Young People and the Law

Laws and Policies Impacting Young People's Sexual and Reproductive Health and Rights in the Asia-Pacific Region

2020 Update

UNFPA

UNESCO United Nations Educational, Scientific and Cultural Organization

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YouthLEAD

THE GLOBAL GOALS For Sustainable Development

YPEER Celebrating 20 years on Youth SRHR

Y-PEER Asia Pacific Center

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Sexual and reproductive health awareness flash mob at International Condom Day 2020 by We For Change, a youth-led non-governmental organization in Nepal.
Submitted by Subash Pokharel in response to an open photo call led by Y-Peer Asia Pacific Center.

Designed by Nattawud Nittayagun

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Foreword

About half of the world's estimated 1.8 billion young people are in Asia and the Pacific. All of them need, and are entitled to, sexual and reproductive health (SRH) services to ensure their physical and emotional health, safety and well-being. Yet in many countries in this vast region significant legal and policy barriers persist, including age of consent limitations, that prevent this from happening. These harmful barriers mean that young people, and particularly adolescents in need, are deterred from seeking and accessing essential services, with damaging consequences that can sometimes last a lifetime.

It is the right of everyone, including young people - to have access to sexual and reproductive health. Political commitment on behalf the health and wellbeing of young people the world over is reflected in international frameworks. Globally, governments have adopted the Sustainable Development Goals (SDGs) which recognise sexual and reproductive health for everyone of all ages as central to achieving progress, under the vision of leaving no-one behind. The Nairobi Statement on ICPD25 (2019) commits countries to strive for access for all adolescents and youth to adolescent-friendly comprehensive, quality and timely SRH services to adequately protect them from unintended pregnancies, all forms of sexual and gender-based violence and harmful practices, and sexually transmitted infections including HIV/AIDS, to facilitate a safe transition into adulthood. Similarly, the 2016 Political Declaration on HIV and AIDS commits to promoting laws, policies and practices to enable access to services and reforming legislation that may create barriers or reinforce stigma and discrimination, such as age of consent laws and policy provisions that restrict access to services among adolescents.

This review is an important update to the comprehensive 2013 report, Young People and the Law in Asia and the Pacific: A Review of Laws and Policies Affecting Young People's Access to Reproductive Health and HIV Services, which was led by UNESCO. Since 2013, there have been significant legal and policy developments which affect young people's sexual and reproductive health and rights across the region.

The review focuses on both the legal challenges and progress in countries in the region in recognising the evolving capacities of adolescents in their laws and policies on the age of access to contraceptives, access to safe abortion services (where legal), STI and HIV testing services, and age of consent to sex. To better understand the complexities of the policy environment within countries, the report also includes case studies in six countries that provide a more detailed view on specific policy environments. There are several positive examples from countries where policy makers have taken steps to ensure that both laws and policies provide an enabling environment for sexually active adolescents to access the SRH services they need.

Yet, persistent challenges remain on many fronts, which must be addressed all the more urgently, including in light of the unforeseen difficulties of the COVID-19 pandemic. Against this backdrop and within this context, the report provides key actions to limit the negative impact on young people's access to SRH and HIV services.

This review is a collaborative effort between UNFPA, UNESCO, UNAIDS, UNICEF, UNDP, Youth LEAD and Y-PEER Asia Pacific. We would particularly like to thank our Youth LEAD and Y-PEER Asia Pacific Center colleagues who have been consistent partners in our regional efforts, bringing the youth perspective to our initiatives to ensure the voices of young persons are fully included and taken on board in deliberations and policies that impact and shape their lives.

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Abbreviations and Acronyms

Art.	Article
ARV	Antiretroviral
CEDAW	Convention on Elimination of all forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
DPRK	Democratic People's Republic of Korea
Micronesia F.S.	Federated States of Micronesia
HIV	Human immunodeficiency viruses
HTS	HIV Testing Services
ICPD	International Conference on Population and Development
IUD	Intra-uterine devices
LGBTI people	Lesbian, gay, bisexual, transgender, and intersex people
NKHR	Citizens' Alliance for North Korean Human Rights
OHCHR	Office of the High Commissioner for Human Rights
PDR	People's Democratic Republic
PMNCH	Partnership for Maternal, Newborn and Child Health
PNG	Papua New Guinea
RH	Reproductive health
SAR	Hong Kong Special Administrative Region, China
SDGs	Sustainable Development Goals
SRH	Sexual and reproductive health
SRHR	Sexual and reproductive health and rights
STI	Sexually transmitted infection
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UHC	Universal Health Coverage
UN	United Nations
UNICEF	United Nations Children's Fund
WHO	World Health Organization

Executive Summary

Significant legal and policy developments affecting the sexual and reproductive health and rights (SRHR) of young people in Asia and the Pacific in the period 2013-2020

This review considers recent legal and policy developments that are supporting or impeding countries in meeting the goals and targets of the 2030 Agenda for Sustainable Development relating to SRHR, which include achieving universal access to SRH services and ending the HIV epidemic by 2030.

This report provides an update to the 2013 Young People and the Law report, highlighting recent legal and policy trends and developments affecting the SRHR of young people in Asia and the Pacific. The report has a particular focus on whether countries recognize the evolving capacities of adolescents in their laws and policies on the age of access to contraceptives, access to safe abortion services, HIV testing services (HTS), age of consent to sex and the minimum age of marriage.

Access to SRH services

National SRH and adolescent health policies in several countries provide express support to the rights of adolescents to access SRH services, including new or updated policies issued in the Cook Islands, Lao PDR, Myanmar, PNG, Samoa, Sri Lanka and Vanuatu.

New laws have been passed in Nepal, Thailand and the Philippines that provide legal recognition of the rights of adolescents to access SRH services. Thailand's Prevention and Solution of the Adolescent Pregnancy Problem Act 2016 provides that an adolescent aged over 10 has the right to make independent choices in accessing (RH) services. Nepal's Right to Safe Motherhood and Reproductive Health Act 2018 provides that teenagers have the right to obtain SRH services, however, the consent of a guardian is required for girls aged under 18 to access safe abortion services. In the Philippines, the Responsible Parenthood and Reproductive Health Act supports access to family planning services including post-abortion care; however, the Act imposes strict age conditions that require parental consent for a child under 18 to access contraceptives.

In Pakistan, the Sindh Reproductive Healthcare Rights Act 2019 does not specifically address the rights of adolescents, but it states that all persons have a right to make independent decisions about their reproductive rights.

Laws and policies in relation to a young person's access to safe abortion services vary significantly across the region. In most countries, abortion is only available in defined circumstances such as to save life and preserve health, as prescribed by criminal laws and health policies. In a few countries, abortion has been largely decriminalized (e.g. Cambodia, China, Mongolia, Nepal, Viet Nam). However, in some countries, it remains strictly illegal (e.g. the Philippines). In India, reforms to the Medical Termination of Pregnancy Act were passed in 2020 that aim to improve access to safe abortion services for unmarried girls in prescribed circumstances.

In all countries, policy responses are struggling to keep pace with the rapidly unfolding impacts of

the COVID-19 pandemic on young people's access to SRH and HIV services. The impacts include interruption to the supply of SRH and HIV prevention and treatment commodities, mobility restrictions affecting access to services and the ability to provide outreach services, diversion of financial resources from SRHR to COVID-19 responses, and the additional pressures on health staff and facilities associated with the pandemic. The report provides key actions for consideration on SRHR and COVID-19, as well as on approaches to integrating SRHR within Universal Health Coverage (UHC).

Age of consent to HIV testing

In the Philippines, legislation introduced in 2018 provides that a child aged 15 or over may consent to an HIV test without a requirement for consent of a parent or guardian. Other countries have introduced new HIV testing policies to allow adolescents who demonstrate sufficient maturity and understanding to consent independently to an HIV test if it is in their best interests (e.g. Myanmar, Sri Lanka, Thailand). A new HIV testing policy issued in Samoa permits adolescents who are not in contact with their parents and who do not have a guardian to consent to HIV testing.

Age of consent to sex

Some countries have raised the age of consent to sex since 2012 (e.g. India, Myanmar). While raising the age of consent to 18 in India was intended to protect children from sexual exploitation, it has been criticized because it fails to distinguish cases of violent sexual assault from cases where sex occurs in the context of a consensual relationship between two adolescents of a similar age.

Some countries have decriminalized consensual same-sex sexual relations between adults (India, Nauru and Palau). However, some other countries have introduced draconian provisions criminalizing same-sex conduct (e.g. Brunei Darussalam) or engaged in police crackdowns on lesbian, gay, bisexual, transgender, and intersex (LGBTI) people (e.g. Indonesia, Malaysia, Bangladesh).

Minimum age of marriage

Although child marriage continues to be found in many countries, there has been significant progress across the region in raising the minimum legal age of marriage to 18 to comply with international standards. Recent changes to laws have been made to raise the minimum age of marriage in Indonesia, some states of Malaysia, the Maldives, Myanmar, Nauru and PNG. In Afghanistan, the Child Protection Bill 2019 proposes to raise the age of marriage to 18, but the Bill is yet to be ratified.

1

Introduction

In 2013, UNESCO, UNFPA, UNAIDS, UNDP and Youth Lead co-published the resource Young People and the Law in Asia and the Pacific: A Review of Laws and Policies Affecting Young People's Access to RH and HIV Services.

This report provides an update to the 2013 Young People and the Law report. It is based on a systematic review identifying changes that have been made in the period 2013-2020 to laws and policies that govern young people's access to SRH and HIV information, commodities and services. It highlights recent legal and policy trends and developments affecting the SRHR of young people in Asia and the Pacific. The report has a particular focus on whether countries recognize the evolving capacities of adolescents in their laws and policies on the age of access to contraceptives, safe abortion services, HIV testing services, age of consent to sex and the minimum age of marriage.[1]

Part 2 of this report provides a brief overview of recent global policy developments on SRHR and HIV. This provides the broader policy context for the national developments described in the report.

Part 3 provides a summary of the laws and policies of each country[2] in relation to the following key issues:

Age of independent access to SRH and HIV testing services: Countries are identified that have sought to improve adolescents' access to SRH and HIV services through laws and policies that address the circumstances in which adolescents are able to access services independently, without compulsory requirements for a parent, guardian or spouse to be consulted and provide authorization. Developments affecting young people's access to safe abortion services, oral contraceptives and HIV testing are highlighted.

Age of consent to sex: Countries are identified that have reformed laws on age of consent to sex. This generally has required legislators and policymakers to balance child protection concerns with the desire for the law to recognize the evolving capacities of children and the realities of adolescent sexuality. This section addresses laws that apply to consensual heterosexual and same-sex sexual conduct.

Minimum age of marriage: Countries are identified that have sought to reform their child

1 See: Committee on the Rights of the Child, General Comment No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child (CRC), 2003 (CRC/GC/2003/41), para. 9; Committee on the Rights of the Child, General Comment No. 20 on the implementation of the rights of the child during adolescence, 2016 (CRC/C/GC/20).

2 Countries included in this report are countries of the Asia and Pacific region that fall within the mandate of the UNFPA Asia Pacific Regional Office (APRO): Afghanistan, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, Cook Islands, China, Fiji, India, Iran, Indonesia, Kiribati, DPRK, Lao PDR, Malaysia, Maldives, Marshall Islands, Federated States of Micronesia (Mirconesia, F.S.), Mongolia, Myanmar, Nauru, Nepal, Niue, Pakistan, Palau, PNG, Philippines, Samoa, Solomon Islands, Sri Lanka, Thailand, Tokelau, Timor-Leste, Tonga, Tuvalu, Vanuatu, and Viet Nam.

protection laws and marriage laws to address the harms associated with child marriages. Some countries have strengthened their legislation and policies to comply with international standards in relation to the minimum age of marriage.

Part 4 discusses international agreements and UN guidelines, and lists key actions for country consideration, with a focus on SDG reporting, Universal Health Coverage, and SRHR in the context of COVID-19.

Annex 1 comprises six country case studies, which provide a more detailed description of recent legal and policy developments that demonstrate progress and challenges in addressing the SRHR of young people in diverse country contexts across the region

2

Sexual and Reproductive Health and Rights Global Policy Milestones

Important milestones in the global and regional SRHR policy context since 2013 include:

2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs)

In 2015, world leaders adopted the 17 SDGs. Countries agreed to mobilize efforts to end all forms of poverty and fight inequalities, ensuring that no one is left behind.

SDG 3 is to "ensure healthy lives and promote wellbeing for all at all ages". SDG 3 Target 3.3 aims to end the HIV epidemic by 2030 and Target 3.7 aims for universal access to SRH services by 2030, recognizing the central role of family planning services. The goal on gender equality and women's and girls' empowerment (SDG 5) includes Target 5.6, which calls for universal access to SRH and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development (ICPD) and the Beijing Platform for Action.[3]

The SDGs recognize SRHR as central to achieving progress in health and gender equality by 2030. Global evidence shows that reducing the unmet need for contraception and raising contraceptive prevalence rates would have enormous benefits for maternal and child health. Fewer unwanted pregnancies contribute to the reduction of maternal and child mortality, morbidity and malnutrition.

The Nairobi Statement on ICPD25 (2019)

The population policies of UN agencies are guided by the 1994 Programme of Action of the ICPD. The Nairobi Statement on ICPD issued at the Nairobi Summit on ICPD25 in 2019 includes commitments to achieve universal access to SRHR as a part of Universal Health Coverage.[4] The Nairobi Statement commits countries to strive for:

> Zero unmet need for family planning information and services, and universal availability of quality, accessible, affordable and safe modern contraceptives.

> Zero preventable maternal deaths and maternal morbidities, such as obstetric fistulas, by, inter alia, integrating a comprehensive package of SRH interventions, including access to safe abortion to the full extent of the law, measures for preventing and avoiding unsafe abortions, and for the provision of post-abortion care, into national UHC strategies, policies and programmes, and to protect and ensure all individuals' right to bodily integrity, autonomy and reproductive rights, and to provide access to essential services in support of these rights.

> Access for all adolescents and youth, especially girls, to comprehensive and age-responsive information, education and adolescent-friendly comprehensive, quality and timely services to be able to make free and informed decisions and choices about their sexuality and reproductive lives, to adequately protect themselves from unintended pregnancies, all forms of sexual and gender-based violence and harmful practices, sexually transmitted infections, including HIV/AIDS, to facilitate a safe transition into adulthood.

3 Beijing Platform for Action of the Fourth World Conference on Women (1995).
4 The Nairobi Statement on ICPD25, Accelerating the Promise (2019).

2016 Political Declaration on HIV and AIDS[5]

The Political Declaration on HIV and AIDS issued by the UN High-Level Meeting on Ending AIDS of 2016 emphasizes universal access to SRH and reproductive rights in accordance with the ICPD Programme of Action and the Beijing Platform for Action. It commits to ensuring universal access to quality, affordable and comprehensive SRH and HIV services, information and commodities, including women-initiated prevention commodities, including female condoms, pre- and post-exposure prophylaxis, emergency contraceptives and other forms of modern contraceptives by choice, regardless of age or marital status, and ensuring that services comply with human rights standards. It commits to promoting laws, policies and practices to enable access to services and reforming legislation that may create barriers or reinforce stigma and discrimination, such as age of consent laws and policy provisions that restrict access to services among adolescents.

2019 Political Declaration on Universal Health Coverage (UHC)

The Political Declaration of the High-level Meeting on UHC called on States to "Ensure, by 2030, universal access to sexual and reproductive healthcare services, including for family planning, information and education, and the integration of RH into national strategies and programmes, which is fundamental to the achievement of universal health coverage, while reaffirming the commitments to ensure universal access to sexual and reproductive health and reproductive rights in accordance with the Programme of Action of the ICPD and the Beijing Platform for Action and the outcome documents of their review conferences".[6]

2030 UN Youth Strategy

The 2030 UN Youth Strategy was launched in 2018.[7] It aims to facilitate increased impact and expanded global, regional and country-level action to address the needs, build the agency and advance the rights of young people in all their diversity around the world, and to ensure their engagement and participation in the implementation, review and follow-up of the 2030 Agenda for Sustainable Development and other relevant global agendas and frameworks.

The second priority of the UN Youth Strategy is "Informed and Healthy Foundations - Support young people's greater access to quality education and health services". Actions under this priority include "support to SRHR: Leverage the UN's advocacy and programmatic capacities to expand young people's access to youth-friendly and rights-based SRH services, comprehensive sexuality education and information."

5 United Nations, Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight against HIV and to Ending the AIDS Epidemic by 2030, 22 June 2016 (A/RES/70/266).
6 United Nations, Political Declaration of the High-level Meeting on Universal Health Coverage "Universal health coverage: moving together to build a healthier world", 18 October 2019 (A/RES/74/2), clause 68.
7 Youth 2030, Working with and for young people: United Nations Youth Strategy (New York, UN, 2018).

