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Age, Consent and Legal Boundaries: A Cross-National Analysis of Close-in-Age Provisions in Canada and India

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ABSTRACT

This paper compares state-driven protective approaches and adolescent autonomy in regulating sexuality, focusing on close-in-age provisions in Canada and India. It analyzes how each jurisdiction conceptualises consent, balances adolescent agency with child-protection goals, and addresses misuse of statutory-rape laws. Canada's criminal framework adopts a pragmatic model, using "wherein" and close-in-age exceptions that recognise adolescents' evolving capacities while preventing exploitation. In contrast, Indian Criminal Law maintained a rigid regime that criminalises all sexual activity under eighteen, leading to disproportionate consequences, including misuse by families, policing of inter-caste and inter-religious relationships, judicial backlog, and stigma. Drawing on statutory analysis, case law, feminist theory, and international human rights norms, the paper argues that Canada's proportional approach better aligns with the Child Rights Committee's "evolving capacities" doctrine and recommends reforms to introduce close-in-age exceptions and greater judicial discretion in India.

KEYWORDS: Rape, Consent, Statutory rape, Close-in-age, Children.

1. Introduction

The legal regulation of sexual activity occupied a paradoxical position within modern societies. On the one hand, the law sought to protect individuals, particularly minors, from exploitation, coercion, and abuse (Tesfaya, 2017). On the other hand, excessive decriminalisation risked infringing on individual autonomy, stigmatising consensual relationships, and producing unintended social consequences (Chandrashekharan, 2018). Moreover, the regulation of adolescent sexuality, situated at the intersection of protection and independence, was perhaps the most contested aspect of sexual-offence laws across jurisdictions. (Barnhorst, 2020).

Moreover, at the Centre of this debate lies the concept of consent. Consent in legal discourse was not merely an expression of willingness but was bound by conditions of capacity, voluntarism, and understanding (Bala, 2012). While adults were generally presumed to have the capacity to consent, minors were often deemed legally incapable, based on assumptions

about immaturity and susceptibility to influence (Bajpai, 2018). Statutory-rape provisions embodied this presumption, criminalising sexual activity with minors below a prescribed age threshold irrespective of apparent consent.

Additionally, international human rights frameworks further complicated the picture. The Universal Declaration of Human Rights (hereinafter, the UDHR, 1948) proclaimed the right to the liberty and security of a person (United Nations, 1948). The International Covenant on Civil and Political Rights (hereinafter, ICCPR, 1966) obliged states to protect minors from sexual exploitation and, at the same time, safeguard privacy and autonomy (United Nations, 1966). The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) required states to eliminate discrimination and harmful practices affecting women and girls. (United Nations, 1979). Moreover, the United Nations Convention on the Rights of the Child (UNCRC, 1989) emphasised both the protection of children from sexual exploitation and the recognition of their evolving capacities, UN Committee on the Rights of the Child, 2016 (hereinafter, "committee"). This duality posed challenges for national legal systems, as states struggled to balance child protection with the recognition of adolescent autonomy.

Canada and India provided particularly revealing comparative contexts. Canada's legal framework includes close-in-age exceptions, allowing adolescents to exercise autonomy in peer-level relationships while safeguarding them against exploitation (*Criminal Code*, R.S.C. 1985). In contrast, India's Protection of Children from Sexual Offences Act (hereinafter, "Act") criminalises all sexual activity with persons under eighteen, regardless of consent, thereby embodying a more paternalistic model. Furthermore, scholars noted that while the Canadian model reflected proportionality and rights-based jurisprudence, the Indian model has resulted in the over-decriminalisation of consensual adolescent relationships and the misuse of statutory-rape laws for social control. Even the courts have not been behind in being vocal about their misogynistic and conservative approach.

In this backdrop, this paper seeks to compare and contrast these two legal frameworks. It highlights the doctrinal underpinnings of statutory rape and consent provisions in both jurisdictions, explores the implications of decriminalisation, and evaluates the presence or absence of close-in-age exceptions. The analysis demonstrated that while Canada balanced adolescent autonomy with child protection, India's rigid approach reflected a protectionist philosophy that risked undermining proportionality and justice.

