Unlocking Access: Reforming HIV Age of Access for Adolescents in Africa

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Introduction

The science behind ending the HIV/AIDS epidemic is more advanced than ever, yet disparities across age, geography, and gender persist. HIV-related mortality has decreased by only 27% since 2002 among those aged 10-19 years, compared to a reduction of 80% among children aged 0-9 years. Moreover, over a quarter of new HIV infections occur among young people and adolescents. Adolescents in Africa are disproportionately affected by HIV: In 2022, 85% of adolescents living with HIV and 67% of those newly diagnosed lived in sub-Saharan Africa (SSA). According to UNAIDS, if current trends continue, there will be 183,000 new HIV infections among adolescents worldwide by 2030. Additionally, HIV treatment coverage among adolescents is low: only 70% in Eastern and Southern Africa and 58% in Western and Central Africa are on antiretroviral treatment.[1,2]

According to UNAIDS, gender power inequities, intimate partner violence, and gender-based violence lead to significantly higher incidence of HIV among adolescent girls and young women (AGYW). HIV incidence in the region is nearly six times higher for girls than for boys. Anticipated stigma, fear, and experiences of violence impede HIV testing among AGYW. Those who test positive face additional barriers seeking, receiving, and adhering to optimal treatment and support.[3,4,5]

Addressing age-related barriers

In the *Global AIDS Strategy 2021-2026*, UNAIDS calls countries to address "structural and age-related legal barriers faced by adolescents" and to "ensure adolescent and young key populations are reached with effective services early on."[6] Laws and policies setting the age of access to HIV services must not limit adolescent autonomy and the ability to independently access services, tools, and resources to protect themselves and their health. Providing comprehensive sexuality education and access to sexual and reproductive health services is also essential.

This issue brief examines the current state of age of access policies for HIV testing, treatment, and pre-exposure prophylaxis (PrEP) in Africa and proposes a human rights framework to support policy reform.

Stringent parental consent laws significantly restrict adolescents' access to HIV services. Research conducted in sub-Saharan Africa (SSA) indicates that lowering the age of access is associated with

improved coverage of HIV testing. Moreover, the study highlights variations in HIV testing coverage based on age and sex, revealing higher rates as age of access decreases, particularly among girls compared to boys.[7] World Health Organization (WHO) advises eliminating age-related barriers preventing adolescents (defined as 10-19 years) from seeking HIV services. The United Nations Population Fund (UNFPA) strongly recommends setting the age of consent at 12 years for medical treatment and 10 years of age for access to sexual and reproductive health services. UNFPA also suggests that the age of access for HIV services should be considered separately "other forms of medical treatment in order to broaden access to HIV testing and treatment."[8,9] Ultimately, the goal of age of access policies should be to protect adolescents from harm by ensuring optimal access to HIV services that are age-appropriate and respond to their risks and vulnerabilities.

HIV age of access policy reform could also help countries be in accordance with international human rights obligations under Convention on the Rights of the Child, 1990, African Charter on the Rights and Welfare of the Child (1999), and Protocol on African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2005, commonly known as the Maputo Protocol (See insert on Human rights).[10,11]

Tracking HIV age of access policies

National laws and policies not grounded in evidence and human rights risk perpetuating stigmatization, marginalization, and increases vulnerability to HIV, thereby widening health inequities.[12] The **HIV Policy Lab** is a joint project of UNAIDS, the Center for Global Health Policy and Politics at Georgetown University's O'Neill Institute for National and Global Health Law, and the Global Network for People Living with HIV (GNP+). The HIV Policy Lab is a research and accountability platform that rigorously tracks whether 33 globally recommended policies are adopted across 194 countries. HIV age of access policies can be compared across countries at https://hivpolicylab.org/policy/TP4.

Methodology

Informed by the human rights obligations under Convention on the Rights of the Child and guidance from WHO, UNFPA, and UNAIDS the HIV Policy Lab tracks whether national laws and policies allow adolescents (aged 12 years and above) to access HIV testing and treatment without a legal barrier of parental consent.

