

THE JURISPRUDENCE OF ADOLESCENT AUTONOMY: EVALUATING THE STATUTORY FRAMEWORK OF CONSENT.

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*Adolescent autonomy jurisprudence is characterised by a persistent tension between the state's protective *parens patriae* function and the recognition of minors' evolving capacities. Historically, age thresholds most commonly 18 have served as proxies for maturity, yet these thresholds increasingly conflict with contemporary psychological research and constitutional rights to dignity and privacy. This paper critiques existing consent mechanisms, highlighting how stringent liability rules, such as those in India's POCSO Act, often criminalise normative adolescent development by failing to distinguish between exploitation and consensual peer relationships.*

*This paper advocates for a transition from status-based rights to a competency-based paradigm, drawing upon the historic "Mature Minor" doctrine established in *Gillick v. West Norfolk* and supported by recent legal developments from 2024 to 2026. There is increasing constitutional discomfort with absolute paternalism, as reflected in recent judicial decisions in both the Commonwealth and India. Courts are increasingly utilising extraordinary powers to mitigate the severity of mandatory sentencing for older adolescents (16–18 years), indicating a pressing need for legislative reform.*

The analysis concludes that a reconceptualised legal framework should incorporate close-in-age exemptions and judicial discretion to respect adolescents' decisional autonomy while maintaining essential safeguards. Legal systems could adopt a more nuanced understanding of capacity by harmonising international human rights standards, such as the UN Convention on the Rights of the Child, with domestic legislation. Ultimately, the study contends that safeguarding minors' welfare can coexist with recognising their agency; genuine protection necessitates legal acknowledgement of the transition from childhood dependency to autonomous personhood.

Keywords: *Adolescent Autonomy, Mature Minor Doctrine, Parens Patriae, Evolving Capacities, Statutory Consent.*

"If we are to reach real peace in this world... we shall have to begin with the children"

Mahatma Gandhi

Abstract

*Adolescent autonomy jurisprudence is marked by a persistent tension between the state's protective *parens patriae* function and the recognition of minors' evolving capacities. Legal systems have traditionally relied on fixed age thresholds most commonly 18 as proxies for maturity. However, such thresholds increasingly conflict with contemporary psychological insights and constitutional commitments to privacy and dignity. This paper critiques rigid consent frameworks, particularly under the Protection of Children from Sexual Offences Act, which frequently criminalise consensual adolescent relationships. Drawing upon the "mature minor" doctrine articulated in *Gillick v West Norfolk* and *Wisbech Area Health Authority*, recent Indian jurisprudence, and NCRB data, the paper argues for a shift from status-based to competency-based models of consent. It contends that incorporating close-in-age exemptions and structured judicial discretion would better align legal doctrine with social reality, without undermining essential protections.*

1. Introduction

The regulation of adolescent sexuality sits at an uneasy intersection of protection and autonomy. On one hand lies the state's obligation to shield minors from harm; on the other, an emerging recognition that adolescents are not merely passive subjects of protection but individuals in the process of acquiring autonomy. Legal systems have historically resolved this tension through categorical rules, most notably by fixing the age of majority at eighteen and treating all individuals below that threshold as incapable of meaningful consent.

This approach, grounded in the doctrine of *parens patriae*, assumes that minors lack the capacity to make decisions in their own best interests. Yet this assumption is increasingly difficult to sustain. Constitutional jurisprudence, particularly following Justice K S Puttaswamy (Retd) v Union of India, has foregrounded autonomy, dignity, and decisional privacy as core values. At the same time, developmental psychology recognises adolescence as a period of gradual cognitive and emotional maturation rather than categorical incapacity.

The tension becomes particularly visible in the operation of the Protection of Children from Sexual Offences Act ("POCSO"). Enacted to combat sexual abuse, POCSO adopts a strict liability framework that renders consent legally irrelevant. While effective in addressing exploitative conduct, this framework often produces counterintuitive results when applied to consensual relationships between adolescents.