2.1 Literature Review

Scholarly engagement with statutory rape and the age of consent law spans feminist theory and child rights discourse, and comparative legal analysis. The following literature review identified three key strands: theoretical debates on consent and autonomy, statutory rape scholarship, and comparative studies.

2.2 Theoretical Debates on Consent and Autonomy

The feminist traditions provided a foundational critique of consent in patriarchal societies. For example, Simone de Beauvoir, in *The Second Sex*, underscored how women's sexuality had historically been regulated through patriarchal structures, often denying them genuine

autonomy (Beauvoir, 2011). Moreover, later feminist theorists, such as Nancy Chodorow (Chodorow, 1978) and Julia Kristeva (Kristeva, 1982), emphasised that women's and girls' identities are shaped within relational dynamics that complicate the notion of free consent. Furthermore, contemporary theorists such as Martha Nussbaum have highlighted a capabilities approach, suggesting that autonomy should not be measured merely by age, but by an individual's ability to make informed choices (Nussbaum, 2000). Applied to adolescence, this framework raised essential questions about whether a blanket presumption of incapacity was justified. Similarly, Carol Gilligan's ethics-of-care perspective suggested that adolescent decision-making often occurs within relational contexts, which the law should consider rather than dismiss (Gilligan, 1982).

2.3 Statutory Rape Scholarship

In Canada, Nicholas Bala argued that statutory law had shifted from a morality-based model to a rights-based one, seeking proportionality in punishment (Bala, 2012). Further, Alex Barnhorst defended the close-in-age exception as an innovative way of balancing protection with autonomy, noting that prosecutions were primarily reserved for exploitative relationships (Barnhorst, 2020). However, in India, scholarship took a more critical tone. For example, Asha Bajpai highlighted how the Act's blanket criminalisation often harmed adolescents rather than protecting them (Bajpai). Arvind Chandrasekhar documents misuse cases where consensual relationships were prosecuted due to parental disapproval and argued that the Act, while well-intentioned, inadvertently reproduces patriarchal control by denying adolescents agency (Chandrasekharan, 2018).

Furthermore, case-law commentary supported these critiques. In Independent Thought v Union of India (2017), the Supreme Court struck down the marital-rape exception for minors but did not question the blanket age threshold, thereby demonstrating judicial reluctance to engage with adolescent autonomy. By contrast, Canadian courts emphasised the ongoing and active nature of consent, aligning with modern understandings of sexual autonomy (R. v. J.A., 2011).

2.4. Comparative International Perspectives

Comparative literature has shown a global trend toward adopting close-in-age provisions. Internationally, the Committee repeatedly emphasised the need to balance protection with recognition of adolescents' evolving capacities. Further, the Committee explicitly called on states to avoid criminalising consensual adolescent sexual activity, noting that such measures undermined both protection and autonomy. In Europe, for example, Germany and the Netherlands permit adolescent consent with peers of a similar age, emphasising the principle of evolving capacities (Roost et al., 2022). Moreover, Fiona Dean's comparative study found that rigid laws often led to over-decriminalisation and misuse, while flexible frameworks promoted proportional justice (Dean, 2019).

This literature revealed apparent gaps, while Canadian law had been analysed in detail, through scholarly literature, few comparative studies juxtaposed it with India's rigid framework. This paper, therefore, filled that gap by offering a doctrinal and sociological comparison of the two jurisdictions, situating them within the broader context of global debates.

3.0 Consent Provisions in Canada and India

3.1 Consent under Canadian Law

Consent, a central concept in Canadian sexual-offence law, has undergone significant doctrinal development. The Criminal Code of Canada (hereinafter "code") sets the general age of consent at sixteen years. However, the law was not rigid as it incorporated close-in-age exceptions that recognised adolescents as sexual beings with evolving capacities. Under these provisions, children aged twelve to thirteen could legally consent to sexual activity provided their partner was less than two years older. The relationship did not involve exploitation, authority, or coercion. Youth aged fourteen to fifteen could consent if their partner were less than five years older, again subject to the same safeguards. The "exploitative relationship" clause excluded consent in situations involving authority, trust, or dependency, thereby ensuring protection against grooming and manipulation (Criminal Code, R.S.C. 1985).

