



Realizing an Enabling Environment for Adolescent Well-being: An inventory of laws and policies for adolescents in South Asia

Elena Camilletti

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REALIZING AN ENABLING ENVIRONMENT FOR ADOLESCENT WELL-BEING: AN INVENTORY OF LAWS AND POLICIES FOR ADOLESCENTS IN SOUTH ASIA

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Acronyms and initialisms

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CRIN	Child Rights International Network
FGM/C	female genital mutilation/cutting
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICTs	information and communication technologies
ILO	International Labour Organization
NYP	national youth policy
SDGs	Sustainable Development Goals
SRH	sexual and reproductive health
UDHR	Universal Declaration of Human Rights
UNICEF	United Nations Children's Fund

EXECUTIVE SUMMARY

This paper takes stock of legal and policy frameworks for adolescents in the eight countries of South Asia: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Around 340 million adolescents live in the region – more than in any other region in the world – with India home to the greatest number of adolescents of any country globally (more than 250 million) and Afghanistan boasting the highest share of adolescents (26 per cent) as a proportion of the total population (UNICEF, 2016a). The eight countries also display a rich diversity of cultural, historical, political, social and economic institutions, which is reflected in their national legal and policy frameworks for adolescents. This paper sheds light on the similarities and differences among South Asian countries regarding the translation of international human rights law into their national normative frameworks, and aims to provide a nuanced understanding of how ‘adolescent-sensitive’ their legal and policy frameworks are.

Study findings are organized in this paper in line with nine overarching sets of rights for adolescents, as laid out in the Convention on the Rights of the Child (CRC):

- the right to political participation
- the right to protection
- the right to education
- the right to health
- the right to marriage
- the right to decent work and protection from child labour
- the right to social protection
- digital rights
- the right to equality and non-discrimination.

The paper reviews the *legal* coverage across these nine sets of rights, comparing the legal and policy frameworks for adolescents of the eight South Asian countries against the requirements of the international standards signed and ratified by each country.

Findings from selected legal and policy frameworks for adolescents are set out to highlight whether and how countries meet the requirements of the CRC and other international standards, and to illustrate deviations from these standards (see *Table 1*). In many legal and policy areas, some countries have set the minimum ages lower than those prescribed by international standards. Other countries, while broadly protecting adolescents as prescribed by international standards, nevertheless provide for significant exceptions, for example, in relation to child and early marriage. Balancing protection and empowerment is evident in the recognition and codification (or lack thereof) of adolescents’ evolving capacities and increasing autonomy, for example, regarding the right to access sexual and reproductive health (SRH) information and services. Therefore, while some countries have legislated in ways to fulfil adolescent rights, generally in line with international standards, other countries still lack appropriate laws or policies, or have legal loopholes that raise

concerns over the effective protection of adolescents as well as opportunities for their empowerment. Areas of significant concern are juvenile justice, marriage protection, SRH, and violence and abuse.

This paper also reveals that, at the national level, legal and policy frameworks for adolescents are not always enacted in an integrated and coherent way. Legal and policy coherence (which is also enshrined in Sustainable Development Goal target 17.14) is important as the issues, inequalities and types of discrimination that affect adolescents are complex and intertwined, and thus call for policy action across multiple lines, sectors and ministries. Moreover, international human rights law states that human rights are indivisible and inalienable and must be guaranteed in a holistic and comprehensive way; coherent enacted and enforced laws and policies would support the realization of holistic adolescent well-being. The study also sought to retrieve information related to gender, disability, ethnicity and religion, but found significant gaps in the availability of such information. Suggestive evidence does, however, show that some countries have legislated to protect some marginalized adolescent groups such as girls and to offer them opportunities to overcome barriers to their rights and development.

Furthermore, this paper highlights evidence and research gaps, and the limited publicly available information on policies and legal documents relating to adolescents. Future research and efforts are needed to fill these gaps. For instance, this study has omitted some laws and policies – such as those regarding access to decent employment opportunities, and the right to information and communication technologies– due to the limited availability of information in these areas. Also, disaggregation of information by adolescent groups would improve our understanding of the levels of concern about intersecting inequalities that adolescents face, among South Asian governments and legislators. Ultimately, as this paper focuses only on legal coverage, future research is needed to provide a nuanced understanding of the interpretation, enactment and enforcement of laws and policies – that is, the *effective* coverage – which might hinder the actual fulfilment of rights for adolescents.

Table 1. Summary of selected laws and policies in South Asia

The table shows selected laws and policies, and compares these national provisions with international standards for those legal and policy frameworks for which there are clear requirements in international law. Cells are coloured according to whether a country's legal and policy frameworks are fully in line with international standards, including by providing specific protections for adolescents (green), partially in line with them (yellow) or clearly contravene them (red). Grey cells denote frameworks for which there are no clear requirements in international law, or for which no information was found (see the relevant sections in this paper for further information).

Indicator	Afghanistan	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	Sri Lanka
Majority age	18	18	18	18	18	16	18	18
Voting age, lower house	18	18	18	18	18	18	21	18
Candidacy age, lower house	25	25	25	25	18	25	25	18
Age of criminal responsibility	12	9	12	7	15	10	7	8
Capital punishment for children	Prohibited for individuals aged under 18	Prohibited de jure	Prohibited (no age limit)	Prohibited for individuals aged under 18	Not prohibited	Prohibited (no age limit)	Unclear de jure	Prohibited de jure
Life imprisonment	Prohibited for individuals aged under 18	Prohibited de jure	Prohibited (no age limit)	Prohibited for individuals aged under 18	Abolitionist de facto	Prohibited (no age limit)	Not prohibited	Moratorium
Protection against rape, including marital rape	Rape, but not marital rape	Rape, but not marital rape	Yes, special protection for girl children aged under 16, and including marital rape	Rape, but not marital rape	Rape, but not marital rape. Special protection for minors	Yes, special protection for minors	Rape, but not marital rape	Rape, but marital rape only if spouses are legally separated
Protection against domestic violence	Protection against some aspects of violence against women	Protection against physical spousal abuse	Yes	Protection against some aspects of violence	No information	Yes, specifically referring to 'other household members' in addition to women	No federal law protecting against domestic violence	Yes
Protection against sexual harassment	Yes, specifically referring to minors	Sexual harassment in public and private spaces	Sexual harassment in the workplace	Sexual harassment in the workplace	Sexual harassment in the workplace, in educational institutions and social services. Sexual offences specifically protecting minors, but excluding minors married under Islamic law	Sexual harassment in the workplace	Sexual harassment in the workplace and in public spaces	Sexual harassment
Protection against pornography and sexual exploitation	Yes, some aspects specifically refer to minors	Yes, specifically protecting minors	Protection against sexual exploitation and child pornography	Yes, specifically protecting minors	Yes, specifically protecting minors	No specific law protecting against child pornography, but no person can involve/use a child for an immoral profession, including through the use of photography	Yes, specifically protecting minors	Yes, specifically protecting minors

Indicator	Afghanistan	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	Sri Lanka
Other types of violence	Protection against 'honour' killings	Law to control the availability of acid; protection against corporal punishment	Protection against corporal punishment	Law to control the availability of acid; protection against accusations of witchcraft	No information	Protection against chhaupadi and against accusations of witchcraft	Protection against 'honour' killings; law to control the availability of acid; prohibition of the abandonment, kidnapping and abduction of children	No information
Age of recruitment into armed forces	18	16	18	16	18	18	16	18
Tuition cost, primary and secondary education	Free tuition	Free tuition only in primary education	Free tuition until Grade 10	Free tuition	Free tuition	Free tuition until Grade 12	Free tuition	Free tuition
Compulsory education	Up to lower secondary	Up to age 10	Unclear	Up to age 14	Up to Grade 6	Up to Grade 8	Up to age 16	Up to age 16
Minimum age for off-premise alcohol purchase and on-premise alcohol service	No information	No minimum age	18	No information	No information	18	21	21
Minimum age for access to and purchase of tobacco products	18	18	Tobacco products illegal	18	18	18	18	21
Access to abortion	1	1 (with parental/guardian consent)	1, 2	1, 2, 3, 4, 5, and 6 (with parental/guardian consent)	1, 4, 5	1, 2, 3, 4, 5, 6, 7	1, 2, 3	1
Consent to sexual activity	Marital status	14, for females only – sexual activity is legal only for married couples, however	18, for either sex, except for married adolescents	16, for females only	Marital status	16, for females only	Marital status	16, for females only, but excludes married Muslim girls
General legal age of marriage, male	18	21	18	21	18	20	18	18
General legal age of marriage, female	16	18	16	18	18	20	16–18 (depending on the province and religion)	18
Minimum age for access to employment	18	14	18	No legislated national minimum age for employment	16	14	No legislated federal minimum age for employment; this is instead province-specific	14
Right to social protection	Aspirational	Specifically for girls, and children with disabilities	No information	Girls	No information	Specifically for low-income households; children with disabilities	Specifically for low-income households; girls; children with disabilities	Specifically for low-income households; children with disabilities

