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## FROM ILLICIT TO ESSENTIAL: CAN INDIA’S LEGAL SYSTEM MAINSTREAM SEX EDUCATION?

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### INTRODUCTION

The topic of sex education in India remains heavily restricted by social taboos which have persisted for a long time. Various social groups in the past labeled sex education as a subject which was either inappropriate or immoral or something that caused embarrassment<sup>2</sup>. Several Indian states prohibited school-based sex education programs by labeling them as anti-national and harmful to youth development<sup>3</sup>. The courts together with lawmakers now work to dismantle the negative social perception of sex education. In September 2024 the Supreme Court declared that full sex education stands as a public necessity for both health and safety reasons<sup>4</sup>. The Court declared that educating youth about reproductive health together with consent education and legal abuse ramifications helps prevent sexual offenses and shields children from harm<sup>5</sup>. The judiciary has established sex education as an essential right through its decision to reframe it from an illicit intrusion to a vital educational tool.

### FACING THE TABOO

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<sup>2</sup> Just Rights for Children Alliance v. S. Harish, Diary No. 8562 of 2024 (Sup. Ct. of India Sept. 23, 2024), ¶ 238 (on p. 176).

<sup>3</sup> Id.

<sup>4</sup> PTI, SC bats for promoting comprehensive understanding of sex education’s benefits, *Econ. Times (By Legal)* (Sept. 23, 2024)

<sup>5</sup> Id.

<sup>6</sup> *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 239

For decades, sex education was viewed by many in India as a Western imposition. In 2007, for example, six state governments (including Gujarat, Maharashtra and Karnataka) suspended the national Adolescence Education Programme after it proved controversial<sup>78</sup>. Critics argued it would “corrupt young minds” or encourage promiscuity<sup>910</sup>. Some leaders insisted sex ed had “no place in Indian culture,” preferring instead to teach yoga or abstinence<sup>11</sup>. In practice, this meant many students went through secondary school with almost no reliable information about puberty, contraception, or consent. Unsafe misconceptions prevailed – for instance, researchers note that Indian parents often deny or ignore adolescent sexual activity despite evidence that youth do experiment with sex<sup>12</sup>. This silence can have deadly consequences: India still has high teen pregnancy rates and HIV incidence among young people.

But constitutional values and child rights demand better. The right to education (Article 21A) and the right to life (Article 21) have been read expansively to include health and dignity. Experts argue that access to accurate sexual health information should be seen as a basic health right of adolescents. Indeed, the Supreme Court recently underscored that denying sex education exposes children to dangers. The Court observed that when sex ed is absent, “teenagers and young adults” turn to the internet for information, where “misleading” material can spark “unhealthy sexual behaviours.”<sup>1314</sup> In short, without official guidance, youth may learn from harmful sources. This legislative gap does not violate explicit law, but it conflicts with India’s duty to protect children’s welfare.

## JUDICIAL PUSH FOR CHANGE

The turning point has been a series of recent court rulings. In a landmark 2024 case arising under the Protection of Children from Sexual Offences Act (POCSO, 2012), the Supreme Court went beyond punishing offenders: it affirmed a positive duty on government to educate youth about sex and POCSO rights. Writing for the bench, Justice Pardiwala stressed that one of POCSO’s “salutary” aims is deterring child sexual abuse; therefore “as a natural corollary, the obligation [of] the appropriate government... will also entail imparting sex education and

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7 Dr. Pooja Bansal, *Sex Education in Schools: Why Six States Including GOA Suspended It*, **MedBound Blog** (Aug. 2, 2025).

8 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 240

9 Bansal, *supra* note 7

10 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 239

11 Bansal, *supra* note 7

12 Bansal, *supra* note 7

13 PTI, *supra* note 4

14 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 239

awareness” to children and parents, especially in schools<sup>15</sup>. In other words, the Court read a right to sex ed into the law’s purpose. It held that the State must not only punish sexual crimes, but work proactively to prevent them through education<sup>1617</sup>.

This judicial stance is persuasive and concrete. The Court’s 200-page judgment did not merely issue general statements; it directed specific actions. For example, it ordered the government’s women-and-child ministry to implement comprehensive sex education programs addressing the legal and ethical issues of child abuse<sup>18</sup>. These programs must teach youth about consent, exploitation and abuse, countering myths about sex. The judgment explicitly called for sex ed curricula that explain “the legal and ethical ramifications of child pornography” and provide a “clear understanding of consent and the impact of exploitation.”<sup>19</sup> In practical terms, schools should include lessons on body autonomy, respectful relationships and how to recognize abuse – topics that go far beyond basic biology.

The Court also urged systemic reforms. It suggested setting up an expert committee to design a national health-and-sex-education program, and to integrate POCSO awareness across curricula<sup>20</sup>. It directed schools to introduce early intervention for children showing problematic sexual behavior, again through education and support<sup>2122</sup>. Such orders make clear that the highest court sees sex education as an “essential” preventive measure, not a luxury. By tying it to the constitutional duty to protect children, the Court has enlisted the legal system in destigmatizing sex ed.

Importantly, the Court debunked key myths. It pointed out that critics’ claim—“sex education encourages promiscuity”—is contradicted by evidence that it actually delays sexual debut and promotes safer behavior<sup>23</sup>. It also rejected the notion that sex ed is alien to Indian values. The judges noted that this “Western-concept” argument has repeatedly led states to ban sex ed, which in turn deprives adolescents of accurate knowledge<sup>24</sup>. In emphasizing these points, the

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15 The Wire Staff, *Governments Have the Obligation to Impart Sex Education and Create Awareness About POCSO Act: SC*, **The Wire** (Sept. 24, 2024).