Where national law allows adolescents who are at risk of HIV infection to consent to their own services, they are considered to have "adopted" policies aligned with global norms. This includes where national law/policy does not require adolescents to obtain parental/guardian consent in order to access HIV testing and/or treatment and where broad flexibilities allow for exceptions that cover those facing HIV risk (i.e., for sexually active adolescents, emancipated minors, pregnant adolescents, head of households, and so on). The national policy documents, guidelines, and laws referenced in this report are available online in the HIV Policy Lab Resource Library at www.hivpolicylab.org/sources.

In addition to testing and treatment, this report includes information on age of access to PrEP. Although PrEP is not the only prevention tool, it offers insight into whether countries' age of access policies are in accordance across the HIV testing and PrEP continuum. Particularly as long-acting formulations become available it is essential to accelerate removal of parental consent barriers to adolescents' access.

HIV age of access policy Landscape

HIV Policy Lab summary findings

Relevant documents were found for 51 out of 54 countries in Africa. Among these 54 countries, only 14 (27%) have adopted optimal age of consent policies for HIV testing and treatment services, including nine in Eastern and Southern Africa, four in Western and Central Africa, and one in the Middle East and North Africa (Figure 1). The age of consent varies widely between countries, ranging from 12 to 21 years. Figure 2 illustrates these variations for HIV testing services across the 54 countries.

Table 1 shows the age of access for HIV testing, treatment and pre-exposure prophylaxis (PrEP). At least 36 countries specify age of access for HIV testing in their laws or national HIV guidelines but only 5 country policies specify an age for access to HIV treatment.