Canadian courts further reinforced the importance of meaningful, ongoing consent. The Court clarified that consent could not be implied; it must be explicitly given (R v Ewanchuk, 1999). Similarly, in another case, the Supreme Court ruled that consent had to be active, contemporaneous, and ongoing, rejecting claims of "advance consent" (*R v J.A.*,2011). Similarly, these judicial developments, combined with legislative provisions, demonstrated Canada's rights-based approach: the state recognised adolescent autonomy within reasonable boundaries, distinguishing peer intimacy from exploitative adult–minor relationships. The Court emphasised that purportedly consensual adolescent activity did not protect adults if the circumstances were exploitative (R v Barabash, 2015).

Thus, legal scholarship, notably by authors, documented that girls aged 15 to 17 faced elevated risks of harm, supporting Canada's harm-reduction rationale for strong youth protections and structured mistake-of-age limits (Grant & Benedet, 2019).

3.2 Consent under Indian Law

India adopted a fundamentally different stance. Section 69 of the Bhartiya Nayay Sanhita (hereinafter "BNS") defined rape and explicitly provided that sexual intercourse with a girl under eighteen years constituted rape, irrespective of consent (Indian Penal Code, 1860), as amended in 2013. The act reinforced this threshold by criminalising all sexual activity involving persons below eighteen.

Notably, key features of India's framework included an absolute presumption against consent—any sexual act involving persons under eighteen was deemed non-consensual, regardless of factual circumstances; the absence of a close-in-age exception, indicated that even a seventeen-year-old girl and her seventeen-year-old boyfriend were treated within the framework of statuary rape under BNS and POCSO; and mandatory reporting obligations under section 19 of Act, which further limited the possibility of discretion.

However, the Indian Supreme Court took a progressive step by holding that sexual intercourse with a wife under eighteen years amounted to rape, thereby striking down the marital-rape exception for minors. However, it upheld the general threshold of eighteen, leaving adolescent autonomy unaddressed. (Independent Thought v. Union of India, 2017) Judicial outcomes continued to demonstrate the law's rigidity. Also, the Court convicted a nineteen-year-old for a consensual relationship with a seventeen-year-old girl, highlighting the absence of judicial

flexibility (State of Madhya Pradesh v. Anoop, 2015). Similarly, numerous High Court decisions lamented the decriminalisation of consensual adolescent relationships, but judges remained bound by statutory language.

Unlike Canada, India did not provide for any peer-consent allowance. Thus, even consensual relationships between two seventeen-year-olds fell within the scope of statutory rape. This rigid framework produced several consequences. First, it resulted in the decriminalisation of peer intimacy, as adolescents in consensual relationships faced prosecution. Second, judicial constraints prevented courts from exercising discretion, compelling conviction even where consent was evident, as in the above case. Third, the law was subject to social misuse, with parents frequently invoking Act to oppose inter-caste or inter-religious relationships, thereby weaponising statutory-rape provisions as a tool of social control (Roost et al., 2022).

The BNS, which replaced the Indian Penal Code, 1860, largely retained the substance of rape provisions but provided a more structured definition of consent. Section 63 of the BNS defined rape and, like its preceding version, explicitly stated that sexual intercourse with a woman under eighteen years of age constituted rape "with or without her consent." (Bharatiya Nyaya Sanhita, 2023) This reflected the continuing absolute presumption of incapacity for adolescents below eighteen, thereby maintaining the rigid framework of the IPC and POCSO

Significantly, the BNS codified consent as a "voluntary agreement" communicated by words, gestures, or any form of communication that signified willingness to participate in a sexual act. The statute made clear that the absence of physical resistance did not imply consent, thereby aligning Indian law with global jurisprudence emphasising affirmative consent. This provision drew inspiration from judicial pronouncements, such as *State of Karnataka v Krishnappa* (2000) and later the Nirbhaya case reforms, which emphasised that consent must be unequivocal and informed.

