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Gender-Based Distinctions in Indian Sexual Offence Laws: A Comparative Analysis of the Protection of Children from Sexual Offences Act, 2012 and the Bharatiya Nyaya Sanhita, 2023

Amit Pruthi[1], Dr. Dev Parbhakar[2]

[1]LL.M. Student, University Institute of Legal Studies, Chandigarh University, Mohali, Punjab, India.
[2]Assistant Professor, University Institute of Legal Studies, Chandigarh University, Mohali, Punjab, India.

Abstract

India's sexual offence legislation has a broadly gender-neutral approach to sexual offences against children and also reserves a number of the key sexual offences of adults for women as victims and men as perpetrators. However, the distinction turns out to have a legal implication once men and transgender people reach adulthood as the Bharatiya Nyaya Sanhita, 2023 does not have a general offence corresponding to the one Section 377 of the Indian Penal Code, 1860, used to have. This study focuses on the statutory norms, procedural safeguards, constitutional support and judicial reading of the Protection of Children from Sexual Offences Act, 2012 and Bharatiya Nyaya Sanhita, 2023. The study used a doctrinal and analytical approach and performed a secondary analysis of official crime statistics and institutional reports. The analysis concludes that gender-neutral child protection and gender-responsive safeguarding are not mutually exclusive, and that the current adult offence system does not have an even approach to recognising victims. The cases of female offender liability, adolescent privacy and electronic child sexual abuse material reveal the potential and limits of judicial interpretation. Registered crime data provide information about recorded cases but do not reveal prevalence. The research calls for an inclusive understanding of serious non-consensual sexual penetration, ongoing child-specific protection, well-thought-out response to close-in-age sex and a more robust survivor-focused process. This kind of reform can maintain the protection of women against sexual violence while reducing the fragmentation of the protection by age and gender.

Keywords: Gender neutrality; Sexual offences; Child protection; Constitutional equality; Bodily autonomy

1. INTRODUCTION

In the modern Indian constitution, the right to sexual autonomy and body integrity is at the centre stage. But criminal law has traditionally distinguished between two types of genders, that of victims and that of

perpetrators.[1] The Protection of Children from Sexual Offences Act, 2012, has addressed child sexual exploitation by introducing an age-based definition of protection, specific offences and child sensitive adjudicatory provisions. The Bharatiya Nyaya Sanhita, 2023, which came into effect on 1 July 2024, continued to reflect the traditional definition of rape between a male offender and a female victim. Such a co-existence brings a unique legal transition, where someone who was protected regardless of gender as a child might find they are faced with a materially more limited offence framework as an adult.

Formal equality and protective classifications are not necessarily mutually exclusive and the statutory difference cannot be analysed in this way.[2] There are ingrained forms of sexual violence against women, as well as special provisions for women and children in Article 15(3) of the Constitution. Meanwhile, constitutional case law concerning gender identity, privacy and dignity, acknowledges non-binary interests. Male and transgender survivors can be subjected to equally severe infringement of body autonomy, and girls and boys in close-in-age adolescent relationships can be impacted by an absolute statutory age difference. It is therefore a question of a justified scope of differentiation not whether all persons always need identical procedural arrangements.

The present study considers the text and relationship of both enactments, courts' interpretation and selected institutional and statistical evidence. It makes a distinction between the sex of a protected complainant and the sex of an alleged offender, as these two factors cannot be combined into one claim of gender-neutrality. There is a special focus on penetrative assault, sexual harassment, reporting requirements, judicial protections, Section 377 of the Indian Penal Code and the issue of age of consent. The rationale is that gender-neutral substantive protections can 'live' alongside and complement targeted protections, but that reform needs to be exact, constitutionally principled and sensitive to practical access to justice.