Figure 1: Age of access to HIV testing and treatment policies in Africa

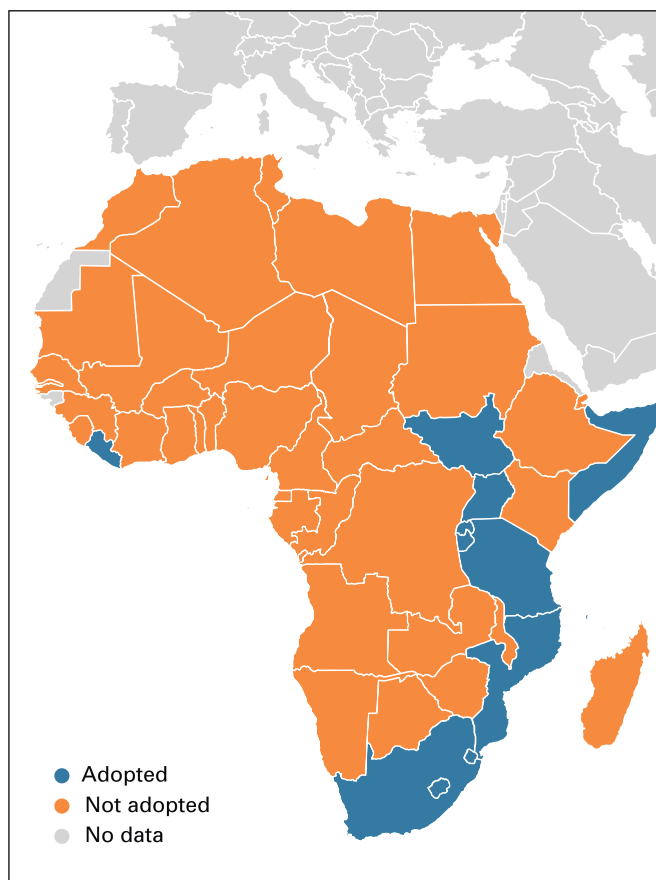


Figure 2: Age of access to HIV testing in Africa

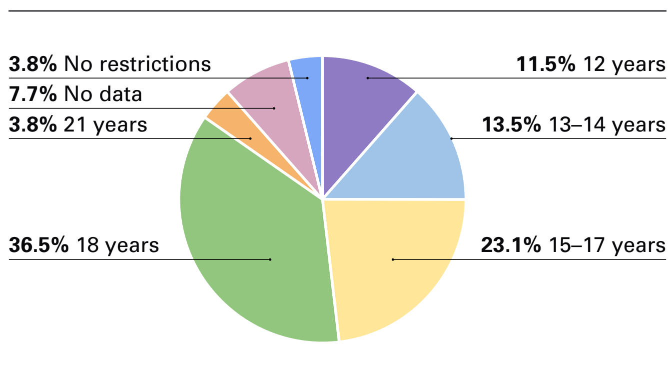


Table 1 (1/2). **Age of access for HIV testing, treatment, and PrEP**

Countries	Age of access for HIV testing	Age of access for HIV treatment	Age of access for PrEP
Algeria	18	18	no data
Angola	15	no data	no data
Benin	18	18	no data
Botswana	16	16	18
Burkina Faso	18	no restrictions	18
Burundi	12	12	12
Cameroon	15	16	18
Cape Verde	no data	no data	no data
Central African Republic	18	18	no data
Chad	21	18	no restrictions
Comoros	no restrictions	no restrictions	no restrictions
Congo	14	15	no data
Côte d'Ivoire	16	no restrictions	no restrictions
Democratic Republic of the Congo	18	no data	no data
Djibouti	18	no data	no data
Egypt	18	no restrictions	no restrictions
Equatorial Guinea	18	18	no data
Eritrea	no data	no data	no data
Eswatini	12	12	12
Ethiopia	15	no restrictions	no data
Gabon	14	14	no restrictions
Gambia	13	14	no data
Ghana	16	no restrictions	no restrictions
Guinea	14	18	no restrictions
Guinea-Bissau	no data	no data	no data
Kenya	15	15	15
Lesotho	12	12	no data
Liberia	14	14	no data
Libya	16	16	18
Madagascar	18	no restrictions	no restrictions
Malawi	13	14	no restrictions
Mali	18	18	no restrictions
Mauritania	18	no restrictions	no data
Mauritius	18	18	no data
Morocco	18	18	18
Mozambique	11	11	15
Namibia	14	14	no data
Niger	21	16	18
Nigeria	18	no restrictions	no

Table 1 (2/2). **Age of access for HIV testing, treatment, and PrEP**

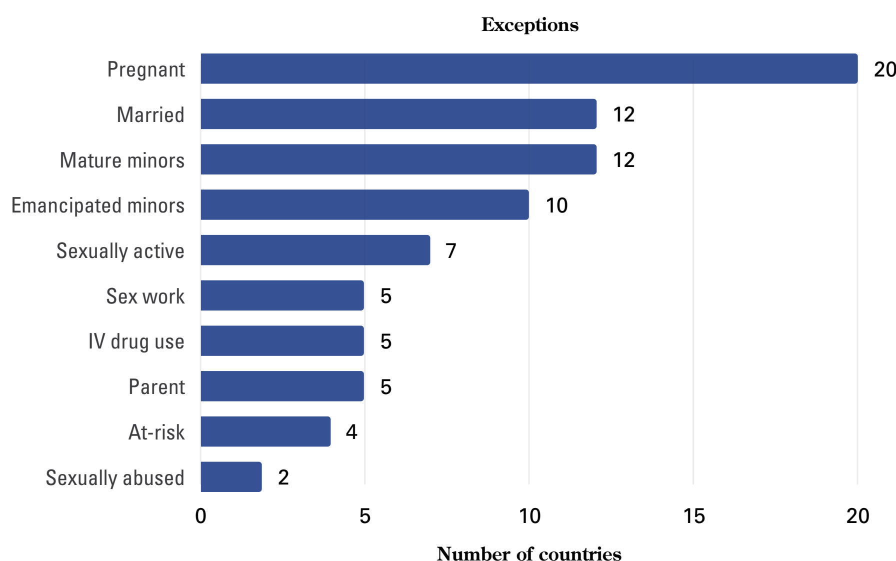
Countries	Age of access for HIV testing	Age of access for HIV treatment	Age of access for PrEP
Rwanda	12	12	no restrictions
Sao Tome and Principe	no data	no restrictions	no data
Senegal	15	15	no restrictions
Seychelles	18	18	Parental consent required; age not specified
Sierra Leone	18	18	17
Somalia	15	no data	no data
South Africa	12	12	no restrictions
South Sudan	18	no data	no restrictions
Sudan	18	no restrictions	no restrictions
Tanzania (United Republic of)	15	no restrictions	Parental consent required; age not specified
Togo	no data	no data	no data
Tunisia	18	18	no data
Uganda	12	12	no restrictions
Zambia	16	16	16
Zimbabwe	16	16	Parental consent required; age not specified

