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Tuesday, Jul 18, 2023 EPAPER | TODAY'S PAPER

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Express View on criminalisation of romantic relationships: Love & punishment

This is burdening a clogged justice system. Parliament must weigh in on age of consent debate.

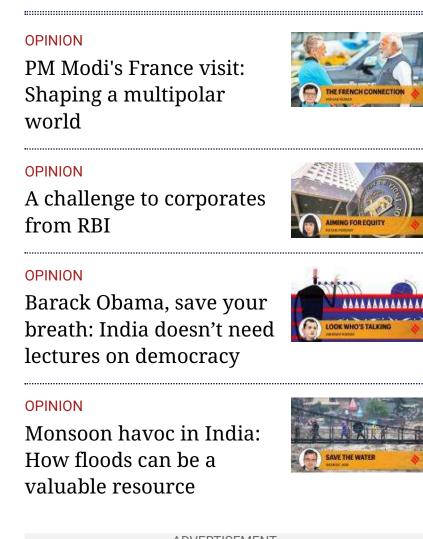




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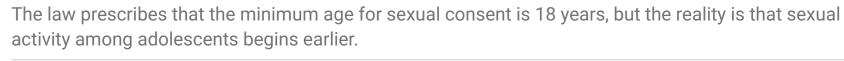
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The Bombay High Court recently said that the "criminalisation of romantic relationships has overburdened the criminal justice system by consuming significant time of the judiciary, police and the child protection system". The court was hearing an appeal against a trial court judgment that had convicted a 25-yearold man and sentenced him to 10 years in jail for sexually assaulting a 17-year-old despite the girl saying that they were in a consensual relationship. The High Court quashed the trial court finding, distinguishing between child abuse and criminalisation of consensual adolescent sexual activity. Several high courts have flagged this issue and in December last year, Chief Justice of India DY Chandrachud called for legislative reform to address the gaps in law vis a vis consensual sexual activity of teenagers.

The law prescribes that the minimum age for sexual consent is 18 years, but the reality is that sexual activity among adolescents begins earlier. In India, the legal regime on age of sexual consent began in 1860 with the Indian Penal Code prescribing it at 10 years. In 1889, it was raised to 12 years, in 1925 to 14 years and to 16 years in 1949. For over six decades, the law continued until the POCSO Act was brought in in 2012. In several countries, western and South Asian, 16 years is the benchmark for recognising sexual agency. The 2013 JS Verma Committee report also recommended lowering the age of consent under the POCSO Act to 16 years. Apart from tackling child sexual abuse, a minimum age of consent also regulates maternal mortality and early childbirth. But shorn of nuance, criminal law simply ends up policing sexuality. Apart from overburdening an already clogged justice system, these cases push teenagers into grey zones of criminality.



A 2019 study by Partners for Law and Development on "why girls run away to marry" highlights that the special "zero tolerance laws" largely clash with "selfarranged" relationships as opposed to those sanctioned by family. It is more likely that adolescent girls seeking to escape family control are caught in the legal web. It is also not a coincidence that the age of consent and the minimum age of marriage for women are the same. The law must delink the two and take into account sexual activity outside the realm of marriage. Else, the long hand of criminal law will only stigmatise safe sex for teenagers. Parliament must also weigh in on the debate on age of consent.

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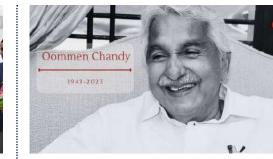
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