Source: Compiled by the author from multiple sources cited in this paper and its annex. The access to abortion indicator is based on UNDESA 2015 and other relevant databases (see section 5.2.1): (1) To save a woman's life; (2) To preserve her mental health; (3) To preserve her physical health; (4) In instances of rape or incest; (5) Because of foetal impairment; (6) For economic or social reasons; (7) Upon request. For the legal age of marriage, cells are coloured yellow if the legal age is below the age of 16 and/or a disparity exists between the legal age for females and males. See specific sections for further details

1. INTRODUCTION

National and subnational laws and policies – and their implementation and enforcement – provide the overarching framework for the rights, protection and opportunities that adolescents enjoy in their countries (United Nations Children’s Fund [UNICEF] 2012). Alternatively, such laws, policies and practices may be a source of discrimination, oppression and injustice, depending on the institutions and norms that they embed. Legal and policy frameworks for adolescents provide the backdrop for action by government, for-profit and not-for-profit actors, and civil society organizations and individuals (including adolescents themselves) to achieve adolescent rights and well-being. The 2030 Sustainable Development Agenda also acknowledges, in certain goals, targets and indicators, the importance of laws and policies in achieving adolescent rights and well-being, for example, in Sustainable Development Goal (SDG) 1.3.1 on social protection floors and systems, and in SDG 5.6.2 on universal access to sexual and reproductive health care, information and education (United Nations Population Fund [UNFPA], 2016).¹

At the international level, the Convention on the Rights of the Child (CRC) stipulates that children have human rights that must be respected and upheld. Together with other international standards, it establishes that human rights are *equal, inalienable* and *indivisible*. International standards and call for a balance between protecting adolescents from vulnerabilities and the risk of harm, and recognizing their growing autonomy and capacity to make responsible decisions with suitable safeguards in place (The Lancet Commissions, 2016, cited in UNFPA, 2016; Lansdown, 2005). This balance must also be codified in national legal and policy frameworks for adolescents, and in service delivery and programming. In some contexts, however, either the rights of children and adolescents remain invisible, or only some rights are respected, or laws and practices that reflect harmful biases weaken such rights (UNFPA, 2016). Aligning national laws with international standards helps to translate global normative principles into national policymaking. Designing ‘adolescent-sensitive’ laws and policies – which codify protection and empowerment opportunities, and force changes to discriminatory norms and institutions – is one important step towards ensuring an enabling environment for adolescent well-being.

Box 1: Defining adolescence

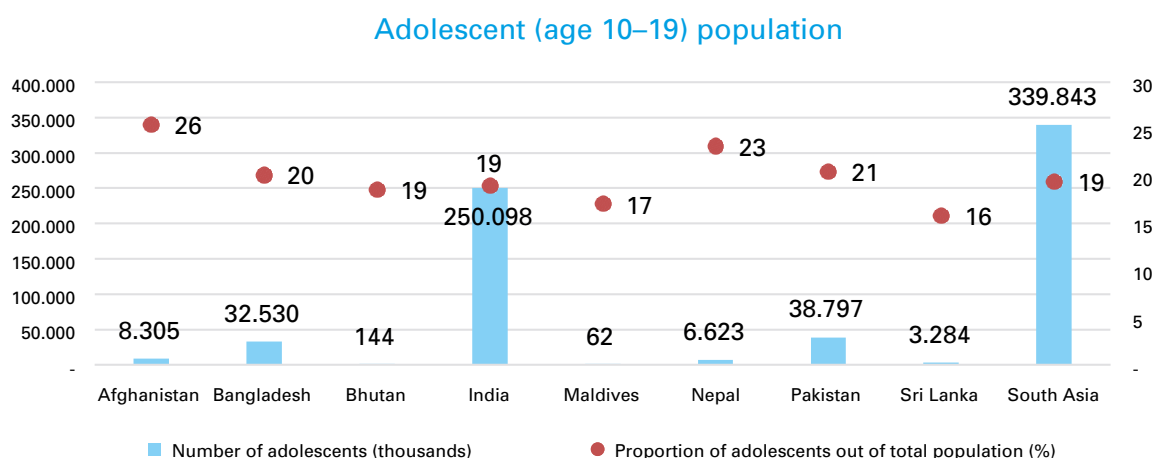
The definition of adolescence varies across stakeholders and contexts as it is context-specific and socially and culturally constructed (Banati and Lansford forthcoming). UNICEF and other UN agencies consider adolescents as those children and individuals aged between 10 and 19 years old. The adolescence period is further divided into two stages: younger adolescents (age 10 to 14) and older adolescents (age 15 to 19). The Convention on the Rights of the Child [CRC] and the Committee on the Rights of the Child’s General Comment no. 20 on adolescence (2016) focus on the period of childhood from the age of 10 to the age of 18. While defining adolescents by age bears methodological and epistemological challenges as individual children mature at different ages and stages depending on puberty, brain development, the context and environment (Committee on the Rights of the Child 2016), determining an age range can at the same time prove useful in setting a framework for policy and action. This paper adopts the widely-used definition of adolescence as the period of an individual’s life from age ten to age 19, subdivided into younger (age 10 to 14) and older adolescence (age 15 to 19).

¹ Other SDGs relevant to specific sections of this paper are highlighted in boxes throughout.

This paper takes stock of existing legal and policy frameworks in the eight countries of South Asia: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The countries are at different stages of the demographic transition and vary in terms of their ‘youth bulge’. This refers to the short-term phenomenon in which both mortality and fertility decrease, thus the ratio of dependants to the working-age population increases, before decreasing as the population ages. The eight countries in focus also display a rich diversity of cultural, historical, political and socio-economic institutions, which is reflected in their national legal and policy frameworks. This paper sheds light on the similarities and differences in how the countries translate (or fail to translate) international standards and human rights law into national normative frameworks, and aims to provide a nuanced understanding of how enabling are their legal and policy frameworks for adolescents. It thus seeks to offer South Asian countries the opportunity to learn from each other, to identify and fill legal and policy gaps, and to recognize and seize opportunities for reform.

The remainder of this paper is structured as follows: Section 1.1 sets out the conceptual framework and methodology adopted to gather information about laws and policies in the eight South Asian countries. Section 2 presents an overview of the legal and policy frameworks for adolescents in the eight countries, organized according to nine overarching sets of rights. For each set of rights, the relevant international standards are discussed, the national laws and policies for adolescents are presented, and any regional trends are identified. National (and when necessary subnational) laws and policies are compared with the relevant international standards to understand whether and how countries are in line with such frameworks; the status of the ratification of international conventions, treaties and recommendations is specified for each country.² Gender, disability, ethnicity and religion are considered wherever possible, to understand whether laws and policies embed and codify differences and forms of discrimination. Section 3 sets out the conclusions of the study, reflecting on evidence gaps and potential areas for future research.

Figure 1. Adolescent population in South Asia



Data source: UNICEF, 2016a, and United Nations Population Division. Note: The left axis plots the number of adolescents (in thousands), the right axis the proportion of adolescents as a percentage of the total population.

2 All South Asian countries have signed and ratified the CRC and also the Convention on the Elimination of Discrimination against Women (CEDAW), the only international standards ratified by all eight countries. This paper details any other relevant international standards that one or more of the eight countries – but not all of them – have signed and/or ratified, and are therefore bound by.

1.1. Conceptual framework and methodology

This study complements and goes beyond previous approaches that have focused on youth (rather than adolescents), on specific issues and risks that adolescents face (such as HIV/AIDS) or exclusively on minimum ages. Firstly, it considers adolescents as a diverse group of people distinct from (though partly overlapping with) youth, and comprising younger and older adolescents who face different vulnerabilities and have different capacities, levels of autonomy and interests (Banati and Lansford forthcoming). Defining adolescence is not straightforward, as individual children experience puberty at different ages, reaching maturity depends on various factors, and definitions of adolescence also vary across countries and stakeholders (Committee on the Rights of the Child, 2016). Not only does such variation imply methodological and epistemological challenges, but it also has significant consequences for policy. These relate to the need to ensure an adequate balance between protecting adolescents and offering them opportunities for empowerment. The balance between protection and empowerment is enshrined in the principle of the evolving capacities of the child, as set out in the CRC (articles 5 and 14). As children grow, they develop their capacity and autonomy to make decisions and assume responsibilities. States parties to the CRC and families are thus called upon to fulfil children's rights and contribute to their development and well-being (Lansdown, 2005). Furthermore, the principle of evolving capacities emphasizes the importance of promoting children's participation and emancipation as they mature and increase their level of understanding, autonomy, competency and agency. It thus imposes obligations on families and States parties to guide children in their development (Lansdown, 2005). Recognizing that children are at a stage where their capacities are still evolving also means acknowledging the need to protect them from actions, situations, vulnerabilities and risks likely to cause them harm (Committee on the Rights of the Child, 2016, paras. 19–20; Lansdown, 2005). The CRC places obligations on both families and States parties to protect children's rights and safeguard their well-being as they mature into adulthood (Lansdown, 2005). In providing an overview of current legal and policy frameworks for adolescents, this study thus examines the delicate balance between *protective* and *empowering* rights.