2. CONSTITUTIONAL AND STATUTORY ARCHITECTURE

There is more than just a difference in drafting and drafting style between the age-based protection and gender-based adult offences. It relates to the definition of what constitutes legally recognised harm, who can be a complainant and why, who is an accused, punishment and the existence of specialised procedures. The interpretation of legislation must therefore start from the elements of the offence and not with the general terminology of neutrality.[3]

2.1 Constitutional Principles and Protective Classification

The Constitution of India provides the right to equality before the law and equal protection of the laws under Article 14, forbids certain types of discrimination under Article 15, and allows special provisions for women and children under Article 15(3). Article 21 guarantees the right to life and personal freedom which forms the basis of dignity and bodily autonomy.[4] Historical trends of sexual crimes and the law's purpose of substantive protection can be used as an argument to defend a gender-specific offence. That is not, however, a logical defence to show that sexual invasion of an excluded adult has no comparable bodily interest.

[1]Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* 1 (Oxford University Press, New Delhi, 1st edn., 2001).
[2]Ratna Kapur and Brenda Cossman, *Subversive Sites: Feminist Engagements with Law in India* 175 (Sage Publications, New Delhi, 1st edn., 1996).
[3]Law Commission of India, "Age of Consent under the Protection of Children from Sexual Offences Act, 2012 (Report No. 283)" 20 (September, 2023).
[4]The Constitution of India, arts. 14, 15, 15(3), 21.

2.2 Child Definition, Victim Neutrality and Offender Liability

As per the definition in the Protection of Children from Sexual Offences Act, 2012, Section 2(1)(d), a child is a person under 18 years of age. Sexual assault is outlined in Sections 3 and 5 (penetrative and aggravated penetrative), Sections 7 and 9 (sexual and aggravated sexual assault), and Sections 11 and 12 (sexual harassment). The wording of the statutory text covers both boys and girls and its structure will help in the prosecution of offenders without reference to their sex. There are reporting requirements in both Section 19 and Section 21.[5]

2.3 Gender-Specific Adult Offences and their Limits

Rape is defined in the Bharatiya Nyaya Sanhita, 2023, under Section 63 which deals with the definition of rape and Section 64 and other parts of that Section deal with punishment. In Section 75, too, sexual harassment involves a man, and the voyeurism and stalking and insulting modesty Sections target women. In addition, under Sections 95 to 99 of the statute, there are child-related offences, which should never be mistaken for the lack of a general adult offence of rape, regardless of gender.[6]

The legal character of Section 63 is particularly important. Where the statutory offence includes a particular category of complainant, as is the case with "a woman" in this instance, the general principle that masculine pronouns also refer to women etc. cannot be read into the statutes. Simultaneously, it would be misleading to say that an adult outside the category is totally devoid of any potential criminal-law protection. Criminal offences relating to hurt, criminal force, wrongful confinement or trafficking might be relevant to specific facts.

2.4 Multi-Attribute Statutory Comparison

Table 1 identifies which differences actually are legally operative. The comparison itself is not between a completely non-discriminatory statute and a completely discriminatory statute, but between two schemes of organising classifications and specialised protections. Its significance can be seen particularly at the age of 18, when the child-specific framework is no longer applicable.

Criterion	Protection of Children from Sexual Offences Act, 2012	Bharatiya Nyaya Sanhita, 2023
Primary organising category	Age below eighteen years	Specific offence categories; rape centred on a woman
Victims of penetrative offence	Every child, irrespective of sex or gender	Woman under Section 63
Gender of person committing offence	Not confined to males under Section 3	Man under Section 63; varying wording in other provisions
Sexual harassment	Sections 11–12, child-specific	Section 75, framed around male perpetrator
Online child sexual abuse material	Sections 13–15	Other potentially applicable criminal provisions
Victim-sensitive mechanisms	Special Courts, child testimony and reporting rules	General criminal procedure and applicable safeguards

[5]The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012), ss. 2(1)(d), 3, 5, 7, 9, 11, 12, 19, 21.
[6]The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), ss. 63, 64, 75, 77–79, 95–99.

