

THE PARADOX OF PROTECTION: A CRITICAL STUDY OF ADOLESCENT AUTONOMY VS. MANDATORY PROSECUTION UNDER THE BNS AND POCSO ACT

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Abstract

Looking at how teenage independence clashes with required legal action under two Indian laws – the 2012 child protection act and the 2023 code – this section digs into a tricky balance. Though meant to shield young people from abuse, rigid enforcement sometimes labels mutual teen relationships as crimes, especially when ages are similar. Through the lens of fundamental rights – like life, privacy, dignity, freedom – an exploration unfolds based on what Article 21 guarantees. What emerges is not just legal overlap but real impact on youth navigating intimacy within boundaries drawn by law.

Nowhere does it overlook the "best interests of the child" principle anchored in global human rights standards. Often, fixed age thresholds in laws ignore how teens grow into their decisions at different speeds. While examining penalties, attention shifts toward girls – especially when charges arise not from harm but from disapproval of love across caste or faith lines. What stands out is how power shapes who gets accused, and why. Ending here, the chapter looks at how teens feel and cope when caught in court systems – shame tags along, moods shift, school routines break apart. Still, fairness matters most, so laws should bend with each kid's story instead of pushing control over choice.

Introduction

Little more than silence follows when teens touch each other, now watched by law like suspects. Across India, new rules named POCSO in 2012 drew hard lines – no sex under eighteen, never mind feelings or agreement.¹²⁸⁹ Then came the Bharatiya Nyaya Sanhita, three years back, repeating that same cold number.¹²⁹⁰ Anyone younger than a full adult turns every shared moment into something punishable, even if both wanted it. Safety was the goal, sure,

yet confusion bloomed just the same – especially where young love stumbles into courtrooms. Laws meant to shield kids sometimes trap them instead.¹²⁹¹ Young people move from being children into adults, slowly learning how to handle feelings, figure out who they're becoming, while making choices on their own. Romantic connections sometimes form at this age – real bonds built by choice, not pressure or harm. Yet laws today tend to see these moments as crimes, even when nobody meant danger or hurt. Teens can

¹²⁸⁹ The Protection of Children from Sexual Offences Act, 2012, § 2(d) (India) (defining a child as a person below eighteen years of age).

¹²⁹⁰ The Bharatiya Nyaya Sanhita, 2023 (India), provisions relating to sexual offences involving minors.

¹²⁹¹ Government of India, Statement of Objects and Reasons, Protection of Children from Sexual Offences Act, 2012

end up facing charges just for acting like teens, caught in rules that don't fit every situation. That tension makes us wonder: should protection erase growing independence?¹²⁹²

This matter touches deeper questions about rights and society. As the meaning of life and freedom under Article 21 grows – taking in privacy, respect, and choices – it bolsters the idea that people can shape their own intimate lives.¹²⁹³ Yet protection of minors from harm falls squarely on the state, both by law and ethics. Balancing one against the other continues to test those who write laws, judge cases, or guide policy.¹²⁹⁴

Conceptualising the Tension

Talk about teens making their own choices crashes into tough laws meant to shield them, especially under child protection rules updated in 2012 and again in 2023.¹²⁹⁵ Because kids can't always judge danger, the system steps in hard – treating anyone under eighteen as too young to agree to anything sexual¹²⁹⁶. Even if both sides say yes, it still counts as illegal. The state sees itself like a guardian here, drawing sharp lines so predators cannot hide behind claimed permission. Rules stay firm because youth are seen as easily influenced. Safety wins out over personal choice when lawmakers set these limits. Since experience clouds judgment early in life, the law removes doubt by setting one clear cutoff point.¹²⁹⁷

Yet growing up involves slow shifts – feelings deepen, connections gain meaning, decisions start coming from within. Relationships spark during these years, built on shared feelings instead of pressure or control. When laws step in too strictly, friction appears, even when both sides agree to be together. Suddenly, acts seen as natural by teens might still count as crimes. That makes one wonder if drawing lines only by

age truly matches how youth actually grow and relate.¹²⁹⁸

Now comes the tricky part – weighing safety against the changing abilities young people develop over time. When laws only say no without looking deeper, they miss how teens actually relate to one another socially and emotionally. That is why thinking in terms of growth, agreement between individuals, and whether power imbalances exist could lead to rules that fit real life more closely, yet still block harm before it happens¹²⁹⁹

Article 21 and the Broader Constitution

Nowhere is the tension between law and young love more visible than in debates over teenage choice. India's founding charter, its Constitution, upholds core freedoms tied directly to how people live – especially through Article 21, shielding life and personal freedom.¹³⁰⁰

When teens are involved in relationships, basic legal rights can clash in tricky ways. Even so, the Constitution demands that the government safeguard kids and support their growth. Different parts of it, along with guiding ideals, highlight child well-being, security, and respect. Because of this, laws are pushed toward a tricky middle ground – shielding teens from harm without ignoring their growing independence. Holding that line continues to test how constitutions handle teenage consent under criminal rules.¹³⁰¹

The Best Interests of the Child Standard

Kids come first when law steps into their lives. Built into worldwide promises – think UN treaties about childhood rights – lies a quiet rule: grown-ups in charge must guard a child's well-being above else. Not every situation fits one mold, so decisions form slowly, shaped by details unique to each moment. What helps a youngster heal, feel steady, belong – that becomes the measuring stick.

¹²⁹² Law Commission of India, Consultation Paper on Age of Consent and Adolescent Relationships (2023).

¹²⁹³ Justice K. S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

¹²⁹⁴ United Nations Convention on the Rights of the Child, Art. 3 (Best Interests of the Child Principle).

¹²⁹⁵ The Protection of Children from Sexual Offences Act, 2012 (India).