The BNS further outlined aggravated circumstances under Sections 64–66, providing severe punishments where the victim was under sixteen or under twelve years of age, or where the assault caused death or a vegetative state. Yet, despite these reforms, the law did not introduce a close-in-age exception, leaving consensual adolescent relationships criminalised under both BNS and POCSO. The Law Commission of India's *Report No. 283* (2023) (hereinafter "Report") recommended judicial discretion in non-exploitative sixteen-to-eighteen cases, but this suggestion was not incorporated into the BNS.

Thus, while the BNS advanced clarity in defining affirmative consent and consolidated punishments for sexual offences, it continued India's paternalistic stance by denying recognition to adolescent autonomy in consensual peer relationships.

3.3 Criticisms of India's Rigid Framework

Legal scholars and practitioners criticised India's stance on several grounds. First, by assuming incapacity until the age of eighteen, the law infantilises young people and denies recognition of their evolving capacities (Bajpai, 2018). Second, empirical studies documented how parents weaponised Act to punish daughters' inter-caste or inter-religious relationships, thereby transforming a protective statute into an instrument of social control (Chandrasekharan, 2018). Third, a significant proportion of Act cases involved consensual adolescent relationships,

which clogged the justice system and diverted resources away from genuine cases of abuse. Finally, India's threshold of eighteen was inconsistent with international practice, where the age of consent typically ranged from fourteen to sixteen, with close-in-age exceptions. This divergence raised critical questions about proportionality and India's alignment with contemporary international Standards, taking into account social and biological development (Dean, 2019).

3.4 Comparative Observations: Canada

The contrast was striking. Canada's framework demonstrated legislative pragmatism, while India's reflected rigid paternalism. Canada acknowledged adolescent intimacy while safeguarding against exploitation (Barnhorst, 2020). By comparison, India criminalised all adolescent sexuality, creating legal paradoxes that undermined proportionality (Chandrasekharan, 2018). The divergence revealed broader social and legal dynamics: Canada's model reflected a rights-oriented, individualistic society that valued adolescent autonomy, while India's framework, shaped by social conservatism and historical anxieties about child marriage and exploitation, adopted an absolutist approach (Bajpai, 2018). This comparative exploration highlighted the need for India to recalibrate its consent laws, drawing on Canada's nuanced approach while maintaining child protection.

4.0 Statutory Rape: Legal Implications

Globally, consent was a crucial component of rape laws. The absence of force, coercion, or manipulation remained an essential condition for valid consent. Legal systems across jurisdictions stipulate that consent cannot be obtained from individuals who are incapacitated, misled, or coerced. In the case of children, however, the law presumed incapacity because of their lack of maturity, questioned their free choice, and understanding of consequences. Statutory-rape provisions, therefore, were developed to protect adolescents below a certain age from involvement in sexual activity with adults (Tesfaye, 2017). In such cases, the minor's consent being legally irrelevant, the determining factor has been age (Nair & Pattnaik, 2025). The following subsections critically examined how statutory rape was conceptualised and applied in Canada and India.

4.1 Statutory Rape in Canada

The age of consent in Canada was generally fixed at sixteen years, as provided in the Criminal Code. Interestingly, the expression "statutory rape" did not explicitly appear in Canadian law. Instead, the offence was captured through terms such as "sexual interference" and "invitation to sexual touching" under sections 151 and 152 of the Code. Section 151 defines sexual interference as directly or indirectly touching any part of a person under sixteen years for a sexual purpose. The focus of the provision was not merely gratification but the prevention of exploitation (*Criminal Code*, 1985).

Notably, Canadian law imposed strict liability in these cases. The responsibility of the accused was attached solely based on the complainant's age; the minor's consent was not a defence except under limited peer-consent provisions. Even an honest belief about the complainant's

age was not a valid defence unless the accused had taken all reasonable steps to ascertain the age. The Supreme Court confirmed that a mere mistake of fact did not excuse liability, reinforcing the protective nature of statutory-rape laws (*R v Hess; R v Nguyen*, 1990). Similarly, the Court underscored that criminal liability attached even in the absence of mens-rea regarding age (*R v Stevens*, 1998)

However, the Canadian framework strikes a balance between strict liability and flexibility through peer-consent provisions. Adolescents aged twelve to thirteen could consent to sexual activity with partners less than two years older. In comparison, those aged fourteen to fifteen could consent with partners up to five years older, provided there was no exploitation, authority, or coercion (*Criminal Code*, 1985). These safeguards ensured that protection against predation coexisted with respect for adolescent autonomy in genuine peer relationships (Department of Justice Canada, 2023).