Secondly, this study considers the minimum legal ages stipulated for individuals to perform certain actions and enjoy certain rights. In setting minimum ages, States parties must carefully consider the balance between protecting and empowering adolescents while simultaneously avoiding constraining or penalizing them, in line with the best interests of the child principle established by the CRC (Ehmke & Farrow, 2016; Committee on the Rights of the Child, 2016, para. 39). The study also investigates the extent to which laws and policies are 'adolescent-sensitive', beyond simply prescribing a minimum legal age. The objective is thus to provide a more nuanced discussion of how enabling or constraining the legal and policy environment is for adolescents.

This study considers laws and policies in relation to nine overarching sets of rights for adolescents, which are conceptualized as equal, inalienable and indivisible in international human rights law. These particular sets of rights were selected for their importance and significance in creating an 'enabling environment' for adolescent well-being, as well as for the availability online and in English of legal and policy documents.

Box 2. Definitions of law and policy

A *law* is defined as “a rule or system of rules recognized by a country or community as regulating the actions of its members and enforced by the imposition of penalties”. A *policy* is “a course or principle of action adopted or proposed generally by an organization or individual”, and this paper focuses specifically on those policies implemented by the executive branch of government of a country.

Source: Soanes, C., Stevenson, A., & Hawker, S. (Eds.). (2004). *Concise Oxford English Dictionary* (11th ed.). Oxford, UK: Oxford University Press.

The research methodology and information-gathering process were as follows. Information about laws and policies was gathered from various sources and databases, including Youth Policy Labs, YouthPOL (International Labour Organization [ILO]), the WORLD Policy Analysis Center (n.d.) and the World Population Policies Database (United Nations Department of Economic and Social Affairs [UNDESA], 2015). Additional sources included government agency websites of the various countries. The author sought to retrieve and consult directly the relevant legal and policy documents.³ When this was not possible – due to their lack of availability online and in English – the author relied on secondary sources, including UNICEF research and reports, country reports to the Committee on the Rights of the Child, and other relevant literature. She thus sought to triangulate findings from secondary and direct sources to ensure accuracy; whenever divergent information arose, additional controls were performed or alternative interpretations noted. Once collated in an inventory database, the information was fact-checked by UNICEF specialists based in the Regional Office for South Asia (ROSA) and at Country Offices in the region, who also provided inputs and shared resources that helped to populate the inventory database.⁴

Various limitations constrain this inventory of adolescent-sensitive laws and policies for the eight South Asian countries. Firstly, this paper examines only the *legal* coverage of adolescent rights. This is necessary to shed light on whether and how national laws and policies are aligned with international standards, yet it is only a first step towards understanding the protection and empowerment of adolescents in specific institutional contexts. Assessing the actual interpretation, implementation and enforcement of laws and policies, namely the *effective* coverage, is a further step that must be taken to understand the realization of adolescents’ rights and potential, but is beyond the scope of the present study. Secondly, this paper reflects information-gathering efforts conducted up to and including December 2016; it therefore does not capture policy and legal reforms, in specific areas of concern to adolescents, under way in some countries from January 2017 onwards. Finally, the paucity of information available online and in English implies that the inventory contains gaps in the information about selected laws and policies for certain countries. Future research could capitalize on the present study to expand upon this inventory of adolescent-sensitive laws and policies in South Asia.

Box 3. Definitions of legal and effective coverage

This paper defines *legal* coverage as the coverage of an issue or a set of issues by the law of a specific country. The *actual* or *effective* coverage refers to the actual execution and implementation of such law in that country.

³ The references for the legal and policy sources can be found in the annex to this paper.

⁴ The author sought to ensure the accuracy of all information but cannot rule out the possibility of errors in the data reported here. Any errors in this paper remain the author’s sole responsibility.

2. LEGAL AND POLICY FRAMEWORKS FOR ADOLESCENTS IN SOUTH ASIA

This section will review and discuss the legal and policy frameworks for adolescents in each of the eight countries in South Asia, assess the legal coverage against the benchmark of international standards, and identify any regional trends. The aim of this section is to consider: (1) the compliance of South Asian countries with international standards they have ratified or to which they are bound; (2) how the balance between the protection and the empowerment of adolescents has been addressed in terms of specific rights in the eight countries; and (3) the overall regional trends across the nine sets of rights.

2.1. The right to political participation

One of the key areas where the delicate balance between protection and empowerment is most apparent relates to the realm of political and civic engagement and the participation of adolescents. Article 12 of the CRC mandates States parties to realize the right of children to be heard and have their opinions considered in all decisions that affect them. Since individual adolescents move through different stages of cognitive development, maturity and autonomy, laws and policies should be used to ensure meaningful participation at all stages, through the development of age-sensitive means of engagement and tools, including information and support.

2.1.1. The age of majority

The age of majority is important as it denotes the age at which an individual acquires (most) adult rights, for instance, legal capacity (UNICEF and Youth Policy Labs 2016). At the international level, the attainment of majority is codified in article 1 of the CRC. This states that majority is attained at the age of 18, unless the national law specifies an earlier age. The CRC thus grants countries the discretion to determine by law whether majority begins – and thus childhood ceases – at a younger age. International practice suggests, however, that the age of majority is generally established at 18 years. In fact, all South Asian countries have set the age of majority at 18 years with the exception of Nepal, whose Children’s Act, 2048 (1992) states that a child is any person below the age of 16 (see *Table 2*).

2.1.2. The right to vote and to stand for election

Adolescence is also a time of transition into formal political participation and representation, as individuals acquire the right to vote (Child Rights International Network [CRIN], 2016a) and the right to stand as a candidate for election to parliament or at the administrative level. While the Committee on the Rights of the Child has not taken a specific position on the appropriate minimum age for the right to vote, it has commended countries for lowering the voting age from 18 to 16 (see for example the concluding observations for Nicaragua, CRC/C/NIC/CO/4, 2010, para. 43, cited in CRIN 2016). General comment No. 20 on the implementation of the rights of the child during adolescence stresses the importance for adolescents of participation as a means of political and civic engagement, and recommends that States parties that lower the voting age to below 18 years should invest in measures that support adolescents to understand, recognize and fulfil their role as active citizens, including through citizenship and human rights education and by identifying and addressing barriers to their engagement and participation (Committee on the Rights of the Child, 2016, para. 24).

The right to representation in the SDGs

SDG indicator 16.7.1: Proportions of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service, and judiciary) compared to national distributions

Table 2. The right to vote and to stand for election in South Asia

Country	Voting age, lower house	Voting age, upper house	Candidacy age, lower house	Candidacy age, upper house
Afghanistan	18	N/A (indirect elections)	25	35, but part of the upper house is indirectly elected and appointed
Bangladesh	18	N/A (unicameral)	25	N/A (unicameral)
Bhutan	18	18	25	25
India	18	25	25	30
Maldives	18	N/A (unicameral)	18	N/A (unicameral)
Nepal	18	N/A (indirect elections)	25	35
Pakistan	21	N/A (indirect elections)	25	30
Sri Lanka	18	N/A (unicameral)	18	N/A (unicameral)

Source: Author's elaboration from national laws and policies, based in particular on information contained in the Inter-Parliamentary Union PARLINE database on national parliaments (last accessed 30 June 2017). See annex for specific sources. Note: N/A here stands for 'not applicable'.

South Asia as a region has displayed high participation and involvement by young people in political processes – including through associations, organizations, volunteering and political demands – throughout history and across its cultures and contexts. Yet, only late adolescents aged 18 to 19, or in some cases young adults, may take part in *formal* decision-making processes through the right to vote and the right to stand for election (see *Table 2*). Although the Committee on the Rights of the Child has not recommended a specific minimum legal age for either of these rights, these are two means by which some adolescents and young people can formally make their voices heard in national policymaking and other decision-making processes.

2.1.3. National youth policies, public authorities for adolescent and youth affairs, and adolescent and youth organizations and associations

The existence of a national youth policy (NYP) is another important indicator of how committed a government is to investing in its young people and realizing their rights and well-being. Such policies target youth, young people and/or adolescents, depending on the particular definitions of adolescence and youth and the related age ranges set by the government. An NYP delineates a government's vision for its young citizens and its strategy for investing in them, for example, through policy areas and other government's priorities such as education, sports and volunteering. Any NYP also generally designates an authority responsible for the oversight of that NYP, and the process and criteria for developing an action plan for its implementation. In so far as NYPs may include adolescents, analysing such policies can help to shed light on how enabling environments are for adolescent well-being.