3

Key Regional Trends and Developments

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3.1 Age of Access to Reproductive Health Services

3.1.1 Overview

Human rights standards require States to guarantee adolescents' rights to privacy and confidentiality by providing SRH services on the basis of their evolving capacities and without mandatory parental consent requirements.[8] In 2014, the World Health Organization (WHO) issued guidance recommending that access to contraceptives should not be subject to mandatory parental or spousal consent requirements. [9] Such requirements may deter young people from accessing SRH services. The UN Committee on the Rights of the Child has also recommended that adolescents be presumed by law to be competent to independently access SRH services. [10]

Committee on the Rights of the Child: General Comment 20 on rights of adolescents (2016)[11]

"States should review or introduce legislation recognizing the right of adolescents to take increasing responsibility for decisions affecting their lives. The Committee recommends that States introduce minimum legal age limits, consistent with the right to protection, the 'best interests' principle and respect for the evolving capacities of adolescents. For example, age limits should recognize the right to make decisions in respect of health services or treatment…

In all cases, the right of any child below that minimum age and able to demonstrate sufficient understanding to be entitled to give or refuse consent should be recognized. The voluntary and informed consent of the adolescent should be obtained whether or not the consent of a parent or guardian is required for any medical treatment or procedure. **Consideration should also be given to the introduction of a legal presumption that adolescents are competent to seek and have access to preventive or time-sensitive SRH commodities and services.**

The Committee emphasizes that all adolescents have the right to have access to confidential medical counselling and advice without the consent of a parent or guardian, irrespective of age, if they so wish. This is distinct from the right to give medical consent and should not be subject to any age limit."

Access to oral contraceptives

The requirement for a health care worker or pharmacist to obtain the consent of a parent or guardian to provide oral contraceptives to adolescents may be based on the general age of majority law that applies in a particular country or other specific legislative or policy provisions.

8 UN Committee on the Rights of the Child, General Comment No. 4: Adolescent health and development in the context of the CRC, 2003 (CRC/ GC/2003/4); UN Committee on the Rights of the Child, General Comment No. 15: The rights of the child to the highest attainable standard of health, 2013 (CRC/C/GC/15).

9 WHO, Ensuring human rights in the provision of contraceptive information and services: Guidance and recommendations (Geneva, WHO, 2014).

10 Committee on the Rights of the Child, General Comment 20 on implementation of the rights of the child during adolescence, 2016 (CRC/C/GC/20).

11 Ibid.

There is policy support for providing adolescents with access to contraceptives and other SRH services for adolescents in many countries. However, in most cases, this is expressed as a general commitment without specific guidance on whether or how parental consent requirements are enforced when providing specific products such as oral contraceptives.[12] The legal position in relation to the access of minors to contraceptives is often ambiguous. In countries that lack specific guidance or legislation on consent requirements, health care workers exercise discretion in relation to whether parental consent is mandatory. However, there are some countries where strict age restrictions are applied. For example, in the Philippines, written consent of parent or guardian is required by law for young people aged under 18 to access family planning services.[13]

In some countries, SRH services are strongly oriented towards married couples, and the law and policies fail to address the rights of unmarried adolescents to access SRH services. For example, the SRH laws and policies that apply in Afghanistan, China and Indonesia retain a strong focus on married couples.[14]

Access to safe abortion services

For women of any age, access to safe abortion services is often restricted by laws and policies that define the category of circumstances in which abortion is lawful. The main grounds for allowing abortion are: risk to life; rape or incest; serious foetal anomaly; risk to physical or mental health; or social and economic reasons. Countries included in this review with the least restrictive abortion laws are Cambodia, China, Mongolia, Nepal and Viet Nam. However, in some countries, abortion is strictly prohibited in all circumstances and is unavailable to women and girls of any age (e.g. Afghanistan, the Philippines).

In most countries where abortion is legally available to women and girls, there is no specific law that imposes an age restriction on access to safe abortion services. Rather, the rules that apply in relation to age of majority and a minor's right to access medical treatment, in general, are applied to safe abortion services, which typically means that a girl aged under 18 years will require the consent of a parent or guardian to access safe abortion services. Some countries have a lower legal age of majority, e.g. 16 years in Samoa and Tokelau; 17 years in DPRK. In some cases, a specific law has been introduced that addresses consent to safe abortion services. For example, legislation in India and Nepal requires the consent of a parent or guardian for girls under 18 years to obtain an abortion.[15]

12 This is the position under the relevant health policies of Bangladesh, Cambodia, Cook Islands, India, Lao PDR, Malaysia, Maldives, Marshall Islands, Nauru, Samoa, and Tonga.

13 Section 7 of the Reproductive Health Act (Philippines) and Rules 4.06 and 4.07 of the Act's Implementing Rules and Regulations state that no person shall be denied access to family planning information and services, whether natural or artificial, provided that minors are given written consent from their parents or guardians. The minor must then be given age-appropriate counselling.

14 Afghanistan: Reproductive Health Strategy 2012-2016, and Family Planning Costed Implementation Plan 2018-2022; China: Law on Population and Family Planning; Indonesia: Health Law No. 36 of 2009.

15 India, Medical Termination of Pregnancy Act 1971; Nepal, Right to Safe Motherhood and Reproductive Health Act, 2075 (2018).

3.1.2 Access to oral contraceptives and safe abortion services: Significant developments since 2013

There are several examples where laws or policies issued since 2013 support the right of adolescents to access SRH or family planning services:

The Cook Islands Integrated National Strategic Plan for SRH (2014-2018) prioritizes access to SRH services, including contraception, for teenagers and young women.

In Lao PDR, the National Sexual and Reproductive, Maternal, Newborn, Child and Adolescent Health Policy (2019) provides that female adolescents must be able to protect themselves from unwanted pregnancy. Priorities include capacity building of service providers in the special needs of adolescents and their required service provision, promotion of the right to informed choices for adolescents, ensuring their unmet need for contraception is addressed, and provision of SRH services and counselling specifically targeted to adolescents and provided in an adolescent-friendly setting. The Policy promotes the involvement of parents in adolescent SRH care, while ensuring the needs and rights of adolescents to access services are given priority.

In Myanmar, the Family Planning Guideline for Service Providers (2018) provide that young people aged 15 or over must be assured of confidentiality and privacy, and services must ensure that an adolescent's choices are her own and she is not unduly pressured to make decisions by her partner or her family.

Nepal's Right to Safe Motherhood and Reproductive Health Act, 2075 (2018) provides that teenagers shall have the right to obtain SRH services. The Act supports the right of adolescents to access safe abortion services; however, if aged under 18 years, the consent of parent or guardian is required and the girl's best interests must be considered. Nepal's National Medical Standards for Reproductive Health[16] refer to the rights of unmarried adolescents to access contraception, as well as their right to privacy and confidentiality and mandates provision of contraceptives to adolescents (aged 10 to 19) without a requirement for parental involvement.

The provincial assembly of Sindh Province of Pakistan passed the Sindh Reproductive Healthcare Rights Act in 2019.[17] Although the Act does not specifically address the rights of adolescents, it states that the right to equality and to be free from all forms of discrimination and that all persons have a right to make independent decisions about their reproductive rights and the right to have decisions respected by others. The provincial assembly also passed the Sindh Reproductive, Maternal, Neo-natal and Child Health Authority Ordinance in 2014, which empowers a provincial authority to reduce the unmet need for contraceptives and improve the contraceptive prevalence rate.[18] An Act with the same provisions was passed by the Assembly of Punjab Province of Pakistan in 2014.

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16 Nepal, National Medical Standard for Reproductive Health (Kathmandu, Ministry of Health and Population, 2010), at 17-4: "ensure confidentiality, including agreeing not to discuss decisions with parents (guardians), as appropriate".
17 Pakistan, Sindh Reproductive Healthcare Rights Act, 2019.
18 Pakistan, Sindh Reproductive, Maternal, Neo-natal and Child Health Authority Ordinance, 2014.

PNG's Sexual and Reproductive Health Policy (2014) commits to increasing access to family planning services to adolescents. PNG does not require parental consent for access to family planning services for unmarried adolescents aged 16 years or over.

Samoa's National Sexual and Reproductive Health Policy 2017-2022 prioritizes delivery of youth-friendly services to improve young people's SRH.

In Sri Lanka, a Ministry of Health Circular issued in 2015 provides that adolescent SRH services may be provided to a minor under 18, irrespective of parental consent, if it is likely that the minor will engage in sexual intercourse which will be detrimental to their physical or mental health without the provision of the service.[19]

Thailand's Prevention and Solution of the Adolescent Pregnancy Problem Act 2016 provides that an adolescent aged over 10 has the right to make independent choices in accessing RH services.[20]

In Vanuatu, unmarried young people have the right to access contraceptives and other family planning services without a requirement for consent from a parent or guardian according to national Family Planning Guidelines for Health Workers issued in 2015.[21]

In India, reform of the abortion law aims to improve access to safe abortion services for unmarried girls. The Medical Termination of Pregnancy Act 1971 permits abortions in prescribed circumstances, including if the pregnancy causes a risk of "grave injury" to the mental health of the women. Under the 1971 Act, if pregnancy occurs due to failure of any device or method used by a married woman or her husband to limit the number of children, such an unwanted pregnancy may constitute a "grave injury" to the woman's mental health. A Bill to amend the Act was brought to Parliament in 2020, which proposes to replace the phrase "married woman or her husband" with "woman or her partner", to support unmarried women and girls to access safe abortion services in these circumstances.[22]

19 Sri Lanka, Ministry of Health and Indigenous Medicine, General Circular no. 01-25/2015.
20 Thailand, Prevention and Solution of the Adolescent Pregnancy Problem Act 2016, section 5.
21 Vanuatu, Ministry of Health and UN Joint Programme on RMNCAH, Evidence-Based Guidelines in Family Planning for Health Workers, 2015.
22 India, Medical Termination of Pregnancy Amendment Bill, 2020.

Regressive SRHR policy developments

In some countries, new policy barriers to SRHR for young people have emerged in recent years. For example:

The Islamic Republic of Iran and the DPRK have responded to concerns about the social and economic consequences of declining population rates by introducing pro-natalist population policies after 2014.[23] In both of these countries, these countries' governments have changed the orientation of population policy away from family planning and have instead introduced restrictions on women's access to safe abortion and other family planning services. In DPRK, the official government position is to continue family planning programmes, irrespective of the change in the population policy. However, UNFPA has reported several cases of contraceptive stock-outs at DPRK health facilities, as well as limited access to an appropriate mix of contraceptive methods, noting that over 95% of contraceptive users opt for intra-uterine devices (IUD).

Raising the age of consent to sex to 18 in India is discussed in section 3.3 below. Access to SRH information and services by adolescents has been impeded by changes to the age of consent laws which criminalize all sexual contact for persons under 18 years. The law undermines the effectiveness of the government's Adolescent Reproductive and Sexual Health Programme, which seeks to provide sexual health information and services to adolescents.[24] The Government of India is also considering raising the age of marriage for girls to 21, which may create additional barriers for unmarried young people to access SRH services because of the legal framework and provider's attitudes.

The family planning policies of Indonesia retain a strong focus on married couples. For example, Indonesia's National Family Planning Board 2015-2019 Strategic Plan focused on contraception services for married couples and failed to address the needs of unmarried adolescents to access contraceptives and safe abortion services. Under Ministry of Health Regulations introduced in 2014, contraception can only be given to a married woman with the consent of her husband.[25] There has also been growing vocal opposition to the provision of family planning services and contraception to women and girls. In 2015, the Indonesian government submitted a draft amendment to the Penal Code to the House of Representatives recommending the criminalization of condom sales in supermarkets.[26] A draft revision of the Criminal Code was submitted in 2019 which proposed to criminalize the provision of contraception information or safe abortion information to children by non-authorized personnel.

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23 DPRK: Citizens' Alliance for North Korean Human Rights (NKHR), Situation in the DPRK, Submission for the Committee on the Elimination of Discrimination Against Women 68th Session (NKHR, 2017); M. Karamouzian, H. Sharifi, A. Haghdoost, "Iran's shift in family planning policies; concerns and challenges", Int J Health Policy Manag 3 (2014), 1–3.

24 Status of human rights in the context of sexual health and reproductive health rights in India (New Delhi, Partners for Law in Development and SAMA Resource Group for Women and Health, 2018).

25 Indonesia, Ministry of Health Regulation No 61/2014, Arts. 22 and 23.

26 Civil Society Coalition on SRHR, Indonesia Universal Periodic Review Submission (2017).

3.2 Age of Consent to HIV Testing

3.2.1 Overview

> The UN Committee on the Rights of the Child has recommended that due attention must be given to the evolving capacities of the child to ensure the accessibility of voluntary, confidential HIV testing services.[27]

In most countries, upon attaining the legal age of majority, a person has full legal capacity to engage health services, undergo medical tests and receive treatment independent of a parent or guardian. Consent of a parent or guardian is often a pre-condition for persons aged under the age of majority to consent to medical tests and procedures.

Some countries have introduced special age rules for specific procedures such as HIV testing. Some countries provide an exception that allows minors to provide consent independently if they demonstrate sufficient maturity to understand the nature and consequences of the medical procedure ('mature minor' exception). A flexible approach to the age of consent to HIV testing can be beneficial in encouraging young people to present to services without fear of breach of confidentiality about their health status or risk factors such as sexual or drug use history.

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27 UNCommittee on the Rights of the Child, General Comment No. 3, HIV/AIDS and the rights of the child, 2003 (CRC/GC/2003/3), para. 22.

In some countries, special legislative provisions have been introduced to support a flexible approach that enables access to HIV testing for people aged under 18. These include:

- Cambodia: for minors, written informed consent must be obtained from a legal guardian; but if the guardian's consent cannot be obtained and a test is in the minor's best interests, HIV testing may be conducted with the minor's consent.
- Fiji: no arbitrary age limit, a child can consent if capable of understanding the nature and consequences of the HIV test.
- Lao PDR: age of consent to an HIV test is 14.
- The Philippines: age of consent to an HIV test is 15, or younger if strict criteria met.
- Marshall Islands: age of consent to an HIV test is 14.
- PNG: age of consent to an HIV test is 12.
- Pohnpei State of Micronesia, F.S.: age of consent to an HIV test is 14.
- Viet Nam: age of consent to an HIV test is 16.

Some countries address the age of consent to HIV testing in their health policies rather than in national legislation. Countries where the national HIV testing policy confirms the age at which a person can independently consent or defines the principles to be applied in determining consent requirements for those aged under 18 include:

- Afghanistan: age of consent to an HIV test is 16 years.
- Myanmar: flexible approach with no arbitrary age limit.
- Nepal: age of consent to an HIV test is 16 years.
- Sri Lanka: age of consent to an HIV test is 16 years, or younger if the child has competence to understand the test.
- Samoa: flexible approach permitting children living independently to consent.
- Thailand: flexible approach with no arbitrary age limit.

3.2.2 Independent access to an HIV test: Significant developments since 2013

Legal and policy models addressing consent to HIV testing which have been developed since 2013 include:

Myanmar:

The Myanmar National Guidelines on HIV Testing Services (HTS) issued in 2018 require that HTS be based on a human rights and public health approach.[28] The Guidelines refer to WHO's policy which encourages countries to uphold adolescents' rights to make choices about their own health and well-being, with consideration for different levels of maturity and understanding. The Guidelines state:

> *In general, adolescents should be assessed for their levels of maturity and understanding as well as their family situation and allowed to consent for testing as needed. In particular, HTS should be accessible to adolescents from key population groups, including children who have been sexually abused or exploited and children who inject drugs. Authorities also should consider the role of other decision-makers in HIV testing serivces for adolescents without parents or for those unwilling to involve parents.*

Philippines:

Philippine HIV and AIDS Policy Act of 2018[29] provides that a child may consent to an HIV test independent of a parent if the child is aged 15 or over. If aged under 15, the consent of a parent or guardian is not required if the child is pregnant or engaged in high-risk behaviour and the test is with the assistance of a licensed social worker or health worker. If the child is under 15, and parents refuse consent or cannot be found, then the consent can be provided by a social worker or health worker with the child's agreement (assent).

Samoa:

Children living independently, who are not in contact with parents and who do not have a guardian, are able to consent to HIV testing after they have been provided with age-sensitive information and counselling.[30]

28 Myanmar Ministry of Health and Sport, Myanmar National Guidelines on HTS (Myanmar, Ministry of Health and Sport, 2018).
29 The Philippines, Philippine HIV and AIDS Policy Act of 2018, Republic Act 11166, article 29.
30 Samoa, Ministry of Health, National HIV, AIDS, and STI (Sexually transmitted infection) Policy 2017-2022.