Empirical research revealed that adolescent girls aged fifteen to seventeen reported higher rates of injury in sexual assaults than younger minors (Grant & Benedet, 2019). This justified strong protective provisions. Yet Canadian law distinguished carefully between predatory conduct and peer intimacy, ensuring proportional justice. In effect, the statutory-rape framework in Canada reflected both a protective rationale and a proportional response, ensuring that adolescents were not unnecessarily criminalised while safeguarding them from exploitation.

4.2 Statutory Rape in India

The legal framework in India followed a very different trajectory. From the time of codification under the IPC, consent was integral to defining rape, but the age of consent underwent gradual revision. Initially fixed at nine years in 1860, the age was raised to twelve years in 1891, to fourteen in 1925, and to sixteen in 1927 for non-marital cases. For marital rape, however, the age remained lower. In 1949, it was set at fifteen years, reflecting a dichotomy (Kasera, 2020).

However, a breakthrough came through judicial intervention. The Supreme Court ruled that sexual intercourse with a wife under eighteen years constituted rape, thereby harmonising the age of consent across marital and non-marital contexts and recognising children's rights within marriage. Moreover, the Court rejected the "skin-to-skin" requirement, reinforcing POCSO's protective scope (*Attorney General for India v. Satish*, 2021). In another case, the court quashed proceedings involving a consensual adolescent relationship, stressing that the objective was to protect, not to penalise (*Vijayalakshmi v. State*, 2021). Moreover, the Madras High Court highlighted the over-decriminalisation of consensual adolescent relationships and urged policy reform (*Sabari v. Inspector of Police*, 2019).

Subsequent legislative reforms further consolidated this position. The Criminal Law (Amendment) Act, 2013, raised the uniform age of consent to eighteen years. Under this framework, any sexual activity with a girl under eighteen was statutory rape, regardless of consent (Pendharkar, 2019).

The Act, 2012, reinforced this position by criminalising all sexual activity with minors, without exception. However, the close-in-age aspect was not covered. Finally, the system had a

psychological and financial impact on adolescents, particularly boys who faced imprisonment, stigma, and disruption of education, while girls were branded as "victims" against their will.

The evolution of Indian rape law demonstrated a strong protective intent but also a paternalistic outlook. While landmark cases like *Tukaram v State of Maharashtra* (the Mathura case, 1979) and the Nirbhaya case (2012) catalysed reforms, the framework continued to prioritise absolute protection over recognition of adolescent autonomy. Compared with Canada's nuanced approach, India's model represented rigid protectionism, with significant psychological, social, and legal consequences. The Report recommended retaining 18 as the age of consent while allowing courts limited discretion, without creating a statutory peer-consent provision.

5.0 Peer-Consent Provisions

In India, peer consent between minors is not legally recognized**,** as the Act treats all sexual activity involving anyone under 18 as statutory, even when it is consensual and between adolescents of similar age. In contrast, Canada formally recognises peer-consent through close-in-age exemptions**,** allowing minors to engage in consensual sexual activity with peers close in age so long as the relationship is non-exploitative. While India's framework remains strict and often criminalises normal adolescent behavior, Canada's approach aims to balance protection from exploitation with respect for healthy adolescent development.

5.1 The Rationale Behind close-in-age Provisions

The justification for the close-in-age rested on three considerations. Firstly, proportionality required that punishment reflect the nature of harm, and equating consensual peer relationships with adult–child exploitation produced disproportionate outcomes. Secondly, developmental realities: adolescents naturally explored sexuality as part of their growth, and criminalising such conduct risked stigmatising normal development. Thirdly, without such provisions, laws could be used by parents or communities to punish relationships that transgressed caste, religion, or cultural boundaries (Tesfaye, 2017).

The idea of peer-consent provisions was a legislative innovation designed to distinguish between exploitative sexual activity involving adults on one hand and consensual intimacy among peers on the other.

