

CHAPTER X: Adolescents' Reproductive Rights

While adolescents have the same reproductive rights as adults, they face more obstacles to enjoying those rights. Adolescents' age-related low social status and lack of autonomy can make them vulnerable to a host of rights violations.¹ These include denial of access to reproductive health information and services, violence and exploitation, and extreme hardship when faced with an unwanted pregnancy. Governments that impose restrictions on adolescents' access to reproductive information and services violate international norms. So do governments that fail to implement or enforce laws protecting adolescents from violence and discrimination.

Who Are Adolescents and Young People?

Definitions of the term “adolescents” vary; for many, it refers to people between the ages of 10 and 19. The United Nations Population Fund (UNFPA) defines the relevant age-group categorizations as follows:

Adolescents	10–19 years
Youth	15–24 years
Young people	10–24 years ²

Using the UNFPA definition, one person in five worldwide is an adolescent, which translates to a global adolescent population of about 1.3 billion.³ Nearly half of all people worldwide are younger than age 25, which means that the current youth generation is the largest in history.⁴

This chapter addresses the duty of governments to ensure adolescents' reproductive rights. It reviews the international legal foundations of this duty and identifies its three principal components: 1) guaranteeing all adolescents access to reproductive health information and education, 2) guaranteeing all adolescents access to reproductive health services, and 3) protecting adolescents from violence and discriminatory practices. The chapter provides examples of recent national developments reflecting each of these governmental responsibilities.

HUMAN RIGHTS FRAMEWORK

Adolescents' right to reproductive health information and services is grounded in **guarantees of life and health**. Adolescents face serious threats to their lives and health in the form of HIV/AIDS and other sexually transmissible infections (STIs), early pregnancy, and unsafe abortion. Reproductive health information and services, which can avert these threats or mitigate their impact on adolescents' lives, are thus vital components of the rights to life and health.

For international legal foundations of the rights marked in bold, see Appendix B

Adolescents' Sexual and Reproductive Health Concerns

Pregnancy is a leading cause of death among women aged 15–19 around the world, due to complications resulting from childbirth and unsafe abortions.⁵

An estimated 70,000 adolescents die each year from pregnancy- and childbirth-related causes.⁶ Women younger than 18 are twice as likely as women in their twenties to die during childbirth.⁷

It is estimated that every year five million unsafe abortions are performed on adolescents in low-income countries.⁸

Almost 6,000 youths between the ages of 15 and 24 are infected with HIV each day.⁹ This means almost 12 million youths are living with HIV or AIDS and 62% of these infected youths are women.¹⁰

The **rights to information and education** also provide direct support for adolescents' access to sexual and reproductive health information. Adolescents are entitled to information about pregnancy- and HIV-prevention that is factual, unbiased, and comprehensive.¹¹ The rights to information and education also entitle all adolescents, including those who are pregnant or who have children, to continue their education and attend school.

International law recognizes adolescents' "evolving capacities" to make decisions in matters affecting their lives.¹² Adolescents who are sexually active and seek information and services to protect themselves from unwanted pregnancy and STIs, including HIV, are acting maturely to protect themselves from serious health risks. They therefore have the requisite capacity to enjoy their **right to reproductive self-determination**, in accordance with international protections of their rights to physical integrity and privacy, as well as their right to decide freely and responsibly the number and spacing of their children. These principles also support adolescents' right to confidentiality in accessing reproductive health services. Finally, in order for adolescents to enjoy the right to reproductive self-determination, they must be protected from sexual violence and abuse, as well as from discriminatory cultural practices.

The failure to ensure adolescents' access to comprehensive sexual and reproductive health information and services violates the **right to freedom from discrimination**. Compared with young men and boys, young women and girls are disproportionately affected by such denials of access, since they alone face the risk of unwanted pregnancy and are more vulnerable to STI infection. Governments exacerbate the effects of unwanted pregnancy when they deny girls who become pregnant the right to attend school. Such practices are blatant forms of sex discrimination in themselves, for they punish girls for societal failings and make them solely responsible for becoming pregnant.