HIV age of access exceptions

While the age of access to HIV services ranges from 12 years to 21 years, some countries have broadened access to HIV services by incorporating exceptions to parental consent requirements, without reducing the age of access.

The most common exceptions include adolescents who are pregnant (20 countries), married (12 countries), and emancipated minors (10 countries). Very few countries include exceptions for adolescents who consider themselves at risk (four countries), are sexually active (seven countries), or have a history of intravenous drug use (five countries). (Figure 2)

Figure 2: Exceptions to HIV age of access restrictions



Additional findings

- **Alignment across HIV testing, treatment, and PrEP:** In most countries, guidelines that set age restrictions for HIV testing are often ambiguous or misaligned with those for HIV treatment and

PrEP.[13] For example, the age of access for HIV testing is 16 years and 18 years for PrEP in Botswana.

- **Emancipated and mature minors:** Several countries have inconsistent definitions of minors, emancipated minors, and mature minors in their laws and policies, creating uncertainty about who can or cannot consent for HIV services. In Zimbabwe, a mature minor is defined as someone below 16 years of age who "can demonstrate that they are mature enough to make a decision on their own." In contrast, Zambia defines mature minors as adolescents below 16 years who fall into one of the following categories: married, pregnant, parents, head of households, or child sex workers. In Kenya, the term 'emancipated minors' is mentioned in policy and is defined differently in various documents, leading to a lack of clarity among adolescents and healthcare providers.
- **Health care provider discretion:** In at least eight countries, healthcare providers are responsible for determining whether testing a minor without parental consent is in the best interest of the child and whether the child has the maturity to make such judgments independently. Most policies do not provide the clarity UNFPA says is needed for such assessments, which is a cause for concern given the variance in judgment among different healthcare worker cadres and the influence of socio-cultural factors.[9,13]
- **Confidentiality and privacy:** The WHO strongly recommends upholding confidentiality, defined as "...what the HTS provider and the client discuss will not be disclosed to anyone else without the explicit consent of the person being tested."[14] However, not all countries align privacy laws with this principle. While Kenyan law upholds confidentiality by specifying that HIV test results must remain confidential for those who fall under the age of access exceptions, the Nigerian National Health Act does not extend confidentiality of HIV test results to mature minors.[15,16]

The path to HIV age of access policy reform

Since 2005, HIV guidelines in **Uganda** set the age of access for HIV testing to 12 years, with exceptions for those below 12 years who are emancipated minors, such as minor-headed households or abandoned children.[17] In 2014, Uganda's HIV Law defined a minor as an individual below 12 years of age and allowed anyone who is not a minor to independently consent to HIV testing.[18]

South Africa aligned with the rights guaranteed under the Constitution and became one of the first countries to reform parental consent requirements for adolescent HIV testing and treatment. The 2005 Children's Act states that a minor aged 12 years or above can independently consent for medical treatment and HIV counseling and testing.[19] The Act also allows for a minor below the age of 12 to access HIV testing if the healthcare provider believes that the child displays "sufficient maturity." The law and policy on age of access for PrEP remain unclear, with some seeking clarity on whether PrEP can be considered "medical treatment."[20,21]

In **Mozambique**, a 2011 law suggested that anyone older than 11 years can access HIV testing, but the 2014 HIV guidelines increased the age to 14 years, with an exception for those sexually active between 11 and 14 years of age.