5.2 Canadian Framework regarding close-in-age

Canada stood among the most explicit jurisdictions in codifying peer-consent provisions. Under the Criminal Code, children aged twelve to thirteen may consent to non-exploitative sexual activity if the gap between the partner and child is less than two years. Further regarding the youth aged fourteen to fifteen might consent if the gap between the partners is less than five years, however, a protective provision was added regarding the persons under eighteen if there was exploitation, in this regard the law highlighted that person under eighteen could not consent to sextual activity where the person has been in a position of trust, authority, dependency, or where the relationship is exploitative.

These provisions resulted from legislative reforms that raised the general age of consent from 14 to 16 in 2008. Still, they included these clauses to prevent unnecessary decriminalisation of

adolescents. The reform reflected sustained advocacy by child rights groups, feminist organisations, and legal scholars, who emphasised proportionality. This was further interpreted positively by the Canadian judiciary (Department of Justice Canada, 2023).

5.3 Judicial Interpretation in Canada

Canadian courts consistently upheld the legitimacy of these provisions. Most litigation had been focused on the definition of "exploitation"; however, the recognition of peer consent remained uncontested. For example, the court emphasised that exploitation included factors beyond age, such as control and manipulation (R. v. Lutoslawski, 2010). This ensured that the law targeted predation while recognising explorative sexuality among adolescents. Some empirical research has further demonstrated that prosecutions rarely involve consensual peer relationships, thereby validating the effectiveness of these provisions in practice (Barnhorst, 2020).

5.4 Indian Framework regarding the close-in-age Exception.

India, by contrast, lacked any recognition of peer-consent provisions. The Act, and Section 63 of the BNS, criminalised all sexual activity involving persons below eighteen, disregarding peer-level intimacy and creating a rigid child/adult dichotomy.

Further, the absence of any statutory allowance resulted in several consequences; for example, firstly, in the decriminalisation of consensual adolescent intimacy, as even two seventeen-year-olds in a consensual relationship fall within the definition of rape under the Act, secondly, weaponised by families, where parents invoke the scope of the Act to punish the daughter and her partner for an inter-caste or inter-religious relationship and lastly, judicial helplessness, with courts often expressed sympathy while remained bound by statutory text, as seen in *Raj Kumar v State of Haryana* (2019), where even the alleged "complainant" supported the accused. Yet, conviction remained mandatory due to a lack of judicial discretion.

Moreover, legal scholars consistently criticised India's rigid framework. Bajpai argued that blanket decriminalisation denied adolescents recognition as rights-bearing individuals. (Bajpai, 2018). Further, Baxi observed that statutory-rape laws perpetuated patriarchal control by denying female adolescents the ability to choose partners (Baxi, 2021). Arvind Chandrasekharan highlighted the Act's misuse as a "legal instrument of social regulation" (Chandrasekharan).

5.5 Social Consequences of Absence in India

Notably, International bodies have echoed these concerns. The Committee have criticised rigid age-of-consent laws that criminalise consensual adolescent activity, urging states to adopt close-in-age provisions. However, India remains non-compliant with this recommendation.

Thus, the absence of peer-consent provisions had social consequences; first, it led to increased reporting and litigation, as a significant proportion of cases involved consensual adolescent relationships, diverting resources from genuine offences. Secondly, it leads to teenage stigmization, where young men in consensual relationships face imprisonment. At the same time, girls were branded as "victims" against their will. Thirdly, it strengthened the community

control, as statutory rape provisions were used to enforce case, community, and parental authority. Ultimately, it created a judicial dilemma, as judges were compelled to convict even in the absence of coercion, thereby undermining the principles of justice.

5.6 Comparative Observations

The divergence between Canada's diversity and India's reflects fundamentally different philosophies. Canada's context-sensitive framework criminalised predation while legitimising genuine peer intimacy, whereas India's context-blind framework criminalised all adolescent sexuality, equating it with exploitation. This comparative exploration highlighted the need for India to recalibrate its consent laws, drawing on Canada's nuanced approach without compromising child protection.

The absence of a close-in-age exception in India constitutes both a sociological and systemic failure, depriving individuals of their right to autonomy and agency. India's position thus still diverged from Canada; Canada legislated an explicit per-age exception, while India retained a bright-line prohibition, hinting only at limited judicial discretion in non-exploitative cases involving 16-18-year-olds.

