a growing concern regarding the potential consequences of criminalizing relationships that appear to involve mutual participation. Courts have also emphasized the need to preserve the protective purpose of child protection legislation while acknowledging the realities of adolescent relationships. Although judicial decisions continue to operate within the statutory framework established by the legislature, these developments have contributed to broader debates regarding legal reform, proportionality, and the future direction of age-of-consent laws.

9.4 Over-Criminalization Under The Existing Framework

The POCSO Act plays a crucial role in protecting children from sexual abuse and exploitation. However, concerns arise when its strict age-based framework is applied to cases involving older adolescents engaged in voluntary and non-exploitative relationships. Since the Act treats all sexual activity involving persons below eighteen years as legally non-consensual, it does not distinguish between exploitative conduct and voluntary participation. This has led to debates regarding proportionality, fairness, and potential over-criminalization within the existing legal framework.

9.4.1 Concept of Over-Criminalization

Over-criminalization refers to the expansion of criminal liability to conduct that may not warrant the full force of criminal sanction. Criminal law is traditionally justified on the basis of preventing harm, protecting vulnerable individuals, and condemning socially harmful behaviour. However, when criminal provisions operate in a manner that captures conduct beyond the intended target of legislation, concerns regarding fairness, proportionality, and legitimacy arise. The debate surrounding over-criminalization under the POCSO Act emerges from this broader theoretical concern. The Act was enacted to combat child sexual abuse, exploitation, and predatory behaviour. However, the statutory framework does not distinguish between exploitative offences and situations involving voluntary participation by older adolescents. Consequently, relationships that appear to lack coercive or abusive elements may be processed through the same criminal justice mechanisms designed for serious sexual offences against children. From a doctrinal perspective, the concern is not directed against the protective objectives of the legislation. Rather, it relates to whether the law's broad application may, in certain circumstances, extend criminal liability beyond the conduct that poses the greatest threat to child welfare.

9.4.2 Distinction Between Exploitation and Voluntary Participation

A central issue in the debate on over-criminalization is the distinction between exploitation and voluntary participation. Exploitation generally involves the misuse of power, authority, trust, vulnerability, or

dependency for sexual purposes. It is characterized by unequal relationships in which one party derives advantage from the diminished capacity or vulnerability of another. Voluntary participation, by contrast, refers to situations in which the relationship appears to involve mutual involvement, reciprocal emotional attachment, and the absence of identifiable coercive factors. The existing framework of the POCSO Act does not provide a mechanism for distinguishing between these different factual contexts. As a result, relationships that appear non-exploitative may be subjected to the same legal consequences applicable to serious instances of child sexual abuse. The distinction is particularly significant because criminal liability is traditionally linked to the nature and gravity of harm involved. Where coercion, manipulation, abuse of trust, or exploitation are present, criminal intervention is clearly justified. However, where such factors are absent and the relationship is characterized by mutual participation, the rationale for imposing identical criminal consequences becomes a matter of legal and policy debate.

9.4.3 Familial Opposition, Criminal Prosecution and Concerns of Legal Overreach

A significant concern arises where criminal proceedings are initiated following parental or familial opposition to an adolescent relationship. In such cases, the age of the adolescent becomes the decisive legal factor, leaving limited scope for considering the nature of the relationship. While the Act remains essential for addressing genuine sexual abuse, its application in non-exploitative situations has prompted concerns regarding legal overreach and the need for greater differentiation between abuse and voluntary adolescent relationships. The issue therefore raises an important doctrinal question: whether a legal framework designed to protect children from abuse should also incorporate mechanisms capable of distinguishing cases involving genuine exploitation from those arising primarily out of familial opposition to adolescent relationships.

9.4.4 Consequences of Arrest, Detention and Criminal Prosecution

Arrest, detention, and criminal prosecution under the POCSO Act may have significant consequences for individuals involved in adolescent relationships characterized by mutual participation and the absence of exploitative conduct. Once criminal proceedings are initiated, the accused may face social stigma, reputational damage, educational disruption, psychological distress, and limitations on future employment opportunities, irrespective of the eventual outcome of the case. These consequences arise at a stage when guilt has not yet been established. While such measures are necessary in cases involving sexual abuse, coercion, or exploitation, concerns emerge when the same legal consequences are imposed in situations lacking predatory elements. This has generated scholarly debate regarding proportionality, fairness, and the

need for a legal framework capable of distinguishing exploitative conduct from voluntary adolescent participation while maintaining the protective objectives of the POCSO Act.

9.5.Comparative Legal Approaches

Comparative legal analysis provides insight into how different jurisdictions balance child protection with adolescent autonomy in matters relating to age of consent. Examining foreign legal frameworks assists in identifying approaches that prevent exploitation while avoiding unnecessary criminalisation of consensual adolescent relationships, thereby informing contemporary debates on reform under the POCSO

9.5.1. Recognition of Adolescent Autonomy in Other Jurisdictions

Several jurisdictions have adopted legal frameworks that recognise adolescent autonomy while continuing to protect minors from sexual exploitation and abuse. Unlike the strict age-based approach under the POCSO Act, these jurisdictions acknowledge that older adolescents may possess evolving capacities and varying levels of maturity.

