Page: 1651-1678 *URL: www.lijdlr.com*

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

ISSN: 2583-7753

LawFoyer International Journal of Doctrinal Legal Research

[ISSN: 2583-7753]

Volume 4 | Issue 1

2026

DOI: https://doi.org/10.70183/lijdlr.2026.v04.73

THE CLASSIFICATORY CRISIS IN ADOLESCENT JURISPRUDENCE: CONSENT, CULPABILITY AND AGENCY IN INDIAN LAW

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I. ABSTRACT

The adolescent in Indian law is a paradox, a person defined not by their own evolving mind but by the state's contradictory demands. This paper argues that India's legal framework is trapped in a fundamental classificatory crisis which can be understood as juridical 'three-body problem'. Just as three celestial bodies pull each other into chaotic orbits, the legal concepts of consent, culpability, and agency exert mutually destructive gravitational forces on the adolescent subject. The first part of the paper argues that the Prevention of Children from Sexual Offences Act. 2012 constructs the adolescent as passive victim, legally incapable of sexual consent thereby criminalizing their romantic relationships and weaponizing the law for social control. The second part confronts the contrasting rationale under Juvenile Justice (Care and Protection of Children) Act 2015 which attributes adult-like culpability to adolescents accused of heinous offences. This rationale presumes a standard of maturity that the same legal system denies them in the intimate realm. Finally, it explores the void of agency in personal autonomy, where the adolescent is rendered a legal non-entity in matters of contract and healthcare, their will is subordinated to parental authority. Trapped in this legal triple-blind: too vulnerable to consent, mature enough for culpability, and too incompetent for self-governance; the adolescent is fragmented into three irreconcilable legal personas. This paper concludes that until the law moves beyond its rigid paternalism to embrace a functional, context-sensitive assessment of capacity, it will continue to manufacture injustice, ensuring that the young person remains a legal paradox, never recognized as a whole human being.

II. KEYWORDS

Three-Body Problem, Paternalism, Culpability, Agency, Consent.

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III. INTRODUCTION

The "adolescent problem" in the Indian legal context represents a fundamental classificatory crisis, stemming from the systemic failure of a legal system predicated on a rigid binary of the "child". This binary proves inadequate for governing the complex legal reality of adolescent development. One can envision the adolescent in law as being trapped in a juridical analogue of the astronomical 'three body problem', where the gravitational forces of three legal concepts-consent, culpability, and agency continuously destabilises one another, rendering a coherent legal philosophy unattainable.

This triad generates an irresolvable paradox wherein the law simultaneously asserts that an adolescent is incapable of consent, yet fully capable of culpability, while systematically denying their legal agency. The law operates on a premise, what Jonathan Herring frames, as a "bizarre" legal proposition.[3] Herring distinguishes culpability as a general threshold, questioning an individual's fundamental suitability for punishment, rather than assessing their judgment in a specific context to provide valid consent.[4] This dissonance is evident across India's primary legal statutes. The Protection of Children from Sexual Offences (POCSO) Act, 2012, criminalises any sexual activity involving a person below eighteen, rendering the adolescent's consent legally irrelevant.[5]

Conversely, the Juvenile Justice (Care and Protection of Children) (hereinafter referred as JJ)Act, 2015, stipulates that adolescents aged sixteen to eighteen accused of heinous offences can be tried as adults, attributing to them a level of culpability akin to that of an adult individual.[6] Concurrently, on matters of personal autonomy the parental authority dominate the adolescent legal agency, effectively creating a void where the adolescent's independent agency should be recognised. The Indian legal framework, by housing these contradictory presumptions within a single age bracket, forces this

[3] Jonathan Herring, "The age of criminal responsibility and the age of consent: should they be any different?" (2016) 67 (3) Northern Ireland Legal Quarterly 343-356.
[4] ibid 353.
[5] The Protection of Children from Sexual offences Act, 2012 (Act 32 of 2012), s. 4
[6] The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 15, 16.

very question to the forefront, creating an unstable legal reality for the adolescent subject.

This is not a mere contradiction but a fundamental ontological crisis in the law's construction of the adolescent subject. The legal system demands a unitary legal person, yet it projects three irreconcilable versions: the passive victim who cannot, the culpable offender who must have made wrong, and the incapacitated ward whose will is legally void. This tripartite fragmentation ensures that any legal intervention is inherently unstable; the application of one rule necessarily negates the underlying logic of the others. The deliberate use of the term 'adolescent' throughout this paper is a conceptual and rhetorical necessity.

It serves to highlight the specific developmental stage which is characterised by evolving capacities and emerging autonomy that the law's rigid binary of 'child' and adult fail to capture. This terminological choice underscores the very subject of the classificatory crisis: an individual whom the law recognises only as a paradox, never on their own terms. This juridical gray zone, mired in ambiguity and substantive injustice, is a persistent flaw in the architecture of liberal legal systems. The law's epistemological reliance on the bright-line rules and binary categorisations inherently perpetuates inequality when imposed upon the non-binary reality of adolescent development. The result is a state of perpetual uncertainty for the young subject, whose legal status oscillates precariously between that of a passive, incapable child and a fully culpable adult.

This paper will first deconstruct the rational and legal logic governing the consent under the POCSO Act, before turning to the contradictory attribution of culpability under the Juvenile Justice Act. It will then explore the void of agency in domains of personal autonomy, ultimately arguing that this tripartite fragmentation creates a fundamental classificatory crisis that can only be resolved by moving beyond rigid-age based binaries.

Grounded in critical legal theory, this paper employs a qualitative and doctrinal analysis to deconstruct the statutory frameworks of the POCSO and JJ Acts through

the conceptual lens of the "three-body problem" to expose a fundamental classificatory crisis.

