How Law Impacts the Health of Adolescents

A Global Inquiry
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Overview

- Laws affect adolescents and their future health by governing ability to access healthcare, work, marry, consume alcohol or tobacco, among other things.

- Laws address:
  - Health (e.g., access, contraception)
  - Health Risks (e.g., consumption of alcohol, access to tobacco)
  - Social determinants of health (e.g., age of marriage, protection from hazardous work)

- Laws reflect ever-evolving, complex, and often contradictory perspectives on young people.

- Inconsistencies in adolescent legal frameworks globally have the potential to adversely affect current and future health outcomes.
Legal Principles of Adolescent Capacity

- Courts have long recognized varying levels of adolescent capacity in decision-making + need to protect adolescents by taking age into account

- 20th century → more consistent adolescent legal frameworks emerged at the international level

- 1989 UN Convention on the Rights of the Child (UNCRC)
  - Recognized children as bearers of human rights rather than parental property with liberties and responsibilities appropriate to their age
  - Restrictions should be consistent with human rights principles and the concept of evolving capacity
U.S. Age of Majority

- The age at which someone is considered an adult by law: 18 in most states. Nebraska and Alabama: 19, Mississippi: 21.

- State laws vary on age at which someone has the capacity to consent to having intercourse or get married.

- Requirements of parental consent for adolescent’s access to general medical health services, and abortion services also vary by state.
U.S.: Sexual Consent Laws

- The Legal age of consent is the minimum age at which a person is considered by the law to be able to consent to and engage in sexual acts.

- Age of sexual consent laws are determined by each state or territory.

- Age of sexual consent can vary based on a variety of factors including: gender of the actors, type of sexual act, the relationship between the actors, and others.

- Some states have a close-in-age-exemption to protect people close in age who participate in consensual sex acts.
U.S.: Minor Access to STI Services

- All 50 states and DC: Allow minors to consent to STI testing and treatment
- 31 states: STI services explicitly include HIV testing and treatment
- 18 States: **Allow** physicians to inform a minor’s parents that the minor tested and/or received treatment for an STI

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<thead>
<tr>
<th>Alabama</th>
<th>Maine</th>
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<td>Arkansas</td>
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- In Iowa alone a physician **must** notify parents of a minors’ positive HIV test
U.S.: Minimum Age For Unsupervised Driving by State
U.S. Juvenile Law: Life Without Parole

- Convention on Rights of a Child 1989
  - Signed but not ratified by the US in 1995
  - Article 37(a) states capital punishment and life imprisonment without possibility of release should not be imposed on persons under 18
- Rope v. Simmons 2005
  - Supreme Court ruled that execution of minors violates Eighth Amendment
- Graham v. Florida 2010
  - Supreme Court banned sentence of life without parole for juveniles offenders convicted of non-homicidal offenses
- Miller v. Alabama 2012
  - Supreme Court rules mandatory sentences of life without parole are unconstitutional for juvenile offenders
  - However, minors can still get life without parole sentences but not automatically after a conviction; instead a judge now decides
U.S.: National Drinking Age

- 1984 National Minimum Drinking Age Act
  - Sets the national minimum drinking age at 21
  - If a state reduces their drinking age, state annual federal highway apportionment (or the sum of federal money that was allotted to them for interstate highway construction and maintenance) is reduced by 8%
  - Act does not criminalize consumption during religious occasions
  - Prior to 1984 states varied in drinking age restrictions

- United States is one of only four countries that has nationwide drinking age over 18
Plural Legal Systems

Countries with plural or multiple legal systems allow various sources of law to govern simultaneously. English common law; French civil or other law; Statutory law; Customary law; Religious law; Tradition/practice.

Customary and religious laws enjoy the status of binding sources of law or practice in the vast majority of countries in the African region and a number of countries in Asia and the Americas. These laws permit cultural and religious customs or practices, some of which are discriminatory, to persist, which have direct implications on adolescent rights and health.
Customary, Religious, and Traditional Laws

