

POSITIVE LEGAL ENVIRONMENT

What Is It?

Legal and policy frameworks articulate the duties of a government and its agencies in relation to a range of areas that have implications for young people's access to sexual and reproductive health (SRH) services. From the broadest concepts of human rights to the intricacies of third-party consent requirements, legal and policy frameworks that are enabling for young people make it more likely that they can access the services they need.

While laws and policies impact upon everyone's access to SRH services, there are also particular ones that pertain only to young people. More often than not, these youth-specific laws restrict access to services and information. For example, in some jurisdictions, young people under a certain age are not permitted to access SRH services without the consent of a parent or caregiver; this is a direct legal barrier. An example of an indirect barrier is a law that criminalizes sexual activity between young people under a certain age; the existence of such a law could make it unclear as to whether providers are criminally liable if they provide contraception to young people under that age.

Ideally, laws and policies should contain a positive articulation of young people's rights and entitlements, as well as the duties and responsibilities of providers, educators, parents and other adults.



What Are the Benefits?

- Positive laws and policies raise the “rights consciousness” of young people, empowering them with the knowledge that they are entitled to SRH services and information.
- Laws and policies have the potential to influence social norms; if positive, they can help start discussions in communities where harmful norms persist.
- Laws that positively articulate young people's rights to access SRH services and information close loopholes that allow health providers to define their own restrictive criteria for access.
- Positive SRH laws and policies provide a basis for young people to seek redress for violations of their human rights where mechanisms exist to do so.
- Laws and policies that facilitate young women's access to contraception promote their participation in and control over health decision-making.

How to Implement?

Human rights standards and principles	Recommendations for policymakers, managers, health providers and other stakeholders
Non-discrimination	<p>1.1 Recommend that access to comprehensive contraceptive information and services be provided equally to everyone voluntarily, free of discrimination, coercion or violence (based on individual choice).</p> <p>1.2 Recommend that laws and policies support programmes to ensure that comprehensive contraceptive information and services are provided to all segments of the population. Special attention should be given to disadvantaged and marginalized populations in their access to these services.</p>
Availability	<p>2.1 Recommend integration of contraceptive commodities, supplies and equipment, covering a range of methods, including emergency contraception, within the essential medicine supply chain to increase availability. Invest in strengthening the supply chain where necessary in order to help ensure availability.</p>
Accessibility	<p>3.1 Recommend the provision of scientifically accurate and comprehensive sexuality education programmes within and outside of schools that include information on contraceptive use and acquisition.</p> <p>3.2 Recommend eliminating financial barriers to contraceptive use by marginalized populations including adolescents and the poor, and make contraceptives affordable to all.</p> <p>3.3 Recommend interventions to improve access to comprehensive contraceptive information and services for users and potential users with difficulties in accessing services (e.g., rural residents, urban poor, adolescents).</p> <p>3.4 Recommend special efforts be made to provide comprehensive contraceptive information and services to displaced populations, those in crisis settings, and survivors of sexual violence, who particularly need access to emergency contraception.</p> <p>3.5 Recommend that contraceptive information and services, as a part of sexual and reproductive health services, be offered within HIV testing, treatment and care provided in the healthcare setting.</p> <p>3.6 Recommend that comprehensive contraceptive information and services be provided during antenatal and postpartum care.</p> <p>3.7 Recommend that comprehensive contraceptive information and services be routinely integrated with post-abortion care.</p> <p>3.8 Recommend that mobile outreach services be used to improve access to contraceptive information and services for populations who face geographical barriers to access.</p> <p>3.9 Recommend elimination of third-party authorization requirements, including spousal authorization for individuals/women accessing contraceptive and related information and services.</p> <p>3.10 Recommend provision of sexual and reproductive health services, including contraceptive information and services, for adolescents without mandatory parental and guardian authorization/notification, in order to meet the educational and service needs of adolescents.</p>