The study synthesises judicial pronouncements, empirical studies, and international legal principles to demonstrate how the laws' contradictory construction of the adolescent subject as incapable of consent, yet capable of culpability, and denied agency manufactures a state of perpetual juridical exception.

A. Research Problem

The Indian legal framework governing adolescents suffers from a fundamental classificatory crisis, wherein the same individual is simultaneously constructed as incapable of sexual consent under the POCSO Act, capable of adult-like culpability for heinous offences under the JJ Act, and devoid of legal agency in matters of personal autonomy. This tripartite fragmentation creates a juridical "three-body problem" where the legal concept of consent, culpability, and agency exert mutually destructive gravitational forces, rendering a coherent legal philosophy unattainable and systematically permeating injustice for the adolescent.

B. Research Objectives

1. To deconstruct the legal construction of adolescent consent under the POCSO Act, 2012, and examine how its absolutist approach criminalises consensual romantic relationships while transforming a protective statute into an instrument of social control.
2. To critically analyse the attribution of adult-like culpability to adolescents aged sixteen to eighteen under the Juvenile Justice Act, 2015, and examine the doctrinal contradiction between this attribution and the simultaneous denial of sexual consent capacity.
3. To examine the void of adolescent agency in domains of personal autonomy, including contract law, healthcare decision, and reproductive rights, demonstrating how the law's rigid binary of "child" and "adult" fails to accommodate evolving capacities.

4. To propose a coherent jurisprudential framework grounded in the principle of evolving capacities that reconciles the contradictory legal personas projected onto the adolescent subject.

C. Research Questions

1. How does the POCSO Act's construction of the adolescent as legally incapable of sexual consent create a juridical paradox when applied to consensual peer relationships, and what are the socio-legal consequences of this construction?
2. What explains the doctrinal contradiction between the attribution of adult-like culpability of adolescents under the Juvenile Justice Act and the simultaneous denial of their capacity to consent to sexual activity under the POCSO Act?
3. How does the Indian legal framework negate adolescent agency in matters of contract, healthcare, and bodily autonomy, and what injustices arises from this systematic denial?
4. Can the principle of "evolving capacities" as recognized in international law provide a coherent framework for resolving the classificatory crisis in Indian adolescent jurisprudence?

D. Research Hypotheses

1. The simultaneous legal construction of adolescents as incapable of consent yet capable of culpability creates an irresolvable paradox that cannot be reconciled within the existing framework of rigid age-based binaries.
2. The criminalisation of consensual adolescent relationships under the POCSO Act operates not as a protective measure but as a mechanism of social control, disproportionately affecting inter-caste and interfaith relationships.
3. The preliminary assessment mechanism under the JJ Act does not resolve the classificatory crisis but merely institutionalises it, as it evaluates capacity for culpability while the same legal system denies that capacity for consent.

4. A functional, context-sensitive approach to assessing adolescent capacity, grounded in the doctrine of evolving capacities, offers a viable alternative to the current regime of chronological absolutism.

E. Research Methodology

This paper adopts a qualitative, doctrinal research methodology to deconstruct the statutory frameworks governing adolescents in Indian law. The study engages in critical analysis of primary legal sources including the POCSO Act, 2012, the Juvenile Justice Act, 2015, the Indian Contract Act, 1872, the Medical Termination of Pregnancy Act, 1971, and the Bharati Nyaya Sanhita 2023. Secondary sources include judicial pronouncements from the Supreme Court and various High Courts, reports of the Law Commission of India, and scholarly commentary.

The paper adopts the astronomical "three-body problem" as an analogical framework to theories the classificatory crisis, drawing upon critical legal theory and interdisciplinary insights from developmental neuroscience and adolescent psychology. Comparative analysis of international instruments, particularly the United Nations Convention on the Rights of the Child and General Comments of the UN Committee on the Rights of the Child, provides normative benchmarks for evaluating the Indian Framework.

F. Literature Review

The existing research on adolescent jurisprudence in India reveals significant gaps in addressing the classificatory crisis. Jonathan Herring's work on the distinction between criminal responsibility and the age of consent provides the theoretical foundation for understanding why the law imposes different capacity thresholds for culpability and consent. Herring argues that culpability assesses general accountability to state norms while consent evaluates issue-specific capacity to justify otherwise wrongful harm, a distinction that explains but does not justify the law's contradictory treatment of adolescents.

Developmental neuroscience, particularly the research of Laurence Steinberg, establishes that the adolescent brain matures unevenly, with cognitive systems

enabling logical reasoning developing earlier that the socio-emotional systems governing impulse control and risk assessment.[7] This neuroscientific evidence challenges the law's binary categorisation and supports the need for context-sensitive capacity assessments.

Indian legal scholarship has addressed discrete aspects of the crisis. The Vidhi Centre for legal Policy's empirical research demonstrates that over 80% of "romantic" cases under POCSO are filed by parents or relatives following elopement or pregnancy, evidencing the statue's weaponisation for social control.[8] The Law Commission of India's 283rd Report acknowledges the crisis but offers inadequate solutions, recommending enhanced judicial discretion rather than structural reform.[9]

Judicial responses to the crisis reveal the limits of adjudicative remedies. High Courts in the Delhi, Madras, and Calcutta have attempted to read exceptions into POCSO, while the Supreme Court in the Re: Right to Privacy of Adolescents and K. Kirubakaran v. State of Tamil Nadu has resorted to constitutional powers to circumvent statutory mandates.[10] These judicial interventions, while achieving case-specific justice, highlight the absence of a coherent legislative framework.

International law scholarship on the convention on the Rights of the Child, particularly General Comment No. 20, establishes the principle of evolving capacities as the appropriate framework for balancing protection and autonomy.[11] The UN Committee's explicit direction to avoid criminalising consensual adolescent sexual activity provides normative guidance that Indian law has thus far ignored.