Criterion	Protection of Children from Sexual Offences Act, 2012	Bharatiya Nyaya Sanhita, 2023
Legal transition at eighteen	Child-specific scheme ends	Relevant adult offences must independently be established

Table 1: Comparative Elements of the Two Statutory Sexual Offence Frameworks

A comparison is also made to illustrate why merely the transposition of the child protection model to the realm of adult criminal law would be incomplete. Special procedures and welfare presumptions are applicable to children, while adult consent and capacity call for distinct treatment. Gender-neutral recognition of 'adult victims' can, therefore, be considered without doing away with child protection and dedicated safeguards for women.[7]

3. JUDICIAL INTERPRETATION AND DOCTRINAL DEVELOPMENT

Judicial decisions provide a light on three interrelated dimensions of the statutory difference: The rights to which the Constitution refers when using the term 'body', the meaning of child sexual offences, and the zone in which courts acknowledge the constraints of interpretation. Important cases decided under earlier enactments remain important if they lay down guiding constitutional principles, or explain the evolutionary history of the current laws.[8]

3.1 Gender Identity, Dignity and Decisional Autonomy

In *National Legal Services Authority v. Union of India*[9], the Supreme Court included transgender identity as part of the meaning of Constitutional dignity and equality. The judgment offers a constitutional foundation for not allowing gender categories to be an exhaustive list of those deserving of protection. However, the attribution of legal personality does not, on its own, supply the elements of a criminal offence.

The privacy judgment in *Justice K. S. Puttaswamy (Retd.) v. Union of India*[10] affirmed that bodily integrity, decisional autonomy and intimate choice was part of the constitutional right to privacy. Even if that decision did not include a definition of rape that does not depend upon the gender of the victim, the thinking behind it highlights the need to recognise the violation of sexual autonomy, regardless of the identity of the victim.

The Supreme Court of India in *Navtej Singh Johar v. Union of India*[11] ruled that Section 377 of the Indian Penal Code cannot be applied to consensual adult same-sex intimacy. The decision expressly retained the relevance of non-consensual acts, acts relating to minors and bestiality under the provision which was in force at the time. That was a crucial distinction when the replacement criminal code failed to include an equivalent general offence: decriminalising consensual intimacy is doctrinally different from withdrawing an offence for serious non-consensual penetration.

3.2 The Protection of Minor Girls and Child-Centred Interpretation

In *Independent Thought v. Union of India*[12], the Supreme Court read down the marital rape exception under the old Indian Penal Code that omitted sexual intercourse with a wife between 15-18 years of age. That interpretation held that a marriage-based reduction of the minimum protective age was not compatible

[7]Asha Bajpai, *Child Rights in India: Law, Policy, and Practice* 359 (Oxford University Press, New Delhi, 3rd edn., 2017).
[8]Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* 1 (Oxford University Press, New Delhi, 1st edn., 2013).
[9] (2014) 5 SCC 438.
[10] (2017) 10 SCC 1.
[11] (2018) 10 SCC 1.
[12] (2017) 10 SCC 800.

with child protection and the constitutional obligations. The current exception in the legislation is to wives not under 18, but the general issue of non-consensual sexual intercourse in an adult marriage is not easily addressed by the child protection determination only.

In *Sakshi v. Union of India*[13] the Supreme Court highlighted the plight of children faced with sexual offences and the need for procedural safeguards for children giving evidence. The value of this approach is that it is a recognition of the fact that the formal definition of an offence is only one aspect of the right to access justice.

The Supreme Court in *Attorney General for India v. Satish*[14] had earlier refused to interpret the word 'assault' narrowly to mean a 'skin-to-skin' contact with the child for the sexual assault to be deemed to have occurred under the child protection law. The statutory language and protective object was used to create a purposive construction to avoid any artificial gap in coverage.

3.3 Female Perpetrators, Survivor Identity and Evidence

In the case of *Sundari Gautam v. State (National Capital Territory of Delhi)*[15], the Delhi High Court examined if a woman can be held liable for aggravated penetrative sexual assault of a child. Reading Section 3 in context, it did not hold the use of the word “he” to limit the provision to offenders who were male. This decision is important because it clarifies offender liability under child protection laws - which are clearly gender-neutral - and with the more precise structure of the adult rape offence that is specifically directed at the male offender.

The Supreme Court, in *Nipun Saxena v. Union of India*[16], judicially examined the issues of confidentiality and limitation on disclosure of victims in sexual offence cases, including those of children. The ruling is a good example of how safeguarding responses need to be based on the survivor's safety, dignity and participation and not on publicity or assumed victim credibilities.