Human rights standards and principles	Recommendations for policymakers, managers, health providers and other stakeholders
Acceptability	<p>4.1 Recommend gender-sensitive counselling and educational interventions on family planning and contraceptives that are based on accurate information, that include skills building (i.e. communications and negotiations), and that are tailored to meet communities' and individuals' specific needs.</p> <p>4.2 Recommend that follow-up services for management of contraceptive side-effects be prioritized as an essential component of all contraceptive service delivery. Recommend that appropriate referrals for methods not available on site be offered and available.</p>
Quality	<p>5.1 Recommend that quality assurance processes, including medical standards of care and client feedback, be incorporated routinely into contraceptive programmes.</p> <p>5.2 Recommend that provision of long-acting reversible contraception (LARC) methods should include insertion and removal services, and counselling on side-effects, in the same locality.</p> <p>5.3 Recommend ongoing competency-based training and supervision of health-care personnel on the delivery of contraceptive education, information and services. Competency-based training should be provided according to existing WHO guidelines.</p>
Informed decision-making	<p>6.1 Recommend the offer of evidence-based, comprehensive contraceptive information, education and counselling to ensure informed choice.</p> <p>6.2 Recommend every individual is ensured the opportunity to make an informed choice for their own use of modern contraception (including a range of emergency, short-acting, long-acting and permanent methods) without discrimination.</p>
Privacy and confidentiality	<p>7.1 Recommend that privacy of individuals is respected throughout the provision of contraceptive information and services, including confidentiality of medical and other personal information.</p>
Participation	<p>8.1 Recommend that communities, particularly people directly affected, have the opportunity to be meaningfully engaged in all aspects of contraceptive programme and policy design, implementation and monitoring.</p>
Accountability	<p>9.1 Recommend that effective accountability mechanisms are in place and are accessible in the delivery of contraceptive information and services, including monitoring and evaluation, and remedies and redress, at the individual and systems levels.</p> <p>9.2 Recommended that evaluation and monitoring of all programmes to ensure the highest quality of services and respect for human rights must occur. Recommend that, in settings where performance-based financing (PBF) occurs, a system of checks and balances should be in place, including assurance of non-coercion and protection of human rights. If PBF occurs, research should be conducted to evaluate its effectiveness and its impact on clients in terms of increasing contraceptive availability.</p>

Legal Frameworks

There are many areas of law that impact upon young people's access to SRH services and information; some impact directly, while others have an indirect influence. Below is a short, non-exhaustive list of the different areas of law that should be kept in mind when assessing how favorable the legal environment is for young people's SRH.

Area of Law	How it impacts service provision
Sexual consent	Sexual consent laws may determine the age at which a person can legally consent to sexual activity, as defined in the law. In many places, this is set at 16 or 18 years of age, though it may be different for same-sex sexual activity.
Rape	Criminal law defines what type of conduct is considered “rape.” In many places, sex with a young woman under a certain age (e.g., 16) is criminalized in every circumstance; this is sometimes known as “statutory rape.” These provisions are often interpreted as setting the minimum age of sexual consent. The definition of what constitutes rape may exclude young men’s experiences of rape, in addition to experiences of rape that do not include the penetration of the vagina by a penis.
Child protection	Child protection laws may place a duty of care on health providers to report certain information to third parties (e.g., police, social services) if they believe harm will come to a child in their care. In some contexts, health providers may be required to report children who are engaged in sexual activity under a certain age.
Medical consent	Medical consent laws often set out an age at which a person can independently consent to medical services. In some places, there are different ages that apply to invasive procedures (e.g., surgery) and non-invasive ones. At times, the age of medical consent can be different for SRH services than for other health services.
Same-sex sexual activity	Criminal laws in many countries make certain sexual activities (e.g., sex between men and sex between women) illegal. Young people who have sex with people of the same sex may not access services for fear of being reported.
Age of majority	Age of majority laws set the age at which young people are considered to be legal adults; this is often 18 years. In some contexts, the age of majority is confused with the age at which young people are legally able to consent to sex or access SRH services. It also influences how adults view people under the age of majority.
Age of marriage	Age of marriage is the age at which a person can legally consent to marriage. The internationally-accepted minimum age of marriage is 18, although in some jurisdictions marriage below this age is allowed under customary law or in cases where parents give their consent. In some places, spousal consent is needed in order for women to access contraceptives and/or access to contraception is not legal before marriage.
SRH	SRH laws specify the services that are to be provided by the government to the population. The law also may mandate certain agencies (e.g., ministries of health) to provide services. In addition to primary legislation (acts, statutes), some countries also set out secondary legislation (policies, regulations, strategies, orders) that provide more detail as to how the primary legislation is to be implemented.
Comprehensive sexuality education	CSE laws set out the topics to be included and the age groups that will receive CSE in schools, as well as the qualifications required of educators. Good CSE laws also make provisions for out-of-school young people, which is of great importance in the urban environment.

Human Rights Policy Framework

There are many areas of the law that impact upon the provision of and access to sexual and reproductive health services and information. The World Health Organization has set out a [framework](#) for ensuring human rights through the provision of contraceptive services and information, against which national laws and policies can be measured. The framework consists of a set of human rights standards and principles and recommendations for how, practically, they should be integrated into policy and practice.

Assess the SRHR Legal Framework in Your Context

The first step in undertaking advocacy is to identify the problem. Assess existing laws and policies by comparing and contrasting national and sub-national laws and policies with international human rights norms and evidence of what works with regard to young people's sexual and reproductive health.