The Literature reveals a significant gap as no existing work has theorized the simultaneous operation of contradictory legal constructions of the adolescent as an

[7]Laurence Steinberg, 'Adolescent Development and Juvenile Justice' (2009) Annual Review of Clinical Psychology 459.
[8] Vidhi Centre for Legal Policy, Child Marriage and POCSO: An Exploratory Study (Vidhi Centre for Legal Policy 2021).
[9] Law Commission of India, 'Provision Relating to Age of Consent under POCSO Act, 2012'(Report No No 283, 2024) 116-120.
[10] *In Re: Right to Privacy of Adolescents* 2025 INSC 778
[11] UN Committee on the Rights of the Child, 'General Comment No. 20 on the implementation of the rights of the Child during Adolescence' (CRC/C/GC/20, 2016) para 40.

integrated "three-body problem" requiring comprehensive rather than piecemeal reform.

IV. THE THEORETICAL FRAMEWORK: THREE-BODY PROBLEM IN LAW

This paper employs the astronomical 'three-body problem' as its central analogical framework to theories the classificatory crisis in adolescent jurisprudence. In celestial mechanics, this problem describes a system wherein three celestial bodies, bound by mutual gravitational pull, exhibit inherently chaotic and unpredictable orbits, defying a stable solution.[12] Similarly, the Indian legal system subjects the adolescent to the simultaneous and contradictory gravitational forces of three fundamental legal concepts: consent, culpability, and agency. The application of one force inevitably destabilises the logic of the others, creating an irresolvable paradox where the law demands a unitary legal person but projects three irreconcilable versions. To examine how the law constructs and ultimately contradicts the adolescent's capacity for consent, attribution of culpability, and denial of agency, each of these problems is discussed in the three distinct sections that follow.

V. RESEARCH AND ANALYSIS

A. PART I: The Incapacitation of Consent under POCSO

The POCSO Act, 2012, represents the legal system's most rigid assertion of adolescent incapacity. It is founded upon a protective imperative; defining a 'child' uniformly on the basis of age.[13] The legislative policy of classification distinguishes a child from an adult based on the rigid threshold of 18 years of age. This definition mechanically extends the protective policy of childhood to all adolescents, irrespective of their individual maturity or circumstances. The most significant legal consequences of this are the absolute irrelevance of consent in any sexual interaction involving a minor,

[12] Mauri Valtonen &Hannu Karttunene, *Astrophysics and the three body-problem. In the Three-Body Problem* (Cambridge University Press 2006) 1-19.
[13] The Protection of Children from Sexual offences Act, 2012 (Act 32 of 2012).

constructing the adolescent exclusively as a passive victim, a legal subject incapable of volition in the sexual realm.

The purported objective is to create a secure legal boundary, shielding young people from exploitation and abuse. However, this absolutist approach generates profound collateral consequences when applied to consensual romantic relationships between adolescents. In such cases, the law does not differentiate between a predatory assault and a mutual exploration between peers, rendering both as legally equivalent offences. The consequences of this are not merely theoretical; they are reflected in quantitative data showing that over 29% of victims between 2019-2021 were adolescents aged 16-18, with studies indicating a substantial number are of a romantic nature, often initiated by families disapproving of the relationship.[14]

This dynamic is precisely what research from the Vidhi Centre for the legal policy highlights; the law has often been weaponised for social control rather than protection. One analysis found that a staggering 80.2% of "romantic" cases under POCSO were filed by parents or relatives after a girl eloped or became pregnant.[15] Consequently, a protective statute is transformed into a tool for enforcing parental or social diktats, particularly against inter-caste or interfaith relationships, thereby 'criminalising consensual teenage relationships' and creating a 'chilling effect on adolescent autonomy'.[16]

The judiciary has frequently grappled with this outcome, at times using discretionary powers to avoid mandatory minimum sentences in romantic cases. The systemic failure that entailed the absolute negation of adolescent consent, and this has spurred significant unease, compelling courts to devise remedies outside the POCSO Act framework. The Supreme Court's recent proceedings in In Re: Right to Privacy of

[14] Ashish Tripathi, 'SC notice to centre, NCPCR on plea against move to term sexual assault of teens as 'consensual and romatic relationship' the Deccan Herald (New Delhi, 26 August 2023) available at : <https://www.deccanherald.com/india/sc-notice-to-centre-ncpcr-on-plea-against-move-to-term-sexual-assault-of-teens-as-consensual-and-romantic-relationship-2662088 > accessed 1 November 2025.

[15] Harsh Gour, "Adolescents' Sexual Choices & the POCSO Act: Reconciling Protection with Autonomy" (2025) available at:<https://vidhilegalpolicy.in/blog/adolescents-sexual-choices-the-pocso-act> accessed 1 November 2025.

[16] ibid.

Adolescents[17] serve as a seminal example of this dissonance between legislative mandate and substantive justice. The court confronted a situation where a convict, whose relationship began when the victim was a minor, was now her husband and the father of her child. The victim, having attained majority, explicitly stated she did not view the act as a crime and pleaded for the man not to be sentenced to avoid breaking up her family.

While restoring the conviction on legal grounds, the court was compelled to acknowledge the tragic absurdity of applying the mandatory sentencing regime. It explicitly adopted the arguments of the amici curiae, who pointed out that various High Courts including Delhi[18], Madras[19], and Calcutta[20] have interpreted POCSO as not intended to criminalise consensual adolescent relationships. The amici curiae submitted that the 'rigid application of POCSO Act in cases of adolescent relationships can lead to outcomes that may not align with the best interest of the prosecutrix,' a conclusion starkly validated by the facts of the case.[21] Ultimately, the Supreme Court refrained from imposing a sentence, invoking its special powers under Article 142 of the Constitution.