3.4 Digital Abuse, Adolescents and the Limits of Judicial Change

In *Just Rights for Children Alliance v. S. Harish*[17], the Supreme Court studied the possession, storage and other activity with child sexual abuse material as per Section 15 of the child protection law and under the information-technology law. Its interpretation acknowledged and accepted the unique harm inflicted by circulation and exploitation in the digital domain. Protection needs to adjust to modern forms of abuse and not be based on the assumption that all sexual abuse is of a contemporaneous physical nature.

In *In Re: Right to Privacy of Adolescents*[18], the Supreme Court had occasion to consider a case involving a child and highlighted the statutory and child-rights aspects of adjudication. When the courts are faced with adolescent relationships they must distinguish between what the law provides and what remains contested.

In *State of Uttar Pradesh v. Anurudh*[19], the Supreme Court examined age determination in child sexual offence cases and discussed concerns about the application of the law to adolescent relationships. The judgment did not create a close-in-age exception.

[13] (2004) 5 SCC 518.
[14] [2021] 10 SCR 955.
[15] 2024 SCC OnLine Del 5412.
[16] (2019) 2 SCC 703.
[17] 2024 INSC 716.
[18] 2024 INSC 614.
[19] 2026 INSC 47.

4. RECORDED CRIME PATTERNS AND THE LIMITS OF QUANTITATIVE EVIDENCE

Official crime statistics are essential to assessing workload and the extent to which sexual violence is known to institutions, but are not a way of estimating the total number of offences committed.[20] Recorded totals are affected by registration practices, reporting confidence, policing and classification, and supportive services. Additionally, figures should differentiate single victims, and police cases.

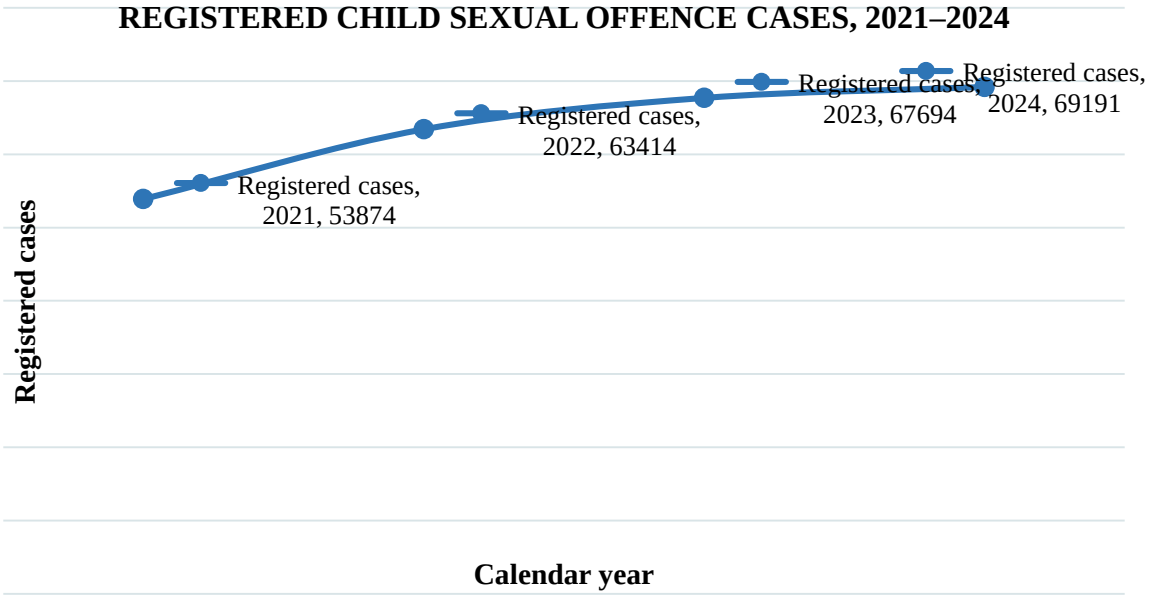
4.1 Registered Child Sexual Offence Cases, 2021–2024

Table 2 shows the number of cases under the Protection of Children from Sexual Offences Act over a four-year period at the national level, and also the number of crimes committed against children. The total figures for child-crime cases have increased over the series, as have the number of recorded cases, although the proportion of recorded cases in the total has varied.

