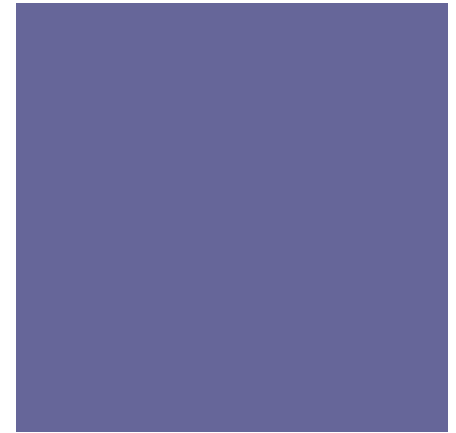




# How Law Impacts the Health of Adolescents



## A Global Inquiry

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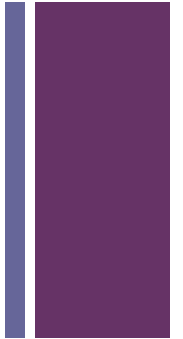
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# Overview

- 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 (eg, access, contraception)
  - Health Risks (eg, consumption of alcohol, access to tobacco)
  - Social determinants of health (eg, 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
- 20<sup>th</sup> 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 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

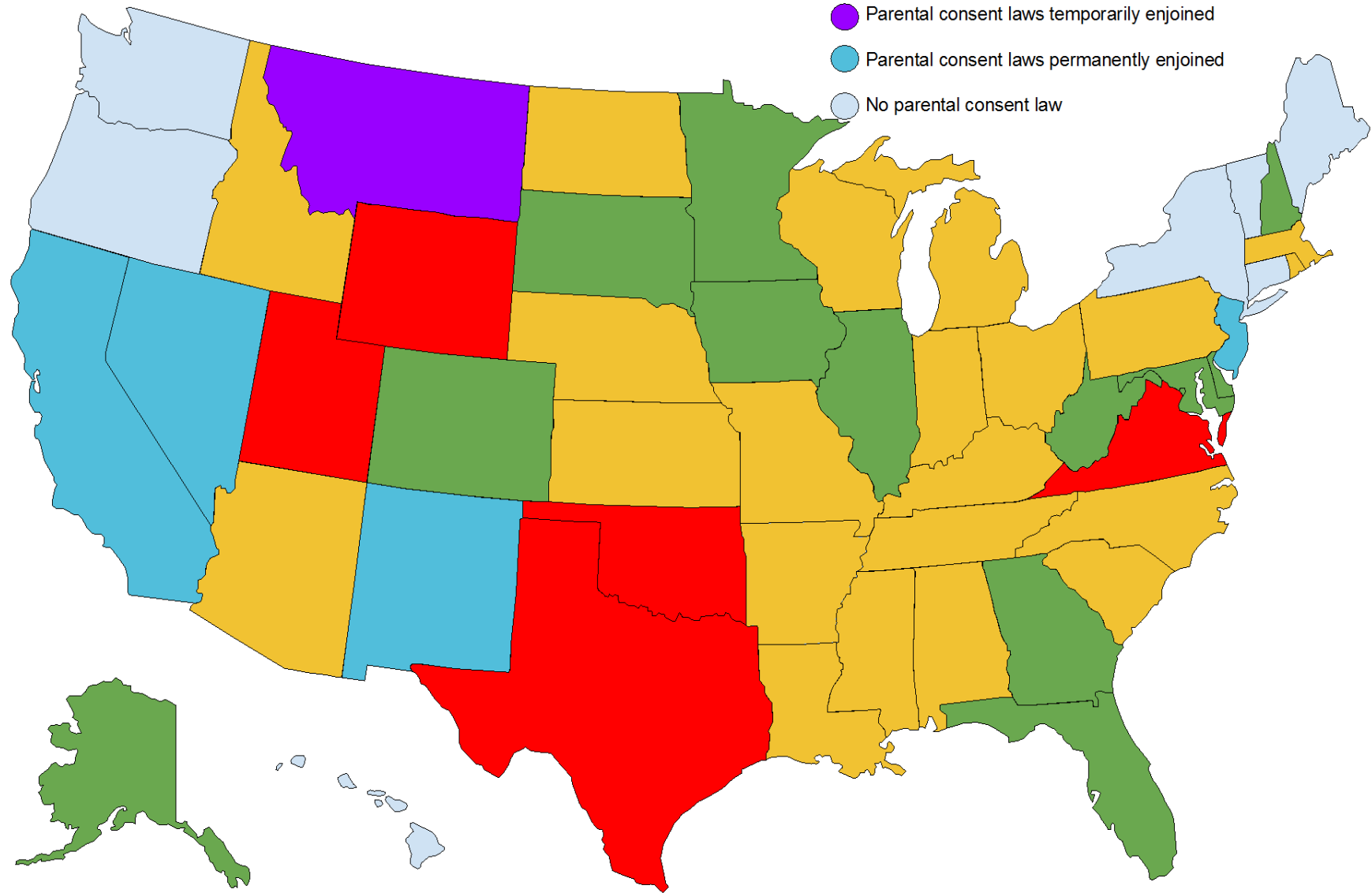
Alabama	Maine
Arkansas	Maryland
Delaware	Michigan
Georgia	Minnesota
Hawaii	Missouri
Illinois	Montana
Kansas	New Jersey
Kentucky	Oklahoma
Louisiana	Texas