In **Tanzania**, the HIV and AIDS Control Act of 2008 did not permit any person below the age of 18 years to consent to HIV testing, but the national HIV

testing guidelines made exceptions for those who are "married, pregnant, sexually active, or otherwise believed to be at risk for HIV infection." In 2019, the HIV/AIDS Prevention and Control Act was amended to reduce the age of access from 18 to 15 years, which was the culmination of a five-year advocacy campaign for people living with HIV (PLHIV) in Tanzania. The PLHIV coalition plans to seek a further reduction of the age of access to 12 years for HIV testing.

In **Kenya**, the 2006 HIV/AIDS Prevention and Control Act set the HIV testing age of access at 18 years and stated that minors below the age of 18 years can only undergo HIV testing only with written consent of a parent or legal guardian of the child. The Act includes exceptions for minors who are "pregnant, married, a parent, or is engaged in behavior which puts him or her at risk of contracting HIV."[22,23] However, this misalignment between the national guidelines and the Act limited adolescents' access to HIV testing. For instance, the 2015 national HIV testing guidelines provided a lower age of consent at 15 years but did not include any of the exceptions. Subsequent versions in 2018 and 2022 retained the 15-year age of access and included emancipated minors (now defined as those below age 18 who are pregnant, married, parents, or engaged in what is deemed to be risky behavior), but none of the 2006 exceptions.[24,25,26,27,28] Neither the law nor the policy explicitly states whether adolescents can independently consent to HIV treatment or PrEP services.

"One primary challenge [of HIV age of access reform] relates to the push back from religious leaders against policies that provide access to reproductive health services to adolescents… Relatedly, the discourse on reducing the age of access always gets mixed up with discussions on reducing the age of consent for sex. In Kenya, the age of consent for sexual intercourse is above 18 years. Whenever arguments for the need to reduce the age for consent to access to HIV services and reproductive health services are made – those opposed will use misinformation to say that this is trying to reduce the age of consent to sex."

— **Allan Maleche**

Executive Director, Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN). KELIN advocates for the full enjoyment of health-related human rights for all and in the area of adolescents' health, seeks to delink the age of access to HIV services from the age of sexual consent.

In **Zimbabwe**, the 2022 national HIV guidelines require that all clients receive sufficient information to understand the HIV testing process and its potential consequences. For individuals aged 16 years or below, the consent of parents or caregivers is required (except for mature and emancipated minors). After four years of advocacy by civil society organizations, the Medical Services Amendment Bill is now prioritized for review in the 10th Parliament. Although the bill aims to prioritize children's health rights over parental control in accordance with their constitutional values, Section 8B(3) still relies on the 'legal capacity' principle instead of 'evolving capacities', preventing minors from giving informed consent for health services, including sexual and reproductive health care. Additionally, Section 8D of the bill introduces criminal sanctions for parents or guardians who withhold health services against the best interest of their children. The civil society coalition considers this clause (Section 8B.3) carries risks of increasing minors' vulnerability.[29]

The 2014 **Nigerian** HIV Law states that HIV testing and counseling should be conducted in accordance with the national guidelines.[30] The 2017 national guidelines establish the HIV age of access at 18 years, with specific exceptions for "mature minors" for HIV testing. Mature minors include "married, pregnant, or sexually active" adolescents.[31]

Unfortunately, the policy requires healthcare providers to assess whether a minor (anyone below 18 years) is a 'mature minor' without proper

guidance on this determination. Another weakness of the policy is that although exceptions for mature minors are included, Section 27 of Nigeria's National Health Act does not provide for confidentiality of medical information for mature minors. This lack of confidentiality implicitly allows parents or guardians to infringe on the privacy of the adolescent's medical information, discouraging adolescents to access HIV services.[32]