Calendar year	Registered child sexual offence cases	All crimes against children	Share of child-crime cases
2021	53,874	149,404	36.1%
2022	63,414	162,449	39.0%
2023	67,694	177,335	38.2%
2024	69,191	187,702	36.9%

Table 2: National Registered Cases under the Child Sexual Offence Statute, 2021–2024

The published data are based on the NCRB report[21] and Parliament's disclosure of the NCRB's earlier series.[22] The comparison is for registered cases only; not a panel of identical victims nor a population survey. When there are more cases reported in the country this may be as a result of a change in the nature of the cases being reported, policing practices, willingness to report or a combination of these.



[20]Rajeev Seth and R.N. Srivastava, "Child Sexual Abuse: Management and Prevention, and Protection of Children from Sexual Offences (POCSO) Act", 54 *Indian Pediatrics* 949 (2017).
[21]National Crime Records Bureau, *"Crime in India 2024"* 433 (2026).
[22]Ministry of Home Affairs, "Crimes against Women and Children: Rajya Sabha Unstarred Question No. 390, Annexure II" 4 (December, 2025).

Figure 1: Registered Child Sexual Offence Cases in India, 2021–2024

The focus of Figure 1 is on the progressive rise in the number of registered cases over the four years. From 2021 to 2024, the recorded count rose from 53,874 to 69,191. A corresponding increase in child sexual abuse cannot be attributed to a direct increase in the direction of the line, which represents administrative registration only.

4.2 Age and Gender of Victims of Penetrative Sexual Assault

When it comes to disaggregated data, there are clear differences in the numbers recorded for girls and boys. Table 3 does not include all incidents under the child protection legislation (Section 4 and Section 6) but only those that resulted in a victim being recorded. This smaller denominator is required because of the need to prevent mixing legally separate types of offences.

Age of child	Boys	Girls	Transgender children	Total victims
Below six years	43	788	0	831
Six to below twelve years	351	3,087	0	3,438
Twelve to below sixteen years	369	16,432	0	16,801
Sixteen to below eighteen years	129	23,368	0	23,497
Total	892	43,675	0	44,567

Table 3: Age- and Gender-Recorded Victims under Sections 4 and 6, 2024

In the specified category, 43,675 of 44,567 victims were girls and 892 were boys. The absence of this category for transgender children does not reflect the absence of victimisation of transgender children but rather is a statistical category recorded in the survey. These figures alone do not give any indication of the actual extent of the population prevalence due to different disclosure, categorisation and access to authorities.[23]