Sri Lanka:

The 2016 National HIV Testing Guidelines[31] include the following helpful guidance:

> *Consent of the parent or legal guardian following counselling should be sought prior to testing children below the age of 16 years. If a parent or caregiver refuses HIV testing, the health-care provider should offer additional counselling on the rationale for testing and the potential benefits to the child. When counseling of a child below 16 years is required, preferably it should be done with parent's consent. When all efforts to obtain parental consent have failed, health care provider has an ethical responsibility to act in the best interests of the child as the treatment available is lifesaving. In the given context, the provider should test the child and initiate treatment. In situations that child presents to the services alone, health care provider can perform the HIV test, whenever he/she satisfied with competency of child understanding about the test.*
>
> *Parents and guardians also have the right to maintenance of confidentiality and privacy within the context of HIV testing. Additionally, HIV testing and the status of the child tested must not be used to deny other rights to a child. In instances where there is no parent or legal guardian to give consent (e.g.: orphans, abandon (sic) children, street children) decision to test should be made by the health care provider and it should be done in the best interest of the child.*

Thailand:

The Clinical Guidelines for HIV Testing and Counselling provide that young persons aged under 18 years do not require parental consent for HIV testing. To exercise independent consent, the child must have the capacity to understand the information related to HIV and the meaning of a positive test result. In relation to the disclosure of test results, if a minor could not understand the process of testing, parental or guardian involvement is required, and the test results are reported to the parent or guardian.[32]

Indonesia:

The Health Ministerial Regulation on HIV Testing provides that the informed consent of a parent or guardian is required prior to conducting an HIV test on a child.[33] Although minors do not have the right to give informed consent to HIV tests, they do have the right to be involved in all decisions that concern their lives and to express their views to the best of their developmental status. The Child Protection Law emphasizes consultation with children in all aspects of life.[34] This suggests that health care workers need to consult both parents and children when a decision is being made about medical testing or treatment.

31 Sri Lanka, Ministry of Health, National HIV Testing Guidelines 2016.

32 Cover letter from Thai Medical Council of 12 December 2014 sent to hospitals and the attached Clinical Practice Guideline, 9 October 2014, see: J. Singh, Age of Consent: Legal, ethical, cultural and social review – Thailand country report (SRHR Africa Trust (SAT), 2018), p.14.

33 Indonesia, Health Ministerial Regulation no. 74 of 2014 on the Guidelines for Examinations, Counselling and HIV testing, article 3(b).

34 Indonesia, Child Protection Law no. 23 of 2002.

Table 1 : Age of majority, young people's access to HIV testing and oral contraceptives

	Legal age of majority	Young people's access to HIV testing: HIV testing laws & policies	Young people's access to oral contraceptives: SRH laws & policies
Afghanistan	18 (Civil Code 1977)	Consent of a parent or guardian is required for young people aged under 16 years to access an HIV test. (National Guidelines for HIV Testing and Counselling Services, 2013)	The Reproductive Health Strategy 2012-2016, and Family Planning Costed Implementation Plan 2018-2022 focus on married couples.
Bangladesh	18 (Majority Act 1875)	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	The National Adolescent Health Strategy 2017-2030 and Family Planning 2020 support the provision of contraceptives to adolescents.
Bhutan	18 (Child Care and Protection Act 2011)	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent. The Ministry of Health includes STI/HIV as a core adolescent RH service package in the National Standards and Implementation Guide for Adolescent Friendly Health Service 2019.	There is a National Adolescent Health Strategic Plan 2013-2018. National Standards and Implementation Guide for the provision of Adolescent Friendly Health Service (2019) includes a SRH package for the provision of services for prevention of pregnancy and HIV/STIs. The Ministry of Health has included contraceptives for adolescents in the National Family Planning Standard, 2018.
Brunei Darussalam	Unclear (Under 18 years are "juvenile"; under 14 years are children: Children and Young Persons Order Act).	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	No legislative or policy support for oral contraceptives.
Cambodia	18 (Civil Code 2007)	A person aged 18 years or over can consent independently to an HIV test and there is flexibility under the law to permit a health care worker to conduct an HIV test at a younger age without parental consent if it is in the child's best interests and with the minor's consent. (Law on the Prevention and Control of HIV/ AIDS of 2002, article 19.)	The priorities of the National Strategy for Reproductive and Sexual Health in Cambodia 2017-2020 include to strengthen Adolescent Friendly Reproductive and Sexual Health information and services. The Essential Reproductive and Sexual Health service package includes availability of oral contraceptives.
Cook Islands	21 (Infants Act 1908)	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent. It is unclear whether a person aged 18-20 can consent independently.	There is policy support for teenage girls to access contraceptives from the National Policy on Gender Equality and Women's Empowerment (Strategic Plan of Action, 2011-2016) and Integrated National Strategic Plan for Sexual and Reproductive Health 2014-2018.
China	18 (Minors Protection Law)	Consent of a parent, other family member or guardian is required for young people aged under 18 years to access an HIV test.	According to the Law on Population and Family Planning 2001, married couples of reproductive age enjoy free national family planning services. Unmarried youth do not benefit from free family planning services.

	Legal age of majority	Young people's access to HIV testing: HIV testing laws & policies	Young people's access to oral contraceptives: SRH laws & policies
Fiji	18 (Child Welfare Act 2010; Fiji Public Trustee Corporation Act as amended 2012)	A person aged 18 years or over can consent independently to an HIV test and there is flexibility under the law to permit a health care worker to conduct an HIV test at a younger age without parental consent if the child is assessed by the health care worker to be capable of understanding the nature and consequences of the HIV test. (HIV/AIDS Act 2011, s. 29.)	Adolescent SRH is embedded in the national Reproductive Health Policy (2014). SRH programmes target teenage pregnancy. The consent of a parent or guardian is required for a child aged under 18 years to access oral contraceptives.
India	18 (Age of Majority Act 1975)	According to national HIV testing guidelines, consent of a parent or guardian is required for young people aged under 18 years to access an HIV test. (HIV and AIDS (Prevention and Control) Act 2017. National HIV Counselling and Testing Services (HCTS) Guidelines, National AIDS Control Organization, 2016)	It is unclear whether the consent of a parent or guardian is required for a minor to access oral contraceptives. There is policy support for expanding family planning access to adolescents in the RMNCH+A Strategy (2013) and National Adolescent Health Strategy (2014).
Indonesia	21 for civil matters (Civil Code); 18 for child protection (Child Protection Law)	Consent of a parent or guardian is required for young people aged under 18 years to access an HIV test. (Health Ministerial Regulation (74/2014) on the guidelines for HIV testing, Article (art.)3(b)).	The Health Law No. 36 of 2009 provides the right to a healthy and safe reproductive life and sexual life, however, this applies only in relation to a person's "lawful partner".
Iran, I. R.	Ambiguous. 18 for civil law purposes. Personal status maturity is at 15 (m) or 13 (f) (Shiite religious law)	For health care, 15 is the age of majority for boys, and 13 is the age of majority for girls provided that they demonstrate competence to make the relevant decision. Important health care decisions for minors require a guardian's consent. A minor child is under the guardianship of his or her father, paternal grandfather or a guardian appointed by either of them (Civil Code, articles 1180 and 1181).	Promotion of contraceptives to adolescents is counter to pro-natalist national population policies introduced since 2014, which promote population growth.
Kiribati	Unclear (21: Common law; 14; Children, Young People and Family Welfare Act 2013).	No specific provision permitting young people to access HIV test without parental involvement/ consent.	No specific legislative or policy support for young people to access contraceptives.
DPRK	17 (Civil Law of DPRK)	Not known.	No specific legislative or policy support for young people to access contraceptives.
Lao PDR	18 (Law on the Protection of the Rights and Interests of Children 2007)	A person aged 14 or over can consent independently to an HIV test. (Law on HIV/AIDS Control and Prevention of 2010, article 18).	National policy supports increased use of modern methods of contraception among sexually active youth: National Sexual & Reproductive, Maternal, Newborn, Child & Adolescent Health Policy (2019).

	Legal age of majority	Young people's access to HIV testing: HIV testing laws & policies	Young people's access to oral contraceptives: SRH laws & policies
Malaysia	18 (Child Act 2001; Age of Majority Act 1971)	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	There is policy support for access to SRH services for adolescents from the Ministry of Health's National Plan of Action for Adolescent Health Programme 2015-2020.
Maldives	18 (Law on the Protection of the Rights of the Child (Law No. 9/91))	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	The National Reproductive Health Strategy 2014-2018 supports availability of contraceptives and improved contraceptive choices, and addresses special needs for family planning for sexually active unmarried couples.
Marshall Islands	18	A child aged 14 years or over can consent to an HIV test if they have been at risk of HIV. Health care worker is authorised but not required to notify parent of result. (Communicable Diseases Prevention and Control Act 1988 [7 MIRC Ch 15])	There is some support for adolescent access to contraception from National Reproductive Health Policy and Strategy, which calls for improved SRH of adolescents and young people through reduction of teenage pregnancy. United States of America legal principles may be recognized by courts, which support adolescents' access to contraceptives for mature minors.
Micronesia, F.S.	18 (FSM Code Title 06, Chapter 16 § 1616).	There is flexibility to recognize consent of a minor as valid. Pohnpei State: Minors aged above 14 years may consent for themselves if, in the opinion of the testing clinicians, they have been at risk of HIV and are able to understand the nature and implications of the test. (Pohnpei HIV Prevention and Care Act 2007, Section 130). In the other States of FSM, 'mature minor' legal principles may be applied.	18 is the age of majority. US legal principles may also be taken into account by courts, which support adolescent access to contraceptives for mature minors. In Yap, oral contraceptives are available to minors without parental consent requirements.
Mongolia	18 (Civil Law of 2002).	Consent of a parent or guardian is required for young people aged under 18 years to access an HIV test. The law recognizes that adolescents obtain partial capacity from the age of 14, but it is unclear whether they can consent independently to an HIV test.	There are no legal prohibitions on the use or purchase of contraceptives by adolescents, and there is no legal requirement for parental consent. In practice, health services make their own decisions about providing adolescents with access to contraceptives.
Myanmar	18 (Child Rights Law of 2019)	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	There is policy support for access to SRH services for young people aged 15 and over (Family Planning Guideline for Service Providers, 2018) Reproductive health counselling and services must be accessible, available, affordable, and acceptable for adolescents, provided in a supportive and non-judgmental environment.
Nauru	18 (Child Protection and Welfare Act of 2016)	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	There is policy support for youth-friendly SRH services from the Integrated National Strategic Plan for Sexual and Reproductive Health Services 2015-2020.

	Legal age of majority	Young people's access to HIV testing: HIV testing laws & policies	Young people's access to oral contraceptives: SRH laws & policies
Nepal	16 (Children's Act 1992)	A 16-year-old can consent to HIV test according to the National HIV Testing and Treatment Guidelines 2020.	The Right to Safe Motherhood and Reproductive Health Act, 2075 (2018), s. 3(1) "Every teenager shall have the right to obtain SRH services." Unmarried teenagers have rights to access contraceptives without parental consent requirement. The National Medical Standards for Reproductive Health (2010) refer to the rights of unmarried adolescents to access contraception, and rights to privacy. The Standards mandate provision of contraceptives to adolescents (aged 10 to 19) without a requirement for parental involvement.
Niue	Unclear	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	Not known.
Pakistan	18 (Majority Act of 1875)	No specific provision permitting young people under 18 to access an HIV test without parental involvement/consent. If a doctor feels that a child will understand a proposed medical procedure, information or advice, this shall be explained fully to the child. (Code of Ethics of Practice for Medical and Dental Practitioners, Regulations 2011)	Provincial family planning policies focus on married women of reproductive age. The parliament of Sindh Province passed the Sindh Reproductive Healthcare Rights Act in 2019. Although the Act does not address the rights of adolescents, it states all persons have a right to make independent decisions about their reproductive rights and the right to have decisions respected by others.
Palau	18 (Palau National Code, Domestic Relations - Title 21 § 105)	No specific provision permitting young people under 18 to access an HIV test without parental involvement/consent. Mature minor principles of common law may be applied. (American Law Institute Restatement (Second) of Torts §892A)	Mature minor principles of common law may be applied. No information on SRH policies.
PNG	18 (Constitution of PNG, arts. 42, 126)	A 12 year old child can consent independently to an HIV test if they understand the nature and consequences of the test. (HIV/AIDS Management and Prevention Act 2003, section 14(2).)	Sexual and Reproductive Health Policy 2014 supports girls' access to modern contraceptives. Under the 'Family Planning for All' Policy, a person aged over 16 years does not require parental consent to be provided with contraception.
Philippines	18 (Republic Act 6809)	A 15 year old child can consent independently to an HIV test. A child aged under 15 can be tested for HIV without parental consent if the child is pregnant or engaged in high risk behaviour and the test is with the assistance of a licensed social worker or health worker. If child is under 15 and parents refuse consent or cannot be found, then consent can be provided by a social worker or health worker with the child's assent. (Philippine HIV and AIDS Policy Act of 2018, art. 29)	Written consent of parent or guardian is required for minors under 18 years of age by the Responsible Parenthood and Reproductive Health Act of 2012, s.7.

	Legal age of majority	Young people's access to HIV testing: HIV testing laws & policies	Young people's access to oral contraceptives: SRH laws & policies
Samoa	16 (Infants Act 1961)	A child aged under 18 requires consent of a parent or guardian for an HIV test. An exception applies for children living independently, who are not in contact with parents and who do not have a guardian, who can consent to HIV testing after they have been provided with age-sensitive information and counselling. (National HIV, AIDS, and STI Policy 2017-2022)	National Sexual and Reproductive Health Policy 2011-2016 prioritizes delivery of youth-friendly services.
Solomon Islands	18 (Child and Family Welfare Act 2017)	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent.	There is a broad commitment to expanding access to RH services in the National Health Strategic Plan 2016-2020.
Sri Lanka	18 (Age of Majority Amendment Act No. 17 of 1989)	Young people can consent independently to HIV tests from the age of 16. (Ministry of Health, National HIV Testing Guidelines 2016)	Ministry of Health Circular issued in 2015 provides that Adolescent SRH services may be provided to a minor under 18, irrespective of parental consent, if it is likely that the minor will engage in sex which is detrimental to their physical or mental health, without the provision of the service.
Thailand	21 (Civil and Commercial Code of Thailand, Section 19).	No arbitrary age limit. A child can consent independently to an HIV test if they have the capacity to understand the nature of HIV and the meaning of a positive test result. (Thai Medical Council Clinical Practice Guideline on HIV, 2014)	The Act for Prevention and Solution of the Adolescent Pregnancy, B.E. 2559 (2016) supports a child aged over 10 to make independent decisions about their own RH.
Timor-Leste	17 (Civil Code, article 126)	No specific provision permitting young people under 17 to access HIV test without parental involvement/ consent.	The National Family Planning Policy 2005 states reproductive healthcare programmes should provide the widest range of services without any form of coercion. All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so. The draft National Family Planning Policy 2017 focuses on married couples.
Tokelau	16 (Contract Rules of Tokelau, r. 9)	Aged 16 or over can enter legal contracts. No specific provision permitting young people under 16 to access HIV test without parental involvement/ consent.	No specific legislative or policy support for young people to access contraceptives.
Tonga	Unclear	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent. The law does not specify an age that separates childhood from adulthood, but tends to determine the age of majority according to a person's conduct. (Tonga: A Situation Analysis of Children, Women and Youth. UNICEF Pacific, 2006)	National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018): Policy support for youth-friendly family planning services but no specific guidance on access to contraceptives to under 18s.