16 The Wire Staff, *supra* note 15

17 *Just Rights for Children Alliance*, Diary No. 8562 of 2024.

18 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 260.

19 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 260.

20 *Just Rights for Children Alliance*, Diary No. 8562 of 2024.

21 Sushovan Patnaik, *Supreme Court Holds That Viewing, Storing and Possessing ‘Child Pornography’ Is Punishable Under POCSO Act; Overturns Madras HC Decision*, **Supreme Court Observer** (Sept. 24, 2024).

22 *Just Rights for Children Alliance*, Diary No. 8562 of 2024.

23 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 239

24 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 240

Court is implicitly inviting the legal system to update cultural attitudes: what was once seen as illicit taboo is now recognized as protecting “sexual health outcomes.”<sup>2526</sup>

## LEGISLATIVE HORIZONS

The judiciary’s push has inspired legislative interest. In Parliament, lawmakers have begun to treat sex education as a matter of rights and duty. A bill entitled The Compulsory Teaching of Sex Education in Educational Institutions Act, 2021 was brought forward by MP Ram Mohan Naidu Kinjarapu in 2021 which sought to enforce sex education instruction throughout all Indian schools<sup>27</sup>. (That bill is still pending, but its very introduction signals changing attitudes.) Meanwhile, education boards and governments can now cite the Supreme Court’s reasoning to strengthen curricula. For example, the RTE Act already mandates health and physical education for all students – a provision that could legally be interpreted to include age-appropriate sexual health<sup>2829</sup>. The Parliament holds the authority to modify POCSO through amendments that would strengthen the new approach by renaming "child pornography" as "child sexual exploitative material" according to Justice Pardiwala<sup>30</sup>.

The progress achieved so far faces ongoing challenges. Schools across the country lack a comprehensive national curriculum which includes complete sex education integration for both rural and private educational institutions. The training of teachers shows a deficiency because educators frequently experience inadequate preparation when handling sexual education topics with their students. Without affirmative policies, the progress in courts will not automatically translate into classroom lectures. This is where continued legal pressure and activism are crucial. Advocates argue that if the Supreme Court has read sex education into laws like POCSO, then denying it could be challenged as a violation of fundamental rights. For instance, a student or NGO might cite the Court’s findings to demand policy changes under the Right to Education or public interest litigation.

## MOVING FORWARD: BRIDGING STIGMA AND RIGHTS

India’s legal system is actively reframing sex education from an illicit taboo to an essential safeguard. The Supreme Court’s recent rulings establish that the State cannot claim sex ed is

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25 PTI, *supra* note 4

26 *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 238

27 **Bill No. 100 of 2021, *The Compulsory Teaching of Sex Education in Educational Institutions Bill, as introduced in Lok Sabha (Bill text)***, 2021 (India).

28 Patnaik, *supra* note 21

29 *Just Rights for Children Alliance*, Diary No. 8562 of 2024.

30 Patnaik, *supra* note 21

culturally alien when that denial leads to violence and ignorance. By linking sex education to children's right to protection under laws like POCSO and fundamental rights, the courts have given both moral and legal weight to mainstreaming it. If legislators and administrators heed these directives, sex education could soon become a routine part of schooling – covering not just biology, but consent, gender equality, and legal awareness.

The following essential points support the mainstreaming of sex education according to current legal frameworks: The national and state educational authorities should implement age-appropriate sex education within their school curriculum following RTE health education guidelines<sup>31</sup>. The Supreme Court required the teaching of reproduction and consent together with abuse prevention measures and legal rights education<sup>32</sup>. Teacher training materials and textbooks must be developed to fight against the belief that ignorance equates to innocence. The Court's vision requires legislative backing through statutes which should include new bills or revisions of POCSO and other legal frameworks<sup>3334</sup>.

India can defeat cultural stigma while providing essential knowledge to youth by linking legal policy with health requirements. The transition from viewing sex education as illegal to viewing it as essential has already taken place in our courts. The advancement of sex education depends on maintaining momentum through policy initiatives together with educational changes and public awareness programs to determine its success as a mainstream educational approach. The evidence and the law now strongly favor it: an informed, responsible society is safer and more just.

## CONCLUSION

India's judiciary and lawmakers are converging on the view that comprehensive sex education is an essential right. In *Just Rights for Children Alliance v. S. Harish*, the Supreme Court underscored that government obligations under the Protection of Children from Sexual Offences (POCSO) Act include "imparting of sex education... particularly in schools".<sup>35</sup> The Court's finding that comprehensive sex education actually delays sexual initiation and promotes safer practices refutes outdated fears, aligning with experts who say sex ed is vital to

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<sup>31</sup> *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 260 (iii)

<sup>32</sup> *Just Rights for Children Alliance*, Diary No. 8562 of 2024, para. 260

<sup>33</sup> The Wire Staff, *supra* note 15

<sup>34</sup> Bill No. 100 of 2021

<sup>35</sup> LawPrepTutorial, *Supreme Court Adds that ... schools and places of education* (Sept. 24, 2024).

health.<sup>36</sup> These developments alongside constitutional rights about life and education provide policy-makers with definite instructions to follow. The legislative body must establish compulsory age-specific CSE within educational curricula while dedicating resources toward teacher training initiatives including NCERT's sexuality education resource book<sup>37</sup>. Educational institutions need to join forces with civil organizations to create widespread acceptance of classroom lessons. Sexual health education stands as a right instead of a taboo in India because collective action from legislative reform and school implementation alongside community accountability will make it a reality<sup>38</sup>.

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<sup>36</sup> Gursimran Kaur Bakshi, *Sex Education Not a Western Concept, Misconception That It Encourages Promiscuity Among Youth: Supreme Court*, *LiveLaw* (Sept. 23, 2024).

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