In March 2018, the Nigerian National Council on AIDS, the country's highest technical and policy advisory body on HIV, approved a request from civil society to lower the age of access for HIV testing among adolescents. Additionally, the results of a comprehensive multi-stakeholder technical review recommended reducing the age of access for HIV testing from 18 years to 14 years. The memorandum awaits approval by the National Council on Health.[33]

> "The health and well-being of adolescents are important. The current barriers to reforming HIV age of access policies remain legal, social, religious, and cultural beliefs… [M]any do not see a reason to allow adolescents to have autonomy over their health choices, especially some parents who perceive that such autonomy might lead their children or expose them to negative vices and circumstances or expose them to rape and other harmful practices."
>
> — **Haruna Aaron Sunday**
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> Executive Director of the African Network for Adolescents and Young Peoples Development (ANAYD) and National Coordinator of the Association of Positive Youth Living with HIV in Nigeria (APYIN). APYIN empowers young people living with and affected by HIV and promotes involvement of positive youths and inclusion of youth issues in the country's HIV response.

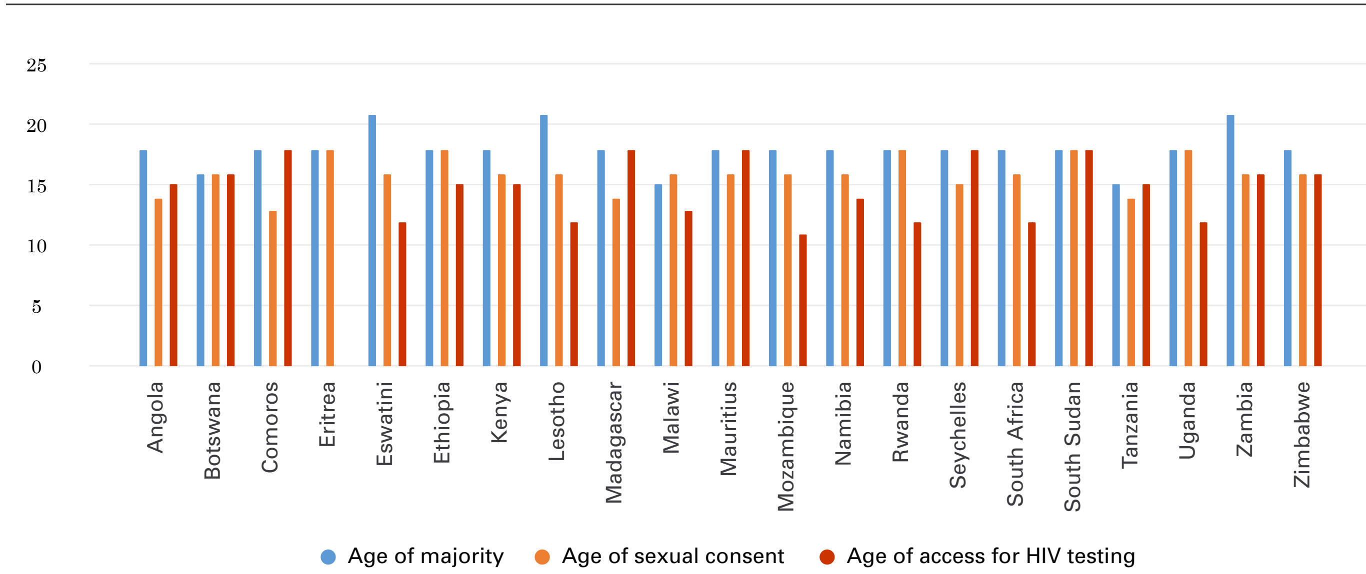
Delinking the age of majority, age of access to HIV services, age of sexual consent

Mounting evidence and guidance have increasingly informed the delinking of the issues of age of access for HIV services from the age of majority, age of sexual consent, and age of marriage across several countries.[7,9] Figure 3 illustrates these age-related national laws and policies[34] in Eastern and Southern Africa.