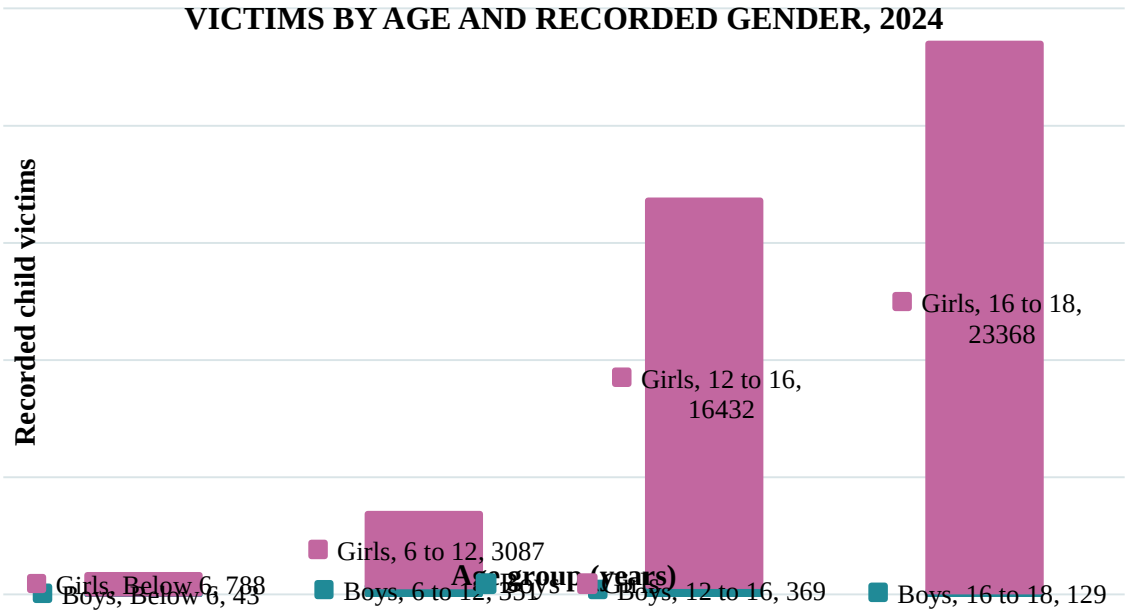


Figure 2: Recorded Victims of Penetrative Sexual Assault by Age and Gender, 2024

[23]National Crime Records Bureau, *"Crime in India 2024"* 475 (2026).

Figure 2 shows age and gender, to prevent the overall national figure from 'masking' differences in age and gender. These older adolescent ranges should be viewed with caution as a number of prosecutions may have been for a consensual encounter.[24] The recorded categories cannot recognise coercion or consent separately.

4.3 Institutional Meaning of the Statistical Record

The two sets of data have different analysis applications. Case counts reflect the number of cases on police registers under a given law and the counts of victims are the number of people recorded on police registers under a given offence provision. However, neither source gives any indication of the number of unreported incidents, nor does the gender of the recorded incidents necessarily correspond to adult rape offences.

5. CRITICAL ANALYSIS

Arguments for universal protection must be distinguished from objections to special protection in a coherent legal assessment.[25] It must also consider the institutional implications of reform, because the recognition of an offence and its successful resolution through a complaint are two aspects of criminal justice. The greatest challenges lie in the areas of adult transition and with the interplay of consent, gender and procedure.

5.1 The Protection Cliff at Eighteen Years

The switch from the child-specific law to the general criminal code results in a 'discontinuity' in the way the same sexual invasion is (legally) named. A male child or transgender child can assert the specific protection afforded by the penetrative sexual assault provisions prior to age 18. Once 18, Section 63 does not provide a general rape charge for each adult survivor.[26] Other general offences also might deal with specific aspects; those provisions, however, do not necessarily apply to the same elements, carry the same stigma, receive the same procedural support or have the same sentencing consequences, etc.

The age-based transition at which the special child-protection framework stops applying is presented in Figure 3. It does not mean that the general criminal law no longer applies to adult survivors; it only reflects the statutory change. The distinction helps explain the reason for the offence-specific eligibility (rather than age) for criminal charge post-adulthood.



Figure 3: Transition between Child-Specific and Adult Sexual Offence Protection

[24]Dipika Jain and Anubha Rastogi, "Adolescent Abortions in the Covid-19 Landscape: Exposing the Legal Achilles' Heel", 9 *Indian Journal of Medical Ethics* 48 (2024).
[25]Preeti Pratishruti Dash, "Feminism and Its Discontents: Punishing Sexual Violence in India", 28 *Indian Journal of Gender Studies* 7 (2021).
[26]The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 63.

5.2 Substantive Equality and Gender-Responsive Protection

The substantive equality of Article 15(3) does not equate with social indifference, and allows for special provisions for women and children.[27] A constitutional argument for gender-neutral coverage of sexual violence need not ignore the prevalence and historical nature of sexual violence against women. There is no need to choose between a general adult offence of non-consensual penetration and specialised facilities and measures responsive to vulnerability; women-specific provision for protection against coercion can stand alongside a general adult offence. The actual drafting problem is how to gain entry without losing the offence elements and protections against misuse and proportional punishment.