The BNS relocated and modernised the provisions of the Indian Penal Code but retained the substantive structure relevant to consent and minors. Yet, critically, the BNS did not introduce any peer-consent provision, while for minors under eighteen, the Act continued to govern and criminalise consensual adolescent relationships.

6 Comparative Analysis of the Indian and Canadian Legal System

This comparative analysis explored the legal treatment of close-in-age relationships in Canada and India, focusing on how each jurisdiction addresses adolescent sexual autonomy within its statutory frameworks. It begins with Doctrinal Contrasts, highlighting the permissive "close-in-age" exceptions in Canadian law compared with the rigid, consent-agnostic provisions of India's Act. It then delves into the Philosophical Underpinnings of these frameworks—Canada's emphasis on harm reduction and evolving capacities of adolescents, contrasted with India's protectionist, morality-driven stance. The analysis also examined the Practical Aspects of Age Proximity, considering how arbitrary age thresholds affect real-life adolescent relationships. Further, the Role of Families and Communities in the Criminalisation of Sexual Autonomy was scrutinized, particularly in the Indian context, where family respect often overrides individual rights. Judicial Attitudes towards Close-in-Age Relations had been evaluated to understand how courts in both countries interpret and navigate these sensitive issues. Finally, the discussion assessed the International Alignment of Municipal Laws, measuring both legal systems against global human rights norms related to adolescent agency and proportionality in criminal law.

6.1 Doctrinal Contrasts

Canada and India diverged sharply in how they conceptualised sexual consensual relationships among adolescents. Canada's framework under the Criminal Code did not use the term "statutory rape" explicitly. Instead, it criminalised "sexual interference" And "invitation to sexual touching", targeting non-consensual sexual activity with minors under sixteen. Further,

consent was not a defence except in close-in-age provisions that recognised certain adolescent relationships of proximity. India, by contrast, retained a strict statutory-rape framework under the IPC and an act criminalising all sexual activity with minors under eighteen, regardless of consent.

This contrast reflected different legal philosophies. Canada adopted a proportional model, balancing protection with adolescent autonomy, while India embraced an absolutist model, prioritising child protection at the expense of independence. As Tesfaye explained, statutory-rape provisions were grounded in the assumption that children lacked the maturity to indicate free choice and understanding needed for valid consent (Tesfaye, 2017). In India, this presumption remained absolute until eighteen; in Canada, however, it was mitigated by peer-consent allowances acknowledging developmental realities.

6.2 Philosophical Underpinnings

Canada's statutory-rape regime reflected a rights-based orientation. The peer-consent framework held that not all adolescent intimacy was exploitative. By allowing certain peer-level relationships, Canadian law operationalised the idea of "evolving capacities" enshrined in Article 5 of the UNCRC (United Nations, 1989, art. 5). Under the strict statutory-rape laws of India, the age of the minor alone determines criminality (Nair & Pattnaik, 2025). However, Canada tempered this rigidity by creating space for adolescent consent in relationships of proximity.

However, India's framework reflected paternalistic protectionism, rooted in anxieties about chastity, family honour, and child marriage. The absence of any statutory recognition of peer relationships perpetuated the idea that adolescents could not make meaningful sexual choices. Such an approach produced psychological, social, and financial burdens for adolescents, undermining their agency (Roost et al., 2022).

6.3 Practical Aspects of Age Proximity

The consequences of these contrasting philosophies were evident in the empirical data. In Canada, adolescent prosecutions were rare, as peer-consent provisions protected consensual relationships. Enforcement focuses on preventing exploitation, particularly by adults in positions of authority. Moreover, studies showed that adolescent girls aged fifteen to seventeen faced heightened risks of injury in sexual assaults, justifying robust statutory protection yet without criminalising consensual peer intimacy (Grant & Benedet, 2019).

In India, however, a large share of Act prosecutions involved consensual relationships, wherein parents have used statutory-rape laws to suppress inter-caste or inter-religious unions (Chandrasekharan, 2018). This transformed protective laws into tools of social control. Globally, the statutory-rape laws were intended to protect adolescents from exploitation by adults; in India, however, they were often applied against adolescents themselves, particularly boys, leading to stigmatisation and incarceration. Further, their autonomy was barely recognized (Mohammad & Barroso, 2024).