This recourse to the constitutional power of last resort highlights a critical flaw: the ordinary operation of the law procedures such grave injustice that the highest court must suspend its application to achieve a fair result. Furthermore, the Court's directive to the government to form an expert committee signal that the problem is one of flawed legislative policy, not merely individual cases.[22] This crystallises the crisis permeating adolescent jurisprudence in Indian legal system. By erasing the very possibility of sexual agency for anyone under eighteen, POCSO legally immobilizes the adolescent, projecting a version of the subject whose will is a legal nullity.

In its quest to protect by incapacitating, the law creates a reality where injustice can only be delivered by circumventing the law itself. This stands in direct conceptual

[17] *In Re: Right to Privacy of Adolescents* 2025 INSC 778
[18] *Ajay Kumar v. State NCT of Delhi* 2022 SCC OnLine Del 3705.
[19] *VijayaLakshmi v. State 2021* SCC OnLine Mad 317.
[20] *Ranjit Rajbanshi v. State of West Bengal* 2021 SCC Online Cal 2470.
[21] *In Re: Right to Privacy of Adolescents* 2025 INSC 778.
[22] Ibid 42.

tension with other legal domains where the same adolescents will be recognized for culpability or disregarded in matters of bodily autonomy. Thus, the law refuses to acknowledge the 'evolving capacities'[23] creating a schism between the legal construction and psychosocial reality of adolescent development.

B. PART II: The Attribution of Culpability under the Juvenile Justice Act

In stark contrast to the passive victim constructed by POCSO, the JJ Act, 2015, projects a radically different legal persona that of the rational, culpable offender. This creates the second, and most jarring, limb of the three-body problem. The laws' gravitational pull, which categorically negates an adolescent's capacity to consent to sexual activity, violently reverses direction to affirm their capacity to form the mens rea for the most serious crimes, thereby holding them fully accountable in a proximate adult capacity.

The JJ Act, 2015, ostensibly operates on the progressive principle of 'evolving capacity', recognising a child's development as a dynamic process. [24] However, this principle is fundamentally subverted by the Act's specific scheme for the heinous offences which are punishable with minimum imprisonment of seven years.[25] The statute mandates that for a child alleged to be in conflict with the law, who is between sixteen and eighteen years of age, the JJ Act must conduct a preliminary assessment. This assessment probes their mental state and physical incapacity to commit such offence, the ability to understand the consequences of the offence, and the circumstances in which the offence was committed.[26]

Based on this, the Juvenile Justice Board may permit the child to be tried as an adult in a regular court.[27] This legal mechanism creates a profound doctrinal schism. The law presumes that an adolescent is incapable of understanding the consequences of sexual consent, yet capable of understanding the consequences of committing a heinous crime.

[23] UN Committee on the Rights of the Child, 'General Comment No. 20 on the implementation of the rights of the Child during Adolescence' (CRC/C/GC/20, 2016).
[24] The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), preamble.
[25] Ibid, Section 2(33).
[26] Ibid, Section 15.
[27] ibid.

This apparent contradiction, however, can be understood through the lens of distinct legal philosophies governing consent and culpability. Legal Scholar Jonathan Herring distinguishes between these capacities, noting they evaluate 'very different factors'.[28] He conceptualises criminal responsibility as a general capacity, questioning an individual's fundamental accountability to the state's legal norms, rather than their judgment in a specific, intimate context.[29] It sets a relatively low threshold for being held accountable to the state's punishment.

Consent, in contrast, is an issue-specific capacity that justifies another person in inflicting what would otherwise be wrongful harm.[30] The law, therefore, imposes a much higher standard for consent. Furthermore, the nature of a mistake about a fact not related to mens rea is often irrelevant. However, in consent, any mistake that the individual deems crucial to their decision such as a partner's identity or intentions can vitiate consent entirely, because the justification for the act is rooted in the individual's own assessment of their well-being.[31] This doctrinal divergence allows the law to project a fractured version of the adolescent.

The law demands a unitary legal subject, but it compartmentalises the adolescent mind. In private realm of intimacy, their will is a legal nullity. Yet, in the public realm of crime, the same will is considered firm enough to warrant adult-like retribution. This is not a nuanced calibration of capacity but a fundamental contradiction.

The State' s role oscillates violently between that of a retributive sovereign, depending on whether the adolescent is the victim or the perpetrator of an act. This dichotomy is not merely theoretical but is actively contested in courtrooms, revealing that the adolescent's legal status is a contingent attribution, not a reflection of fixed capacity. The judiciary is increasingly vocal about this conflict. The Delhi High Court, in a case involving a consensual relationship, emphasised that the law must 'evolve to acknowledge and respect these relationships,' implicitly questioning the automatic

[28]Jonathan Herring, 'The age of criminal responsibility and the age of consent: should they be any different?' (2016) 67(3) Northern Ireland Legal Quarterly 343. (For the distinction between general capacity for culpability and the specific justification of consent).
[29] ibid. at 347-348
[30] ibid at 345.
[31] ibid.

criminalisation of adolescent agency.[32] Conversely, the Allahabad High Court has expressed grave concern over the 'coercive application of POCSO Act on Adolescents,' observing that the statute is being misused in romantic cases, thereby criminalizing normal behaviour.[33] The Bombay High Court has gone further, noting the irreparable damage to an accused adolescent's 'dignity, respect and a normal life in society' even before a trial concludes, highlighting the severe consequences of attributing culpability.

The Law Commission of India's 283rd Report further entrenches this paradox. While, acknowledging the crisis posed by criminalising consensual acts under POCSO, it refrained from recommending a lower age of consent. Instead, it suggested enhanced judicial discretion at the sentencing stage, thereby introducing the vague concept of 'tacit approval' to describe adolescent consent, a term that places an undue burden on the judiciary to interpret a will that the law otherwise declares non-existent.[34] Thus, the gravitational pull of this 'second body's culpability violently destabilises the first. The law cannot coherently maintain that an individual is both incapable of willing a sexual act and capable of willing a criminal one with the requisite malice.