These legal guarantees require governments to:

- **Guarantee adolescents access to reproductive health information and education.** Governments must provide access to accurate sexual and reproductive health information and should not withhold or intentionally misrepresent facts that relate to pregnancy and STI prevention.¹³ Reproductive and sexual health information¹⁴ should be provided in a respectful and nonthreatening environment, where the confidentiality and autonomy of the adolescent seeking information is respected.
- **Guarantee adolescents access to reproductive health services.** Governments must provide adolescents with access to comprehensive and affordable reproductive health services. Governments should put regulations in place that prohibit public or private actors from impeding adolescents' access to services.
- **Protect adolescents from violence and discrimination.** Governments must enact and enforce laws prohibiting physical and sexual violence against adolescents, including cultural practices that violate the reproductive rights of adolescents. Governments must also enact laws that prohibit discrimination against pregnant adolescents in schools.

1. MEASURES TO ENSURE ACCESS TO REPRODUCTIVE HEALTH INFORMATION AND EDUCATION

Laws and policies must acknowledge the realities of adolescents' lives. Reproductive health strategies that place exclusive emphasis on abstinence and restrict access to contraceptives are ill-conceived, particularly where adolescents are already sexually active or even married. Studies indicate that sexuality education programs that address only abstinence result in lower levels of contraceptive use among adolescents when they do become sexually active.¹⁵ In contrast, comprehensive sexuality education, which offers information about both abstinence and contraception, delays the onset of sexual activity, increases the use of contraception, and leads to fewer sexual partners.¹⁶

Because adolescents' access to information varies greatly according to their socioeconomic status,¹⁷ governments must take measures to ensure that comprehensive sexuality and reproductive health information is made widely available, both in schools and other settings where low-income adolescents can be reached. The government of **Nepal** adopted such measures in the form of detailed action plans, and the government of **Nigeria** did so in the form of a standardized school curriculum.

A. Nepal Adopts National Plan to Ensure Adolescent Health

In Nepal, the 1996 Family Health Survey found that nearly 25% of married 15–19 year olds were pregnant or had already had a child.¹⁸ The contraceptive prevalence rate among these young women was estimated at 6.5%.¹⁹ As part of its response to these findings, Nepal adopted a national plan in 2000 to address all aspects of adolescent health. The plan sets out the necessary elements of adolescent sexuality education, as well as the range of actors who may serve as educators. The plan is unusual for its comprehensive approach to adolescent health and its focus on the provision of sexual and reproductive health information as a key strategy.

The government of Nepal developed the National Adolescent Health and Development Strategy in 2000 in recognition of the need for a clear framework to address adolescent-specific health and development issues in Nepal.²⁰ In the strategy, the government recalls its commitments at the International Conference on Population and Development (ICPD) and other international conferences to improve the reproductive health of the people of Nepal, including adolescents.²¹

Objectives to improve adolescent health

The strategy's main objectives include:

- increasing the availability and accessibility of information on adolescent health and development, and providing skill-building opportunities to adolescents, service providers, and educators;
- increasing the accessibility and use of health and counseling services for adolescents; and
- creating a safe and supportive environment for adolescents to improve their legal, social, and economic status.²²

Information as a means of empowerment

The strategy recognizes the need to empower adolescents with accurate, current, and age-appropriate information and skills so that they may develop and practice safe and responsible behaviors and seek appropriate services.²³

Standard information package

One of the strategy's activities is the formulation of a standard information package on adolescent health and development to be distributed to adolescents, service providers, parents, educators, policymakers, and the broader community.²⁴ The package includes information on the following topics:

- human sexuality, including puberty, marriage, the reproductive process, sexual relationships, and responsible parenthood;
- contraception, with an emphasis on the prevention of early and unwanted pregnancies and of STIs among all sexually active adolescents without discrimination;
- safe motherhood, including healthy pregnancy, safe delivery, pre- and neonatal care, and the promotion of breast-feeding;
- prevention and management of unsafe abortion and its complications;
- prevention and management of reproductive tract infections; STIs, including HIV/AIDS; and other reproductive health conditions; and
- nutrition promotion, with an emphasis on the importance of specific nutritional requirements of childhood and adolescence, especially for girls.²⁵

B. Nigeria Adopts National Curriculum on Family Life and HIV Education

In March 2003, the Nigerian Educational Research and Development Council, with the support of the Ministry of Education and national nongovernmental organizations (NGOs) adopted a national curriculum to address adolescent sexual health and HIV prevention.²⁶ While family life education in Nigeria in the 1980s had focused on population concerns, following the ICPD in 1994 the national focus shifted to reproductive health, including family planning and sexual health. Government commitment to sexual health education intensified with the revelation that HIV/AIDS was beginning to hit young people in Nigeria in large numbers.²⁷

Objectives

The National Family Life and HIV Education Curriculum for Junior Secondary School emphasizes providing opportunities for young people to develop “positive and factual” views of themselves and aims to teach young people to respect and value themselves and others. The curriculum also emphasizes teaching the information and skills that young people need to take care of their general health and make sound decisions about their sexual health and behavior. The curriculum prioritizes HIV prevention, placing more emphasis on abstinence than on using barrier methods to prevent transmission of the virus during sex.²⁸

The curriculum

The curriculum is structured around five topics:

- **human development**, focusing on physical and emotional changes that occur during adolescence;
- **personal skills**, addressing personal values, self-esteem, goal-setting, decision-making, effective communication, assertiveness, negotiation, and seeking help;
- **HIV infection**, covering information about HIV/AIDS and other STIs, risky behaviors, prevention methods, abstinence, sexual abuse, and discrimination against people living with HIV/AIDS;
- **relationships**, addressing the nature of family, friendships, peer pressure, love, and loving behaviors; and
- **society and culture**, focusing on cultural norms and taboos, societal norms, gender roles, gender bias, law (including laws protecting children), school rules about relationships, religion, diversity, discrimination, art, and media.²⁹

2. MEASURES TO ENSURE ACCESS TO REPRODUCTIVE HEALTH SERVICES

Access to reproductive health care is crucial for the health and safety of adolescents. Adolescents are increasingly at risk of contracting HIV/AIDS, as well as other STIs. They also face a heightened risk of maternal mortality. For example, adolescents are more likely than older women to suffer complications from pregnancy and unsafe abortion; they are also more likely to suffer the delivery complication of obstetric fistula, an injury to a woman’s birth canal that leaves her incontinent.³⁰ The social and economic effects on an adolescent’s life of carrying an unwanted pregnancy to term can also be enormous. Not only do many unmarried pregnant adolescents and young mothers face shame and social isolation, most of these young women cannot complete their education, and therefore have difficulty supporting themselves and their families later in life.³¹

To prevent unwanted pregnancy and exposure to STIs, adolescents should have access to reproductive health care, including family planning services. Such services are most effective when they are confidential and age-appropriate. Adolescents often are denied the right to consent to their own health care and are forced to seek the permission of their parents or guardians before accessing reproductive health services. While many adolescents may want to involve their parents in decisions about their sexuality and health care, for other adolescents, a requirement of parental involvement could make them vulnerable to punishment or abuse. For these adolescents, laws requiring parental involvement can effectively deny them access to health care.³²

Several governments, including those of **France** and the **United Kingdom**, have taken steps to eliminate barriers to health care for adolescents by recognizing adolescents' right to be treated as adults when seeking care, and by adopting legal and policy measures that make reproductive health care for adolescents more readily available.