This paper argues that rigid age-based consent frameworks are increasingly untenable. It proposes a shift toward a competency-based approach that recognises adolescents' evolving capacities while preserving safeguards against exploitation. By integrating doctrinal analysis, comparative jurisprudence, and empirical data, it seeks to demonstrate that protection and autonomy are complementary principles within a coherent legal framework.

2. Rethinking Autonomy: From Paternalism to Evolving Capacity

The traditional justification for restricting adolescent autonomy lies in paternalism—the idea that the state may legitimately intervene to protect individuals from harm, including harm to themselves. In the context of minors, this justification has historically been treated as both necessary and self-evident.

However, paternalism is not a monolithic concept. As Joel Feinberg's formulation of the harm principle suggests, the legitimacy of state intervention depends on the nature of the harm being prevented. When applied to adolescent sexuality, this raises an important question: Is all sexual activity involving minors inherently harmful, or does harm arise only in contexts of coercion, exploitation, or abuse?

The concept of “evolving capacities,” embedded in the United Nations Convention on the Rights of the Child, provides a more nuanced framework. It recognises that children and adolescents gradually acquire the ability to make informed decisions, and that legal systems must adapt accordingly. This approach does not reject protection but seeks to calibrate it to the individual's maturity.

Ronald Dworkin's account of autonomy further reinforces this perspective. To treat individuals as autonomous is not merely to allow them freedom of choice, but to respect their capacity to shape their own lives in accordance with their values. Denying adolescents any meaningful degree of autonomy risks undermining this developmental process.

3. The Limits of Age-Based Consent

Age-based thresholds serve an important administrative function. They provide clarity, predictability, and ease of enforcement. However, their conceptual limitations are increasingly apparent.

First, the choice of eighteen as the threshold of adulthood is, to a significant extent, arbitrary. It reflects historical and institutional considerations rather than empirical evidence about human development. Second, age-based frameworks assume homogeneity among minors, ignoring the considerable variation in maturity, experience, and understanding that characterises adolescence.

This tension is particularly evident when one considers that the law already adopts capacity-based approaches in other domains. Minors may, in certain circumstances, be held criminally responsible or permitted to consent to medical treatment. The categorical denial of capacity in the context of sexual consent, therefore, appears inconsistent.

The recognition of decisional autonomy in Justice K S Puttaswamy (Retd) v Union of India further complicates the picture. While the judgment does not directly address minors, its emphasis on autonomy and dignity raises questions about the legitimacy of blanket restrictions that fail to account for individual capacity.

4. POCSO and the Problem of Over-Criminalisation

The Protection of Children from Sexual Offences Act, 2012 represents a robust legislative response to the problem of child sexual abuse. Its strict liability framework ensures that perpetrators cannot evade accountability by invoking the minor's consent. However, the same feature that strengthens protection also generates significant challenges.

In practice, POCSO does not distinguish between exploitative conduct and consensual relationships among adolescents. This has led to a growing number of cases in which young individuals find themselves entangled in the criminal justice system for engaging in what may be described as normative developmental behaviour.

Judicial responses have increasingly reflected discomfort with this outcome. In *Sabari v. Inspector of Police*, the Madras High Court observed that criminal law should not be used to penalise consensual adolescent relationships. Similarly, *Vijayalakshmi v. State* acknowledged that POCSO is frequently invoked in cases involving familial opposition rather than genuine exploitation.

More recent decisions, including those of the Bombay High Court, have gone further in recognising the importance of contextual factors such as age proximity and the consensual nature of the relationship. These cases suggest an emerging judicial awareness that the rigid application of POCSO may, in certain circumstances, undermine its own protective objectives.

5. Empirical Realities: NCRB Data and Adolescent Relationships

Doctrinal concerns are reinforced by empirical evidence. Data from the National Crime Records Bureau indicates that POCSO cases constitute a significant proportion of crimes against children, with tens of thousands of cases registered annually. (India, 2025)

More importantly, the data reveals patterns that challenge the assumptions underlying strict liability. A substantial number of cases involve adolescents aged sixteen to eighteen—the very group most likely to engage in consensual relationships. (POCSO Act, 2012: Consensual Sex as a Matter of Tug of War Between Developmental Need and Legal Obligation for the Adolescents in India, 2020, pp. 1-4). Furthermore, the majority of accused individuals are known to the victim, often as friends or romantic partners. (S et al., 2023, pp. 1-5)

Empirical studies corroborate these findings, suggesting that a considerable proportion of cases involve consensual relationships rather than coercion. (Anchan et al., 2021, pp. 158-162). These patterns indicate that POCSO is frequently applied to situations that fall outside its intended scope.