Assess the SRHR Legal Framework's Implementation and Impact

The second step is to determine the extent to which laws and policies are being implemented in practice, and what the impact is on young people's lives. It may be the case that there are positive, well-articulated laws and policies that are not being implemented. This may be because of a lack of financial or human resources, lack of political will, norms and stigma or low legal literacy. An important part of this step is speaking to young people, perhaps using focus groups or interviews to determine how laws and policies are impacting their ability to seek and access SRH services, information and education.

Research: Overprotected and Underserved (Senegal)

In 2012-2013, research was carried out by Coram Children's Legal Center (CCLC) and the International Planned Parenthood Federation (IPPF) to determine how laws and policies were affecting young people's access to SRH services. The methodology centered on young people's voices, as well as those of providers and parents, in understanding how laws act as barriers or facilitators to services. The results show a discord between several laws and young people's realities, including a law that set the age of sexual consent at 16. A law that included positive articulation of young people's right to contraceptive services was seen as an opportunity to advocate for better implementation and access.

Understand the Avenues for Accountability

All young people have the rights to [accountability](#) and redress. Accountability mechanisms may exist in the legislative, executive and judicial branches of government, while social accountability initiatives provide opportunities for communities to monitor the implementation of SRH law and policy. Accountability is also available at the global level through mechanisms such as the Universal Periodic Review and treaty monitoring bodies (TMBs). The accessibility of these accountability avenues for young people needs to be understood and assessed.

Develop an Advocacy Strategy with Young People

Adopt a systematic, [step-by-step approach](#) to building out an advocacy strategy with a group of stakeholders, including young people. The strategy development process should include identification of the problem, target audiences, goal, objectives, activities and indicators. Key messages should also be developed; see [page 10](#) of the Reproductive Health Supplies Coalition's *Youth People and Contraceptive Access: An advocacy and communications toolkit*.

What Is the Evidence?

- A strong policy framework should require health care providers to offer a full range of contraceptive methods with no restrictions, and include policies permitting youth to access contraception without parental or spousal consent. An enabling policy environment should include affirmative language and/or specific operational guidelines to support effective interventions (Population Reference Bureau, 2017).
- Where guidance on policy and expectations for providers are incomplete or confusing, they may contribute to reinforcing restrictive practices that adhere to providers' own perceptions and expectations. For example, a study in Senegal found that even though there were no official age-related restrictions on adolescents' access to SRH services, in practice, providers often imposed their own (Sidze et al., 2014).

- Investments that contribute to [building an enabling environment for adolescent programming](#) often include ensuring legal rights, policies, and guidelines that respect, protect, and fulfill adolescents' human rights to contraceptive information, products, and services regardless of age, sex, marital status, or parity.
- An evaluation of the SAFE program in the slums of Dhaka, Bangladesh highlighted the importance of the integration of legal services with SRH services for young women, given the high prevalence of gender-based violence in the community (icddr,b, 2014).
- There is a balance to be struck between protection and autonomy when it comes to young people's SRH. At the same time, there should be recognition that the provision of services and information constitutes protection for young people (Yarrow et al., 2014).

Helpful Tips

- Ensure that legal rights to SRH services and information is part of building an enabling environment for adolescent programming.
- The end goal is not the enactment of a better law or policy but, rather, the implementation of a better law or policy. Advocacy can also focus on ensuring the implementation of an existing law or policy to its fullest extent.
- Advocate for laws and policies that positively articulate the rights of young people and the responsibilities of those in authority.
- Find champions within the institutions, agencies and ministries you are working with who can help you navigate the processes of legal and policy reform and/or advocacy.
- Advocate for laws and policies that recognize and address the layers of exclusion that girls and young women face in accessing health services and adopt policies that address the structural determinants of health.
- The informal nature of some urban settlements means that governments may not officially take responsibility for providing health services in them. Advocate for young people living in such settlements (e.g., slum areas) to be treated as citizens with the same human rights as all others.
- When defining legal barriers, think not only about the laws that directly restrict young people's access but, also, those that reinforce harmful norms that perpetuate stigma around youth sexuality, pregnancy and parenthood.

Youth Participation

- Provide solid examples of advocacy "wins" for young advocates alongside the supporting activities and interventions were needed to achieve them.
- Arrange advocacy exchanges between veteran advocates and young advocates.

Data Management

- Document advocacy processes to allow other advocates to learn from your experiences and mistakes.
- Monitor legislative and administrative processes to determine when advocacy is needed to affect legal or policy change.
- Collect data to help policy makers understand whether their policies and laws are having the intended effect, including from the perspective of young people.