A. France Ensures Adolescents' Access to Emergency Contraception (EC)

To prevent unwanted pregnancies among adolescents, France adopted legislation and regulations that permit pharmacists and school nurses to offer EC to minors under the age of 18. During the year after the law went into effect, from 2001 to 2002, 5,830 French students obtained EC pills from their school nurses.³³ The General Secretary of the Family Planning Association in France attributes a recent 20–25% decline in the number of adolescent abortion clients to the law authorizing school nurses to dispense EC.³⁴

On January 9, 2002, the Republic of France issued Decree No. 2002–39 on the conditions regulating the delivery of EC to minors.³⁵ Pursuant to previous legislation enacted in 2000, minors under the age of 18 may receive EC free of charge from a pharmacist without a prescription or parental approval.³⁶

Role of pharmacists in providing counseling and information

Pharmacists who dispense EC must offer counseling on its correct use and ensure minors' confidentiality. They must interview minors to determine whether EC is appropriate to their situation. The interview provides an opportunity for pharmacists to counsel and provide informational materials on regular contraception, prevention of STIs, and the benefits of routine medical examinations. Finally, pharmacists should provide minors with information on the nearest family planning education centers.³⁷

Role of school nurses in distributing EC

Moreover, the 2000 French law authorized nurses in junior and senior high schools to distribute EC in cases of distress or urgency.³⁸ The law directs nurses who dispense EC to students to arrange for a medical follow-up appointment for those students.³⁹

B. United Kingdom Issues Guidance on Reproductive Health Care for Minors

In response to concerns about adolescent pregnancy, the British Department of Health adopted guidelines for how providers can best meet the needs of adolescents seeking reproductive health care and family planning.⁴⁰ Studies in the United Kingdom reveal that while over one-fourth of young people under 16 are sexually active, their rates of contraceptive use, including the use of condoms, are the lowest of any age-group.⁴¹ Fears about a lack of confidentiality often deter adolescents from seeking reproductive health care,⁴² likewise, there is confusion among health-care professionals about whether adolescents younger than 16 can receive reproductive health services without parental consent.⁴³ The guidelines were developed to address those fears and confusion.

On July 29, 2004, the British Department of Health issued Best Practice Guidance for Doctors and Other Health Professionals on the Provision of Advice and Treatment to Young People under 16 on Contraception, Sexual and Reproductive Health.⁴⁴ The guidance specifically addresses health professionals' duties of confidentiality and care to patients under 16, and recognizes that concerns about confidentiality are the biggest deterrent to seeking care among adolescents in this age-group.⁴⁵ The guidance contains the following key provisions.

Conditions for providing services to patients under 16

The guidance authorizes the provision of contraceptive and sexual and reproductive health services to patients under 16 without parental knowledge or consent, provided that the following two conditions are met: 1) the young person understands the advice provided and its implications; and 2) the young person's physical or mental health would likely suffer if advice or treatment were not provided.⁴⁶

Confidentiality policy required

The guidance calls for all health facilities that provide contraceptive services to young people to develop and prominently advertise a confidentiality policy that explicitly guarantees adolescents under 16 the same right to confidentiality as adults. However, the guidance also allows for exceptions in cases where health professionals believe there is a serious risk to the health, safety, or welfare of a young person. In all but exceptional circumstances, the guidelines caution health professionals to consult the young person and offer support for voluntary disclosure before taking unilateral action.⁴⁷

Limits on service refusals

Any provider who is unable to provide confidential contraceptive services should make alternative arrangements for the patient to be seen by another professional and prominently advertise that such alternatives are available.⁴⁸

Recommended topics of counseling

The guidance also delineates several specific “good practices” for health professionals to consider when providing services to patients under 16. For example, in dealing with a request for contraception by a young patient, providers should “establish rapport” with the patient and offer counseling on issues such as the emotional and physical implications of sexual activity, including the risks of pregnancy and STIs; the nature of consent in the relationship (i.e., presence of coercion or abuse); and the benefits of informing the adolescent's general doctor and her parent or other caregiver.⁴⁹