This irreconcilable conflict ensures that the adolescent exists in a jurisprudential double-blind, their personhood legally fragmented by the inconsistent demands of a system struggling to categorise them. Therefore, the preliminary assessment under the JJ Act does not resolve the three-body problem. Instead, it is a testament to its intractable nature. The law's attribution of capacity deeming an adolescent capable of forming mens rea for culpability yet incapable of rendering valid sexual consent is not an arbitrary contradiction but stems from a fundamental divergence in the socio-psychological demands of each legal concept.[35]

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[32] *State v. Hitesh*, (Neutral Citation No. 2025) DHC 944

[33] *Satish alias Chand v. State of UP*, (Neutral Citation) 2024 AHC 108011.

[34] Law Commission of India, 'Provision Relating to Age of Consent under POCSO Act, 2012'(Report No No 283, 2024) 116-120; See also: - Amita Pitre and Sunita Sheel Bandewar, 'Law Commission of India report on the age of consent: Denying justice and autonomy to adolescents' (2024) 9(1) A Journal of Healthcare Ethics & Humanities 3.

[35] Jonathan Herring, 'The age of criminal responsibility and the age of consent: should they be any different?' (2016) 67(3) Northern Ireland Legal Quarterly 343

Culpability, particularly under the JJ Act's framework for heinous offences, is a general capacity that assesses whether an individual possesses a baseline understanding of societal norms and the wrongfulness of their actions, making them a suitable candidate for accountability. This threshold is deliberately set low, requiring only that the accused understood their act was 'seriously wrong' rather than merely 'naughty', a standard a 16-year-old may often meet.[36]

Consent, in stark contrast, is not merely about understanding a prohibition but about possessing the specific mature capacity to make a complex, intimate judgment about one's own well-being and to grant another person justification for an act that is prima facie harmful.[37] As legal philosopher Jonathan Herring elucidates, criminal responsibility asks if a person can be held accountable to the state for a transgression, whereas valid consent asks if a person's will is sufficiently autonomous to justify another individual in potentially causing them harm. The state, in its protective role is profoundly reluctant to deem a young person's consent adequate for this purpose, fearing that flaws in their judgment such as susceptibility to peer pressure, an underdeveloped ability to empathise, or a failure to appreciate long-term consequences will lead to their own exploitation.

This caution is rooted in developmental neuroscience, which confirms that the adolescent brain, while capable of understanding the concrete wrongfulness of theft or assault, is still maturing in the prefrontal regions responsible for impulse control, risk-assessment, and the nuanced emotional intelligence required for intimate relationships.[38] Consequently, the law constructs a bifurcated adolescent subject; one who is sufficiently developed to be held responsible for a wrong against the collective social order (culpability) but is simultaneously deemed too vulnerable and immature to negotiate the private, relational domain of sexual intimacy (consent), a dichotomy that lies at the heart of this crisis.

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[36] ibid, 347.
[37] Jodi Viljoen, Erika Penner, et.al., 'Competence of Criminal Responsibility in Adolescent Defendants: The Roles of Mental Illness and Adolescent Development' in Barry C. Feld & Donna M. Bishop (eds), *The Oxford Handbook of Juvenile Crime and Juvenile Justice* (Oxford University Press 2011) 526.
[38] Laurence Steinberg, 'Adolescent Development and Juvenile Justice' (2009) Annual Review of Clinical Psychology 459.

C. PART III: The Void of Agency in Personal Autonomy

The third problem in the triad is the law's systematic negation of adolescent agency in matters of personal and bodily autonomy. If POCSO constructs a passive victim and the JJ Act a culpable offender, then the legal framework governing personal decisions creates an incapacitated ward; a legal non-entity whose agency is meaningless. The philosophical foundation of legal agency is rooted in the liberal tradition which values rational autonomy. It is the practical manifestation of autonomy within a legal system. As Immanuel Kant theorised, moral and legal worth is derived from rational self-governance.[39]

This infers into a legal presumption that a competent agent possesses the requisite rationality to intend the consequences of their actions, whether in forming a contract or committing a crime. However, the Indian legal framework does not present a coherent theory of agency for adolescents. Instead, it imposes a rigid binary, bifurcating capacity at the fixed point of majority and creating a chasm between the non-agent minor and the full agent-adult.[40] This classical denial of agency is most absolute in the realm of contract law. The Indian Contract Act, 1872 establishes a minor's legal incompetence to form a binding contract.[41]

The judicial dictum on this absolute disability was established by the Privy Council in Mohori Bibee case in which the court held that a minor's agreement is not simply challengeable but is fundamentally invalid from the outset, and legal doctrines like estoppel cannot override this protective disability.[42] This ruling is the apotheosis of a paternalistic philosophy, designed to protect the minor from exploitation.[43] This ruling completely negates any contractual agency, irrespective of the adolescent's individual maturity or the nature of the transaction. As scholar Avtar Singh critically notes, this rigid protection can sometimes operate to the minor's detriment,

[39] Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Cambridge University Press 1998) 41.
[40] The Indian Majority Act, 1875 (Act 9 of 1875). Section 3.
[41] The Indian Contract Act, 1872 (Act 9 of 1872). Section 11.
[42] *Mohori Bibee and Ors. V. Dharmodas Ghose,* (1903) L.R. 30 I.A.
[43] R.K. Bangia, *Law of Contract* (6th edn, Allahabad Law Agency 2022) 145.

preventing them from engaging in beneficial commercial or artistic ventures that require enforceable agreement.[44]