	Legal age of majority	Young people's access to HIV testing: HIV testing laws & policies	Young people's access to oral contraceptives: SRH laws & policies
Tuvalu	Unclear	No specific provision permitting young people under 18 to access HIV test without parental involvement/ consent. Consent of a parent or guardian is required for young people to access an HIV test. (Common law and customary law)	No specific legislative or policy support for young people to access contraceptives.
Vanuatu	18 (English law applicable at independence)	No specific HIV test consent provision in law or policy. Vanuatu inherited some English laws at independence. In England, the age of majority was set at 18 by the Family Law Reform Act 1969. However, the 'mature minor' principle of common law may also be applied to permit a minor to exercise consent to medical tests.	There is no legal requirement for parent/guardian consent for Family Planning; adolescents have right to access services independently under the Essential Policies and Standards of Practice for Family Planning Services, 2015; Evidence-Based Guidelines in Family Planning for Health Workers.
Viet Nam	18 (Civil Code 2015, art. 20).	Young people can consent independently to HIV tests from the age of 16. Consent of a parent or guardian is required for young people aged under 16 years to access an HIV test. (Law on HIV/AIDS Prevention and Control of 2006, Article 27 ; Ministry of Health Circular No: 32/2013/TT-BYT, Guidance on HIV)	The law supports young people 10-19 years to access contraceptive services. National Guidelines for Reproductive Healthcare stipulate that adolescents (10-19 years old) have the rights to make decisions in matters relating to reproductive health and sexual health (Ministry of Health Decision No. 4620/QD-BYT of 2009)

Table 2 : Access to safe abortion services

	Legality of abortion	Circumstances in which abortion is available to girls (under 18 years)	Laws and policies
Afghanistan	Illegal.	Unavailable.	Penal Code 2017, article 569.
Bangladesh	Illegal except to save woman's life. Menstrual regulation method is endorsed in early pregnancy. Parental consent is required for girls under 18.	To save the girl's life.	Penal Code 1860, sections 312-316.
Bhutan	Illegal except in cases of rape or incest or to save her life or if mother of unsound mental condition.	To save the girl's life; rape or incest; mother of unsound mental condition.	Penal Code 2004, section 146, Illegal Abortion.
Brunei Darussalam	Illegal except to save a girl's life.	To save the girl's life.	Penal Code section 312 and the Sharia Penal Code 2013, sections 161 & 164.
Cambodia	Legal and available at clinician's discretion in first 12 weeks; or if later in the pregnancy abortion is legal if there is a danger to the mother's life; or where the baby if born may have a serious and incurable disease; or in rape cases.	On request in first 12 weeks. After 12 weeks, abortion restricted to cases of danger to the mother's life, where the baby if born may have a serious and incurable disease; or rape; and consent of the girl and her parent or guardian is required (<18 years).	Law on Abortion 1997, article 8.
Cook Islands	Abortion is illegal except to save the mother's life.	To save the girl's life.	Crimes Act 1969, section 202
China	Legal on request up to 28 weeks. (Hong Kong Special Administrative Region, China (SAR): available if the continuance of the pregnancy would involve risk to the life of the woman or of injury to her physical or mental health, greater than if the pregnancy were terminated; or a substantial risk that child would be seriously handicapped.)	On request, provided that the consent of a parent or guardian is obtained if under 18 years.	Ministry of Health Directives. Population and Family Planning Policy / One Child Law 1979. Hong Kong SAR: Offences against the Person Ordinance, section 47A.
Fiji	Illegal except in cases of rape or incest or serious danger to the physical or mental health of the woman.	Available to minors in cases of rape, incest or serious danger to health, if custodial parent is consulted, or a minor can consent independently of a parent or guardian if approved by a magistrate.	Crimes Act 2009, sections 234 -236.
India	The 2020 Amendment Bill proposes to increase the limit on terminations from 20 weeks to 24 weeks in cases involving incest, rape, minor girls, and differently-abled girls or in case of a pregnancy that has substantial foetal abnormalities. Medical Boards will decide if a pregnancy may be terminated after 24 weeks in cases of substantial foetal abnormalities	Available to minors under 18 in prescribed circumstances with written consent of parent / guardian. If consent is not given an application may be made for judicial authorisation of a minor to access an abortion.	Medical Termination of Pregnancy Act 1971 and Medical Termination of Pregnancy Rules 2003. Medical Termination of Pregnancy (Amendment) Bill 2020.

	Legality of abortion	Circumstances in which abortion is available to girls (under 18 years)	Laws and policies
Iran, IR	Abortion only permitted during the first four months if the foetus is mentally or physically handicapped or if the mother's life is in danger.	To save the girl's life or if the foetus is handicapped. Important health care decisions for unmarried girls usually require consent of her male guardian / father or other family member.	Therapeutic Abortion Act 2005. Criminal Code, article 623 Civil Code (Articles 1180 and 1181) grants the guardianship of a girl to her father or paternal grandfather.
Indonesia	Abortion illegal except in cases where woman's life is at risk or rape cases.	To save the girl's life, or rape cases. Consent of both the woman and her spouse are required. No provision specifically addressing consent by unmarried women or minors.	Article 346 of the Penal Code. Article 21.3 of the Population and Family Development Law No 52 of 2009. Article 194 of the Health Law No. 36 of 2009.
Kiribati	Abortion illegal unless to save a woman's life.	To save the girl's life.	Penal Code 1977, articles 150-152, 214 and 227.
DPRK	Abortion prohibited unless to save a woman's life / risks to her life, physical and mental health and foetal malformation.	Not generally available.	A pro-natalist policy was introduced in 2015, so abortions are actively discouraged
Lao PDR	Abortion prohibited unless to save a woman's life or rape cases. Conflicting information about other exceptions.	To save the girl's life or rape cases or other cases where hospital agrees on health grounds.	Regulation on Maternal and Child Health of 2004. Penal Law 1990 Article 92 on Unlawful Abortion Prevention of unsafe abortion Guideline 2016.
Malaysia	Abortion prohibited unless to remove a danger to the mother's life, physical health, and mental well-being.	Consent of parent/guardian is required for girls under 18. If no guardians can be contacted, then consent should be sought from a child protector or from the State. Husband's consent also required for married Muslim women/girls. Married non-Muslim women should also be encouraged to discuss the termination of pregnancy with her husband.	Guidelines on Termination of Pregnancy for Hospitals in the Ministry of Health, Malaysia, 2012. Guidelines for Management of Sexual and Reproductive Health among Adolescents in Health Clinics, Ministry of Health, Malaysia, 2012. Penal Code articles 312-316.
Maldives	Abortion is illegal except in the following cases: Thalassemia major, sickle cell major or multiple congenital anomalies; to save the life of the mother or preserve her physical health; rape by an immediate family member; and rape of a child who is physically and mentally unfit to become pregnant and deliver a baby.	With consent of spouse if married. Unmarried minor can access abortion if necessary to save a girl's life or in case of rape of a child.	Penal Code 2014.

	Legality of abortion	Circumstances in which abortion is available to girls (under 18 years)	Laws and policies
Marshall Islands	Abortion is legal on health grounds. The prevailing policy is that if three medical practitioners advise abortion is medically appropriate, it is authorized.	To save the girl's life or preserve her health. No special procedures for child consent.	In 1971, the High Court of the Trust Territory ruled that abortion provisions of the Trust Territory Code were invalid. Since independence, the legal position is unclear.
Micronesia, F.S.	Abortion prohibited unless to save a woman's life.	To save the girl's life.	Code of Kosrae, Section 13.501. Code of Chuuk, § 2068.
Mongolia	Abortion is legal on request, if there are health / therapeutic grounds.	Available on request; If below 18 consent of parent or guardian is required and their approval to terminate pregnancy must be documented. The Informed Consent form signed by the patient/legal guardian must be attached to the Day Hospitalization Record (for public units) or to the Record for Elective Termination of Pregnancy (for private units).	Mongolia Guidelines for Abortion Care, 2004. National Abortion Standards. Minister's Order on Abortion Regulation, 2014. Criminal Code 2017 Article 15.5.
Myanmar	Abortion prohibited unless to save a woman's life.	To save the girl's life.	Penal Code 1860 section 312 Child Rights Law, no. 22 of 2019.
Nauru	Abortion prohibited unless to save a woman's life, to prevent danger to physical or mental health; or substantial risk that the child, if born, would suffer a serious physical or mental impairment; rape or incest; or the person suffers a severe developmental impairment.	To save a girl's life, to prevent danger to physical or mental health; or substantial risk that the child, if born, would suffer a serious physical or mental impairment; rape or incest; or the person suffers a severe developmental impairment.	Crimes Act 2016, section 63.
Nepal	Legal on request up to 12 weeks' gestation. Thereafter, abortion is illegal except in cases of rape or incest, or if the pregnancy poses a danger to the woman's life or physical or mental health or if there is a foetal abnormality. Other grounds are if disabled infant may be born; or if the woman has HIV or another incurable disease.	Available on request up to 12 weeks, thereafter on the specified grounds. If below 18, consent of parent or guardian is required and the girl's best interests must be considered.	Safe Motherhood and Reproductive Health Rights Act 2018, Chapter 4: article 15, 16, 17, 18 and 19
Niue	Illegal. May be permitted to save a woman's life based on necessity.	Not available.	Niue Act 1966, sections 166-168.
Pakistan	Abortion prohibited unless to save a woman's life or to provide her necessary treatment. Before formation of the organs of the foetus (120 days), abortions are permitted to save the woman's life or in order to provide "necessary treatment." After organs are formed, abortions are permitted only to save the woman's life.	To save a girl's life or to provide her necessary treatment. Consent of a girl's guardian is required if she is unmarried.	Pakistan Penal Code, section 338.

	Legality of abortion	Circumstances in which abortion is available to girls (under 18 years)	Laws and policies
Palau	Illegal. May be permitted to save a woman's life based on necessity.	To save a girl's life.	Palau National Code Title 17 § 1309.
PNG	Illegal, except to save a woman's life or to protect her physical or mental health.	To save a girl's life or protect her health. Girls under 16 require parental consent to access family planning services.	Criminal Code 1974, section 225.
Philippines	Illegal.	Ambiguous. A defence of necessity may be available to health care worker if the abortion is undertaken to save a girl's life.	Revised Penal Code of the Philippines, Act. No. 3815 of 1930, Articles 11, 256-259.
Samoa	Abortion prohibited unless serious danger to life, or to the physical or mental health of the woman or girl and within the first 20 weeks.	To save a girl's life, or to protect her physical or mental health.	Crimes Act 2013, sections 112-116.
Solomon Islands	Abortion prohibited unless to save a woman's life.	To save a girl's life.	Penal Code 1963, sections 157 and 221.
Sri Lanka	Abortion prohibited unless to save a woman's life.	To save a girl's life.	Penal Code 1883, Chapter XVI, Articles 304 – 307. Causing miscarriage.
Thailand	Abortion illegal except in cases of incest or rape, including if aged under 15 and unable to consent to sex; - Necessity due to the physical health of the pregnant woman; - Necessity due to mental health problems; and - Severe stress due to the finding of foetal disability or high risk of severe genetic disease.	In cases of rape or incest or to save a girl's life or protect her health or in cases of foetal disability.	Thai Medical Council Regulation on Criteria for Performing Therapeutic Termination of Pregnancy in accordance with Section 305 of the Criminal Code.
Tokelau	Abortion prohibited. May be permitted to save a girl's life, based on necessity.	To save a girl's life.	Crimes, Procedures and Evidence Rules, 2003, rule 24. Miscarriage.
Timor-Leste	Abortion prohibited unless serious danger to the life, or serious risk to bodily harm or physical or mental health.	To save a girl's life, or prevent serious risk to health.	Penal Code 2009, article 141.
Tonga	Abortion prohibited unless to save a woman's life.	To save the girl's life.	Criminal Offences Act sections 103-105.
Tuvalu	Abortion prohibited unless to save the mother's life.	To save the girl's life.	Penal Code, section 214.
Vanuatu	Abortion prohibited unless for good medical reasons.	To save the girl's life or good medical reasons.	Penal Code, article 117.
Viet Nam	Abortion is legal on request up to 22 weeks. (Under the draft Law on Population, abortion on request will be legal in the first 12 weeks. Thereafter, restricted grounds will apply, including cases of rape or evidence the birth will be harmful to the mother.)	Abortion available to adolescents on request up to 22 weeks. National Guideline on Reproductive Health grants adolescents aged 10-19 the right to make decisions and take responsibility for their own decisions in matters relating to reproductive and sexual health.	The Law on People's Health No. 21-LCT/HDNN8 recognizes the right to access an abortion. Ministry of Health Decision No. 4620/QD-BYT of 2009 promulgated the National Guideline on Reproductive Health.

3.3 Age of Consent to Sex

3.3.1 Overview

The age at which a young person can legally consent to sexual conduct is set by criminal laws. The age of consent to sex varies across the region, ranging from as low as 12 years (the Philippines) up to 18 years, with most countries permitting young people to engage in consensual heterosexual sex from the age of 15 or 16.

Some countries prohibit all sexual conduct outside of marriage. These countries include Afghanistan, Brunei Darussalam (Muslims), Iran, Malaysia (Muslims) and Pakistan.

In 2016, the Committee on the Rights of the Child issued General Comment 20, which recommends:[35]

> *States parties should take into account the need to balance protection and evolving capacities and define an acceptable minimum age when determining the legal age for sexual consent. States should avoid criminalizing adolescents of similar ages for factually consensual and non-exploitative sexual activity.*

Consistent with these recommendations, some countries have enacted laws which permit consensual sex between adolescents if there is not a large age difference. For example, in Viet Nam it is not an offence for a child aged 13-15 years to engage in sexual conduct with another child aged 13-15 years.[36] Other countries with similar provisions permitting sexual conduct between adolescents where there is not a large age difference include Bhutan, Palau, Nauru and Timor-Leste.

Same-sex sexual conduct

Countries where consensual same-sex sexual conduct is not criminalized include: Cambodia, China, Fiji, India, Lao PDR, Marshall Islands, Federated States of Micronesia, Mongolia, Nauru, Nepal, Palau, Philippines, Thailand, Timor-Leste, and Viet Nam.[37] In these countries, the criminal law does not make a distinction between age of consent for heterosexual and same-sex sexual conduct. However, same-sex sexual relations remains highly stigmatized in many of these countries, and same-sex couples often have limited legal recognition or legal protections.

In Vanuatu, consensual same-sex conduct between adults is not prohibited. However, the age of consent for same-sex sexual relations (between males, or between females) is 18, whereas the age of consent for heterosexual sex is 15.

35 Committee on the Rights of the Child, General Comment 20 on implementation of the rights of the child during adolescence, 2016 (CRC/C/GC/20).
36 Viet Nam, Penal Code No. 100/2015/QH13.
37 List includes only countries where same-sex conduct is not criminalized in all states and provinces

States where same-sex sexual conduct is illegal include:

Asia: Afghanistan, Bangladesh, Bhutan (decriminalization Bill pending), Brunei Darussalam, Iran, Malaysia, Maldives, Myanmar, Pakistan and Sri Lanka

Pacific island states: Cook Islands, Niue, PNG, Samoa, Solomon Islands, Tonga, Tokelau and Tuvalu.

Human rights treaty monitoring bodies have urged States to reform laws criminalizing consensual sexual conduct between people of the same sex.[38] The UN Committee of Elimination of Discrimination against Women has called for the decriminalization of consensual same-sex sexual conduct because criminalization creates vulnerability and the risk of exposure to gender-based violence.[39] The Special Rapporteurs of the United Nations (UN) Human Rights Council have also called attention to the ways criminalization of same-sex relations exposes people to hate crimes and family violence.[40]

3.3.2 Age of consent to sex: Significant developments since 2013

Raising the age of consent to sex

The Committee on the Rights of the Child issued General Comment 20 which recommends that States should avoid criminalizing adolescents of similar ages for factually consensual and non-exploitative sexual activity. [41] Raising the age of consent can lead to restricting adolescents' access to health care.[42] However, some countries have reformed their laws to raise the age of consent. For example:

Chuuk State of Federated States of Micronesia amended its Age of Consent Act to raise the age of consent from 13 years of age to 18 years of age in 2014.

The criminal law of Myanmar was amended in 2016 to raise the age of consent from 14 to 16 years. However, a girl aged 15 years or over can consent to sex with her husband if she is lawfully married.

38 UN High Commissioner for Human Rights, Discriminatory Laws and Practices and Acts of Violence against Individuals Based on their Sexual Orientation and Gender Identity, 17 November 2011 (A/HRC/19/41); Office of the High Commissioner for Human Rights (OHCHR), Born free and equal: Sexual orientation and gender identity in international human rights law (Geneva, OHCHR, 2012).

39 Convention on Elimination of all forms of Discrimination Against Women (CEDAW) Committee, General Recommendation no. 35 on gender-based violence against women, updating general recommendation no. 19, 14 July 2017 (CEDAW/C/GC/35).

40 See: Report of the Special Representative of the Secretary-General on Human Rights Defenders (E/CN.4/2002/16/Add.1), at para. 154; Report of the Special Rapporteur on violence against women, (E/CN.4/1999/68), at para. 15; Reports of the Special Rapporteur on torture (C/CN.4/2002/76) and (A/56/156).

41 Committee on the Rights of the Child, General Comment 20 on implementation of the rights of the child during adolescence, 2016 (CRC/C/GC/20).

42 S. Petroni, M. Das, S. Sawyer, "Protection versus rights: age of marriage versus age of sexual consent". The Lancet Child & Adolescent Health. (2018). https://doi.org/10.1016/S2352-4642(18)30336-5

In India, the age of consent to sex for unmarried women was increased from 16 to 18 in 2013.[43] However, the age of consent for married women remained at 15 years, until the Supreme Court raised it to 18 in 2017.[44]

Sexual conduct between adolescents is now illegal in India, regardless of the adolescent's consent or being of a similar age. In 2019, the Madras High Court issued a judgment that was highly critical of the effect of India's age of consent law on adolescents. The Court proposed reducing the age of consent to 16 to distinguish cases of consensual relationships between young people where there is not a large age difference from the cases of sexual assault on children below 16 years.[45]

A consequence of the Indian government raising the age of consent to 18 is that medical practitioners have been required to report medical terminations of pregnancy performed on children below 18 years to authorities under child protection legislation.[46] There is a risk that this could deter some girls from accessing safe abortion services. Amendments to the Medical Terminations of Pregnancy Act 1971 are due to be introduced in 2020 to protect the privacy rights of women and girls who seek safe abortion services. It reduces confidentiality for the girl and may make providers reluctant to provide abortion services to them. The Medical Termination of Pregnancy (Amendment) Bill 2020 proposes to extend the upper limit for permitting abortions from 20 weeks to 24 weeks under special circumstances and to prohibit medical practitioners from disclosing the identities of women and girls whose pregnancy has been terminated except to a person authorised by law.