6.4 Role of Families and Communities in Criminalisation of Sexual Autonomy

The family's role provided another axis of divergence. In Canada, the law itself distinguished between exploitation and consent, leaving little scope for families to intervene in consensual adolescent intimacy. In India, the parents frequently invoked the Act against their daughters' partners, particularly in cases of elopement. In many instances, the courts have convicted the accused in accordance with the law, despite acknowledging the consensual relationship between adolescents. This dynamic showed how statutory-rape provisions functioned as instruments of community enforcement, reinforcing caste, religion, and patriarchal norms.

6.5 Judicial Attitudes towards Close-in-age Relations

Canadian courts emphasised autonomy and contemporaneous consent. The Supreme Court defined consent as active and ongoing assent, aligning legal doctrine with modern understandings of sexual agency. In India, however, judicial attitudes were constrained by statutory rigidity. While the Supreme Court harmonised the age of consent across marital and non-marital contexts without questioning the absolute threshold of eighteen. High Courts in many cases routinely expressed unease about criminalising consensual adolescent relationships, but remained bound by statute.

6.6 International Alignment of the Municipal Laws

Canada's framework aligned more closely with international human-rights standards. The Committee cautioned states against criminalising consensual adolescent sexual activity. Many jurisdictions in Europe and Latin America adopted peer-consent provisions similar to Canada's approach. India remained an outlier with one of the most rigid age thresholds globally.

Thus, the comparative analysis highlighted three key points. First, Canada's proportional model reflected a balance of autonomy and protection, grounded in evolving capacities. Second, India's absolutist model prioritised protection but led to disproportionate consequences, including misuse, stigmatisation, and a judicial backlog. Third, the need for legal reform in India is therefore urgent. Additionally, the lessons learnt from Canada suggested that introducing peer-consent provisions, coupled with strong safeguards against exploitation, could align statutory-rape laws with both justice and international human-rights principles.

7.0 Conclusion and Recommendations

Consent, as a legal and moral category, cannot be divorced from the social realities of youth, family dynamics and cultural contexts. Canada and India, as per the above comparison, have illustrated two contrasting paths: one that balanced protection with adolescent agency, and another that prioritised paternalistic protection over decriminalisation and recognition of autonomy. The paper thus showcased the enduring tension between safety and autonomy in regulating adolescent sexuality.

Notably, Canada's peer-consent provisions exemplified a pragmatic model by allowing adolescents to engage in consensual relationships within defined parameters. This measure recognised the evolving capacities of youth while safeguarding them from exploitation.

Moreover, this proportional approach prevented the stigmatisation of normal adolescent intimacy and directed criminal sanctions toward predatory behaviour.

India's framework, while motivated by legitimate concerns about child protection, was rigid. By criminalising all sexual activity under eighteen, it disregarded adolescent agency, created disproportionate outcomes, and fueled misuse. Notably, the parents and communities exploited statutory-rape laws to enforce social boundaries, while courts were forced to decide according to the law. In some cases, the courts even impose restrictive and conservative social norms to convict in cases of mutual consent. This produced a legal dichotomy, as the very law meant to protect children often ended up harming them.

Thus, the challenges faced in India underscore the urgent need for reform. The possible measures include the introduction of close-in-age provisions to distinguish consensual peer relationships from exploitative ones, while allowing judicial discretion in sentencing to avoid disproportionate punishment in consensual cases. Additionally, India must promote public awareness campaigns to reduce the misuse of statutory-rape provisions as tools of social control. Further, aligning national laws with international norms is essential, particularly in light of the UNCRC's emphasis on the evolving capacities of youth.

Ultimately, the contrast between Canada and India demonstrated that child protection and adolescent autonomy were not mutually exclusive. Wherein, a balanced legal framework can safeguard adolescents while respecting their sexual agency, independence and curiosity through close-in-age provisions. Thus, for India, the Canadian experience can be a valuable blueprint for re-calibrating statutory-rape laws toward age proportionality, justice and human rights compliance.

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