5.3 Transgender Survivors and Non-Equivalent Remedies

The Transgender Persons (Protection of Rights) Act, 2019 - Section 18(d) makes it an offence to discriminate and lays down provisions on sexual abuse. Although there is evidence of its existence, it does not constitute parity with the more elaborate rape provisions in the Bharatiya Nyaya Sanhita. The question is whether the different definitional coverage, and sentencing consequences, are providing effective equal protection. Analysis should also not presume one experience or legal identity for all transgender individuals.[28]

5.4 Adolescent Consent and Proportional Criminalisation

The age limit shields children from being exploited, such as via power imbalances, coercion or manipulation. However, a simple age-based definition can result in close-in-age relationships becoming part of the same formal offence category as predatory abuse. A completely automatic relaxation could allow exploitation or support family pressure and full inflexibility could lead to disproportionate effects in real adolescent relationships. The Supreme Court's recent discussion in the *Anurudh* case and the Law Commission's proposal for guided sentencing suggest different avenues for legislative scrutiny.[29]

5.5 Reporting Duties, Privacy and Secondary Victimisation

The child protection scheme is based on mandatory reporting to interrupt abuse and trigger state responsibilities. Its impact can be complicated, however, when an adolescent seeks confidential medical attention or counselling; or if criminal charges are likely to be brought against a person close-in-age.[30] A survivor-centred framework should make clear referral pathways, psychological support and safe disclosure processes accessible to survivors. A survivor-centred framework should not provide an opportunity for informal settlements to replace investigation of serious abuse.

5.6 Overlap, Proof and Non-Discriminatory Administration

The supplementary role of the child protection legislation is maintained by Section 42A, which addresses the Act's application in cases of inconsistency.[31] Therefore charge selection must be carefully considered, and double punishment and use of provisions of the general criminal code must be avoided, along with transparency towards the victims in accordance with current principles. Criminal-law safeguards and the requirements of procedural fairness apply to proof. Presumption of innocence is consistent with gender-neutrality in the recognition of victims and with the duty to prove the elements of an offence.

[27]Nivedita Menon, *Seeing like a Feminist* 91 (Zubaan and Penguin Books, New Delhi, 1st edn., 2012).
[28]The Transgender Persons (Protection of Rights) Act, 2019 (Act 40 of 2019), ss. 3, 18(d).
[29]Law Commission of India, "Age of Consent under the Protection of Children from Sexual Offences Act, 2012 (Report No. 283)" 116 (September, 2023).
[30]Nanditta Batra, "Navigating the Conundrum of Mandatory Reporting under the POCSO Act: Implications for Medical Professionals", 9 *Indian Journal of Medical Ethics* 58 (2024).
[31]The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012), s. 42A.

6. FINDINGS

The comparative assessment establishes the following statutory, constitutional and institutional conclusions.

1. **Age-Based Neutrality:** Child protection legislation is based on an age limit and not the sex of the victim. It provides for the prosecution of sexual assault of children, irrespective of the gender of the child, in its main sexual assault provisions.
2. **Express Adult Rape Classification:** Section 63 of the Bharatiya Nyaya Sanhita specifies a man as perpetrator and a woman as a victim. It is not a rape clause for all people, it is not a general gender-neutral rape clause.
3. **Discontinuous Protection After Eighteen:** However, when the child-specific eligibility ends, it results in a more limited express penetrative-sexual-offence framework for some adult survivors. It is not always the case that the elements of rape are duplicated in general criminal offences.
4. **Female Perpetrator Liability:** A woman can be held liable under the child protection legislation due to judicial interpretation of Section 3 of the law. This interpretation is based on the language of that statute, and cannot simply rewrite the definition of rape itself.
5. **Constitutional Recognition Without Automatic Criminalisation:** Gender identity, privacy and dignity cases delineate general constitutional interests. Those decisions do not in themselves provide elements of the offence missing from the statute.
6. **Adolescent Consent Tension:** Close in age prosecutions are problematic with the absolute age limit which is to protect minors. Calibrated legal responses are preferred to an unrestricted consent exemption as part of institutional proposals.
7. **Gender-Differentiated Recorded Victim Counts:** Figures for penetrative child sexual assault for 2024 show a preponderance of girls and also show boys. This does not override the statutory right for all children to be protected.
8. **Limits of Police Statistics:** The number of registered child sexual offence cases rose from 2021 to 2024. The data from administrative reports cannot be used separately to determine the actual changes in prevalence or the effectiveness of each enactment as a causal mechanism.