The criminal law of the Philippines sets the age of consent at 12 years, which is considered by some to be too low, although there is no evidence that raising the age of consent prevents sexual coercion.[47] This has given rise to several law reform proposals. For example, Senate Bill No. 1949 seeks to increase the age of sexual consent to protect children from 12 to 18. House Bill 4160 proposes to raise the age of sexual consent from 12 to 16 years.

Same-sex sexual conduct

Some countries have reformed their criminal laws in relation to same-sex sexual conduct. Decriminalization of consensual same-sex sexual acts occurred in Palau in 2014, Nauru in 2016 and India in 2018. A bill proposing the decriminalization of same-sex sexual relations is currently being considered by Bhutan's parliament.

Of great significance to the region, in 2018 the landmark judgment the Supreme Court of India partially struck down section 377 of the Indian Penal Code, which criminalized "carnal intercourse against the order of nature".[48] This provision was inherited from the colonial era and is replicated in the penal codes of other former British colonies in Asia and the Pacific. The Supreme Court declared that criminalization of any consensual sexual relationship between two adults violates the constitutional

43 India, Criminal Law (Amendment) Act 2013.

44 The Protection of Children from Sexual Offences Act 2012 criminalized sexual conduct with persons below the age of 18. To remove inconsistency with the Indian Penal Code, the age of consent for unmarried women was increased from 16 to 18 by the Criminal Law (Amendment) Act 2013, and as a result, intercourse with a girl under the age of 18, with or without her consent was defined as rape. However, the age of consent for married women remained at 15 years until the Supreme Court removed this inconsistency in 2017, in the case Independent Thought v. Union of India, 11 October 2017..

45 Sabari v. The Inspector of Police et al, Madras High Court, 26 April 2019.

46 India, Protection of Children from Sexual Offences Act 2012.

47 S. Petroni, M. Das, S. Sawyer, "Protection versus rights: age of marriage versus age of sexual consent". The Lancet Child & Adolescent Health. (2018). https://doi.org/10.1016/S2352-4642(18)30336-5

48 Navtej Singh Johar & Ors v. Union of India, Supreme Court, 6 September 2018.

rights to equality, freedom of expression and privacy. In its decision, the Supreme Court excluded consensual acts in private between adults from the criminal offence of "unnatural" intercourse.

Laws relating to same-sex sexual conduct reflect social attitudes. A multi-country survey of attitudes towards same-sex relation conducted in 2019 found that India saw a 22 per cent increase in social acceptance of same-sex relations in 2019 compared to 2014.[49] This increased acceptance coincided with the national campaign for the repeal of section 377 of the Indian Penal Code, which criminalized same-sex sexual conduct.

There is a great diversity of attitudes on this topic across the region. Almost three-quarters of those surveyed in the Philippines (73 per cent) say same-sex relations should be accepted by society, but only 9 per cent in Indonesia agree.[50] Although same-sex sexual conduct is not specifically criminalized in the Criminal Code of Indonesia, there has been a sustained campaign of police crackdowns on events and venues patronised by gay, lesbian and transgender people in Indonesia over the last five years.[51] There have also been police crackdowns reported in Bangladesh and Malaysia.[52]

Some countries have sought to increase the penalties that apply to same-sex sexual conduct. An example of regressive changes to laws on same-sex conduct is the new penal code provisions of Brunei Darussalam. The Syariah Penal Code Order 2013 commenced operation in Brunei Darussalam in 2019. It includes draconian provisions relating to same-sex sexual conduct. Section 82 of the Code provides that sex between men is punishable with death by stoning or whipping with 100 strokes and imprisonment for a year. In response to international criticism of this provision, a moratorium on the death penalty for this offence was announced in May 2019.[53] In addition to this offence, consensual same-sex sexual conduct between men is criminalized by section 377 of the Brunei Penal Code. In July 2017, section 377 was amended to increase the maximum penalty from 10 years to 30 years' imprisonment, with whippings.

49 J. Pushter, N. Kent, The Global Divide on Homosexuality Persists, Pew Research Centre (25 June 2020).
50 Ibid.
51 "Indonesia: anti-LGBT crackdown fuels health crisis", Human Rights Watch, 1 July 2018.
52 Hossain A., "Section 377, same-sex sexualities and the struggle for sexual rights in Bangladesh", Austral J Asian Law 20(1):1–11 (2019); "Malaysia accused of "state-sponsored homophobia" after LGBT crackdown", The Guardian, 22 August 2018.
53 The Syariah Courts Criminal Procedure Code Order 2018 was passed in March 2018, enabling the Syariah Penal Code Order to be enforced from 2019..

Table 3 : Age of consent to sex

Country	Age at which a male can consent to sex with female	Age at which a female can consent to sex with male	Age at which male can consent to sex with male	Age at which female can consent to sex with female
ASIA				
Afghanistan	Males can only have sex after marriage. If married, age of consent is 18 (m), 16 (f), or 15 (f) if married with father's consent. (Penal Code 2017 Article 643, Civil Code Article 70)	Females can only have sex after marriage. If married, age of consent is 18 (m), 16 (f), or 15 (f) if married with father's consent. (Penal Code 2017 Article 643, Civil Code Article 70)	Illegal. (Penal Code 2017, Articles 646, 649)	Illegal. (Penal Code 2017, Article 645)
Bangladesh	No specific age of consent for males defined by law.	14 (Penal Code, Section 375)	Illegal. (Penal Code, Section 377)	Not addressed by criminal law.
Bhutan	18 (Penal Code 2004, section 183)	18 (Penal Code 2004, section 183)	Illegal. Decriminalization Bill before upper house.	No specific age of consent defined by law.
Brunei Darussalam	No specific age of consent for males defined by law. Sex outside of marriage is prohibited (zina). (Syariah Penal Code Section 69)	16, or 14 if married. (Unlawful Carnal Knowledge Act 1938 Article 2) Sex outside of marriage is prohibited by Sharia law (zina). (Syariah Penal Code Section 69)	Illegal. (Penal Code Section 377; Syariah Penal Code Sections 82)	Illegal. (Syariah Penal Code Section 92)
Cambodia	15 (Criminal Code 2009, Article 239)	15 (Criminal Code 2009, Article 239)	15 (Criminal Code 2009, Article 239)	15 (Criminal Code 2009, Article 239)
China	14 (Criminal Code 1997, Articles 236, 237)	14 (Criminal Code 1997, Articles 236, 237)	14 (Criminal Code 1997, Article 237)	14 (Criminal Code 1997, Article 237)
DPRK	No data.	15 (Criminal Law, Article 295)	No data.	No data.
India	18 (Protection of Children from Sexual Offences (POCSO) Act, 2012)	18 (Penal Code Section 375; POSCO Act)	18 (POCSCO Act)	18 (POSCO Act)
Indonesia	18 (Child Protection Law) Aceh Province: Muslims can only consent to sex after marriage.	18 (Child Protection Law) 15 (Penal Code) Aceh Province: Muslims can only consent to sex after marriage.	18 (Child Protection Law) (Illegal in Aceh Province and some other districts/towns.)	No specific age of consent defined by law.
Iran, IR	If married, 15; or younger if marriage is approved by guardian and a court, and boy has reached puberty. (Penal Code 2013; Civil Code Article 1041)	If married, 13; or younger if marriage is approved by guardian and a court and girl has reached puberty. (Penal Code 2013; Civil Code Article 1041)	Illegal. (Penal Code 2013, art. 233-234)	Illegal. (Penal Code 2013, art. 237-239)

Country	Age at which a male can consent to sex with female	Age at which a female can consent to sex with male	Age at which male can consent to sex with male	Age at which female can consent to sex with female
Lao PDR	18 (Law on Violence against Women and Children 2014, Article 79)	18 (Law on Violence against Women and Children 2014, Article 79)	18 (Law on Violence against Women and Children 2014, Article 79)	18 (Law on Violence against Women and Children 2014, Article 79)
Malaysia	18 (Sexual Offenses Against Children Act of 2017, Article 17) Muslim males can only have sex after marriage.	16 for all female citizens, Muslim females must also be married. (Penal Code s.375). 18 if unmarried (Sexual Offenses Against Children Act of 2017, Article 17)	Illegal. (Penal Code s.377A)	Illegal. (Syariah Criminal Code enactments of States)
Maldives	Males can only have sex after marriage. Minimum age of marriage is 18. (Penal Code, Law No. 6/2014; Family Act 2000)	Females can only have sex after marriage. Minimum age of marriage is 18. (Penal Code, Law No. 6/2014; Family Act 2000)	Illegal. (Penal Code, Law No. 6/2014, Section 411)	Illegal. (Penal Code, Law No. 6/2014, Section 411)
Mongolia	16 (Criminal Code 2017. Article 12.5)	16 (Criminal Code 2017. Article 12.5)	16 (Criminal Code 2017. Article 12.5)	16 (Criminal Code 2017. Article 12.5)
Myanmar	16 (Penal Code 1860, Section 375)	16;or 15 if married (Penal Code 1860, Section 375)	Illegal (Penal Code 1860, Section 377)	No specific age of consent defined by law.
Nepal	18 (Criminal Code 2017, Article 219)	18 (Criminal Code 2017, Article 226)	No specific age of consent defined by law.	No specific age of consent defined by law.
Pakistan	Illegal for Muslim males to have sex before marriage. (Penal Code Sections 375 and 496B; Hudood Ordinance of 1979).	16 for all female citizens, Muslim females must also be married. (Penal Code Sections 375 and 496B; Hudood Ordinance of 1979)	Illegal. (Penal Code Section 377)	Illegal. (Hudood Ordinance)
Philippines	Not specified for males. Sexual activity with a person below 18 years may constitute child abuse/ exploitation. (Special Protection of Children Against Abuse, Exploitation and Discrimination Act RA7610)	12 for females. (Revised Penal Code, Article 335) Sexual activity with a person below 18 years may constitute child abuse/ exploitation (RA7610)	Not specified. Sexual activity with a person below 18 years may constitute child abuse/ exploitation (Act RA7610)	Not specified. Sexual activity with a person below 18 years may constitute child abuse/ exploitation (RA7610)
Sri Lanka	No specific age of consent for males defined by law.	16. Exception applies to Muslim girls who can consent to sex with her husband from age of 12 if lawfully married. (Penal Code, Article 363)	Illegal. (Penal Code, Articles 365, 365A)	Illegal. (Penal Code, Article 365A)

Country	Age at which a male can consent to sex with female	Age at which a female can consent to sex with male	Age at which male can consent to sex with male	Age at which female can consent to sex with female
Thailand	15 (Thai Penal Code, Article 279)	15 (Thai Penal Code, Article 279) Sex with a girl under 18 is a compoundable offence, the victim has the right to drop the complaint. (Thai Penal Code, Article 283 bis)	15 (Thai Penal Code, Article 279)	15 (Thai Penal Code, Article 279)
Timor-Leste	16 Sex acts with an adolescent aged 14–15 years are illegal if an adult practices them with the adolescent by taking advantage of the inexperience of that adolescent. (Penal Code Articles 177, 178)	16 Sex acts with an adolescent aged 14–15 years are illegal if an adult practices them with the adolescent by taking advantage of the inexperience of that adolescent. (Penal Code Articles 177, 178)	16 Sex acts with an adolescent aged 14–15 years are illegal if an adult practices them with the adolescent by taking advantage of the inexperience of that adolescent. (Penal Code Articles 177, 178)	16 Sex acts with an adolescent aged 14–15 years are illegal if an adult practices them with the adolescent by taking advantage of the inexperience of that adolescent. (Penal Code Articles 177, 178)
Viet Nam	16 Sex between 13-15 year old adolescents is not an offence. (Penal Code No. 100/2015/ QH13 articles 142-145)	16 Sex between 13-15 year old adolescents is not an offence. (Penal Code No. 100/2015/ QH13 articles 142-145)	16 Sex between 13-15 year old adolescents is not an offence. (Penal Code No. 100/2015/ QH13 articles 142-145)	16 Sex between 13-15 year old adolescents is not an offence. (Penal Code No. 100/2015/ QH13 articles 142-145)
PACIFIC				
Cook Islands	No specific age of consent for males defined by law. If the girl consented and is aged 12 or more, it is a defence if the offender is younger than the girl (Crimes Act 1969, Sections 146 and 147)	16 16; or 12 if sex between minors and male partner is younger than female (Crimes Act 1969, Sections 146 and 147)	Illegal. (Crimes Act 1969, Sections 154 and 155)	Not addressed by criminal law.
Fiji	16 (Crimes Act 2009, Section 215)	16 (Crimes Act 2009, Section 215)	16 (Crimes Act 2009, Section 215)	16 (Crimes Act 2009, Section 215)
Marshall Islands	16 or 14 if the partner is less than 3 years older (Marshall Islands Revised Code 2014 §213.3)	16 or 14 if the partner is less than 3 years older (Marshall Islands Revised Code 2014 §213.3)	16 or 14 if the partner is less than 3 years older (Marshall Islands Revised Code 2014 §213.3)	16 or 14 if the partner is less than 3 years older (Marshall Islands Revised Code 2014 §213.3)
Micronesia, F.S.	18 in Chuuk 18 in Pohnpei 16 in Yap 18 in Kosrae (Sexual abuse articles of the Codes of each State)	18 in Chuuk 18 in Pohnpei 16 in Yap 16 in Kosrae (Sexual abuse articles of the Codes of each State)	Age of consent is not gender-specific. (Sexual abuse articles of the Codes of each State)	Age of consent is not gender-specific. (Sexual abuse articles of the Codes of each State)

Country	Age at which a male can consent to sex with female	Age at which a female can consent to sex with male	Age at which male can consent to sex with male	Age at which female can consent to sex with female
Nauru	16, 13 if other party is no more than 2 years older. (Crimes Act 2016, Sections 116, 127)	16, 13 if other party is no more than 2 years older. (Crimes Act 2016, Sections 116, 127)	16, 13 if other party is no more than 2 years older. (Crimes Act 2016, Sections 116, 127)	16, 13 if other party is no more than 2 years older. (Crimes Act 2016, Sections 116, 127)
Niue	No specific age of consent for males defined by law.	15 (Niue Act 1966, Sections 162-164)	Illegal. (Niue Act 1966, Section 170)	Not known.
Palau	17. 15 and 16 year-olds can have sex with partners less than 5 years older. (Palau National Code, Title 17, Article 1602)	17. 15 and 16 year-olds can have sex with partners less than 5 years older. (Palau National Code, Title 17, Article 1602)	17. 15 and 16 year-olds can have sex with partners less than 5 years older. (Palau National Code, Title 17, Article 1602)	17. 15 and 16 year-olds can have sex with partners less than 5 years older. (Palau National Code, Title 17, Article 1602)
PNG	16 (Criminal Code 1974, Section 229A)	16 (Criminal Code 1974, Section 229A)	Illegal. (Criminal Code 1974, Sections 210, 212)	No specific age of consent defined by law.
Samoa	16 (Crimes Act 2013, Section 59)	16 (Crimes Act 2013, Section 59)	Illegal (Crimes Act 2013, Section 67)	Not known.
Solomon Islands	15 (Penal Code, Section 139)	15 (Penal Code, Section 139)	Illegal.	Illegal.
Tokelau	16 If married (Crimes, Procedures and Evidence Rules, 2003, Sections 19, 22)	16 If married (Crimes, Procedures and Evidence Rules, 2003, Sections 19, 22)	Sex outside marriage is illegal.	Sex outside marriage is illegal.
Tuvalu	15 (Penal Code, Sections 133, 134 & 135)	15 (Penal Code, Sections 153, 154 & 155)	Illegal	No specific age of consent defined by law.
Tonga	15 (Criminal Offences Act Sections 121, 124)	15 (Criminal Offences Act Sections 121, 124)	Illegal (Criminal Offences Act Section 136)	No specific age of consent defined by law.
Vanuatu	15 (Penal Code, Article 97)	15 (Penal Code, Article 97)	18 (Penal Code, Article 99)	18 (Penal Code, Article 99)

Note:

Explanation of the situation in countries where: 'no specific age of consent for males defined by law'

Some countries have statutory rape provisions that specify an age of consent for females but do not specify an age of consent for males (e.g. Bangladesh, Brunei Darussalam, Cook Islands, Sri Lanka, Niue). The focus of these laws is on the minimum legal age at which the female person can consent to sex with males. The relevant offences in these countries only relate to the culpability of a male who has sex with an underage female. However, these countries' age of consent laws do not address the reverse situation: the culpability of a female for having sex with a male minor.