All countries in South Asia have either a finalized or draft youth policy, whether at the national (e.g., federal) or subnational (e.g., state or provincial) level. Each prioritizes different policy issues, but all state the potential of young people to contribute to society, and the importance of developing their full potential and offering them opportunities to realize their inherent capacity to build modern, prosperous and just societies. The age range for defining adolescence varies across the eight countries, with some considering a larger age range (Afghanistan, Bhutan and India) than others, which consider only older adolescents and young adults (see *Table 3*).

As well as prioritizing youth issues through NYPs, each of the South Asian governments has designated an authority responsible for youth affairs, to ensure that such issues are addressed through policies and programmes. In five of the eight countries, this authority is at the ministerial level; in the remaining three countries, the authority is at a lower level (department, division or unit). In theory, establishing a designated authority at the ministerial level might be expected to ensure more political leeway and thus buy-in from the relevant government. In practice, however, the actual effectiveness of a ministry responsible for youth affairs may be compromised, for example, if it lacks a clear mandate or an adequate budget, or if there is limited public awareness of its remit. For instance, Youth Policy Labs (2014e) argues that the Maldivian Ministry of Youth and Sports lacks a clear mandate, compromising its effectiveness, while a 2011 youth survey conducted by the British Council in Nepal revealed that Nepal's youth population was largely unaware of the Ministry of Youth and Sports (Youth Policy Labs, 2014f).

Youth organizations and associations active at the national or subnational level can also play a significant role in advocating for change to improve the lives of young people. Youth organizations and associations help to ensure that young people's interests are represented, and can advocate for better policies and programmes. The right to freedom of assembly and association is prescribed by article 20 of the Universal Declaration of Human Rights (UDHR) as well as by article 15 of the CRC, demonstrating the importance of this right as an instrument for children, adolescents and young people of advocacy and accountability.

Table 3. National youth policies (NYPs) and authorities responsible for youth affairs in South Asia

Country (NYP publication date)	Age range covered by NYP	NYP priorities	Authority responsible for youth affairs	Youth organizations and associations
Afghanistan (2014)	12–17 (adolescents); 18–35 (youth)	(1) Youth employment; (2) Adolescent and youth health (rights, drug addiction, mental health, gender-based violence, healthy lifestyles); (3) Education, and technical and vocational education and training; (4) Participation. Cross-cutting issues: Gender equity in line with religious values; establishing peace and security; sports promotion; environmental sustainability.	Office of the Deputy Ministry of Youth Affairs, Ministry of Information and Culture	The NYP recommends the expansion of youth councils, but no further detail regarding youth councils is provided
Bangladesh (2003) ⁱ	18–35	(1) Awareness of the Constitution; (2) Ability to fulfil jobs; (3) Encouraging self-employment; (4) Engagement in voluntary work; (5) Participation in culture and sports; (6) Collection of information on youth; (7) Provision of youth facilities in rural areas; (8) Equal participation in decision-making.	Department of Youth Development, Ministry of Youth and Sports	The National Federation of Youth Organisations in Bangladesh describes itself as “the coordinating council of youth organizations” in the country. It is not a member of the Commonwealth Youth Council, however, nor is it referenced in government reports or policies.
Bhutan (2010, draft)	13–24	(1) Education; (2) Health and well-being; (3) Employment; (4) Environment; (5) Social environment; (6) Culture and identity; (7) Recreation and sports; (8) Participation.	Department of Youth and Sports, Ministry of Education	Bhutan Youth Development Fund is the leading youth organization involved in youth issues, education and employment programmes, and advocacy work on youth participation and policies, but how well it represents young people is unclear. ⁱⁱ In June 2015, student representatives (aged 13–24 years) signed the Constitution of the Bhutan Children’s Parliament. ⁱⁱⁱ The Election Commission of Bhutan held the first elections for Bhutan Children’s Parliament in September 2015: 20 young people were elected to its National Council and 43 young people to its National Assembly. During the inaugural session of Bhutan Children’s Parliament in December 2015, its young members deliberated on various youth issues and arrived at recommendations for the government.
India (2014)	13–19 (adolescents); 15–29 (youth)	(1) Education; (2) Employment and skills development; (3) Entrepreneurship; (4) Health; (5) Sports; (6) Participation in politics; (7) Inclusion and social justice.	Department of Youth Affairs, Ministry of Youth and Sports (central government); and respective departments (state governments)	The NYP reports the fragmentation of youth organizations and limited coordination between stakeholders working on youth issues. Nehru Yuva Kendra Sangathan, a youth organization active since 1972 under the Ministry of Youth and Sports, has established a network of youth clubs in villages across India to involve young people in nation-building activities. ^{iv}

Country (NYP publication date)	Age range covered by NYP	NYP priorities	Authority responsible for youth affairs	Youth organizations and associations
Maldives (2012) ^v	18–35	(1) Education; (2) Shelter; (3) Employment; (4) Sports and recreation; (5) Empowering young people in society; (6) Health; (7) Crime; (8) Environment; (9) Empowering the youth sector.	Ministry of Youth and Sports	The National Youth Council acted as the national coordinating body for youth affairs, advising the Minister of Human Resources, Youth and Sports. Appointed by the Minister, the Council did not include youth organizations. Youth Policy Labs argues that the Council is no longer active (as of 2012), despite being listed as a member of the Commonwealth Youth Council. ^{vi}
Nepal (2010)	16–40	(1) Education; (2) Health and family welfare; (3) Control of trafficking in and sale of human beings; (4) Participation of youth in peace building and conflict resolution.	Ministry of Youth and Sports	The National Youth Council is an autonomous executive council comprising representatives of youth organizations and other relevant bodies, and office-holders appointed by the government. Nepal has two major youth organization networks: the Association of Youth Organizations Nepal, and Youth NGO Federation Nepal.
Pakistan (2008, national NYP; 2012, Punjab provincial youth policy; 2012, Singh provincial youth policy, draft)	15–29	National NYP: (1) Reinforce sense of pride, awareness and motivation; (2) Promote national integration; (3) Enabling prospects of income generation; (4) Address issues of marginalized and vulnerable youth groups; (5) Support character building; (6) Promotion of sports and recreation; (7) Academic and intellectual development; (8) Youth health; (9) Social volunteering; (10) Incentives for talented and high-performing youth; (11) Youth marriage, family and life skills; (12) Youth mentoring; (13) Special youth; (14) Balancing the gender imbalance; (15) Youth in prison.	Provincial level: In 2010, the Ministry of Youth Affairs was dissolved and the responsibility for youth (along with other responsibilities) passed on to specific provinces.	No official youth council exists, but there are various youth-led groups at the national and regional levels. For example, the National Youth Assembly aims to educate youth aged 18–30 years about leadership, politics and democracy, while Chanan Development Association aims to build young people's capacity and also act as a resource hub for youth organizations. The role of young people in these organizations is unclear, however, and likewise the representative nature of the organizations.
Sri Lanka (2014)	15–29	(1) Education; (2) Skills development and vocational training; (3) Youth employment; (4) Civics and citizenship; (5) Youth work; (6) Health and well-being; (7) Social exclusion and discrimination; (8) Peace and reconciliation; (9) Arts, recreation, sports and leisure.	Youth Development Division, Ministry of Youth Affairs and Skills Development	The National Youth Services Council acts as the focal point for youth clubs and organizations in Sri Lanka, and delivers programmes related to youth awards, education, sports, media, international youth affairs, and skills and training. It has established close links with government ministries and receives government funding, and is a member of the Commonwealth Youth Council. The leadership role of young people within the National Youth Services Council is unclear, though its organizational structure is large.

i UNICEF ROSA and Country Office specialists report that the Bangladesh Ministry of Youth and Sports has been consulting with civil society organizations with the aim of drafting a new NYP. It was not possible to verify this information using official sources such as the Department of Youth Development website, however.

ii Youth Policy Labs (2014c).

iii UNICEF ROSA and Country Office specialists; United Nations Development Programme [UNDP] 2016

iv UNICEF ROSA and Country Office specialists; Nehru Yuva Kendra Sangathan (n.d.)

v The Maldivian NYP published in 2003 was redrafted in 2012 (as required by the NYP) and this revised version was valid until 2015. No further or more recent information was found.

vi Youth Policy Labs (2014e).

3. THE RIGHT TO PROTECTION

Children’s right to protection from actions, situations, vulnerabilities and risks likely to cause them harm is enshrined in the CRC and embedded in the principle of the evolving capacities of the child. Three protection issues of particular concern to adolescents are reviewed in this paper: juvenile justice; the right to protection against all forms of violence, abuse and exploitation; and the right to protection against recruitment into armed groups.

3.1. Juvenile justice

A dedicated juvenile justice system is crucial to guarantee the protection of children and adolescents in conflict with the law. Various international standards are concerned with issues related to juvenile justice. Article 37 of the CRC states that “No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child [...] shall be used only as a measure of last resort”. Provision (c) of the same article calls for children in conflict with the law to be separated from adults, and also states that children have the right to maintain contact with their families except in exceptional circumstances. Furthermore, in relation to adolescents in conflict with the law, General comment No. 20 urges countries to “introduce comprehensive juvenile justice policies that emphasize restorative justice, diversion from judicial proceedings, alternative measures to detention and preventive measures, to tackle social factors and root causes” (Committee on the Rights of the Child, 2016, paras. 87–88). CRIN (2016a) further calls for countries to “move beyond the idea of minimum ages, protect children from the negative process of criminalisation, and separate it from the concept of responsibility” and to direct juvenile justice systems around the world exclusively to rehabilitation and reintegration and applicable to all children under 18 years.