Many countries have age of consent laws for sexual activity that are inconsistent with the age of access to HIV testing services. Analysis shows that of the 54 countries, 12 have the same ages for sexual consent and HIV testing, 18 have a lower age of access for HIV testing, and 16 have a higher age of access for

Figure 3:

Age of majority, age of sexual consent, age of access for HIV testing in Eastern and Southern Africa



HIV testing compared to the age of consent for sexual activity. This means that in these 16 countries, adolescents can legally consent to sex before they can access HIV testing services without parental consent.

UNFPA and others point to South Africa's conducive policy environment for adolescents, clarity for healthcare providers, and affirmation of the rights and well-being of minors, while not negating parental rights.[35] Since 2005, South Africa undertook reforms on eight fronts to improve adolescents' access to HIV services and to improve access to sexual and reproductive health (SRH), including HIV testing, antiretroviral treatment, contraceptives, abortion services, and termination of medical pregnancy. Each category has varying age and capacity requirements.

In 2023, Zambia amended the Marriage Act to raise the age of consent for marriage to 18 years, with the goal of reducing child marriages in the country, while retaining the age of access to HIV testing services at 16 years.[36]

Human right commitments

A number of international and regional human rights instruments obligate countries to tailor age of access laws and policies based on public health evidence and aligning them with the best interests of minors, their evolving capacities, and their right to participatory decision-making. These instruments include the Convention on the Rights of the Child (1990), the African Charter on the Rights and Welfare of the Child (1999), and the Maputo Protocol (2005).

Convention on the Rights of the Child

The Convention, which entered into force in September 1990, has been signed by all countries in Africa. It defines children as individuals below 18 years of age and affirms their rights alongside the responsibilities of states. Article 3 of the Convention establishes the principle that the "**best interest of the child"** should guide all decision-making processes, requiring states to "appropriately integrate and consistently apply" this principle when developing and applying laws and policies. Article 5 recognizes the "**evolving capacities of the child,**" advocating for respecting minors' autonomy as they develop the ability to make informed decisions.[37]

The Convention highlights three critical rights supporting age of access reforms and adolescent autonomy.

- The "right to the highest attainable standard of health" (Article 24 and General Comment 3), which obligates states to adopt adolescent-friendly informed consent mechanisms.[38]

- The "right to optimal policies" (Article 4 and General Comment 4), mandating states to set a minimum age of consent for medical treatment without parental consent, ensure access to optimal medical tools and services, and implement protective mechanisms to minimize the vulnerability and marginalization of adolescents living with HIV.[39]

- The "right to participate in decision making" (General Comment 20), emphasizing a rights-based approach to decision-making, urging states to recognize adolescents' ability to consent to medical treatments and access sexual and reproductive health services independently of parental consent.[40]

African Charter on the Rights and Welfare of the Child

The primary human rights instrument for children's rights in Africa, the African Charter on the Rights and Welfare of the Child, came into force in 1999. Article 14 of the Charter calls on states to improve the health of minors and ensure optimal access to health services. Article 14(2)(i) requires meaningful participation of the community and "beneficiary populations" in planning and management of health programs.[41] General Comment 5 of the Charter requires states to establish legislative frameworks specifying the age at which minors can access treatment, surgery, and reproductive health services without parental consent.