3.4 Minimum Legal Age of Marriage

3.4.1 Overview

In 2014, the UN position of minimum legal age of marriage was clarified by the joint recommendation/general comment of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, which recommended:[54]

> *A minimum legal age of marriage for girls and boys is established, with or without parental consent, at 18 years. When exceptions to marriage at an earlier age are allowed in exceptional circumstances, the absolute minimum age is not below 16 years, grounds for obtaining permission are legitimate and strictly defined by law and marriage is permitted only by a court of law upon full, free and informed consent of the child or both children who appear in person before the court.*

Many countries fail to comply with this recommendation because their laws permit a girl aged under 16 to enter a lawful marriage in some circumstances (e.g. with permission of parents or guardian or a court or for some religious communities or indigenous populations). These countries include:

Asia: Afghanistan, Bangladesh, Brunei Darussalam, India, Indonesia, Iran, Lao PDR, Malaysia (some states), Maldives, Myanmar, Pakistan, Philippines (Mindanao), Sir Lanka, Thailand.

Pacific: Federated States of Micronesia, PNG, Solomon Islands, Tonga.

In PNG and some other Pacific island countries, traditional or customary marriages of girls are recognised as valid despite the minimum age restrictions of civil marriages.

54 Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices (CEDAW/C/GC/31-CRC/C/GC/18).

3.4.2 Minimum age of marriage: Significant developments since 2013

Although child marriage continues to be found in many countries, there has been significant progress in raising the minimum legal age of marriage to 18 through law reform. Notable developments since 2013 include:

Indonesia amended the age of marriage in 2019, raising the minimum age of marriage for girls from 16 to 19 with parental consent, so that the minimum age of marriage is now the same for men and women (19 years with parental consent, 21 without parental consent).

In 2019, several Malaysian states agreed to raise the minimum age of Muslim marriages to 18 (States of Selangor, Sabah and Penang).

The Maldives enacted the Child Rights Protection Act in 2019, which set the minimum age of marriage at 18 for both boys and girls.

Myanmar enacted the Child Rights Law in 2019, which set 18 as the minimum age of civil marriage. However, the legal status of traditional and religious marriages entered under the age of 18 is uncertain.

Nauru's Child Protection and Welfare Act 2016 raised the minimum age of marriage for girls from 16 to 18 years.

In PNG, the new child protection law (Lukautim Pikinini Act 2015) set the minimum age of marriage at 18. However, traditional marriages entered below this age are still legally valid.

In Kiribati, a minimum age of marriage of 17 years (with parental consent) was introduced in 2013. Previously, the minimum age was 16 years.

In Afghanistan, there have been several attempts to raise the minimum legal age of marriage to 18 through the Child Protection Bill 2019. However, these attempts have been unsuccessful due to objections that raising the age of marriage would be contrary to Sharia principles of Islamic law.

While there are strong recommendations for raising the age of marriage to 18, fourteen countries in the region have the minimum age of marriage above 18 for females, extending to the age of 21 in eight countries. Whilst these laws have the intention of protection, a higher age of marriage may have unintended consequences in contexts where premarital sex, informal unions and single mothers are stigmatised.[55]

55 UNFPA et al. My body is my body, my life is my life: Sexual and reproductive health and rights of young people in Asia and the Pacific. (2020).

Table 4 : Minimum age of marriage

	Minimum age of parental consent (absolute minimum in brackets)		Sources
	Males	Females	
ASIA			
Afghanistan	18	16 (15)	Civil Code 1977, article 70 defines age of marriage and provides penalties for child marriage. A girl of 15 may be married with the permission of her father or guardian. The Child Protection Bill 2019 proposes raising the minimum age for girls to 18.
Bangladesh	21 18 (Muslim) 21 (Hindu) (Christian: younger with parental consent)	18 15 (Muslim) 18 (Hindu) (Christian: younger with parental consent)	Child Marriage Restraint Act 1929, Article 4. Religious marriages under these ages are also recognized as legally valid under Personal Status Laws (Muslim Marriage and Divorce Registration Act, and Muslim Family Laws Ordinance Act of 1961).
Bhutan	18	18	Marriage Act 1980 Section (Kha) 1-14. The legal age of marriage for both males and female is 18.
Brunei Darussalam	18 (Muslim) 14 (Others)	16 (Muslim) 15 (Chinese) 14 (Others)	Marriage Act (Cap. 76), section 3(1) states the age for marriage is 14. The Act does not apply to Muslim marriages, which are governed by Sharia laws.
Cambodia	18 (16)	18 (16)	Civil Code 2007, Article 948. Neither men nor women may marry until they have reached the age of 18. However, if one of the parties has attained the age of majority (18) and the other party is at least 16 years of age, the parties may marry with the consent of the parental or guardian of the minor.
China	22	20	Marriage Law 1981, Article 6.
India	21 (if the bride is under 18) 18 (if the bride is 18 or over)	18	Prohibition of Child Marriage Act 2006, section 2(a) defines age of marriage as 21 (m) and 18 (f); section 3 states child marriage is voidable at the option of the party to the marriage who was a child at the time of marriage. It is lawful for a male aged 18 or over to marry a female aged 18 or over. (Hardev Singh v Harpreet Kaur & Ors, Supreme Court, 7 November 2019).
Indonesia	21 (19 or lower with court consent)	21 (19 or lower with court consent)	Marriage Law 1974, article 7, defines age of marriage as 19 for males and females. Article 6 requires parental consent if either party is under 21. Article 7 provides that parents may apply to a court for permission for marriage below the minimum age.
Iran, IR	15 (younger with consent of male guardian and a judge)	13 (younger with consent of male guardian and a judge)	Children younger than these ages can marry with the consent of a male guardian and a judge.
DPRK	18	17	Article 9 of the Family Law

	Minimum age of parental consent (absolute minimum in brackets)		Sources
	Males	Females	
Lao PDR	18 (15)	18 (15)	Family Law, 1990, Article 9. The limit may be lowered to 15 in special cases.
Malaysia	Non-Muslims: 21 (18) Muslims: 18 Customary marriage (Adat): 18	Non-Muslims: 21 (16) Muslims: 16 (younger with consent of sharia court) (Some states have introduced bills to raise the age to 18) Customary marriage (Adat): 16 (younger with parental consent)	The Law Reform (Marriage and Divorce) Act 1976 defines the age of civil marriage for males at 18 and females as 16. This Act regulates non-Muslim marriages and requires parental consent for marriages under 21 (Section 22(3)). Marriage of girls 16-18 is with consent of Chief Minister (Section 10). Muslim girls can marry at 16, or under 16 with the permission of a Sharia court, see section 8 of each state's Islamic Family Law Act. Some states permit lower age of consent for Muslim girls under state sharia rules. However, the state of Selangor has increased the minimum age to 18, and Johor, Melaka, Perak, Sabah and Penang states have also agreed to increase the minimum marriage age from 16 to 18.
Maldives	18	18	Family Act, no. 4 of 2000. Child Rights Protection Act no. 19/2019 prohibits marrying any child below the age of 18, Act 19/2019.
Mongolia	18 (16)	18 (16)	Family Law 1999, Article 6.1.; Civil Code, s. 9.2.
Myanmar	18	18	The Child Rights Law, passed in July 2019, set 18 as the minimum age of marriage. Section 3 of the Majority Act, the age of majority to make a contract is 18 years. Those who attained 18 years of age may legally marry at the court by signing the affidavit of marriage.
Nepal	20	20	Civil Code 2017, Article 70. National Civil (Code) Act, 2017 (2074)
Pakistan	18 (younger marriages are recognised by Muslim personal status law)	16 (younger marriages are recognised by Muslim personal status law)	The Child Marriage Restraint Act 1929 states the minimum age of marriage for a male is 18 and for a female is 16. However, although penalties apply, underage marriages are not invalid. A marriage contracted after the attainment of puberty and before the age of 16 years for females and 18 for males is valid under Muslim law.
Philippines	21 (18) Mindanao Province: Muslims: 15	21 (18) Mindanao Province: Muslim: 15/ Puberty (12)	Family Code of the Philippines, 1987, Article 5 defines the minimum age of marriage as 18. Parental consent is required for persons under 21: Article 14. Muslim Personal Laws Code 1977 applies in Mindanao Province. A Muslim male at least fifteen years of age and a Muslim female of the age of puberty or upwards may marry. A female is presumed to have attained puberty upon reaching the age of fifteen. The Sharia Court may order the solemnization of the marriage of a female who, though less than fifteen but not below twelve years of age, has attained puberty. (Article 16).
Sri Lanka	18	18 Muslim: 12 (younger with consent of religious judge)	Marriage Registration Ordinance, Section 15. The Muslim Marriage and Divorce Act 1951 (Section 23) applies to Muslim marriages and states the minimum age for girls is 12, although marriage of a girl under 12 may be authorized by a religious judge (Qazi).

	Minimum age of parental consent (absolute minimum in brackets)		Sources
	Males	Females	
Thailand	20 (17, or younger with court consent) 17 (Muslims) (younger with consent)	20 (17, or younger with court consent) 17 (Muslims) (younger with consent)	Thailand Civil and Commercial Code Book V Family Title, Section 1435, defines the minimum age of marriage as 17. Parental consent is required if under 20 (Section 1436). A Court may approve a marriage at a younger age than 17 (Section 1448). Section 19: A person, on completion of twenty years of age ceases to be a minor. Regulations of the Central Islamic Council of Thailand: Muslims younger than 17 may marry with consent of parents and religious authorities.
Timor-Leste	17 (16)	17 (16)	Civil Code (2011), Article 1490, defines the minimum age of marriage as 16. Parental consent is still required when aged 16 (but below 17) (Article 1500). The registrar can waive the requirement of parental consent if reasons justify an exception and if the minor has the necessary physical and psychological maturity (Article 1500-2).
Viet Nam	20	18	Law on Marriage and the Family of 1986, Article 5.
PACIFIC			
Cook Islands	21 (16)	21 (16)	Marriage Act 1973, section 17. Parental consent is required for marriage of persons between 16 and 21.
Fiji	21 (18)	21 (18)	Minimum age with parental consent in 18. Marriage Act, Cap. 50, Section 12, as amended by the Marriage Act (Amendment) Act 2009.
Kiribati	21 (17)	21 (17)	Children, Young People and Family Welfare Act 2013 (No. 6 of 2013), a person aged 17-21 may marry with parental consent or with consent of a guardian. s.57.
Marshall Islands	18	18	Births, Deaths and Marriages Registration Act 1988, Section 428.
Micronesia, F.S.	18	18 (16)	Chuuk State Code, Title 23 on Family Law; Kosrae State Code, Title 16 on Family and Minors Section 16.101; and Pohnpei Code, Title 51 on Domestic Relations and Title 52 on Minors; Yap State Code, Title 27 for Domestic Relations.
Nauru	18	18	As amended 2016
Niue	21	19	Age of marriage with parental consent: 18 (m), 15 (f). Underage marriages are valid.
Palau	18	18 (16)	Age of marriage is 16 for girls with parental consent
PNG	18 (Lower for customary marriages)	18 (Lower for customary marriages)	The Child Protection Act set the age at 18 years. Lukautim Pikinini Act 2015 Section 86. Marriage Act 1963, Section 7. Dual system recognizes civil and customary marriage. Section 7 provides that a male who has attained the age of 16 years but has not attained the age of 18 years, or a female who has attained the age of 14 years but has not attained the age of 16 years, may apply to a Judge for an order authorizing him or her to marry. Section 3 provides a person may enter a customary marriage. Age requirements vary depending on local custom.
Samoa	21 (18)	19 (16)	Marriage Act 1961, Section 9, defines the minimum age of marriage as 18 for males and 16 for females. Section 10 provides that parental or a guardian's consent is required for females under 19 and males under 21.

	Minimum age of parental consent (absolute minimum in brackets)		Sources
	Males	Females	
Solomon Islands	18 (15)	18 (15)	Islanders' Marriage Act, Cap 171, defines the minimum age of marriage as 15. Section 10. Parental or guardian's consent is required if under 18.
Tokelau	21 (18)	19 (16)	With parental consent: 18 (male); 16 (female).
Tonga	18 (15)	18 (15)	Births, Death and Marriages Registration Act, Cap 42, Section 6 defines the minimum age of marriage as 15 years. Parental consent is required if under 18.
Tuvalu	21 (18)	21 (18)	18 with parental consent or consent of Registrar.
Vanuatu	21 (18)	21 (16)	Control of Marriage Act, Cap. 45, Section 2 defines the minimum age of marriage as 18 for males and 16 for females. Section 3 states that parental consent is required if the person is under 21.

4

Discussion and Way Forward

SDG monitoring of legislative restrictions on access to SRHR[56]

The UN has set the following indicator for progress towards the SDG target of universal access to SRH and reproductive rights (target 5.6):

- Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 and older to SRH care, information and education. (Indicator 5.6.2)

UNFPA monitors global progress in relation to indicator 5.6.2 by asking governments to report whether the SRH and HIV laws or regulations of the country include any restrictions by:

(i) Minimum age

(ii) Sex

(iii) Marital status

(iv) Third-party authorization (e.g. spouse, parent, guardian)

Monitoring determines whether there are any such restrictions on a range of SRH and HIV services including access to safe abortion services (where legal), contraceptive services, HIV testing, counselling and treatment services. It should be noted that indicator 5.6.2 assesses the existence of such laws and policies, however, it does not assess their implementation.

To support achievement of SDG target 5.6, governments should ensure that there are no legislative or regulatory provisions that restrict access to these services based on an unreasonable, arbitrary minimum age requirement, the sex or marital status of the person seeking the service, or the authorization of a spouse, parent, guardian, relative or another third party.

To assist countries in sharing lessons and identifying legal and policy options it may be helpful for data reported under indicator 5.6.2 to be subject to comparative analysis for each sub-region (e.g. South Asia, East and South East Asia, Pacific).

Presumption of competence to access SRH services

Governments should consider the following recommendation of General Comment no. 20 of the Committee on the Rights of the Child in relation to introducing a legal presumption of competence for all adolescents:[57]

> *Consideration should also be given to the introduction of a legal presumption that adolescents are competent to seek and have access to preventive or time-sensitive SRH commodities and services.*

56 UNFPA, Ensure universal access to sexual and reproductive health and reproductive rights, Measuring SDG Target 5.6, available from: https://www.unfpa.org/sites/default/files/pub-pdf/UNFPA-SDG561562Combined-v4.15.pdf

57 Committee on the Rights of the Child, General Comment 20 on implementation of the rights of the child during adolescence, 2016 (CRC/C/GC/20).

Such a legal presumption would mean that SRH service providers would not be required to assess the competence of each individual adolescent who seeks access to SRH services as a pre-condition for providing access. The fact that an adolescent takes the initiative to request access to SRH services indicates capacity to use such services appropriately. It should be noted that the General Comment focuses on the period between the ages of 10 and 18.

Alternatively, it is recommended that laws enable health services to be provided to minors based on a health care worker's assessment that the minor is of sufficient maturity to understand the nature of the service and the risks, benefits and consequences of accessing the service. Guidelines should be available to assist healthcare workers on how to assess the maturity of minors and their evolving capacities, and on referring minors to health and support services.

> *The Committee recommends that States introduce minimum legal age limits, consistent with the right to protection, the best interests principle and respect for the evolving capacities of adolescents. For example, age limits should recognize the right to make decisions in respect of health services or treatment... In all cases, the right of any child below that minimum age, and able to demonstrate sufficient understanding, to be entitled to give or refuse consent, should be recognized.*[58]

Raising the age of consent to sex and the minimum age of marriage

Raising the age of consent to sex and the minimum age of marriage can be important child protection measures. However, it is also important that laws are empowering of adolescents and recognize their autonomy and evolving capacities. It is particularly important that laws on age of consent ensure that adolescents of a similar age are not subject to criminal penalties for engaging in consensual sex. Laws on the age of sexual consent should take due account of cases where there is a limited age difference between sexual partners.

Another factor to consider in setting the age of sexual consent is that provision of SRH services can be subject to criticism as promoting or endorsing illegal conduct if adolescent sex is criminalized. Ensuring adolescents are not criminalized for consensual sexual conduct removes this objection to the provision of comprehensive sexuality education and SRH services to young people.

CEDAW and CRC recommend that the legal age of marriage for girls and boys is established at 18 years, with flexibility in exceptional circumstances for a court to approve marriage at a younger age, provided that the absolute minimum age is not below 16 years.[59] Legislators may seek to set a high minimum age of marriage (e.g. 21) for population control purposes or as a strategy to combat child marriage. However, a high minimum age of marriage is problematic from a human rights perspective. The UN considers that setting a minimum age of 21 years without flexibility to reduce the age does not sufficiently recognize the evolving capacities of young people. The Committee on the Rights of the Child has commented that a marriage of a mature, capable child below 18 years of age should be allowed in exceptional circumstances as a matter of respecting the child's evolving capacities and autonomy in making decisions that affect her or his life.[60]

58 Ibid, clause 39.
59 Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices (CEDAW/C/GC/31-CRC/C/GC/18).
60 Ibid, para. 19.