This paper considers three issues related to juvenile justice. Firstly, the *age of criminal responsibility* is the age at which children are deemed capable of committing an offence under national law (UNODC, 2006). The rationale is that children below this age do not have the capacity to fully comprehend the consequences of their actions and thus should not be subject to criminal trial nor placed in detention (Sedletzki, 2016). Article 40 of the CRC calls upon States parties to seek to establish a minimum age of criminal responsibility, without specifying what that age should be (UNODC, 2006; CRIN, 2016a). The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (also known as the Beijing Rules) and the Committee on the Rights of the Child’s General comment No. 10 on children’s rights in juvenile justice both recommend that the minimum age should not be fixed at too low a level (Sedletzki, 2016; CRIN, 2016a). Specifically, General comment No. 10 concludes that a minimum age of criminal responsibility below the age of 12 is considered unacceptable by international standards, and while age 14 or 16 represent “commendable” ages in line with CRC requirements, the General comment No. 20 on adolescence states that States parties should continue to progressively raise the minimum age of criminal

Box 3. The juvenile justice system

A *juvenile justice system* consists of the laws, policies, guidelines, customary norms, systems, professionals, institutions and treatments specifically applicable to children in conflict with the law and to child witnesses (United Nations Office for Drugs and Crime [UNODC], 2006). A child is deemed *in conflict with the law* where s/he has committed or been accused of committing an offence. In some local contexts, children may also be considered in conflict with the law if they are involved with the juvenile or adult criminal justice system because it is felt that either their own behaviour or the environment in which they live puts them in danger (UNODC, 2006).

responsibility to the internationally acceptable level of 18 years of age (Sedletzki, 2016, p. 51; CRIN, 2016a; Committee on the Rights of the Child, 2007a; Committee on the Rights of the Child 2016, para. 30-39).⁵

The remaining two juvenile justice issues concern the possibility of children (or adults accused of committing an offence when under the age of 18) being sentenced to *capital punishment* or *life imprisonment*. Both forms of punishment are explicitly forbidden by article 37 of the CRC. General comment No. 20 bans the use of capital punishment and life imprisonment for individuals convicted of a crime committed when under the age of 18 (Committee on the Rights of the Child, 2016).

In South Asia, the minimum age of criminal responsibility varies significantly, with some countries providing alarmingly little protection for children and adolescents by setting this at a very low level (see *Table 4*). In some cases, the general minimum age of criminal responsibility can be lower still, if it can be proved that the child liable for an offence has attained maturity or criminal capacity, for example in Bangladesh, India, Maldives, Pakistan and Sri Lanka. International standards, however, prohibit the possibility of assessing children's maturity. While capital punishment for children is prohibited *de jure* in six of the eight countries in the region, there are concerns that the death penalty has nevertheless been applied in certain cases. Capital punishment for children remains possible in Maldives and Pakistan. Life imprisonment for children is prohibited – *de jure* or *de facto* – in six of the eight countries, but is still allowed in Pakistan and Sri Lanka.

5 A separate but related issue is the upper limit for protection under the juvenile justice system (the so-called 'age of penal majority') (Sedletzki, 2016). The Committee on the Rights of the Child has underlined that juvenile justice law should apply to all children under 18 regardless of the nature of the offence, without the possibility of any exception, such as for serious offences (Sedletzki, 2016). Moreover, the Committee has "explicitly stated that legislative provisions that enable a judge to decide upon a child's criminal responsibility or the applicability of the juvenile justice regime on the basis of an assessment of a child's maturity are not in line with international standards" (Sedletzki, 2016). In practice, however, some countries have more than one age of criminal responsibility, depending on the category of offence committed, while others that make use of an administrative system for minor offences may define the age at which a child can be subject to administrative sanctions (but not penal sanctions) (UNODC, 2006). This paper focuses on the minimum age of criminal responsibility in South Asia and does not attempt to also examine the age of penal majority.

Table 4. Age of criminal responsibility, and prohibition of capital punishment and life imprisonment for children in South Asia

Country	Minimum age of criminal responsibility	Capital punishment	Life imprisonment
Afghanistan	12	Prohibited for under-18s	Prohibited for under-18s
Bangladesh	9 ^{vii}	Prohibited de jure ^{viii}	Prohibited de jure ^{ix}
Bhutan	12	Prohibited (no age limit)	Prohibited (no age limit)
India	7 ^x	Prohibited for under-18s	Prohibited for under-18s
Maldives	15 ^{xi}	Not prohibited ^{xii}	Abolitionist de facto ^{xiii}
Nepal	10	Prohibited (no age limit)	Prohibited (no age limit)
Pakistan	7 ^{xiv}	Unclear de jure ^{xv}	Not prohibited ^{xvi}
Sri Lanka	8 ^{xvii}	Prohibited de jure, unclear de facto ^{xviii}	Moratorium ^{xix}

- vii In Bangladesh, for children age 9 to 12, it must be proved that they have attained “sufficient maturity of understanding” (Penal Code, 1960)
- viii In Bangladesh, although the Children’s Act (2013) prohibits capital punishment for children, there are concerns that it may nevertheless be applied for offences committed before the Act came into force, and a child was reported to have been sentenced to death in 2015 (Amnesty International, 2016b, p. 8; CRIN, 2015a).
- ix While the Children’s Act (2013) of Bangladesh prohibits life imprisonment for children, CRIN (2015a) reports that the Supreme Court in 2015 commuted to life imprisonment the death sentence of a man who had been a child at the time he committed the crime, since the crime had been committed before the Act came into force. There is thus a concern that life imprisonment remains possible for individuals who committed crimes as children prior to the 2013 Act.
- x In India, for children between the ages of 7 and 12, it must be proved that the child had criminal capacity at the time of committing the offence (Penal Code, 1860).
- xi In Maldives, under the Penal Code (2014), children under the age of 15 are presumed to lack the maturity of an adult and are thus excused for offences (section 53), while children under the age of 18 are subject to rebuttal by the prosecution. Prior to 2014, the Regulation on Conducting Trials, Investigations and Sentencing Fairly for Offences Committed by Minors (2006) allowed children to be held liable for certain criminal offences from the age of 10 (art. 5), while children aged 15 or more could be held criminally responsible for any offence (art. 6). Where the child was perceived to have attained physical maturity prior to the age of 10, however, she/he could be held liable for some offences, e.g., apostasy, revolution against the state, or the unlawful killing of human beings.
- xii In Maldives, no executions have been carried out for more than six decades, but the government has continued to declare that individuals sentenced to death will be executed. Furthermore, the Regulation on Investigation and Execution of Sentence for Wilful Murder (2014) overturns a 60-year moratorium on the use of capital punishment in the country and allows for children as young as 7 years of age to be sentenced to death for certain crimes. The Maldivian Penal Code has been applied as allowing capital punishment to be imposed for crimes committed when under the age of 18, and the 2014 Regulation does not exempt from capital punishment minors convicted of intentional homicide or premeditated murder: children as young as aged 7 might thus be sentenced to death and have that sentence carried out on turning 18. In 2013, two cases were reported of children being sentenced to capital punishment, and Amnesty International expressed concern that individuals under the age of 18 remained in detention under sentence of death in Maldives (Amnesty International, 2014, p. 24).
- xiii In Maldives, no one has been sentenced to life imprisonment since the country gained independence in 1965.
- xiv In Pakistan, children age 7 to 12 can be criminally responsible if it is proved that they have attained sufficient maturity of understanding (Penal Code 1860). Discussions are under way in Pakistan to raise the minimum age of criminal responsibility to 10 years of age (UNICEF ROSA and Country Office specialists).
- xv In Pakistan, a six-year moratorium on the execution of civilians was lifted in the wake of the Peshawar school attack in 2014. Pakistan’s Juvenile Justice System Ordinance (2000) stipulates that no child shall be sentenced to death, however, and a 2001 Presidential Commutation Order granted the benefit of the Ordinance also to juvenile offenders convicted before its enactment, subject to an inquiry into their juvenility (“Pakistan: No justice for juveniles,” 2016). Yet there have been challenges as to whether it is constitutional to exclude children from capital punishment (as stated in the Ordinance) and cases have been recorded of children and juveniles sentenced to death, and of individuals executed who were under the age of 18 when the crime was committed (Amnesty International, 2016a; Amnesty International, 2016b; Office of the United Nations High Commissioner for Human Rights, 2015; “Pakistan: No justice for juveniles,” 2016; CRIN, 2016b).
- xvi In Pakistan, the Juvenile Justice System Ordinance (2000) does not prohibit life imprisonment for juveniles, and children might also be sentenced to life imprisonment under other laws, including the: Control of Narcotic Substances Act (1997); Prohibition (Enforcement of Hadd) Order (1979); Offences Against Property (Enforcement of Hudood) Ordinance (1979); and Anti-Terrorism Act (1997) (CRIN, 2016c, p. 3).
- xvii In Sri Lanka, the minimum age of criminal responsibility is 8, but children aged 8 to 12 can be held criminally responsible only if they have attained sufficient maturity of understanding (Penal code, 1883). In November 2016, the Cabinet decided to increase the minimum age of criminal responsibility from 8 to 12 years old by amending the Penal code (UNICEF 2017). At the time of writing, however, such amendment has not been made.
- xviii Sri Lanka is abolitionist de facto, as capital punishment may be imposed for ordinary crimes, but no one has been executed for a long time. While Sri Lanka’s Penal Code (1883) provides that the “Sentence of death shall not be pronounced on or recorded against any person who, in the opinion of the court, is under the age of eighteen years” (section 53), Amnesty International (2015) condemns that Sri Lanka sentenced juvenile offenders to death in 2014.
- xix In Sri Lanka, a moratorium on life imprisonment has existed since 1976 (although it is not officially prohibited).