Multisectoral Collaboration

- Partner with groups of women and feminist lawyers who are familiar with processes for legal and policy reform.

! Challenges

- Legal reform can take years; advocates should ensure that the environment within which they are advocating is ripe for the type of advocacy they want to undertake. Look for windows of opportunity.
- The enactment of positive, rights-promoting laws and policies may be the end goal of an advocacy strategy, but it does not guarantee the respect, protection and fulfillment of human rights. Advocates should ensure that there is continued advocacy for implementation and accountability.
- The processes associated with changing laws and policies can be convoluted and, at times, hostile to civil society representatives.
- There is a lack of research and global consensus on laws and policies regarding SRH, including for young people; this makes it challenging for advocates who want to ensure that their advocacy goals and objectives are based in evidence of what works.

Tools Related to This Approach

Legal Assessment Tools and Resources

- [Ensuring human rights in the provision of contraceptive information and services: Guidance and recommendations](#), WHO
- [Ensuring human rights within contraceptive service delivery: Implementation guide](#), WHO
- [Ensuring human rights within contraceptive programmes: A human rights analysis of existing quantitative indicators](#), WHO
- [Sexual health, human rights and the law](#), WHO
- [Summary Reflection Guide on a Human Rights-Based Approach to Health Application to sexual and reproductive health, maternal health and under-5 child health](#), OHCHR (for policymakers)
- [Summary Reflection Guide on a Human Rights-Based Approach to Health Application to sexual and reproductive health, maternal health and under-5 child health](#), OHCHR (for health workers)
- [National Law and Policy Database](#), Sexual Rights Initiative
- [Youth Family Planning Scorecard](#), Population Reference Bureau
- [Overprotected and Underserved: Legal barriers to young people's access to sexual and reproductive health services](#), International Planned Parenthood Federation

Advocacy Tools

- [Handbook for Advocacy Planning](#), IPPF WHR
- [Handbook for Political Analysis and Mapping](#), IPPF WHR
- [Handbook for Budget Analysis and Tracking in Advocacy Projects](#), IPPF WHR
- [Advocating for Change for Adolescents!](#), PMNCH
- [Want to change the world? Here's how...Young people as Advocates](#), IPPF
- [Advocacy Portfolio](#), Advance Family Planning
- [Youth People and Contraceptive Access: An advocacy and communications toolkit](#), Reproductive Health Supplies Coalition

Country Resources

Nigeria

- [National Health Bill](#), 2014
- [National Guidelines on Promoting Access of Young People to Adolescent and Youth-Friendly Services in Primary Health Care Facilities in Nigeria](#), 2013
- [National Guidelines for the Integration of Adolescent and Youth Friendly Services Into Primary Health Care Facilities in Nigeria](#), 2013

- [Clinical Protocol for the Health and Development of Adolescent and Young People in Nigeria](#), 2011
- [National Family Planning/Reproductive Health Policy Guidelines and Standards of Practice](#), 2005

Senegal

- [Law 2010 - 03 relative au VIH/Sida](#)
- [Law 2005 - 18 relative à la santé de la reproduction](#)

India

- [National Youth Policy](#), 2014
- [The Rashtriya Kishor Swasthya Karyakram](#) (RKSK), 2014 (National Adolescent Health Strategy):
- [RKSK Strategy Handbook](#);
- [RKSK Operational Framework](#);
- [Guidelines for implementation of RKSK](#)

Kenya

- [National Reproductive Health Policy](#)
- [Kenya Health Policy, 2012-2030](#)
- [National Family Planning Costed Implementation Plan, 2012-2016](#)
- [National Guidelines for Provision of Adolescent and Youth Friendly Services in Kenya \(2016\)](#)
- [Education Sector Policy on HIV and AIDS, Second Edition, 2013](#)
- [National Adolescent Sexual and Reproductive Health Policy](#)
- [Kenya National Youth Policy](#), 2006

References

- FP HIPs, USAID, (2015) [Adolescent-friendly contraceptive services: mainstreaming adolescent-friendly elements into existing contraceptive services](#)
- IDS, (2016) [Improving access to health for women and girls in low-income urban settlements](#)
- Population Council, (2014) [Impact of SAFE Intervention on SRHR and violence against women and girls in Dhaka slums](#)
- Population Reference Bureau, (2017) [Youth Family Planning Policy Scorecard](#)
- Sidze et al., (2014) [Young Women's Access to and Use of Contraceptives: The Role of Providers' Restrictions in Urban Senegal](#)
- Yarrow et al., (2014) [Can a restrictive law serve a protective purpose? The impact of age-restrictive laws on young people's access to sexual and reproductive health services](#)

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