In criminal law, while JJ Act treats all individuals below eighteen as 'children', its very framework for adjudicating a 'child in conflict with law' presupposes a degree of moral agency. The process of inquiry, the requirement to understand the nature of the offence, and the imposition of rehabilitative measures all implicitly recognise that the adolescent possesses a level of understanding and intention, however nascent. This contradiction becomes even more complex in the context of sexual consent. The newly enacted Bharatiya Nyaya Sanhita (BNS) 2023, retains the age of consent at eighteen under its provision on rape.[45] This formulation constitutes a profound denial of adolescent sexual agency, effectively criminalising consensual romantic relationships between adolescents. This stands in direct conflict with the recommendation of the Justice Verma Committee Report (2013), which, acknowledging the reality of adolescent sexuality, explicitly recommended lowering the age of consent to 16 years to avoid its criminalisation.[46]

A more nuanced, yet equally potent, denial of agency emerges in healthcare law. The Medical Termination of Pregnancy Act, 1971, mandates guardian consent for a minor seeking an abortion.[47] Here, the law actively transfers decision-making power to a parent or guardian. This creates profound injustice when the family is the site of conflict, forcing the adolescent person to seek autonomy over their body and future through a legal process that declares their will void.[48]

The cumulative effect of this disparate legal standard creates a legal subject who is the creation of a fragmented legal subject. The law recognises the adolescent's moral agency sufficiently to hold them culpable for heinous crimes, yet it infantilises them in the commercial sphere and dispossesses them of decisional power over bodies. This

[44] Avtar Singh, *Law of Contract and Specific Relief* (13th end, Eastern Book Publication 2022) 109.
[45] The Bharati Nyaya Sanhita, 2023 (Act No. 45 of 2023). Section 63.
[46] Justice J.S. Verma, Report of the Committee on Amendments to Criminal law (Government of India, 2013) para 44.
[47] The Medical Termination of Pregnancy Act, 1971 (Act No. 34 of 1971). Section 3 (4)(b).
[48] See The Medical Termination of Pregnancy ,1971; Agnes flavia, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 1999) 89.

incoherence stems from the law's reliance on a single, chronological age as a proxy for capacity, applied inflexibly across vastly different contexts that demand nuanced understanding. Thus, the gravitational pull of this 'third body' completes the jurisprudential fragmentation. The adolescent is trapped in a legal triple bind; too vulnerable to consent, mature enough for culpability, and too incompetent for self-governance. This void of agency ensures that across the private, public, and personal spheres, the adolescent is never recognized as a whole person.

D. PART IV: The Gravitational Failure: Law's Classificatory Crisis

The crisis in adolescent jurisprudence arises from a fundamental collision between the law's inherent need for categorical certainty and the non-binary, fluid nature of human development. This conflict is rooted in the legal positivism's insistence on bright-line rules to ensure predictability and administrative convenience. Theorists like H.L.A. Hart would recognise this as the laws's reliance on secondary rules (like age-based definition) to impose order on a complex social fact.[49] However this positivist pursuit of clarity creates a jurisprudential vacuum where the adolescent is defined by arbitrary chronology rather than their actual, evolving moral and cognitive capacity. Statutes like the POCSO Act and the JJ Act creates hermetically sealed legal categories.

POCSO, for instance, constructs a universal "child" incapable of consent, a legislative fiction that ignores the established reality of adolescent development.[50] Max Weber theorised the modern state and its legal system as an entity built on democratic rationality, impersonal rules, procedures, and classification that allow for efficient administration over a vast and diverse population.[51] Bright-lines rules, like a fixed age of majority, are a classic tool of this bureaucracy. They create predictability and attempt to ensure uniform application across a complex society. Fuller argues that a

[49] H.L.A. Hart, *The Concept of Law* (3rd edn, OUP 2012).
[50] Laurence Steinberg, 'Adolescent Development and Juvenile Justice' (2009) Annual Review of Clinical Psychology 459.
[51] Max Weber, *Economy and Society* (Guenther Roth and Claus Wittich trs, University of California Press 1978).

legal system's very purpose is to subject human conduct to the governance of rules and this requires categorisation.[52]

When an adolescent's actions trigger the state's coercive machinery. It is at this juncture that the conflicting legal philosophies violently clash, a utilitarian calculus (Bentham) that would seek the greatest good by assessing individual capacity and circumstance is overridden by a formalistic adherence to the rule (Dworkin), which demands the application of the age-based rule without exception.[53] This reliance on rigid categorisation inevitably leads to injustice when real-life cases do not fit the predefined boxes. Hart posits that it is necessary feature of language and the law that legislators cannot foresee every possible future case. Therefore, the categories they create will inevitably be under-inclusive or over-inclusive.[54] Judges are then forced to make laws when they decide penumbral cases.

The "problem" is not a flaw in a particular system but a structural feature of any legal system that uses general rules. The injustice arises when a specific case doesn't fit neatly into the pre-existing category, but the court must force it into one to resolve the dispute. This is what Minow identifies as the 'dilemma of difference'.[55] The law's inevitable need for the categorisation creates a no-win situation; to recognise difference can stigmatise, but to ignore difference can make the law irrelevant. The harsh and inflexible approach ignores this dilemma and exacerbates injustice. The law should be more reflexive about the categories it uses.[56]

Furthermore, the crisis is exacerbated by a socio-legal context where patriarchal and majoritarian norms influence lawmaking. The law often acts as a guardian of traditional morality, refusing to grant sexual agency to adolescents (particularly girls) for socio-cultural reasons disguised as protection.[57] The state's invocation of parens

[52] Lon L. Fuller, *The Morality of Law* (revised edn, Yale University Press 1969).
[53] See Duncan Kennedy, 'Form and Substance in Private Law Adjudication' (1976) 89(8) Harvard Law Review *1685.*
[54] H.L.A. Hart, *The Concept of Law* (3rd edn, OUP 2012).
[55] Martha Minow, *Making All the Difference: Inclusion, Exclusion and American law* (Cornell University Press 1990).
[56] ibid.
[57] Agnes flavia, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press 1999) 89.