No parental consent required for abortion

When a young person requests an abortion and the patient is capable of giving consent and does not wish to involve a parent, the guidance urges providers to make “every effort” to help the patient find an adult other than the parent who can provide support.⁵⁰

No liability for health professionals under sex abuse law

The guidance also specifically notes that the Sexual Offences Act of 2003 does not implicate health professionals and others who provide confidential contraceptive and reproductive and sexual health services to young people under 16.⁵¹

3. MEASURES TO PROTECT ADOLESCENTS FROM VIOLENCE AND DISCRIMINATION

Adolescents are particularly vulnerable to violations of their physical integrity through sexual violence and abuse within families, schools, or other institutions. Harmful cultural practices such as early marriage often result in violations of adolescents' right to make decisions regarding their sexuality and reproductive lives.⁵² Governments have had to adopt special measures to address the social, cultural, and economic dynamics that in many countries contribute to girls' vulnerability. Protecting adolescents' right to physical integrity requires recognition that girls and young women are more

vulnerable to abuse than their adult counterparts. That recognition has served as the basis for laws prohibiting sexual exploitation of minors in the **Philippines** and **Bangladesh**.

Pregnant girls sometimes face discrimination in access to education. In fact, many countries have laws that forbid pregnant adolescents from attending school.⁵³ Even in countries where laws prohibit the exclusion of pregnant girls from school, the practice is still prevalent.⁵⁴ Pregnancy or motherhood was cited as the reason for dropping out by 33% of urban girls in Chile and 11% of urban girls in Venezuela.⁵⁵ **Panama** has taken a legislative initiative to prevent discrimination against pregnant adolescents in schools.

A. Philippines Adopts Law to Prevent Child Exploitation

As in other countries in Southeast Asia, in the Philippines, adolescents and children are targets for sexual exploitation and trafficking. According to the United Nations Children's Fund, an estimated 60,000 to 100,000 children in the Philippines are involved in prostitution rings. Child prostitution is especially prevalent in tourist areas.⁵⁶ To help combat these abuses, the Philippines has adopted a law defining and criminalizing different forms of child exploitation, including prostitution and trafficking.

On December 19, 2003, the Philippines approved Republic Act No. 9231,⁵⁷ which is aimed at preventing child labor in its worst forms and affording stronger protections for working children. The law adapts the definition of the worst forms of child labor set out in International Labour Organization Convention 182, which the Philippines ratified in November 2000.⁵⁸

Prohibited types of exploitation

The act outlaws the following:

- all forms of slavery or practices similar to slavery, such as the sale and trafficking of children;
- using, procuring, offering, or exposing a child for prostitution, pornography, or pornographic performances;
- any work that is hazardous or likely to be harmful to the “health, safety or morals” of children, including work that “exposes a child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals”;⁵⁹ and
- use of children in advertisements promoting alcoholic beverages, tobacco, gambling, or any form of violence or pornography.⁶⁰

Protections for working children

The law sets a minimum age of employment at 15, with some exceptions, and states the maximum number of hours a child may work, with some variations according to the child's age. The law also addresses the proper use and administration of a child's income. Employers of children are required to ensure access to primary and secondary education, and the Department of Education is charged with promoting the education of working children by taking measures such as designing courses and conducting training for the implementation of appropriate curricula.⁶¹

Penalties for employers and parents

Employers that violate the law are subject to penalties that include imprisonment and fines. Parents and legal guardians who violate the law are subject to fines, community service, or both. Businesses

face immediate closure if their violation of the law results in death or serious injury, or if they are engaged in prostitution or in obscene or lewd performances.⁶²

B. Bangladesh Adopts National Plan against Trafficking in Children

While comprehensive data on the prevalence of trafficking and exploitation in Bangladesh are unavailable, studies indicate that these are rapidly growing problems that demand greater attention.⁶³ In one survey of children, more than half of all respondents had experienced some form of sexual abuse; children aged 10–14 experienced abuse most frequently.⁶⁴ Sexual exploitation and trafficking are prohibited under the Bangladeshi Penal Code.⁶⁵ In 2002, the government issued a national plan to stop trafficking that takes into account the root causes of child exploitation and calls for the education and empowerment of vulnerable groups, as well as an improvement of the national infrastructure for preventing and punishing trafficking.