The implications are significant. By failing to distinguish between consensual and exploitative conduct, the law risks over-criminalisation and the misallocation of legal resources. It also raises concerns about the instrumental use of criminal law by families seeking to regulate adolescent relationships.

6. Judicial Responses and Doctrinal Evolution

Courts have responded to these challenges with varying degrees of flexibility. In many cases, High Courts have exercised their inherent powers to quash proceedings or grant relief where the application of POCSO would result in manifest injustice.

At the same time, judicial approaches remain uneven. Some decisions emphasise strict adherence to statutory provisions, while others adopt a more contextual approach that considers the nature of the relationship and the absence of coercion. This divergence reflects a deeper doctrinal tension between legislative intent and constitutional values. While courts have sought to mitigate the harshness of the law, their interventions remain ad hoc and case-specific. This underscores the need for a more systematic approach to reform.

7. The Mature Minor Doctrine and Comparative Insights

The doctrine articulated in *Gillick v West Norfolk and Wisbech Area Health Authority* offers a useful point of reference. By recognising that minors may possess sufficient maturity to make informed decisions, the doctrine introduces a functional approach to capacity.

Comparative jurisprudence reinforces this perspective. In *A (Minor) v. Manitoba*, the Canadian Supreme Court emphasised the importance of individualised assessments of capacity. These approaches demonstrate that it is possible to balance protection with autonomy without resorting to rigid categorical rules.

The absence of a similar framework in Indian sexual consent law highlights a significant gap. While capacity-based reasoning is accepted in other areas, its exclusion in this context appears increasingly difficult to justify.

8. Toward a Competency-Based Framework

A competency-based model would shift the focus from age to capacity. Instead of treating all minors as incapable, it would assess factors such as:

- the individual's understanding of the nature and consequences of the act
- the voluntariness of the decision
- the absence of coercion or undue influence

Such an approach would align legal doctrine with both constitutional principles and empirical realities. However, it must be accompanied by clear safeguards to ensure consistency and prevent misuse.

9. Close-in-Age Exemptions as a Transitional Reform

While a fully competency-based model may require significant structural changes, close-in-age exemptions offer a more immediate and practical solution. By allowing limited exceptions for consensual relationships between individuals of similar age, such provisions reduce the risk of unjust criminalisation.

Comparative legal systems have successfully implemented these exemptions, demonstrating their effectiveness. Incorporating similar provisions into the Protection of Children from Sexual Offences Act would address a substantial portion of the problem identified in both doctrinal and empirical analysis.

10. Responding to Protectionist Concerns

Any reform proposal must address concerns about vulnerability and the risk of exploitation. Critics argue that adolescents may be susceptible to manipulation and that recognising their autonomy could weaken legal protections.

These concerns are not without merit. However, they do not justify the wholesale denial of autonomy. Instead, they highlight the need for a calibrated approach that distinguishes between consensual and exploitative conduct.

A harm-based framework, focused on coercion and abuse, offers a more coherent basis for regulation. It allows the law to target genuinely harmful conduct while avoiding the over-criminalisation of consensual relationships.

11. Conclusion

The regulation of adolescent sexuality cannot be reduced to a binary choice between protection and autonomy. The persistence of rigid age-based frameworks reflects an outdated view of adolescence as an absolute period of incapacity.

This paper has argued that such frameworks are increasingly inconsistent with constitutional principles, empirical realities, and comparative jurisprudence. A shift toward competency-based models, supplemented by close-in-age exemptions and structured judicial discretion, is both necessary and feasible.

Ultimately, the legitimacy of the law depends on its ability to reflect the complexities of human experience. Recognising adolescents as individuals with evolving capacities does not undermine protection; it strengthens it by aligning legal doctrine with lived reality.

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