Source: Author’s elaboration from national laws and policies. See annex for specific sources.

3.2. The right to protection against all forms of physical and mental abuse, and all forms of sexual exploitation, sexual violence and domestic violence

Various international standards prescribe the right to physical health and integrity, including for children, and to protection against all forms of violence, abuse and exploitation. This paper considers seven forms of violence and abuse against children and adolescents: female genital mutilation/cutting (FGM/C); rape; sexual harassment; pornography and sexual exploitation; domestic violence and abuse; 'honour' killings and acid attacks; and other forms of violence and abuse.

Different international standards have called for legislation to ensure the protection of individuals, particularly women and children, against all forms of violence and abuse. The UDHR proclaims the right of all human beings to: a minimum standard of living that enables them to enjoy good health and well-being (art. 25); protection against discrimination (art. 2); security of person (art. 3); protection against cruel, inhuman and degrading treatment (art. 5); and special care and protection for motherhood and childhood (art. 25). Furthermore, the International Covenant on Economic, Social and Cultural Rights (ICESCR, art. 12) both condemns discrimination on the grounds of sex and recognize the universal right to the highest attainable standard of physical and mental health. The CRC protects against all forms of mental and physical violence and maltreatment (art. 19) and calls for freedom from torture and other cruel, inhuman or degrading treatment (art. 37). Article 34 of the CRC establishes the right of all children to be protected from all forms of sexual exploitation and sexual abuse.

The practice of FGM/C is also a form of violence against women and children, and various international standards establish the right to protection against it.⁶ Article 24 of the CRC calls on States parties to take action to abolish those traditional practices that are prejudicial to children's health. The Convention on the Elimination of Discrimination against Women (CEDAW) requires States parties to take all appropriate measures to modify or abolish customs and practices that constitute discrimination against women (art. 2), and establishes among States parties an obligation to alter social and cultural patterns to eliminate prejudices and practices based on the idea of the inferiority or superiority of either sex (art. 5).⁷

South Asian countries offer children and adolescents various levels of protection against different forms of violence, abuse and exploitation (see *Table 5*). Legal gaps and exceptions suggest the need to reform and legislate to protect younger

Protection against violence in the SDGs

SDG indicator 5.2.1: Proportion of ever-partnered women and girls aged 15 years and older subjected to physical, sexual or psychological violence by a current or former intimate partner in the previous 12 months, by form of violence and by age

SDG indicator 5.2.2: Proportion of women and girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner in the previous 12 months, by age and place of occurrence

SDG indicator 5.3.2: Proportion of girls and women aged 15–49 years who have undergone female genital mutilation/cutting, by age

6 For a comprehensive explanation of human rights treaties and international standards related to FGM/C, see: UN Women. (n.d.). *Sources of international human rights law on female genital mutilation*. Retrieved on 17 January 2017 from <http://www.endvawnow.org/en/articles/645-sources-of-international-human-rights-law-on-female-genital-mutilation.html>; UNFPA. (2017). Female genital mutilation (FGM) frequently asked questions. Retrieved from http://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions#international_regional_instruments

7 See also general comments and recommendations condemning FGM/C made by the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, for example: Concluding Observations of the Committee on the Rights of the Child, Ethiopia (1997, para. 6); Sudan (1993, para. 13); and Togo (1997, para. 24); plus Committee on the Elimination of Discrimination against Women General Recommendation Nos. 14, 19 and 24.

citizens against physical, verbal and mental violence and abuse in different environments. Laws of the region do not always specifically consider children and adolescents and the environments in which they can be harmed, for example, sexual harassment is often only punishable if it takes place in the workplace, which does not sufficiently protect children and adolescents who may be sexually harassed in other public and private spaces.

Table 5. The right to protection against all forms of physical and mental abuse, and all forms of sexual exploitation, sexual violence and domestic violence in South Asia

Country	FGM/C*	Rape	Sexual Harassment,	Pornography and sexual exploitation	Domestic violence and abuse	'Honour' killings and acid attacks	Other forms of violence/ abuse
Afghanistan	No specific legal framework protecting against FGM/C ^{xx}	Protection against rape, but not marital rape	Protection against sexual harassment of both women and children ^{xxi}	Child pornography not specifically identified in law, although pornography itself is a crime ^{xxii}	Protection against violence against women (battery, beating, humiliation, intimidation)	Protection against 'honour' killings	N/A
Bangladesh	N/A	Protection against rape, but not marital rape	Protection against sexual harassment in private and public spheres, including educational institutions and workplaces	Higher terms of imprisonment when involving a minor ^{xxiii}	Protection against 'physical spousal abuse'	Law to control the availability of acid	Protection against corporal punishment
Bhutan	No specific legal framework protecting against FGM/C	Protection against rape, including marital rape. ^{xxiv} Strict proof of evidence required in case of rape of women. More severe punishment/ less strict proof of evidence required in case of rape if the victim is a minor	Protection against sexual harassment in the workplace only	Protection against sexual exploitation and child pornography. Minimum penalty of one year's imprisonment	Protection against domestic violence ^{xxv}	N/A	Protection against corporal punishment
India	No specific legal framework protecting against FGM/C ^{xxvi}	Protection against rape, but not marital rape	Protection against sexual harassment in the workplace only	Higher terms of imprisonment when involving a minor ^{xxvii}	Protection against verbal, emotional, and economic abuse, and threat of abuse	Law to control the availability of acid	Protection against accusations of witchcraft ^{xxviii}

Country	FGM/C*	Rape	Sexual Harassment,	Pornography and sexual exploitation	Domestic violence and abuse	'Honour' killings and acid attacks	Other forms of violence/abuse
Maldives	No specific legal framework protecting against FGM/C	Protection against rape, but not marital rape. More severe punishment or less strict proof required in case of rape by testimonies if the victim is a minor	Protection against sexual harassment in the workplace, educational institutions and service providers Sexual offences specifically protecting minors, but not if married under Islamic law	Protection against child prostitution, sexual exploitation and sex trafficking. Higher terms of imprisonment when involving a minor	N/A	N/A	N/A
Nepal	Right to protection against harmful practices broadly guaranteed in the Constitution/law	More severe punishment or less strict proof by testimonies if the victim is a minor	Protection against sexual harassment in the workplace only	No specific law against child pornography, but prohibition of the involvement or use of children for any immoral profession, including through the use of photography	Protection against violence against women and 'other household members' ^{xxix}	N/A	Protection against <i>chhaupadi</i> and against accusations of witchcraft ^{xxx}
Pakistan	No specific legal framework protecting against FGM/C	Protection against rape, but not marital rape	Protection against sexual harassment in the workplace and public sphere	Higher terms of imprisonment when involving a minor ^{xxxi}	No federal law protecting against domestic violence ^{xxxii}	Protection against 'honour' killings. Law to control the availability of acid ^{xxxiii}	Prohibition of the abandonment, kidnapping and abduction of children ^{xxxiv}
Sri Lanka	No specific legal framework protecting against FGM/C	Rape, but marital rape only if spouses are legally separated	Sexual harassment is a criminal offence carrying a maximum sentence of five years in prison	Higher terms of imprisonment when involving a minor	Protection against domestic violence	N/A	

xx In Afghanistan, Poyesh et al. (2015) report that FGM/C is neither culturally accepted nor practised, and thus existing legal and policy frameworks do not consider protection against it.

xxi As per legislation passed in November 2016, which defines sexual harassment as "illegitimate demands" such as verbal abuse, sexual requests or inappropriate physical contact, and harassment on the phone or via social media (Habib, 2017). See also United States Department of State (USDOS) (2016a).

xxii In Afghanistan, the practice of *bacha bazi* – dances by boys and young males for rich adult males, which often result in rape and/or sexual exploitation – is not addressed in a specific legal framework, although some aspects of the practice are prosecuted as crimes under the penal code (USDOS, 2016a).

xxiii Terms of imprisonment are delineated in the Bangladesh Penal Code (1860). According to USDOS (2016b) the penalty for sexual exploitation of children ranges from a 10-year sentence to life imprisonment. Child pornography and the sale or distribution of such material is prohibited. The Pornography Control Act (2012) sets the maximum penalty at 10 years in prison and a fine of 500,000 taka (US\$6,250).

xxiv In Bhutan, the law requires women to provide stricter proof of evidence in case of rape (Marriage Act of Bhutan, 1980). A woman must submit a report of rape for the incident to be considered a crime and thus prosecuted, and the court will assess the woman's moral character prior to deciding the terms of any sentence.