In February 2002, the government of Bangladesh adopted the National Plan of Action against the Sexual Abuse and Exploitation of Children including Trafficking.⁶⁶

Means of prevention

The prevention efforts outlined in the plan include adopting educational measures, with an emphasis on the teaching of life skills and on raising awareness of human rights; increasing economic alternatives for families; instituting legal reform; and eliminating child marriage.⁶⁷

Mechanisms for child protection

To better protect children from harm, the national plan calls for such measures as a reactivation of the birth registration system; improved mechanisms and structures for reporting abuse; and the creation of safe havens for victims and children at risk. The plan notes that special protection is needed for children who are affected by natural disasters and for child refugees.⁶⁸

Support for victims

The plan also emphasizes recovery and reintegration for the victims of sexual abuse and trafficking. To that end, it calls for ensuring children's access to necessary support services and creating a receptive environment for reintegration through outreach to families, local community leaders, and the public. The plan also cites measures to address the risks of STIs, including HIV/AIDS, and substance abuse faced by abused, exploited, and trafficked children.⁶⁹

Enforcement of criminal penalties

In addition, a key objective of the national plan of action is to increase the apprehension and prosecution of child traffickers. It emphasizes the need for a coordinated approach to monitoring and enforcing laws, particularly regarding cross-border trafficking, and calls for increased coordination among Bangladeshi ministries, other governments, national missions in “receiving” countries, and concerned NGOs.⁷⁰

C. Panama Guarantees Right of Pregnant Students to Stay in School

In 1998, the Committee on the Elimination of Discrimination against Women expressed concern in its concluding comments about Panama's compliance with the Convention on the Elimination of All Forms of Discrimination against Women because large numbers of adolescent girls were dropping out of school to work or marry.⁷¹ Many

of these young women dropped out because of pregnancy. Panama has a high rate of adolescent childbearing: Every year, 16% of women aged 15–19 give birth.⁷²

In 2002, Panama passed legislation guaranteeing pregnant adolescents the opportunity and right to remain enrolled in school.⁷³

Affirmative government measures required

The Ministry of Education is responsible for ensuring that pregnant adolescents stay enrolled in the educational system and that they can participate in their school's educational and recreational activities as their health permits. Necessary measures must be taken to ensure that pregnant adolescents are able to finish their studies if health reasons related to the pregnancy or birth interfere with regular school attendance.⁷⁴

Guarantee of nondiscrimination

Pregnant adolescents are to be treated with dignity and not subjected to discrimination, and the ministry is responsible for providing the necessary information and training on aspects of sexual and reproductive health to staff and students, with the goal of eliminating the stigma faced by pregnant adolescents.⁷⁵

Health services to be provided

The legislation also guarantees access to prenatal and postpartum health care, and allows adolescents who cannot afford the costs of this care to receive it free of charge. Public employees face penalties for failing to inform pregnant adolescents that health services are available to them for free. The legislation also affirms adolescents' right to be notified of the legal protections and health and social services available to them.⁷⁶

CONCLUSION

Securing legal recognition of adolescents' reproductive rights is a crucial step in promoting government action to ensure adolescents' access to sexual and reproductive information and health care, protect them from sexual abuse and exploitation, and safeguard the right of pregnant adolescents to attend school. Governments can take such action through national legislation, which governs the duties of health-care providers and other actors charged with caring for adolescents. Broad policies or government plans for multisectoral cooperation to improve adolescents' health and well-being are tools for mobilizing different government agencies, as well as nongovernmental actors. Concerted government efforts to address adolescents' sexual and reproductive health needs, on all fronts, are necessary to ensure the health and well-being of young women and girls worldwide.

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