Maputo Protocol

The Maputo Protocol, the first international legally binding human rights instrument specific to Africa, constructs a human rights centric framework to address HIV and SRH. Adopted in 2003, it guarantees women's right to know their HIV status and the right to be protected from HIV infection. It urges states to ensure access to optimal health services, including HIV testing, CD4 count, viral-load testing, and other services. It specifies that this right should be extended to adolescent and young women, regardless of marital status. Article 14 and General Comment 2 to the Protocol underscore the need for a rights-based policy environment and an integrated service delivery model, ensuring adolescent and young women's rights to access HIV and SRH services, contraception, and family planning education.[11,42]

Recommendations

In conclusion, public health and human rights imperatives compel states to reform HIV age of access policies where necessary, and involve adolescents in the development of laws and policies related to HIV and other sexual and reproductive health issues. To broaden and improve adolescents' access to HIV services, the following recommendations are proposed:

- **Delinking the age of majority and age of sexual consent from age of access to HIV services:** The complex interplay between consent for sexual activity and access to HIV and SRH services further stigmatizes and discourages adolescents from seeking health services. Delinking these factors and lowering the age of access to HIV services to 12 years is crucial. It requires collaboration between Ministries of Health and Ministries of Justice in countries, working closely with adolescents and young people to create a conducive environment for adolescents.

- **Alignment of laws and policies on the age of consent for HIV testing, treatment, and care:** To eliminate legal uncertainties hindering adolescents' from accessing HIV services, countries must harmonize their laws and policies. This includes clarifying provisions related to age of access to HIV testing, treatment, PrEP, and confidentiality protections for adolescents across all relevant laws and policies.[9]

- **Training and re-training healthcare providers:** In at least eight countries in the region, access to services hinges on the healthcare providers' judgments, despite UNFPA's recommendations against such discretion. According to WHO, a significant barrier for adolescents accessing HIV services is the lack of non-judgmental and supportive attitudes among healthcare providers.[43] It is imperative to train healthcare workers to deliver adolescent-friendly services effectively.[44]

- **Ensuring continuity across the HIV continuum of care:** Although some countries have reduced the age of access for HIV testing, few clearly specify whether adolescents, once tested, can independently access treatment or PrEP services. This lack of clarity may lead to adolescents undergoing HIV testing without subsequent access to HIV treatment, PrEP, or other preventive measures.

- **Developing and implementing adolescent-centric services and delivery models:** WHO-recommended comprehensive and integrated service delivery approaches are crucial in addressing the diverse needs of adolescents living with HIV.[45] Implementing adolescent-centric services and providing appropriate information can reduce fear and stigma while better meeting adolescents' needs. Governments must commit to ensuring adequate financial and human resources, infrastructure, and commodities for effective implementation.*

- **Addressing data deficiencies and evidence gaps:** Policymakers and youth advocates require clear, accessible data and evidence supporting age of access policy and legal reforms. Monitoring and evaluation systems should include disaggregated reported on progress towards achieving 95-95-95 targets among individuals aged 10-19 years.[23]

- **Monitoring and accountability:** Sustaining progress necessitates conducting national and subnational reviews, including community-collected data collection, to monitor advancements, identify areas needing improvement, ensure effective policy implementation, and promptly address challenges.

- **Engagement, awareness, and educational campaigns:** Policymakers must be educated about the misconception that lowering the age of consent for HIV services will promote early sexual activity among minors. Adolescents should be equipped with comprehensive information about HIV, health, and their rights to enable informed decision-making.

- **Integrating Comprehensive Sexuality Education (CSE):** Evidence indicates that accurate, affirmative, age-appropriate and inclusive CSE delays onset of sexual activity and improves health, well-being and resilience of young people. Including CSE in national policies empowers adolescents to practice safer sex and positively influences gender norms.[47,48]

The Unlocking Access: Reforming HIV Age of Access for Adolescents in Africa policy brief is developed by HIV Policy Lab in collaboration with and contributions from Ambassador for Youth and Adolescent Reproductive Health Program (AYARHEP), Association of Positive Youth Living with HIV in Nigeria (APYIN), Center for Human Rights-University of Pretoria, Global Network of Young People Living with HIV (Y+), HIVOS, Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN), Regional Sexual and Reproductive Health and Rights (SRHR) Fund, and SRHR Africa Trust (SAT).

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