- xxv The Domestic Violence Prevention Act of Bhutan (2013) prohibits domestic violence and condemns it with prison sentences ranging from one month to three years; offenders are also fined the daily national minimum wage for 90 days (USDOS, 2016c).
- xxvi In India, FGM/C is only practised in some communities, but neither federal nor state legislation exists to protect girls and women against this harmful practice (Subramanian, 2011; Pandey, 2015; USDOS 2016d).
- xxvii The Protection of Children from Sexual Offences Act (2012); USDOL 2016d. However, the Indian law prohibits child sexual abuse, but it does not recognize physical abuse by caregivers, neglect or psychological abuse as punishable offences (USDOS, 2016d). Furthermore, the devadasi system of symbolic marriages to Hindu deities, which may result in the rape or sexual abuse of women and girls in temple service, is prohibited only in some Indian states (USDOS, 2016d).
- xxviii India has no federal law to deal with individuals who make accusations of witchcraft, but the penal code includes provisions that can be used by authorities for the benefit of victims of such accusations; sub-federal laws that criminalize accusations of witchcraft are in place in specific Indian states (USDOS, 2016d).
- xxix In Nepal, the Domestic Violence (Offence and Punishment) Act, 2066 (2009) defines domestic violence as any form of physical, mental, sexual, economic or emotional harm or reprimand perpetrated by a person on a person with whom she/he has a family relationship (Food and Agriculture Organization of the United Nations [FAO], n.d.; USDOS, 2016f). The Constitution of Nepal (2015) criminalizes violence against or oppression of women based on religious, social or cultural traditions, and the Act to Amend Some Nepal Acts to Maintain Gender Equality and End Gender-Based Violence (2015) punishes any psychological abuse of women, which includes humiliation, physical torture, asking for a dowry or shunning a woman for failing to provide a dowry (USDOS, 2016f).
- xxx In Nepal, the practice of chhaupadi – in which girls and women must leave their homes during menstruation and occasionally also following childbirth – remains widespread even though a 2005 Supreme Court decision outlawed chhaupadi and the Ministry of Women, Children and Social Welfare published guidelines in 2008 to end its practice (USDOS, 2016f). The Anti-Witchcraft (Crime and Punishment) Act (2015) punishes individuals who mentally or physically abuse (including by evicting or banning from the community) women accused of witchcraft or men accused of sorcery (USDOS, 2016f).
- xxxi Pakistan’s criminal law specifically considers in relation to children the crimes of child pornography, sexual abuse, seduction and cruelty (USDOS, 2016g).
- xxxii The Punjab Protection of Women Against Violence Act (2016) provides greater legal protections in the province for survivors of domestic abuse (USDOS, 2016g). Domestic violence is defined as “violence committed by the defendant with whom the aggrieved is living or has lived in a house when they are related to each other by consanguinity, marriage or adoption” (and thus includes children) and where the aggrieved person “means a female who has been subjected to violence by a defendant” (Punjab Protection of Women Against Violence Act, 2016).
- xxxiii Pakistan’s Acid Control and Acid Crime Practice Bill (2010) made it a crime, punishable by severe penalties, to maim or kill using a corrosive substance (USDOS, 2016g).
- xxxiv In Pakistan, the Penal Code (1860) punishes the exposure and abandonment of a child under the age of 12 by parents or guardians (section 328); the kidnapping or abduction of a child under the age of 14 to subject her/him to the lust of others, grievous hurt or slavery, or with the intent of murder (section 364-A); and the kidnapping or abduction of a child under the age of 10 with the aim of dishonestly removing the property of that child (section 369).

Source: Author’s compilation from different sources, particularly the United States Department of State (USDOS) Country Reports on Human Rights Practices (USDOS, 2016a–h). * In South Asia, FGM/C is still practised today only in some communities in India, Maldives, Pakistan and Sri Lanka, but there is no national law banning its practice in these countries (see USDOS 2016a–h; WORLD Policy Analysis Center, n.d.). Note: N/A here means that information on the issue is ‘not available’.

3.3. The right to protection against recruitment into armed forces

Article 38 of the CRC requires States parties to ensure that children under the age of 15 do not directly participate in hostilities and are not recruited into armed forces.⁸ The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict – which has been ratified by all South Asian countries – increases to 18 years the minimum age for (compulsory) recruitment into armed forces or direct participation in hostilities, and to 16 years the minimum age for voluntary enlistment (art. 2). The Optional Protocol allows a State party to accept voluntary recruits from the age of 16 on condition that it deposits, at the time of ratification or accession, a binding declaration that sets out its minimum voluntary recruitment age and outlines certain safeguards for such recruitment. The Optional Protocol also prohibits the recruitment or use in hostilities of individuals under the age of 18 by non-state armed groups.

The Rome Statute of the International Criminal Court (1998) establishes a permanent criminal court to try persons charged with committing war crimes, crimes against humanity, and genocide. The Rome Statute includes in its definition of ‘war crimes’ the recruitment into armed forces of children under the age of 15 or their use to participate in hostilities, whether in international or internal armed conflicts (art. 8.2). The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) (ILO Convention No. 182) lists the forced or

8 For a comprehensive list of international standards prohibiting children’s recruitment into armed forces and their participation in hostilities, see: Child Soldiers International. *International standards*. Retrieved on 21 March 2017 from: <https://www.child-soldiers.org/international-standards>; International Committee of the Red Cross. *IHL (International Humanitarian Law) databases*. Retrieved on 23 March 2017 from: <https://ihl-databases.icrc.org/applic/ihl/ihl-search.nsf/content.xsp>

compulsory recruitment of children (anyone under the age of 18) for use in armed conflict as one of the worst forms of child labour. The Additional Protocols to the four Geneva Conventions of 1949 (1977) set the minimum age for recruitment or use in armed conflict at 15 years; this minimum age applies to all parties – governmental and non-governmental – in both international and internal armed conflict (Additional Protocol I, art. 77.2; Additional Protocol II, art. 4.3).

All South Asian countries offer de jure protection for children against recruitment into armed forces in line with international standards by setting the minimum age for recruitment at 16 or 18 years (see *Table 6*).⁹

Table 6. The right to protection against recruitment into armed forces in South Asia

Country	Age of recruitment into armed forces	Enlistment	Minimum age for direct participation in hostilities
Afghanistan	18	Voluntary	18
Bangladesh	16	Voluntary	18
Bhutan	18	Voluntary	18
India	16	Voluntary	18
Maldives	18	Voluntary	18
Nepal	18	Voluntary	18
Pakistan	16	Voluntary	18
Sri Lanka	18	Voluntary	18

Source: Declarations of countries to the ratification of the Optional Protocol on the involvement of children in armed conflict (United Nations Treaty Collection, n.d., retrieved from https://treaties.un.org/Pages/Home.aspx?clang=_en [last accessed 30 June 2017]).

9 Despite legal protections, accounts of the recruitment and use of children in armed conflicts abound in some South Asian countries. The Annual Report of the Secretary-General on Children and Armed Conflict (2015) lists the Afghan National Police (including the Afghan Local Police) and three armed groups active in Afghanistan as persistent perpetrators of the recruitment and use of children in hostilities (Child Soldiers International, 2016a). In 2011, the Government of Afghanistan and the UN signed a Joint Action Plan for the Prevention of Underage Recruitment; in 2014, a 15-point Road Map to guide efforts towards compliance with the Action Plan was endorsed. Yet, reports suggest that the recruitment of children continues, including informally into the Afghan Local Police. Major barriers to the enforcement of the law include: inadequate age verification procedures; low levels of birth registration; and falsification of identify documents. The Secretary-General's Annual Report on Children and Armed Conflict (2016) expresses concern about the recruitment and use of children in Afghanistan by the Afghan National Defence and Security Forces as well as by the Taliban and other non-state armed groups, and also about reports of cross-border recruitment in Pakistan (para. 22). In India, Child Soldiers International (2016b) reports that left-wing armed groups in Jharkhand state have recruited and used children as young as 12 years of age to participate in hostilities, either through direct combat or in support roles. The Secretary-General's Annual Report (2016) also states that the UN continues to receive reports of the recruitment and use of children as young as 6 years of age by armed groups in India.

