

Parental authorisation of abortion



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Adolescents



- Young people aged 10 – 19 (WHO definition)
- Wide range
- 10 to 12 year-olds are not yet teenagers
- Conceptions at ages under 14 are rare
- 18 and 19 year-olds are adults: in the UK they may hold a pilot's licence, be a police officer or stand as a candidate to be a Member of Parliament

Age of majority



- 15: Iran, Iraq
- 16: Bolivia, Cuba, Guatemala, Kyrgyzstan
- 17: Tajikistan
- 18: Others (commonest)
- 19: Algeria, Botswana, South Korea
- 20: Japan, New Zealand, Thailand, Tunisia
- 21: Egypt, Kuwait, Lesotho, UAE, Zambia

Pregnancies in adolescents



Strong association with social disadvantage

- 15 million births
- 4 million abortions

Most adolescent pregnancies are in countries with a high rate of child marriage (*McIntyre 2006*).

Unsafe abortions in women aged 15 – 19 in 2008

(Shah and Åhman)



	% of unsafe abortions in all age groups in Region	No. of unsafe abortions
Africa	22	1.4 million
Asia	11	1.1 million
Latin America	16	670,000

Restrictiveness of abortion laws



- Restrictive abortion laws result in teenage childbearing
- Examples:
 - Sweden
 - ✦ Adolescent abortion ratio: 81 per 100 known pregnancies
 - Malta
 - ✦ Adolescent abortion ratio: 0

Reproductive rights



- Right to privacy
- Right to marry and found a family
- Professionals have a duty to protect young people from exploitation
- Overall best interests of the individual adolescent should be considered, taking into account their capacity and circumstances

Rights of adolescents in relation to pregnancy



Even though not adults, adolescents can expect to:

- Have their confidentiality respected
- Have their educational needs met
- Make their own decisions as to whether or not to continue a pregnancy

Whose rights?



- An incremental increase in the respect for a child's autonomy should be accorded as she grows up
- Simultaneously, parental rights dwindle
- As a girl enters her teenage years, she is best regarded as a young adult
- Parental authorisation requirements are not in keeping with modern law

Mental capacity



- Capacity of a person to make a particular decision or to take a particular action for themselves at the time the decision or action needs to be taken
- Children usually achieve mental capacity to consent to treatment by the age of 14 (*Pearce 1994*)
- This presentation will not cover those with learning disability and those with mental illness

English case law - capacity



An NHS Trust v A, B, C and a Local Authority 2014

- Conceived at the age of 12; presented at age 13
- Concealed pregnancy diagnosed at 21 weeks
- Assessed by a child and adolescent psychiatrist
- This 13-year old clearly had capacity to make her own decision to have an abortion

English case law - status of the parents



The courts have confirmed that a parent's refusal to give consent for their daughter to have an abortion cannot override the consent of a competent young person

Re P (a minor) 1986

Re B (wardship: abortion) 1991

Parental responsibility (UK)



- Both parents if married
- Mother if not married (unless child's birth jointly registered)
- Person who has care of the child – may do what is reasonable in the circumstances: includes consenting to medical treatment
- The local authority – when children are taken away from their parents due to neglect/abuse

When parents and child disagree



- “It is necessary to obtain a decision of the Orphans Court (Parish Court) in order to terminate the pregnancy if there is any dispute between a patient younger than 16 years and her parents or her guardian regarding the continuance of the pregnancy”.

Latvia Cabinet Regulation No. 590 [restrictive parental authorisation law introduced in 2003]

Parental authorisation laws



- 34/203 jurisdictions have parental authorisation/notification requirements (*Center for Reproductive Rights*)
- 38/50 US states require parental involvement (*Guttmacher Institute*)

Age threshold for parental involvement

16

- Bosnia-Herzegovina
- Croatia
- Czech Rep (consent – notification for 16 and 17 year olds)
- Latvia
- Norway (opportunity to express views only)
- Portugal
- Slovakia

18

- Denmark
- Greece
- India
- Italy
- Turkey
- USA (most states)

European Union



PA < 18 years

- Bulgaria
- Cyprus
- Estonia
- Greece
- Hungary
- Latvia
- Lithuania
- Luxembourg
- Poland
- Slovakia (changed from <16 in 2009)

PA 14 – 16 years

- Austria
- Croatia
- Czech Rep
- Spain (plan to change to <18)

* Ireland and Malta not included due to highly restrictive laws

European Union



Authorisation from adults other than parents

- Denmark
- France
- Italy
- Netherlands
- Portugal

PA not required

- Belgium
- Finland
- Germany
- Romania
- Slovenia
- Sweden
- UK

REPROSTAT (*Part et al 2013*)



- EU countries (n = 27)
- Parental authorisation law v no PA/other adults
- Teenage birth rate 17.1 per 1000 v 12.2 per 1000
- “It is likely that PA provisions and fear over breaches in confidentiality is a serious barrier to seeking help from available services and undermines teenagers’ access to safe services”

Purported benefits of parental involvement laws argued by proponents



- Avoids infringement of parental rights
- Better family communication
- Reduced pregnancy rates
- Prevent abortions

American Academy of Pediatrics, 1996



- A minor's decision to involve parents should be determined by the quality of the family relationship, not by laws
- The rights of adolescents to confidential care when considering abortion should be protected
- The threat of compulsory parental notification against the adolescent's wishes is a strong disincentive to seeking care

Adverse effects of mandatory parental involvement



- Delayed access
- Adverse psychosocial impact when coercion to continue the pregnancy (equivalent to denied abortion)
- Breaching confidentiality risks violence and abuse in non-supportive/dysfunctional families

Adolescent's views (Illinois)



- “I think it should be your choice ...”
- “I don’t really think somebody should make a decision that contains your body”
- “I think teens should be able to tell people that they trust, and that’s not always a parent”
- “It’s harder for some families to accept it”
- “You never know what’s going on in people’s households ... I mean a lot of people’s parents are abusive, um, physically or, you know, emotional”

(Kavanagh et al, 2012)

Impact in Mississippi



- Comparison of Mississippi residents who had abortions during the 5 months before and the 6 months after the law came into effect (June 1993)
- Ratio of minors to adults who sought abortions
- 13% decrease within Mississippi
- 32% increase in neighbouring states
- 19% increase in second trimester abortions

(Henshaw 1995)

“Bypass” laws



- **Italy**
 - Up to 90 days gestation only
 - Guardianship magistrate (guiduce tutelare)
- **USA**
 - Judicial procedure that allows a minor to receive court approval of an abortion without parental knowledge or consent (in 38 States)
 - In deciding on waiver of parental involvement, some States require judge to apply specific criteria in assessment
 - Most States have exceptions: in a medical emergency and in cases of abuse/assault/incest/neglect

Conclusions



- Mandatory parental involvement goes against human rights principles
- Mandatory parental involvement has potential harmful effects on young people
- Those sections of abortion laws insisting on parental involvement should be repealed