¹²⁹⁶ The Bharatiya Nyaya Sanhita, 2023 (India), provisions relating to sexual offences involving minors.

¹²⁹⁷ Government of India, Statement of Objects and Reasons, Protection of Children from Sexual Offences Act, 2012.

¹²⁹⁸ Law Commission of India, Consultation Paper on Age of Consent and Adolescent Relationships (2023).

¹²⁹⁹ United Nations Committee on the Rights of the Child, General Comment No. 20 on the Rights of the Child during Adolescence (2016).

¹³⁰⁰ Justice K. S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

¹³⁰¹ United Nations Convention on the Rights of the Child, Art. 3 (Best Interests of the Child Principle).

Begin by looking at teens as they actually live, not as we wish they would. Growth doesn't hit everyone at once – some grasp things fast, others need time before choices make sense. Forcing uniform answers onto uneven situations usually misses the mark. Truth hides in small signs: age gaps, body language, who leans on whom, what life feels like outside school walls. Real help comes from seeing those layers – not just counting years and calling it fair. Some folks see it one way, others completely different. On one side, safety rules feel non-negotiable – strict laws must guard teenagers against danger or abuse. Then again, another group points out how growing up happens step by step. For them, freedom to make choices grows along with age. When two younger people connect willingly, without pressure or deception, fairness might mean adjusting the law to fit those moments. Even so, figuring out which perspective holds more weight gets complicated fast. Zeroing in just on punishment might overlook essential needs of teenagers, especially when legal processes disrupt education, family routines, or social connections. That reality demands a careful take on best interests – balancing protection with room to grow – ensuring rules line up with how youth develop and move toward adulthood.

How Society Shapes Gender Roles Through Unwritten Rules

Freedom for young people gains clarity once you notice regular patterns in gender behavior. When customs hold strong, as they do in many Indian communities, expected conduct for sons and daughters seldom faces doubt. Because of long-standing norms, females typically deal with stricter limits on movement and relationships. Instead of staying private, teenage affection draws reactions – from family, locals, even inherited beliefs tied to honor. Private feelings turn into public matters thanks to expectations around responsibility, reputation, how things look.¹³⁰²

¹³⁰² National Commission for Women, Reports on Gender Justice and Social Norms Affecting Women.

Though laws on youth-related offenses promise fairness, real outcomes often echo long-standing social divides. Charges frequently emerge when a father or mother reports finding their daughter in a relationship they disapprove of. Disapproval tends to rise from differences in background – like religion, wealth, bloodline, or community rank. Once set in motion, legal steps may shift from safety toward silencing affection seen as unfit.¹³⁰³

A curve hides in the fine print – protections shaped by outdated views on controlling women. Where youth love gets called illegal by kin or neighbors, voices tend to go quiet. Layer in lack of money, strict class lines, or distant courts, and silence grows thicker. Seen one way, it guards. From where others stand, it traps.¹³⁰⁴ Out loud, it's fairness that counts, yet quiet habits shape whose voice sticks around. Look close – gaps between young women and men show up plainly in how things turn out. Safety built for kids? It slips into cages now and then, even with good plans behind it. Shielding teenagers through laws may quietly narrow what paths feel possible. Carry the old ways forward, and you'll find them sitting hard on small backs. When rules act like every kid's life follows the same path, things go sideways. Tomorrow's silence might start with today's protection if it's clumsy. Real fairness isn't only spoken – it lands differently each day. Power shifts inside homes and classrooms decide how safety feels. Any setup meant to shield children needs space for them to stretch beyond it.¹³⁰⁵

How Teens Are Affected Inside and Around

Young people caught in legal trouble for mutual teen relationships often face deep emotional and social harm. Growing up involves figuring out who you are, handling emotions, building trust, also navigating friendships. Getting pulled into court cases might leave them overwhelmed – especially since laws aren't

¹³⁰³ Centre for Child and the Law, Studies on the use of the POCSO Act in cases of adolescent relationships.

¹³⁰⁴ UN Women, Gender Equality and Social Norms Report.

¹³⁰⁵ United Nations Convention on the Rights of the Child, Arts. 3 & 12 (best interests and participation of children).

always clear to someone still learning how the world works.¹³⁰⁶

Called a suspect or named a victim, the tag sticks longer than expected. That mark might quietly chip away at how they see themselves, how they connect with others around them. What happens in court often echoes outside it. When young people appear in criminal hearings, school routines break down, friendships grow strained, family bonds get tested. Legal fights tied to personal matters play out openly in some areas, leaving teens cut off, stared at, talked about. Reactions from classmates or nearby adults add weight, making daily life heavier than before. Relatives feel the strain too – whispers follow them, emotions run high, quiet moments become rare. Looking at what happens next, one might question if forcing criminal charges in teenage love affairs actually helps kids thrive. Instead of a blanket rule, handling each situation with attention to detail could better shield teens from real danger – yet still honor their personal growth and chances ahead.¹³⁰⁷

Most safety steps make sense only if we remember teenagers are still becoming. Staying alert to danger does not require treating every choice like a crisis. When limits adjust to actual circumstances, justice feels more reachable. Rules built to assist can sometimes trap the very ones they target. Maturity shifts slowly, just like threats do. Good goals may backfire without better awareness behind them.

Conclusion

Yet these laws lean almost entirely on strict age cutoffs. That tight framing means even consensual teen relationships – where partners are close in age – might still face heavy legal consequences.

This moment pushes hard on what fairness means inside our communities. Since keeping

young people safe belongs to the state, space must also open for them to learn decisions step by step. Viewing each teen bond as wrongdoing skips a core truth – emotions, growing thoughts, and ties between people unfold differently here.

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¹³⁰⁶ United Nations Children's Fund (UNICEF), Adolescent Development and Well-Being Reports.

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