- Legal pluralism permits religious, traditional and customary law or practice to trump national legislation through two primary avenues
  - Reservations to international conventions (i.e. CEDAW/) on grounds based on:
    - Islamic law
    - Areas regulating matters of personal status (marriage, divorce, custody, guardianship, adoption, inheritance)
    - Laws of personal status as determined by various religious/ethnic communities
  - Exceptions to national legal frameworks based on customary/religious/traditional law
    - Example: national legislation sets age of marriage at 18, but exceptions for religious/customary laws have their own rules
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<th>India</th>
<th>Lebanon</th>
<th>Nigeria</th>
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<th>United States</th>
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<tr>
<td>Age of majority (bestowing legal status of adulthood)</td>
<td>15—18 <em>Depends if married or personal law applies</em>&lt;sup&gt;2&lt;/sup&gt;</td>
<td>18 <em>Unless married</em>&lt;sup&gt;3&lt;/sup&gt;</td>
<td>21 <em>Unless married</em>&lt;sup&gt;4&lt;/sup&gt;</td>
<td>18&lt;sup&gt;5&lt;/sup&gt;</td>
<td>18—21 <em>Depends on state</em>&lt;sup&gt;6&lt;/sup&gt;</td>
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<td>Minimum age of marriage</td>
<td>“Puberty”—21 <em>Depends on sex and if personal law applies</em>&lt;sup&gt;7&lt;/sup&gt;</td>
<td>9—18 <em>Depends on sex and religion</em>&lt;sup&gt;8&lt;/sup&gt;</td>
<td>9—18 <em>Depends on sex and religion</em>&lt;sup&gt;9&lt;/sup&gt;</td>
<td>16&lt;sup&gt;10&lt;/sup&gt;</td>
<td>16—21 <em>Depends on state</em>&lt;sup&gt;11&lt;/sup&gt;</td>
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<td>Age of capacity to consent to sex</td>
<td>None—18 <em>Depends on sex and if married</em>&lt;sup&gt;12&lt;/sup&gt;</td>
<td>None—18 <em>Depends if married or given religious consent</em>&lt;sup&gt;13&lt;/sup&gt;</td>
<td>“Puberty”—18 <em>Depends on state and religion</em>&lt;sup&gt;14&lt;/sup&gt;</td>
<td>14&lt;sup&gt;15&lt;/sup&gt;</td>
<td>16—18 <em>Depends on state</em>&lt;sup&gt;16&lt;/sup&gt;</td>
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<td>Legal working age</td>
<td>None&lt;sup&gt;17&lt;/sup&gt;</td>
<td>13&lt;sup&gt;18&lt;/sup&gt;</td>
<td>None&lt;sup&gt;19&lt;/sup&gt;</td>
<td>14&lt;sup&gt;20&lt;/sup&gt;</td>
<td>14&lt;sup&gt;21&lt;/sup&gt;</td>
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<td>Drinking age</td>
<td>18—Illegal <em>Depends on state and if personal law applies</em>&lt;sup&gt;22&lt;/sup&gt;</td>
<td>16—Illegal <em>Depends on religion</em>&lt;sup&gt;23&lt;/sup&gt;</td>
<td>18—Illegal <em>Depends on religion</em>&lt;sup&gt;24&lt;/sup&gt;</td>
<td>18&lt;sup&gt;25&lt;/sup&gt;</td>
<td>21&lt;sup&gt;26&lt;/sup&gt;</td>
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<td>Legal smoking age</td>
<td>18&lt;sup&gt;27&lt;/sup&gt;</td>
<td>None&lt;sup&gt;28&lt;/sup&gt;</td>
<td>None&lt;sup&gt;29&lt;/sup&gt;</td>
<td>18&lt;sup&gt;30&lt;/sup&gt;</td>
<td>None—20 <em>Depends on state</em>&lt;sup&gt;31&lt;/sup&gt;</td>
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<td>Age of consent to medical treatment</td>
<td>18 <em>Law is unclear; some argue 12</em>&lt;sup&gt;32&lt;/sup&gt;</td>
<td>18&lt;sup&gt;33&lt;/sup&gt;</td>
<td>16&lt;sup&gt;34&lt;/sup&gt;</td>
<td>18&lt;sup&gt;35&lt;/sup&gt;</td>
<td>12—18 <em>Depends on state</em>&lt;sup&gt;36&lt;/sup&gt;</td>
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<td>Age of criminal responsibility</td>
<td>7&lt;sup&gt;37&lt;/sup&gt;</td>
<td>7&lt;sup&gt;38&lt;/sup&gt;</td>
<td>None&lt;sup&gt;39&lt;/sup&gt;</td>
<td>12—18&lt;sup&gt;40&lt;/sup&gt;</td>
<td>6—14 <em>Depends on state</em>&lt;sup&gt;41&lt;/sup&gt;</td>
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<td>Age to access to contraceptives</td>
<td>None <em>Provider discretion</em>&lt;sup&gt;42&lt;/sup&gt;</td>
<td>Only if married&lt;sup&gt;43&lt;/sup&gt;</td>
<td>No information available</td>
<td>None&lt;sup&gt;44&lt;/sup&gt;</td>
<td>Explicitly allowed in 21 states and DC; 25 states permit under certain circumstances; 4 states have no policy on minors&lt;sup&gt;45&lt;/sup&gt;</td>
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<td>Age to access abortion</td>
<td>18 <em>Without parental consent, unless married, and only in cases of fetal impairment or risk of grave physical or mental (includes rape) injury to the woman</em>&lt;sup&gt;46&lt;/sup&gt;</td>
<td>Illegal <em>Except to save the woman’s life</em>&lt;sup&gt;47&lt;/sup&gt;</td>
<td>Illegal <em>Except to save woman’s life</em>&lt;sup&gt;48&lt;/sup&gt;</td>
<td>Illegal <em>Unless to avoid grave and permanent harm to woman</em>&lt;sup&gt;49&lt;/sup&gt;</td>
<td>18 <em>Without parental consent, gestational limits vary by state</em>&lt;sup&gt;50&lt;/sup&gt;</td>
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Child Marriage & International Laws

- International legal consensus that the age of marriage should be 18

- Child marriage is a human rights violation

- Child marriage violates array of internationally recognized rights:
  - The right to be free of discrimination (based on sex and age)
  - The right to marry and found a family
  - The right to life & highest attainable standard of health
  - The right to education
  - The right to be free from slavery

- Each year 14 million girls under the age of 18 around the world marry

- At least 40 countries provide for customary or religious law to override age of marriage legislation

- 34 countries to permit girl to marry under 18
The Way Forward

- Legal frameworks should protecting adolescent from harm and support and promote adolescent autonomy.

- Legal and policy frameworks should reflect evolving cognitive and emotional abilities with age-appropriate autonomy, freedoms, and rights.

  - Also need legal and policy safeguards and support for decisions made in contexts where heightened emotion affects the choices an adolescent might make.
    - Ex. Permit access to IUDs can protect adolescents’ health
  
  - Capacity for adolescent learning should be exploited through graduated legal and policy frameworks
    - Ex. Graduated driving laws
    - Ex. Prevent custodial sentences for young offenders