7. CONCLUSION

The comparison reveals that there are two different strands for defining sexual offence protection which India has followed. One is mainly age-based, and provides a genderless substantive right for children with age-specific procedures. The other contains gender-specific descriptions of a number of adult offences. While both have clear legal aims, the latter leaves a significant under-inclusion issue for those who may be the victims of serious, non-consensual sexual invasions who do not fall within the enumerated victim classes.

The answer is not to restrict safeguards for women and children, either. Instead, dignity and equal protection would suggest that equivalent forms of bodily harm are seen and that differentiated services and procedures are permitted where there is evidence of particular vulnerability. There have been judicial rulings that have enhanced the interpretation of the child protection statute, clarified issues of privacy and gender identity, and uncovered issues with adolescent prosecutions. Their contribution is significant, but their ability to provide offence definitions is very limited. Recorded crime statistics alone evidence the need for competent institutions, but cannot resolve constitutional questions.

A legally coherent response would thus establish a carefully formulated all-inclusive definition of sexual offence on the part of an adult, keep the special protections provided by the child protection statute in place and take care in addressing the adolescent cases using proportional legislative criteria. Improved data collection, forensic services and confidentiality arrangements are also needed. An equality orientated criminal justice system should be capable of acknowledging differential victimisation without minimising serious sexual violence against anyone.

8. SUGGESTIONS

The findings suggest targeted reform of the definition of offence, safeguards, institutional practice and administrative evidence.

1. Enact an Inclusive Adult Penetrative Sexual Offence: Parliament should look at introducing an offence in a very carefully drafted manner that will cover all kinds of non-consensual penetrative acts against every adult regardless of sex or gender. Its elements and relationship with the current offences should be stated explicitly instead of stated in general terms as neutrality.
2. Preserve Women-Specific Protective Measures: The legislative enlargement must explicitly provide for justified protections for women, such as confidentiality, medical aid, and protection from unequal power. There is no need to be uniform in all the supporting services for equality of substantive offence recognition.
3. Maintain the Child Protection Statute as a Special Law: Parliament must keep the special definitions, rules of evidence and the Special Court provisions of the Protection of Children from Sexual Offences Act (POCSO). Any general reform of the adult legislation should not limit the protection afforded to individuals under the age of eighteen.
4. Clarify Offender and Victim Terminology: The Legislative Department may discuss each sexual offence and the unintended restrictions of the use of the terms man, woman and person. Definitions should explicitly make the distinction between the gender of an alleged perpetrator and that of a protected complainant.
5. Introduce Narrow Adolescent Sentencing Safeguards: Parliament should consider guided discretion for true close-in-age cases based on specific age proximity, voluntariness and exploitation criteria. The safeguard should only be applied after taking into account coercion, authority, and the effect of family pressure and unequal developmental position.
6. Establish Standardised Gender-Inclusive Reporting: There is a need for the Ministry of Home Affairs and National Crime Records Bureau to establish a uniform classification of the various sexual offences along sex, gender and age. Public releases need to separate out cases and victims and judicial results, while ensuring that they are private and statistically comparable.
7. Expand Survivor Services Beyond Gender Stereotypes: There should be crisis services, medical examination, and legal assistance available to male and transgender survivors based on the premise that these services are available to women and children. Appropriate referral processes and confidential complaints procedures should be identified in operating procedures.
8. Strengthen Special Court Capacity: High Courts and State governments need to periodically review case pendency in child sexual offences, dedicated judicial staffing and the availability of counsellors. Published performance indicators should differentiate filing, completion of trial, disposition and survivor assistance.

9. Create Digital Abuse Investigation Protocols: The procedures for preserving CSEM and protecting the identity of the child victim(s) should be the same for all police and cybercrime units. Investigative guidance should include the issue of online grooming and measures to prevent the unnecessary sharing of abusive content across platforms.
10. Institutionalise Periodic Legislative Review: The Ministry of Law and Justice should facilitate a planned review of the relationship between the two laws following consultation with survivor groups, child protection experts, gender-diverse groups and the criminal justice system. Recommendations should state their rationale, who is responsible for implementation, and when implementation will be assessed.

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