Threats, challenges and opportunities for advancing SRHR for young people

In considering ways forward to provide an enabling environment for young people to access SRH, countries need to assess emerging threats and opportunities for advancing SRHR for young people in the current context. An immediate challenge for all countries is posed by COVID-19 and its impact on young people's lives (discussed in more detail below).

Another threat is the rise of resistance to SRHR as an influence on SRH policy in some countries. Groups that oppose SRHR are expanding their influence in the region and globally, with some countries opposing the inclusion of SRHR in UHC.[61]

There are opportunities for countries to share lessons learned from the enactment of national SRH and HIV legislation in several countries over the last decade and to learn from global SRHR policy developments as governments report progress towards the SDG targets on SRHR and UHC. The rights-based legislative models developed in India (HIV), Nepal (RH), the Philippines (RH and HIV), and Thailand (RH) provide helpful models for legislators of other countries to consider, recognizing however that each law reflects the constraints and opportunities of the specific national context.

The recommendations of the 2018 Guttmacher-Lancet Commission on Sexual and Reproductive Health and Rights for All,[62] are also relevant. It recommends an essential package of SRHR services and information to be made available irrespective of age and marital status, comprising:

- Comprehensive sexuality education;
- Counselling and services for a range of modern contraceptives;
- Antenatal, childbirth and postnatal care;
- Safe abortion services and treatment of complications of unsafe abortion; and
- Information, counselling and services for sexual health and well-being.

61 United Nations, "General Assembly Adopts Inclusive Global Health Resolution, as Several Delegates Reject Language on Protecting Reproductive Rights, Promoting Access to Medicine", UN Press Release (GA/12225, New York, 11 December 2019).

62 A. Starrs, A. Ezeh, G. Barker, et al. "Accelerate progress—sexual and reproductive health and rights for all: report of the Guttmacher–Lancet Commission", Lancet vol. 391: 2642–92 (2018).

SRHR and UHC

The SDG targets on universal access to SRH and HIV services stand alongside SDG Target 3.8 of achieving UHC. UHC is achieved when all people obtain the health services they need without the risk of financial hardship or impoverishment.

The framework of the 2030 Agenda for Sustainable Development presents a key opportunity for advancing SRHR through the growing momentum for the inclusion of SRHR within UHC initiatives. The focus on UHC presents opportunities to better integrate HIV and SRH services for young people, and address budget imbalances between HIV and SRH so that countries can more efficiently use their resources across HIV and SRHR, with a focus on reaching the most marginalized young people.

Since 2015, UHC has emerged as a key component of the 2030 Agenda for Sustainable Development. The Nairobi Statement on ICPD25 (2019) called for integration of SRH within UHC. The Political Declaration of the High-level Meeting on Universal Health Coverage called for "the integration of reproductive health into national strategies and programmes, which is fundamental to the achievement of universal health coverage".[63] Progressive realization of UHC and improved access to SRH services requires shifting the burden of financing away from individuals, especially women and girls, towards increased domestic public funding that combines tax revenue and prepayment schemes.[64]

The Partnership for Maternal, Newborn and Child Health (PMNCH) issued a Call to Action on SRHR and UHC in 2019.[65] The Call to Action emphasizes that improving the SRHR of women, girls and adolescents contributes significantly to the achievement of UHC's broad health and development goals. Recommendations to national governments include to:

Endorse a comprehensive package of SRHR interventions to be delivered through UHC schemes.

Ensure that the UHC policy design process is inclusive, transparent and involves diverse stakeholders, including civil society organizations, community voices, marginalized and disadvantaged populations, and professional associations representing cadres providing the bulk of SRH interventions.

Acknowledge the unique needs of young people and adolescents and ensure they can access accurate, high-quality, confidential SRHR information and services without requirements for third-party consent.

Train and support health workers at all levels to deliver SRHR interventions as part of a broader package of health services, in ways that protect, respect and fulfil the human rights especially of women, girls and adolescents from marginalized communities.

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63 United Nations, Political Declaration of the High-level Meeting on Universal Health Coverage "Universal health coverage: moving together to build a healthier world", 18 October 2019 (A/RES/74/2), clause 68.

64 WHO, Universal health coverage for sexual and reproductive health: Evidence brief (Geneva, WHO, 2019).

65 "A Call to Action: SRHR an essential element to achieving universal health coverage, Sexual and Reproductive Health Matters, 27 March 2019.

Young people, SRHR and COVID-19

An immediate challenge for all countries' SRHR responses is managing the impacts of COVID-19 and the associated economic recession, disruption to health services, declining development assistance and health budgets, and lost educational and employment opportunities particularly for young people from marginalized populations.

The pandemic is testing the resilience of health and education systems and the increased pressure on resources creates the risk that of the decreased capacity of health and education systems to respond to young people's SRHR needs which in many cases are anticipated to be even greater than before COVID-19. The pandemic has disrupted delivery and access to HIV services, family planning and maternal and child health services globally. Assuming a 10 per cent decline in use of modern contraceptives, it has been estimated that disruptions to SRH services will result in an additional 48.6 million women with unmet need for modern contraceptives and 15.4 million unintended pregnancies worldwide.[66] The lockdown of households and imposition of curfews may also result in an increase in gender-based violence experienced by women and girls.

Young people's SRHR are affected by COVID-19 mobility restrictions and the additional pressures on health staff and facilities associated with the pandemic. Policymakers and programme implementers across sectors need to consider the adjustments that are required to existing SRHR, HIV and other health priorities to respond to the dynamic pandemic context.

Provision of modern contraceptives, SRH and HIV commodities and services should be available and accessible to young people as part of the COVID-19 pandemic response and access to these products and services needs to be addressed in planning for an equitable and sustainable post-COVID recovery.[67] However, supply chain disruptions are restricting the availability of contraceptives and other essential medicines, including antiretroviral (ARV) drugs for HIV treatment and prevention. These disruptions could reverse recent gains towards universal access to SRHR. Minimizing disruption to SRH services can be supported by:

- Supporting national- and local-level planning, coordination and monitoring to identify bottlenecks in supply chains and to address stock-outs.
- Operational and logistics support to global supply chains, including the provision of personal protective equipment to health workers and ensuring the supply of modern contraceptives and other HIV and SRH commodities.
- Use of public-private partnership to help resolve supply chain problems.

Effects of COVID-19 on community-based HIV responses include restrictions on outreach activities to support HIV testing services for key populations, reduced staffing due to staff redeployment to COVID-19, reduced clinic hours and reduced resources. Key population organizations have called for

66 T. Riley, E. Sully, Z. Ahmed, A. Biddlecom, "Impact of COVID-19 on Sexual and Reproductive Health in Low- and Middle-Income Countries", International Perspectives on Sexual and Reproductive Health, Vol 46 (2020).

67 UNFPA, Coronavirus Disease (COVID-19) Preparedness and Response - Sexual and Reproductive Health and Rights: Modern Contraceptives and Other Medical Supply Needs, Including for COVID-19 Prevention, Protection and Response. UNFPA Technical Briefs V (23 March 2020).

community-based organizations engaged in the HIV response to be designated as essential services and for their workers to be provided with appropriate permits to allow them to continue to provide outreach and other HIV services to key populations (within national or local restrictions) without hindrance from police or security services.[68]

Practical considerations for SRHR and HIV programmes in the context of COVID-19 include:[69]

- Increase use of mobile phones and digital technologies to help young people make decisions about SRHR and HIV services including access to HIV testing and pre-exposure prophylaxis for HIV prevention, which contraceptive methods to use, and how these products and services can be accessed.
- Increase the use of telehealth services to reach young people for counselling and sharing of messages related to HIV and sexual health, safe and effective use of contraception and for selection and initiation of contraceptives.
- Expand availability of HIV and STI prevention and contraceptive services through places that young people access other than healthcare facilities, such as pharmacies, drug shops, online platforms and other outlets. This can be with or without prescription depending on national guidelines and contraceptive method.
- Trialling new models of delivery of ARV drugs for HIV, extending multi-month provision of ARVs, condoms and other HIV and STI prevention materials to young people, and providing online outreach to young key populations at risk of HIV.
- Relax restrictions on the number of repeat issues of prescription-only hormonal contraceptives that can be issued.
- Ensure access to emergency post-coital contraception, including consideration of over the counter provision.
- Enable access to contraception for women and girls in the immediate post-partum and post-abortion periods when they may access health services.
- Ensure adequate inventory to avoid potential stock-outs at all levels of the health system.
- Increase availability and access to contraceptives which can be used without service provider support.

68 Australian Federation of AIDS Organizations and Asia Pacific Coalition for Men's Sexual Health (APCOM), The Last Mile First: Safeguarding communities during HIV and COVID-19 (2020).
69 World Health Organization, Coronavirus Disease COVID-19 and SRH (Geneva, WHO, 2020).

Criminal justice issues

In many contexts, minors are arrested due to petty thefts, underaged sex, illicit drug use, public nuisance, begging and other offences. As a result, many minors enter the prison system, where they are vulnerable to sexual exploitation and abuse and have limited access to SRH health and education services. Access to legal aid and pretrial diversion programmes are important interventions to address these issues. The Committee on the Rights of the Child recommends that States increase their minimum age of criminal responsibility to at least 14 years of age, and that State's fix an age limit below which children may not legally be deprived of their liberty, such as 16 years of age.[70]

The way forward: key actions

While recognizing the sovereign right of member states to their legal frameworks, and based on inter-governmental international agreements (including the SDGs, CRC and ICPD) which governments have endorsed or committed to, in alignment with UN international standard and guidelines, the following key areas should be considered for the way forward for realizing commitments to young people's sexual and reproductive health and rights.

As a general principle in line with the CRC, governments should support the leadership and participation of young people and their organizations to enable them to engage in advocacy and decision-making on legal and human rights issues relating to SRH and HIV. Capacity-building of youth leaders should be supported including leaders from communities of young people from key populations, including young people living with HIV, young men who have sex with men, young transgender people, young people who sell sex and young people who use drugs.

Legal framework

Rights of young people

1. Governments should enact comprehensive legislation guaranteeing young people's right to the highest attainable standard of health including: the right to access information and education essential to their health and development including on SRH and HIV, the right to access quality SRH and HIV services that are sensitive to their concerns, and freedom from violence and abuse, including coerced sterilization and abortion.

2. Governments should remove age restrictions and parental consent requirements that impede access to SRH and HIV services, including testing for HIV and other STIs, condoms and contraception, needle and syringe programmes and Oral Substitution Therapy. Consistent with the recommendations of the UN Committee on the Rights of the Child, a legal presumption of competence for all adolescents to access SRH services should be in place, replacing arbitrary age restrictions and requirements for individual assessments of competency by providers. If governments prefer to define a minimum age below which consent of a parent or guardian is required in all cases, this should be set at early adolescence. Children above such a minimum age should be able to consent independently if they are assessed by the health professional offering the service as sufficiently mature.

3. Marriage should not be a pre-condition for access to SRH services.

70 Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, 18 September 2019 (CRC/C/GC/24).

4. Young people, including adolescents, should have a legal right to access their medical records and to confidentiality of their medical records and health status. The law should prohibit disclosure by health care professionals delivering SRH and HIV services of personal information relating to a young person without the young person's consent, taking into account the mature minor principle and evolving capacities. This prohibition on disclosure of information to others (including parents and guardians) without the young person's consent should include information about the young person's health status, sexual behaviour and drug use history or other personal information. Exceptions to this duty of non-disclosure should be narrowly defined, and include consideration of the age and maturity of the adolescent, the gravity of the condition or treatment, and family factors. For example, exceptions should include:

    - In emergency situations with risk of death or serious injury;
    - where disclosure is required for the health care or treatment of the young person, e.g. sharing information with other health professionals involved in the care of the young person;
    - where the young person is assessed by the health professional as lacking sufficient capacity or competence to consent by reason of their age, and a parent or guardian consents to disclosure.
    - Operational guidance is required to assist health care workers to understand their legal and professional obligations, and training provided on policies and procedures.

5. The age of consent to sex should be set at an age that recognizes that many young people commence sexual activity during their adolescence. Consensual and non-exploitative sexual activity between adolescents who are similar in age should not be criminalized. The age of consent for autonomous access to SRH and HIV services should be equal to or lower than the age of consent for sexual relations.

6. Birth registration laws should address the needs of young people who were not registered at birth to obtain identification documents, so they can access government health and welfare services. Laws should also respect, protect and fulfil the rights of young people who are migrants and stateless people to access SRH services.

General law reform recommendations applying to young people and adults

7. The key actions listed above relate to legislative measures that will benefit young people specifically. In addition, law reforms should be considered that would improve the access of both adults and young people to SRH and HIV services. Governments should implement the following recommendations of the Global Commission on HIV and the Law:[71]

    - Decriminalize private and consensual adult sexual behaviours, including same-sex sexual acts and voluntary sex work.
    - Reform approaches towards drug use. Rather than punishing people who use drugs but do no harm to others, governments must offer them access to effective HIV and health services, including harm reduction programmes and voluntary, evidence-based treatment for drug dependence.

71 Global Commission on HIV and the Law. 2012. Rights, Risks and Health. New York: UNDP.

- Provide legal protections against discrimination based on actual or assumed HIV status, sexual orientation or gender identity.
- Work with the guardians of customary and religious law to promote traditions and religious practices that promote rights and acceptance of diversity and that protect privacy.

SRH and HIV policies and programmes

8. Governments should ensure that the rights of young people are explicitly addressed in HIV, SRH and population and development policies and that SRH and HIV issues are integrated into national youth policies and strategies. As a policy response, SRH and HIV services can be reoriented to young people's needs (particularly unmarried adolescents) through requiring service standards and guidelines to be developed that address their specific needs.

9. SRH and HIV policies and programmes should address the following:

- Access to youth-friendly, evidence-based, gender-sensitive, non-discriminatory and confidential SRH and HIV services and information.
- Provision of age-appropriate comprehensive sexuality education in primary and secondary schools.
- Access for young people living with HIV to ARVs, condoms, contraceptives, reproductive services and sexual health services, as essential components of HIV care.
- Recognition of the importance of ensuring SRH services are available to sexually active adolescents and unmarried young people, as well as married people.
- Support to programmes that respond to the specific needs of young people living with HIV and other young people from key populations.
- Access for young women and girls to services for abortion-related complications and post-abortion care, including in jurisdictions where abortion is criminalized. Safe abortion services should be made accessible to young women and girls in countries where abortion is legal.
- Systematic collection of confidential data in relation to the progress towards universal coverage of SRH and HIV services for young people, particularly young key populations. Data on unmarried young people and young people who are at increased risk of HIV and other STIs are required as an evidence base to inform policies and planning of services, and this should be finely disaggregated by age and sex (e.g. SRH outcomes for persons aged 10-14, 15-19, and 20-24). Size estimations of key populations should specify estimates of the numbers of adolescents and young people in each key population.
- Rights of young people to participate in policy development and programme implementation and evaluation.
- Community mobilization, focused awareness-raising and public education to enable parents, community leaders, health care workers, and the broader society to learn

about adolescent SRH issues in culturally-sensitive ways, thereby influencing the social norms and cultural practices that are key to a supportive environment for SRH information and service provision.

- Removal of financial barriers to access to services through a waiver of fees, health insurance, voucher schemes or other financing options to ensure services are affordable to young people.

Annex: Country Case Study Summaries

More detail on each case study and references can be found by following the links.

1 India

India's RMNCH+A Strategy (2013) and National Adolescent Health Strategy (2014)

The Reproductive, Maternal, Newborn, Child and Adolescent Health Strategy and National Adolescent Health Strategy promote access to SRH information and services to young people, including access to contraceptives and safe abortion services. SRH services are required to be delivered in adolescent-friendly environments. A combination of facility-based and community-based services are provided to young people and uptake of services is supported through adolescent participation, peer education and youth leadership.

Young people's access to safe abortion services

The Medical Termination of Pregnancy (MTP) Act 1971 was enacted to enable women's access to safe abortion and enables girls aged under 18 to access safe abortion services in certain circumstances, with the consent of a parent or guardian. The government had proposed to amend the Act in 2020 to further support unmarried woman and girls to access safe abortion services.

Child protection legislation and the age of sexual consent

The Protection of Children from Sexual Offences Act 2012 treats sexual activity between adolescents below 18 years as a sexual assault, and mandates that anyone (including a health care worker) who has knowledge of a sexual offence against a child must report the abuse. Some adolescent girls who fear the reporting of their sexual conduct may hesitate to seek safe and legal abortion services.

As a result of amendments to the Penal Code to align with the child protection law, the age of consent to sex for unmarried women was increased from 16 to 18 in 2013. Sexual contact between two adolescents below 18 years is illegal in India, regardless of the adolescent's consent or being of a similar age. Criminalization of consensual sex between adolescents aged under 18 years is likely to deter some adolescents from attending SRH services for fear of prosecution.

