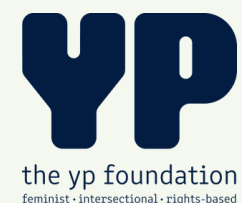


The POCSO Act & Adolescents' Access to Abortion in India:

Heightened Vulnerabilities, Health Risks, and Impact on their Rights



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Access to Abortions Under Indian Law

Before the Medical Termination of Pregnancy Act, 1971 (MTP Act), the Indian Penal Code, 1860 (IPC) criminalized abortion, except where performed to save the life of the pregnant woman.

The MTP Act is an exception to the IPC provisions and allows abortions to be performed under certain conditions based on the gestational period or specific circumstances of the pregnant person.



Abortions that are outside the scope of the circumstances under the MTP Act continue to be criminalized.

Access to Abortions Under Indian Law

The opinion of how many medical practitioners is required for termination of pregnancy?

The number of medical practitioners that need to provide their opinion on whether the reason for abortion meets the requirements of the MTP Act **depends solely on the gestational period.**

**0-20
Weeks**

1 Registered Medical
Practitioner

**20-24
Weeks**

2 Registered Medical
Practitioners

**Beyond 24
Weeks**

Medical Board
will decide



Under the MTP Act, a minor (i.e., under the age of 18) requires the consent of their guardian for the termination of their pregnancy.

The POCSO Act

The POCSO Act criminalises acts of a sexual nature involving a “child” under 18 years of age.

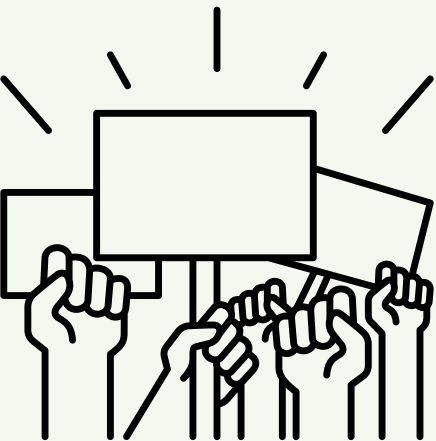
Sex with a person below the age of 18 years is statutory rape under the POCSO Act.

Consensual relationships between adolescents are therefore criminalised.

Recognition of Evolving Capacities

Courts have taken note of the evolving capacities of adolescents when dealing with cases of consensual sexual relationships.

However, courts' inconsistent views have led to a failure to protect adolescents in consensual relationships from the adverse impact of the POCSO Act.



The POCSO Act and Adolescents' Access to Safe Abortions

Section 19 of the POCSO Act mandates that any person who “has apprehension that an offence under this Act is likely to be committed” or “has knowledge that such an offence has been committed” shall report to the special juvenile police unit or the local police.



The POCSO Act and Adolescents' Access to Safe Abortions

Although intended to ensure effective reporting of child sexual abuse, this mandatory reporting provision, when read conjointly with the MTP Act, creates significant barriers for access to safe and legal abortions by adolescents.



The POCSO Act and Adolescents' Access to Safe Abortions

The Supreme Court in *X v. The Principal Secretary, Health & Family Welfare Department, Govt. of NCT of Delhi* (September 2022) highlighted mandatory reporting as a key barrier to adolescents' access to abortion.

The Court noted that this was likely to leave minors with the option of either approaching a registered medical practitioner and facing possible criminal proceedings under the Act, or seeking clandestine abortion services from an unqualified doctor.