Canada

The Criminal Code, R.S.C. 1985, c. C-46, recognises a general age of consent of 16 years. The law acknowledges adolescent autonomy through limited exceptions that prevent the criminalisation of consensual relationships between young persons while maintaining protection against exploitation.

United Kingdom

The Sexual Offences Act 2003 fixes the age of consent at 16 years. The legislation protects minors from abuse and exploitation while recognising that adolescents may engage in consensual relationships as part of their personal development.

Australia

Australian states and territories generally prescribe an age of consent of 16 or 17 years. The legal framework recognises adolescent maturity and seeks to distinguish consensual peer relationships from exploitative conduct.

South Africa

The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, together with the decision in *Teddy Bear Clinic for Abused Children v Minister of Justice and Constitutional Development*

(2013), recognises that criminalising consensual conduct between adolescents may adversely affect their dignity, privacy, and development.

9.5.2 Close-in-Age Exceptions and Alternative Legal Approaches

Close-in-age exceptions, commonly known as “Romeo and Juliet” provisions, are legal mechanisms designed to prevent the criminalisation of consensual relationships between adolescents of similar age. These provisions recognise adolescent relationships as part of social and emotional development while distinguishing them from exploitative conduct. Jurisdictions such as Canada and certain Australian states have adopted limited exceptions based on age difference to protect consensual peer relationships. Similarly, the decision in *Teddy Bear Clinic for Abused Children v Minister of Justice and Constitutional Development* (2013) in South Africa highlighted the need to avoid criminalising consensual adolescent conduct. Comparative approaches also include decriminalisation models and exception-based frameworks, which seek to balance child protection with adolescent autonomy. These approaches demonstrate an attempt to ensure that criminal law focuses on exploitation rather than consensual peer relationships and provide insights for evaluating the rigid age-based framework under POCSO.

9.6. Analysis And Findings

9.6.1. Evaluation of Hypothesis

The doctrinal and comparative analysis undertaken in this study substantially supports the hypothesis. The examination of the POCSO Act, judicial interpretations, and scholarly discourse demonstrates that the existing framework adopts a uniform age-based approach that treats all sexual activity involving persons below eighteen years as legally non-consensual, irrespective of the factual circumstances. While this approach serves an important protective purpose, the study identifies situations involving older adolescents where the relationship appears to be characterized by voluntary and affirmative participation rather than exploitation, coercion, or abuse.

The analysis further indicates that the absence of a legal distinction between exploitative conduct and non-coercive adolescent relationships may, in certain circumstances, result in disproportionate criminal consequences. Comparative legal approaches also reveal that child protection objectives can coexist with narrowly tailored exceptions. Accordingly, the findings support the view that examining a limited statutory exception for older adolescents warrants serious legal consideration without undermining the fundamental protective purpose of the POCSO Act.

9.6.2. Findings Of The Study

The study finds that the POCSO Act adopts a strict age-based framework that does not distinguish between exploitative sexual conduct and relationships involving voluntary participation by older adolescents. While the legislation plays a vital role in protecting children from abuse, its uniform application may encompass situations that do not exhibit characteristics of coercion, manipulation, abuse of authority, or predatory behaviour. The research further reveals that the absence of a statutory distinction may contribute to concerns regarding proportionality, fairness, and potential over-criminalization. The study also finds that legal systems in several jurisdictions have sought to address similar concerns through narrowly tailored close-in-age or exception-based models without abandoning child protection objectives. Judicial and academic discussions increasingly acknowledge the complexities associated with adolescent relationships and the limitations of a purely age-based approach. These findings indicate the need for a more nuanced legal framework capable of balancing effective child protection with principles of fairness and proportionality.

9.6.3. Proposed Legal Reforms

1. The legislature may consider examining the feasibility of a narrowly defined close-in-age exception for consensual relationships between older adolescents, subject to stringent statutory safeguards and judicial oversight.
2. Greater emphasis should be placed on assessing the presence of free and voluntary participation, while carefully distinguishing consensual adolescent relationships from exploitative conduct.
3. Clear statutory guidelines may be developed to assist courts in evaluating factors such as age proximity, absence of coercion, abuse of authority, and unequal power dynamics.
4. Comprehensive awareness programmes, age-appropriate sexuality education, counselling services, and child-friendly support mechanisms should be strengthened to promote both child protection and informed decision-making among adolescents.
5. Awareness initiatives on child protection, consent, digital safety, and responsible adolescent behaviour should be expanded to promote informed decision-making and prevent exploitation.

10. Conclusion

The POCSO Act remains a vital legislative instrument for protecting children from sexual abuse and exploitation. However, this study demonstrates that its uniform age-based approach may not adequately

distinguish exploitative conduct from situations involving voluntary and affirmative participation by older adolescents. The absence of such differentiation raises concerns regarding proportionality and potential over-criminalization in certain cases. While child protection must remain the paramount objective, the findings suggest that a carefully structured statutory exception merits consideration. Such an approach could preserve the protective purpose of the Act while ensuring a more balanced and context-sensitive response to non-exploitative adolescent relationships.

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