patriae, the sovereign power to act as the ultimate guardian for those unable to protect themselves creates a profound and often violent contradiction when applied to adolescents, transforming the protector into a punisher. The legislative objective of the 'best interest of the child', which dominantly animates statutes like the juvenile justice Act, is systematically shattered by the state's own coercive machinery.[58]

This is because the state operates not with unified benevolent will but through fractured institutional logic. Its protective intent is legislated, while its punitive impulse is operationalized through a criminal justice system designed for retribution and control. For instance, the state under the parens patriae doctrine justifies the POCSO Act, as a shield. But, in practice, its strict liability age-based framework is wielded as a sword to prosecute adolescents for consensual intimacy, thereby pathologizing normative development and inflicting the very trauma the law was designed to prevent.[59]

The doctrine, theorised by philosophers like John Locke as a fiduciary duty to safeguard liberty, is thus inverted into a tool of carceral power, what Michel Foucault might identify as the state's biopolitical management of youthful sexuality.[60] The judiciary, tasked with arbitrating this conflict, often fails to reconcile it. While courts pay lip service to the 'best interest' principle, they frequently defer to the procedural rigor of the penal statutes, as seen in cases where the rigid application of POCSO overrides individual circumstances. Thus, the adolescent is caught in a trap in which state uses its parental authority to impose a protective status that simultaneously incapacitates them and then uses that very incapacitation as the grounds for its punitive intervention, completing a circular and devastating logic of control.

Thus, the three-body problem is not an accident but a direct consequence of the laws' epistemological limitations, its preference for rules over standards, and its failure to

[58] The Juvenile Justice (Care and Protection of Children Act, 2015), Preamble & S. 3(xiv).
[59] *VijayaLakshmi v. State* 2021 SCC OnLine Mad 317. In this court acknowledged this paradox but stopped short of providing a blanket judicial remedy, highlighting the legislative failure.
[60] Michel Foucault, Security, Territory, Population: Lectures at the College de France, (Michel Senellart ed, Palgrave Macmillan, London 2007) 1977.

integrate interdisciplinary knowledge into its framework, resulting in a system that is predictably certain in its application and profoundly uncertain in its justice.

E. PART V: International Law and Evolving Capacity

India's application of adolescent law creates a significant normative tension with the "evolving capacities doctrine central to the United Nations Convention on the Rights of the Child (CRC), 1989. While prioritizing protection, the international legal framework is deliberately constructed to accommodate a child's developing agency. This is evident from the foundational definition of a child in Article 1 of the CRC 1989, which sets eighteen as the benchmark but explicitly allows for the recognition of majority 'earlier under national law', a flexibility echoed in the other international instruments.[61] Crucially, the principle of evolving capacities, moves beyond a simple binary. It recognises that as children grow older, their capacity for autonomous decision-making gradually increases, necessitating a corresponding reduction in protective guidance.

The UN Committee on the Rights of the Child has provided explicit instructions on this point, directly advising States to 'balance protection and evolving capacities and avoid criminalising adolescents of similar age for factually consensual and non-exploitative sexual activity'.[62] India's rigid criminalisation under POCSO, which attributes the same legal incapacity to a 17-year-old as to a young child, stands in direct contradiction to this guidance. By failing to calibrate legal responsibility to the adolescent's developing autonomy, the law effectively 'ignores adolescents' evolving maturity'. This blanket approach further contravenes the core juvenile justice principle, reinforced in General comment of the UN Committee on the rights of the Child, that judicial intervention and contact with the justice system must be 'a measure of last resort'.[63]

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[61] Rachel Hodgkin & Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child* (UICEF, 2007). Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 1.

[62] UN Committee on the Rights of the Child, 'General Comment No. 20 on the implementation of the rights of the Child during Adolescence' (CRC/C/GC/20, 2016) para 40.

[63] UN Committee on the Rights of the Child, 'General Comment No. 24 on children's rights in the child justice system' (CRC/C/GC/ 24, 2019).

When the law automatically criminalises normative, non-exploitative behaviour between adolescents, it perverts the justice system's purpose, transforming it from a protective measure of last resort into the primary and punitive instrument of state intervention. In doing so, India violates the very spirit of the international child rights instruments it has committed to uphold.

VI. SUGGESTIONS AND RECOMMENDATIONS

A. Resolving the Consent Paradox: Reforming POCSO

1. Parliament must immediately introduce a "close-in-age" exception and Romeo- Juliet clause within the POCSO Act, decriminalising consensual sexual activity between adolescents where the age difference does not exceed two years.
2. The age of consent under Section 63 of the Bharati Nyaya Sanhita, 2023 must be lowered to sixteen years, implementing the Justice Verma Committee's decade-old recommendation and aligning criminal law with the developmental reality that sixteen-year-old possess sufficient maturity for sexual agencies.
3. The law Commission's 283rd Report recommendation to enhance judicial discretion must be adopted to deal with close-in- age cases.
4. The prosecutorial guidelines requiring mandatory inquiry into the nature of the relationship, mandating closure of cases involving genuine consensual peer relationships at the investigation stage under supervision of Judicial Magistrate at the investigation stage itself shall be framed.

B. Recalibrating Culpability: Contextualising Criminal Responsibility

1. Preliminary Assessment under Section 15 of JJ Act to be conducted by multidisciplinary committees comprising child psychologists, mental health professionals, and developmental experts, recognising that judicial officers alone lack the specialised expertise to evaluate adolescent capacity.
2. A Statutory presumption must be established that adolescents aged below 18 years are amenable to rehabilitation within the juvenile justice framework, placing the burden on the prosecution to rebut this

presumption with expert evidence rather than on the child to prove amenability.