Child marriage and adolescent sexuality

The Prohibition of Child Marriage Act 2006 prohibits marriages of girls under 18 years and boys under 21 years. Recent court cases have demonstrated problems with the Act. The Act is intended to support efforts to eradicate child marriage, but it is problematic because it fails to acknowledge the evolving capacities of adolescents and youth.

Young people's access to HIV Testing services

The HIV and AIDS (Prevention and Control) Act 2017 promotes principles of non-discrimination, informed consent and confidentiality. However, the Act requires HIV testing to comply with national HIV testing guidelines, which require the consent of a parent or guardian to be obtained to an HIV test on a child aged under 18 years.

Decriminalization of same-sex sexual conduct

In 2018 the landmark judgment of the Supreme Court of India partially struck down section 377 of the Indian Penal Code, which criminalized "carnal intercourse against the order of nature". In effect, this judgment decriminalized same-sex sexual conduct between consenting adults in India.

Laws and police practices affecting transgender people

Human trafficking, public nuisance and anti-begging laws are often used by law enforcement bodies to harass transgender people, especially those involved in sex work. Criminalization makes it difficult to reach them with HIV and SRHR interventions. An important development is the enactment of the Transgender Persons (Protection of Rights) Act 2019, which prohibits discrimination against transgender people including by denial of services or unfair treatment in healthcare.

See detailed case study and references

2 Nepal

National Adolescent Health and Development Strategy

Nepal's Ministry of Health and Population (MoHP) updated the National Adolescent Health and Development Strategy in 2018. The Strategy aims to increase access to and utilization of adolescent-friendly health and counselling services.

Right to Safe Motherhood and Reproductive Health Act 2075 (2018)

Nepal introduced a national legal framework for reproductive health rights in 2018. The Act recognizes RH as a fundamental human right. It emphasizes reaching hidden populations and addressing the disparities in access to SRH services that disadvantage young people and others. The Act requires unbiased, non-judgemental SRH services to be provided to adolescents and that SRH services be disability-friendly. The Act aims to expand and improve the quality of reproductive healthcare services and prohibits discrimination in reproductive healthcare. The Act requires provision of free public SRH services and addresses the right to safe abortion.

Improvements to safe abortion rights

Abortion has been legal in some circumstances in Nepal since 2002. The Right to Safe Motherhood and Reproductive Health Act 2018 expanded the categories of cases in which abortion is legal. Abortion is permitted with consent of the pregnant woman up to 12 weeks' gestation and is permitted up to 28 weeks' gestation in cases of rape or incest, if the woman is HIV positive or has an incurable disease, in cases of foetal malformation, and to save the life of the woman.

Expanding the availability of HIV testing

The MoHP issued guidelines in 2017 confirming that the age of consent to HIV testing is 16 years and this was restated in the updated HIV Testing and Treatment Guidelines issued in 2020. It is important from a public health perspective that sexually active adolescents are able to know their HIV status and can access HIV testing without the need for parental consent. The updated Guidelines introduced new approaches to support expanded uptake of HIV testing by young people.

See detailed case study and references

3 Thailand

The Adolescent Pregnancy Act

The Adolescent Pregnancy Act 2016 supports the rights of all adolescents to make their own decisions, receive information and SRH services without discrimination, and enjoy confidentiality and privacy. The law enables pregnant adolescents to access care and social support and to remain in school or receive vocational training. The government has introduced a National Strategy to Prevent and Reduce Teenage Pregnancies, as required by the Act. The Strategy mobilizes people from across society to tackle the issue, including the five implementing ministries of government, policymakers, the private sector, parents and young people.

Reform of Thailand's abortion law

Legally permissible circumstances for abortion include cases of rape or incest, necessity due to the physical or mental health of the pregnant woman, foetal disability, or high risk of severe genetic disease. The law also allows girls aged under 15 to have an abortion. In February 2020, Thailand's Constitutional Court ruled that the Criminal Code offence for an illegal abortion is unconstitutional and must be redrafted within 360 days. The Constitutional Court ruled that the abortion offence violates constitutional rights to equality and freedom from discrimination based on gender. The Ministry of Health is drafting a new abortion law through a consultative process. It is hoped that the amended law will improve access to safe abortion services and will be aligned with the Adolescent Pregnancy Act.

Young people's access to HIV testing

A Thai Medical Council Clinical Practice Guideline introduced in 2014 states that a person under 18 years of age who requests HIV testing no longer requires parental consent. This guideline has been implemented since 2014 as a measure to increase the early diagnosis of HIV among young people so that people can be referred for treatment, which has both therapeutic and preventive benefits. Parental consent is still needed for HIV treatment. HIV self-testing kits have been made available since 2019, when Thailand approved the sale of HIV home-test kits from pharmacies.

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Child marriage

The minimum age of marriage is 17 in Thailand. The CEDAW Committee, in its 2017 Concluding Observations on Thailand, recommended that Criminal Code be amended to ensure that the minimum age of marriage is set at 18 years for both girls and boys and that measures be taken to eliminate child marriage practices.

See detailed case study and references

4 Papua New Guinea

Addressing adolescent pregnancy is established as a national policy priority

In 2015, addressing adolescent pregnancy was identified as a priority of the Papua New Guinea (PNG) Population Policy and the PNG Youth and Adolescent Health Policy. A five-year National Action Plan was developed to improve access to contraceptives. The five-year National Action Plan's goal is to achieve 50 per cent contraceptive prevalence rate with modern family planning methods, mainly focusing on implants, by 2020.

Demographic and Health Survey reveals slow progress in addressing SRHR for young people

The Demographic and Health Survey (DHS) 2016-2018 illustrates the ongoing challenges for PNG in addressing SRHR. 10 per cent of girls aged 15-19 reported that they had a live birth. Rural teenagers tend to start childbearing earlier than urban teenagers (13 per cent versus 10 per cent). Overall, 37 per cent of currently married women use a method of family planning, with 31 per cent using a modern method and 6 per cent using a traditional method. Women in urban areas are more likely to use a contraceptive method than women in rural areas. Eighteen per cent of sexually active unmarried women use a method of contraception, with 16 per cent using a modern method. Eleven per cent of sexually active unmarried women in urban areas use condoms, as compared with only 3 per cent in rural areas. This is a concern both in relation to preventing teenage pregnancy and HIV.

Legislating to prohibit child marriage

Child marriage is common in PNG, particularly in rural and remote communities where customary marriages are common. The Lukautim Pikinini Act 2015 defines a child as a person under 18 years of age and imposes a maximum penalty of five years imprisonment for facilitating a child marriage. However, the Marriage Act 1963 is yet to be amended to reflect this, and customary marriages of children are still recognized as legally valid.

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Criminal laws impede HIV prevention efforts

Male-to-male sex and sex work are criminalized in PNG, impeding uptake of HIV services by key populations. An integrated bio-behavioural survey (IBBS) found that 45 per cent of female sex workers in Port Moresby felt the need to hide the fact that they sell or exchange sex from health services and almost half of men who have sex with men felt the need to hide their sexual practices or gender identity when accessing health services. The IBBS Report called for law reform to support health services to reach key populations.

See detailed case study and references

5 The Philippines

National policies on adolescent health

The National Policy and Strategic Framework on Adolescent Health and Development (2013) has three main strategies: health education and health promotion; life skills building; and provision of prevention and case management medical services. The Strategy mandated Local Government Units to deliver reproductive healthcare and distribute family planning goods and supplies. In 2017, the Department of Health developed a Manual for program managers which highlights the importance of respect for the privacy of adolescents when delivering SRH services, noting that breach of confidentiality can have life-threatening consequences for adolescents.

The Reproductive Health Act

The Responsible Parenthood and Reproductive Health Act (RPRH Act) of 2012 guarantees "universal access to medically-safe, non-abortifacient, effective, legal, affordable, and quality reproductive healthcare services, methods, devices, supplies." Public health facilities must provide contraceptive information and services that are "age and development appropriate." In a decision handed down in 2014, the Supreme Court upheld the Act as constitutional. However, the Court did not uphold a provision of the Act that permitted persons under 18 to access contraceptives without parental consent if the adolescent had a prior pregnancy. The Court confirmed that the Act requires parental consent for persons aged under 18 to access contraceptives

National Policy on Post-Abortion Complications

Abortion is criminalized in the Philippines. In 2018, the Department of Health updated its policy on post-abortion care. The Policy specifically recognizes that adolescents have specific needs in relation to post-abortion care. The Policy requires health staff to make family planning services available to adolescents and to provide non-judgmental counselling to adolescents and their parents. It also requires staff to educate adolescents about the legal status of abortion, the complications of unsafe abortion as well as the benefits of family planning in the prevention of unintended pregnancies and saving women's lives.

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The adverse impacts of COVID-19 on SRHR

COVID-19 has disrupted access to SRH products and services. A jump in adolescent pregnancies is expected as a result of lockdowns and rising levels of poverty and unemployment. It is estimated that the impacts of COVID-19 on SRHR will lead to an additional 214,000 unplanned births, and 10 per cent of these births will be among women below 20 years of age. It is estimated that there will be a 6.3 per cent increase in teenage pregnancies. The unmet need for family planning among adolescents aged between 15 and 19 years old will increase by almost 10 per cent, increasing from 163,000 to 178,000 as a result of the lockdowns. Over 400,000 women are expected to drop out of the family planning programme.

National HIV legislation

The Philippine HIV and AIDS Policy Act of 2018 provides that a child may consent to an HIV test independent of a parent if the child is aged 15 or over. If the child is under 15, the consent of a parent is not required if the child is pregnant or engaged in high risk behaviour and the HIV test occurs with the assistance of a licensed social worker or health worker. If the child is under 15 and parental consent is refused, or a parent or guardian cannot be found to provide consent, then consent can be provided by a social worker or health worker with the child's agreement ('assent').

Age of consent to sex

The age of consent to sex in the Philippines is 12 years, which may expose children to risk of sexual violence or abuse. In 2020, there were five bills in the House of Representatives proposing to increase the age of consent from 12 to 16 and one bill proposing to increase the age to 18. An exception to the age of consent has been proposed, which would permit adolescents of a similar age to engage in consensual sexual conduct.

Child marriage

The Family Code sets the age of marriage at 18 years. The Code of Muslim Personal Laws applies to Muslim communities in Mindanao. It sets a lower age for marriage of 15 years for boys compared to 12 years for girls. A Fatwa on the Model Family has been developed to discourage early marriages and a Bill proposes to criminalize child marriage nationally.

See detailed case study and references

6 Viet Nam

SRHR in national legislation and policy

There are commitments to provide SRH services to adolescents in the National Population and Reproductive Health Strategy 2011-2020, the National Youth Law and the Youth Development Strategy 2011-2020. Viet Nam is implementing the second phase of the National Population and Reproductive Health Strategy with the goal of ensuring all women of reproductive age have convenient access to contraceptives by 2030. Viet Nam is also developing a National Action Plan on Adolescent Reproductive Heath for the period 2019-2025.

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Access to contraceptives and HIV testing

The National Guidelines for Reproductive Health Care Services provide that a person aged between 10-19 years is entitled to access contraceptive services and commodities and has the right to make decisions on matters in connection with their own reproductive and sexual health. The Civil Code states that parental consent is required for a child aged under 18 to undergo medical testing or to receive medical therapies. However, for HIV testing a different law applies which encourages adolescents to come forward for testing. The Law on HIV/AIDS Prevention and Control 2006 sets the age of consent to HIV testing at 16. Viet Nam is also expanding access to pre-exposure prophylaxis for HIV prevention among MSM and transgender women.

Minimum age of marriage

The Law on Marriage and Family, the Law on Children and the Penal Code prohibit child marriage. The minimum age of marriage is 20 for males and 18 for females. In 2015, the CEDAW Committee recommended that Viet Nam set the same minimum age of marriage for women and men, consistent with the CEDAW Committee's general recommendation No. 21 on equality in marriage and family relations.

See detailed case study and references

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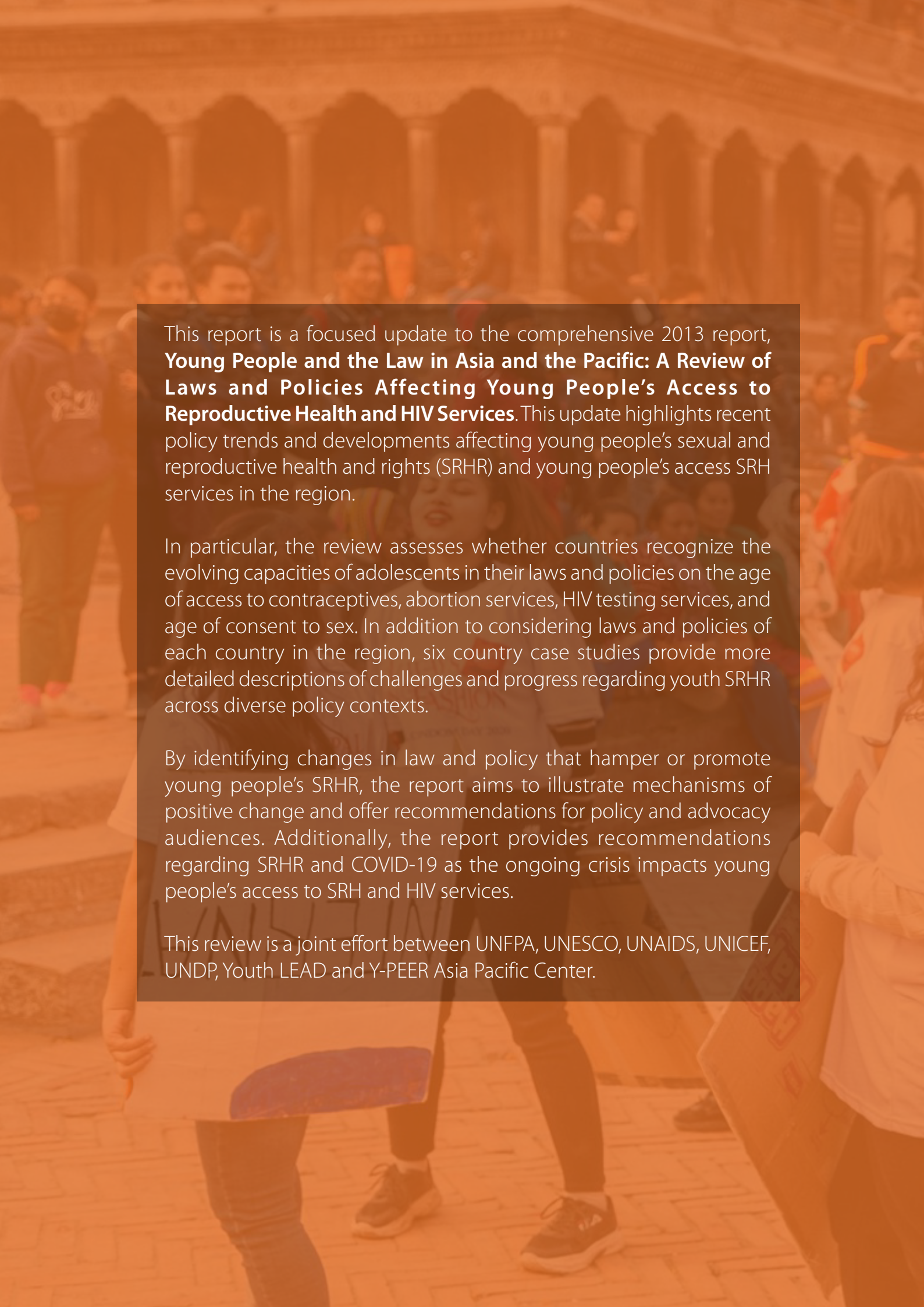

This report is a focused update to the comprehensive 2013 report, **Young People and the Law in Asia and the Pacific: A Review of Laws and Policies Affecting Young People's Access to Reproductive Health and HIV Services**. This update highlights recent policy trends and developments affecting young people's sexual and reproductive health and rights (SRHR) and young people's access SRH services in the region.

In particular, the review assesses whether countries recognize the evolving capacities of adolescents in their laws and policies on the age of access to contraceptives, abortion services, HIV testing services, and age of consent to sex. In addition to considering laws and policies of each country in the region, six country case studies provide more detailed descriptions of challenges and progress regarding youth SRHR across diverse policy contexts.

By identifying changes in law and policy that hamper or promote young people's SRHR, the report aims to illustrate mechanisms of positive change and offer recommendations for policy and advocacy audiences. Additionally, the report provides recommendations regarding SRHR and COVID-19 as the ongoing crisis impacts young people's access to SRH and HIV services.

This review is a joint effort between UNFPA, UNESCO, UNAIDS, UNICEF, UNDP, Youth LEAD and Y-PEER Asia Pacific Center.