- In Iowa alone a physician **must** notify parents of a minors' positive HIV test



# Parental Involvement in Minors' Abortions

- Law requiring parental consent in effect
- Law requiring parental notification in effect
- Law requiring parental consent and notification in effect
- Parental consent laws temporarily enjoined
- Parental consent laws permanently enjoined
- No parental consent law



Source: Guttmacher Institute [http://www.guttmacher.org/statecenter/spibs/spib\\_PIMA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf)





# + 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
- *Roper 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<sup>1</sup>
  - 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.<sup>2</sup> 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



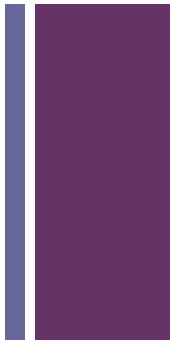
- Legal pluralism permits religious, traditional and customary law or practice to trump national legislation through two primary avenues
  - Reservations to international conventions (ie. CEDAW/) on grounds based on:
    - Islamic law
    - Areas regulating matters of personal status (marriage, divorce, 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



	India	Lebanon	Nigeria	Peru	United States
<b>Age of majority</b> (bestowing legal status of adulthood)	<b>15–18</b> <i>Depends if married or personal law applies*</i> <sup>2</sup>	<b>18</b> <i>Unless married*</i> <sup>3</sup>	<b>21</b> <i>Unless married*</i> <sup>4</sup>	<b>18</b> <sup>5</sup>	<b>18–21</b> <i>Depends on state</i> <sup>6</sup>
<b>Minimum age of marriage</b>	<b>“Puberty”–21</b> <i>Depends on sex and if personal law applies*</i> <sup>7</sup>	<b>9–18</b> <i>Depends on sex and religion*</i> <sup>8</sup>	<b>9–18</b> <i>Depends on sex and religion*</i> <sup>9</sup>	<b>16</b> <sup>10</sup>	<b>16–21</b> <i>Depends on state</i> <sup>11</sup>
<b>Age of capacity to consent to sex</b>	<b>None–18</b> <i>Depends on sex and if married*</i> <sup>12</sup>	<b>None–18</b> <i>Depends if married or given religious consent*</i> <sup>13</sup>	<b>“Puberty”–18</b> <i>Depends on state and religion*</i> <sup>14</sup>	<b>14</b> <sup>15</sup>	<b>16–18</b> <i>Depends on state</i> <sup>16</sup>
<b>Legal working age</b>	<b>None</b> <sup>17</sup>	<b>13</b> <sup>18</sup>	<b>None</b> <sup>19</sup>	<b>14</b> <sup>20</sup>	<b>14</b> <sup>21</sup>
<b>Drinking age</b>	<b>18–Illegal</b> <i>Depends on state and if personal law applies*</i> <sup>22</sup>	<b>16–Illegal</b> <i>Depends on religion*</i> <sup>23</sup>	<b>18–Illegal</b> <i>Depends on religion*</i> <sup>24</sup>	<b>18</b> <sup>25</sup>	<b>21</b> <sup>26</sup>
<b>Legal smoking age</b>	<b>18</b> <sup>27</sup>	<b>None</b> <sup>28</sup>	<b>None</b> <sup>29</sup>	<b>18</b> <sup>30</sup>	<b>None–20</b> <i>Depends on state</i> <sup>31</sup>
<b>Age of consent to medical treatment</b>	<b>18</b> <i>Law is unclear; some argue 12</i> <sup>32</sup>	<b>18</b> <sup>33</sup>	<b>16</b> <sup>34</sup>	<b>18</b> <sup>35</sup>	<b>12–18</b> <i>Depends on state</i> <sup>36</sup>
<b>Age of criminal responsibility</b>	<b>7</b> <sup>37</sup>	<b>7</b> <sup>38</sup>	<b>None</b> <sup>39</sup>	<b>12–18</b> <sup>40</sup>	<b>6–14</b> <i>Depends on state</i> <sup>41</sup>
<b>Age to access to contraceptives</b>	<b>None</b> <i>Provider discretion</i> <sup>42</sup>	<b>Only if married</b> <sup>43</sup>	<b>No information available</b>	<b>None</b> <sup>44</sup>	<b>Explicitly allowed in 21 states and DC; 25 states permit under certain circumstances; 4 states have no policy on minors</b> <sup>45</sup>
<b>Age to access abortion</b>	<b>18</b> <i>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</i> <sup>46</sup>	<b>Illegal</b> <i>Except to save the woman’s life*</i> <sup>47</sup>	<b>Illegal</b> <i>Except to save woman’s life*</i> <sup>48</sup>	<b>Illegal</b> <i>Unless to avoid grave and permanent harm to woman</i> <sup>49</sup>	<b>18</b> <i>Without parental consent, gestational limits vary by state</i> <sup>50</sup>



# + 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