C. Bridging the agency void: Harmonising Personal Autonomy

1. A uniform standard for adolescent decision-making capacity across all domains.
2. Mature minor doctrine must be adopted in personal autonomy cases and it should be effectively implemented.

D. Instituionalising the evolving Capacity Principle

1. All legislation affecting adolescents must include an "evolving capacity" clause requiring courts and implementing authorities to assess the individual child's maturity and understanding rather than mechanically applying chronological thresholds.
2. The National Commission for Protection of Child Rights must be mandated to conduct periodic audits of the application of age-based laws.

E. Towards a Coherent Jurisprudential Framework

1. The legal system must abandon the fiction of unitary legal person and principle of evolving capacities be adopted as justiciable standard rather than mere interpretative aid.
2. The doctrine of parens patriae must be judicially reimagined and the best principle must be reinterpreted to include the child's interest in developing autonomy and exercising agency, moving beyond the current paradigm that equates best interests with protective incapacitation.
3. All recommendations contained herein must be considered not as isolated reforms but as interconnected elements of a comprehensive strategy to resolve the classificatory crisis, recognising that piecemeal amendments to individual statutes will perpetuate rather than resolve three-body problem

VII. CONCLUSION

The tripartite fragmentation of the adolescent subject ensures that any legal intervention is inherently unstable and unjust. The application of one rule inevitably

negates the foundational logic of the others. This internal conflict is compounded by the rules of interpretation themselves. A literal reading of POCSO Act to punish consensual act ignores the mischief of failing to protect adolescents from themselves, while a rehabilitative reading of the JJ Act is undermined by the retributive impulse to 'fix' the culpable offender. Consequently, the law does not merely fail to achieve a just order; it actively manufactures a state of perpetual juridical exception. In this vacuum, the adolescent's rights and responsibilities shift unpredictably, dictated solely by which facet of the legal trichotomy the state chooses to activate.

This interpretation crisis is starkly illustrated by the judiciary's dilemma in navigating these contradictions. The landmark case of Ms, Eera through Dr. Manjula Krippendorf v. State (Govt. of NCT of Delhi) exposed the limits of protective legislation. The Supreme Court's refusal to interpret "child" under section 2(1) (d) of the Protection of Children from sexual offences Act, 2012 (POCSO Act) to include mental age, in addition to chronological age.[64] The appellant, a 38 years old woman with cerebral palsy and a mental age of 6-8 years, sought the protections of the POCSO Act, arguing that a purposive interpretation aligned with the legislation's objective to safeguard vulnerable individuals from sexual abuse.

The Supreme Court, however, declined to expand the definition, emphasising that the statutory language (any person below the age of eighteen years) was unambiguous and confined to biological age. The Court cautioned against judicial overreach, noting that importing 'mental age' into the definition would "encroach upon the legislative function" and introduce ambiguity, thereby violating the principle of separation of powers. This case underscores a critical tension in adolescent law where protective legislation falls short of addressing the realities of mental and developmental disabilities, the judiciary faces a crisis of interpretation between adopting a compassionate, purposive approach and adhering to textual fidelity. The Court's restraint here highlights the limits of judicial innovation in the face of clear legislative intent, even when such intent may leave vulnerable groups without adequate protection.

[64] Ms. *Eera through Dr, Manjula Krippendorf v. State (Govt. of NCT of Delhi)*, (2017) 15 SCC 133.

The biosocial reality of adolescence which is a process of mutual constitution between biological and social forces stands in direct opposition to the Indian legal system's reliance on a rigid binary, creating the foundational dissonance of the adolescent problem.[65] The Supreme Court's recent invocation of Article 142 in K. Kirubakaran v. State of Tamil Nadu, serves a definitive judicial admission of the law's failure to coherently address adolescent reality.[66] In quashing a POCSO conviction based on the subsequent marriage and settled family life of the victim and the accused, the court explicitly prioritized 'a balance approach combining practicality and empathy' over the statute's rigid, punitive mandate. This ruling is the ultimate synthesis of the adolescent problem. It grapples with the culpability of the accused for a 'heinous offence', the validity of the victim's present consent as a wife, and the recognition of her agency in choosing her family life.

The Court acknowledged that the black-letter law, which froze her as a perpetual victim, was incompatible with her lived reality. Despite its relevance, the ruling was issued with the express caveat that it carried no precedential value. The inherent contradictions of adolescent legal status are thrown into sharp relief by contemporary challenges such as the scrutiny of POCSO's gendered language. The Supreme Court recent scrutiny of the POCSO's Act gendered language to consider the prosecution of female perpetrator exemplifies a system at war with its own categories.[67] The judiciary itself is trapped in this triple blind and is forced to oscillate between two impossible poles; the textual fidelity that creates injustice and the extraordinary constitutional power that admits the law's failure.

Neither path offers a coherent principle, they merely represent different forms of navigating a broken system. This demonstrates that until the law evolves beyond binary view and adopts functional approach to capacity, its quest to balance protection with the recognition of evolving agencies will remain paradox. The three-body problem of consent, culpability, and the agency will continue to destabilise any

[65] Kathleen Mullan Harris & Thomas W. McDade, 'The Biosocial Approach to Human Development, Behavior, and Health Across the Life Course' (2018) 4(4) The Russell Sage Foundation Journal of the Social Sciences 2-26.
[66] *K. Kirubakaran v. State of Tamil Nadu*, (2025 INSC 1272).
[67] *Archana Patil v. State of Karnataka*, Petition for Special Leave to Appeal (Crl.) No. 15777/2025

prospect of justice, ensuring that the adolescent remains a legal paradox- a person defined not by their capacity, but by the law's contradiction. A coherent jurisprudence requires moving beyond this rigid paternalism towards a functional, context-sensitive assessment of capacity that respects the evolving autonomy of adolescents, fostering their development into full rights-bearing citizens.

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