4. THE RIGHT TO EDUCATION

International standards establish the right to education for all children, and call on States parties to establish a minimum age or education level at which compulsory education ceases.¹⁰ The UDHR (art. 26) and CRC (art. 28) establish the right to education for everyone, and that this shall be free and compulsory, at least in its elementary stages (primary education). The UDHR further provides that “technical and professional [secondary] education shall be made generally available and higher education shall be equally accessible to all on the basis of merit” (art. 26). Similar provisions can be found in the ICESCR (art. 13), which also calls for the progressive introduction of free education in secondary and higher education. General comment No. 20 urges countries to adopt measures that make secondary education widely available, and higher education accessible to all on the basis of capacity (Committee on the Rights of the Child, 2016, para. 68). With regard to the right to education for adolescents with disabilities,¹¹ the Convention on the Rights of Persons with Disabilities calls for the inclusive education of children with disabilities (art. 24), while the CRC calls for the extension of assistance free of charge to ensure that children with disabilities receive effective access to education and training (art. 23). General comment No. 20 expresses concern for the situation of adolescent girls and marginalized adolescents, and calls for action and policies to remove the many barriers to school enrolment, attendance and performance that adolescents face (Committee on the Rights of the Child, 2016, paras. 69–72).

4.1. Free, compulsory and inclusive education for all

The right to education in the SDGs

Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all

SDG indicator 4.5.1: Parity indices (female/male, rural/urban, bottom/top wealth quintile and others such as disability status, indigenous peoples and conflict-affected, as data become available) for all education indicators on this list that can be disaggregated

SDG indicator 4.C.1: Proportion of teachers in: (a) pre-primary; (b) primary; (c) lower secondary; and (d) upper secondary education who have received at least the minimum organized teacher training (e.g. pedagogical training) pre-service or in-service required for teaching at the relevant level in a given country

10 A minimum age (or educational level) for the end of compulsory education implies that the parent/legal guardian of a child who is below that minimum age (or educational level) and not in school could face charges of child neglect (Sedletzki, 2016; CRIN, 2016a).

11 See UNICEF (2014) for a more comprehensive list of international standards and agreements regarding inclusive education for children and adolescents with disabilities.

Since all eight South Asian countries have ratified the CRC, and all but Bhutan have ratified the ICESCR, they are bound by these international standards to provide for universal, free and compulsory primary education. Despite this, not all of the countries have fully implemented such rights. Firstly, primary and secondary education are free from tuition costs in only five of the eight countries, suggesting the need for South Asian countries to progressively expand the provision of free education to all children across primary and secondary levels (see *Table 7*). Secondly, not all countries address the potential sources of discrimination and barriers that can hamper school enrolment and attendance for specific groups of adolescents such as girls, adolescents with disabilities, and members of ethnic and religious minorities. For instance, in some countries, children with disabilities may attend the same schools as their able-bodied peers, but they are not necessarily taught in the same classrooms.

This paper thus suggests that there is a need to legislate to provide de jure protection of the right to education for all children – irrespective of gender, disability, religion or ethnicity. Furthermore, it is necessary to establish measures, policies and plans to effectively address the multiple barriers and intersecting inequalities that stand in the way of marginalized groups of adolescents receiving an effective and inclusive education.

4.2. Quality of teacher preparation

Guaranteeing access to education alone is not enough to ensure effective learning, however: teachers themselves must receive appropriate training and education to guarantee a minimum level of quality in teaching and in the education system. The regional picture of a variety of educational requirements established across the eight South Asian countries suggests that continuous investment in upgrading teacher training is crucial to raise the quality of education across the region as a whole.

Table 7. The right to education in South Asia

Country	Tuition cost: primary and secondary education	Compulsory education	Right to inclusive education: gender	Right to inclusive education: disability	Right to inclusive education: ethnicity	Right to inclusive education: religion	Minimum requirements for teacher's educational level
Afghanistan	Free tuition	Up to lower secondary	Broad constitutional protection, and provisions for positive action	Right of people with disabilities to educational support and access to primary and secondary education ^{xxxv}	Broad constitutional protection, but exceptions allowed	Broad constitutional protection, but exceptions allowed	All primary and secondary school teachers: secondary education with specialized teacher training
Bangladesh	Free tuition only in primary education ^{xxxvi}	Up to age 10	Broad constitutional protection, and provisions for positive action	No special education for children with disabilities provided within the public school system; provisions for improving access to primary and secondary education for girls with disabilities ^{xxxvii}	Broad constitutional protection	Broad constitutional protection	Primary school teachers: secondary education. Secondary school teachers: a bachelor's degree, with condition to complete a certificate or diploma in education
Bhutan	Free tuition until Grade 10	Unclear ^{xxxviii}	No constitutional provision	Specialized schools for deaf and blind children; children with other disabilities can attend mainstream schools ^{xxxix}	No constitutional provision	No constitutional provision	All primary and secondary school teachers: Bachelor of Education, or a bachelor's degree with specialized teacher training
India	Free tuition	Up to age 14 ^{xl}	Broad constitutional protection, and provisions for positive action	N/A	Broad constitutional protection, and provisions for positive action	Broad constitutional protection	Primary school teachers: secondary education. Secondary school teachers: secondary education with specialized teacher training
Maldives	Free tuition	Up to Grade 6	Broad constitutional protection	N/A	Broad constitutional protection	Broad constitutional protection, but exceptions allowed	Primary school teachers: lower secondary education. Secondary school teachers: N/A

Country	Tuition cost: primary and secondary education	Compulsory education	Right to inclusive education: gender	Right to inclusive education: disability	Right to inclusive education: ethnicity	Right to inclusive education: religion	Minimum requirements for teacher's educational level
Nepal	Free tuition until Grade 12	Up to Grade 8	Broad constitutional protection, and provisions for positive action	N/A	Broad constitutional protection, and provisions for positive action	Broad constitutional protection	Primary school teachers: lower secondary education with specialized teacher training. Lower secondary school teachers: secondary education with specialized teacher training. Upper secondary school teachers: Bachelor of Education, or a bachelor's degree with specialized teacher training
Pakistan	Free tuition	Up to age 16 ^{xii}	Broad constitutional protection	N/A	Broad constitutional protection	Broad constitutional protection	Primary and lower secondary school teachers: secondary education with specialized teacher training. Upper secondary school teachers: Bachelor of Education, or a bachelor's degree with specialized teacher training
Sri Lanka	Free tuition	Up to age 16 ^{xiii}	No constitutional provision	N/A	No constitutional provision	No constitutional provision	All primary and secondary school teachers: Bachelor of Education, or a bachelor's degree with specialized teacher training

- xxxv National Law of Rights and Benefits of People with Disabilities, and the Ministry of Education's inclusive strategy for students with disabilities (cited in Swedish International Development Cooperation Agency [Sida], 2014b).
- xxxvi According to UNICEF ROSA and UNICEF Bangladesh Country Office specialists, Bangladeshi girls from outside the metropolitan areas supported by the government are exempt from paying tuition costs. Also, the revision of the Compulsory Primary Education Act (1990) has been initiated in Bangladesh.
- xxxvii While special education for children with disabilities is not provided within the public school system in Bangladesh, the National Children Policy (2011) establishes the provision of special education to children with disabilities who are unable to attend mainstream schools (Sida, 2014a). The Persons with Disabilities Rights and Protection Act (2013) harmonizes the national normative framework with the Convention on the Rights of Persons with Disabilities (Sida, 2014a; UNICEF, 2014) and the Gender and Inclusive Education Action Plan delineates measures to improve access to and attendance of schooling for girls with disabilities, including by promoting disability-sensitive infrastructure (Sida, 2014a).
- xxxviii The Constitution of Bhutan (2008) prescribes that the State shall provide free education to all children up to Grade 10, but there is no mention of education being compulsory, which is confirmed by a separate report (Bhutan Department of Education, 2004). The Education Policy and Data Center database (last accessed 16 October 2017) reports, however, that in principle education is free and compulsory up to Grade 10.
- xxxix According to UNICEF Bhutan Country Office specialists.
- xl In India, education is free and compulsory for all children aged 6 to 14 years, according to the Right of Children to Free and Compulsory Education Act (2009) and the Constitution (Eighty-sixth Amendment) Act (2002) (art. 21A).
- xli In Pakistan, education is free and compulsory for all children aged 5 to 16 years, according to the Constitution and the Right to Free and Compulsory Education Act (2012) (Pakistan Institute of Legislative Development and Transparency, 2011).
- xlii In Sri Lanka, education used to be compulsory only until the age of 14 (see Education Ordinance, 1939; WORLD Policy Analysis Center, n.d.), but education is now compulsory until the age of 16 (Ministry of Education, Sri Lanka, 2013).

Source: Author's elaboration from the WORLD Policy Analysis Center (n.d.) (last accessed 30 June 2017); Education Policy and Data Center (n.d.) (last accessed 16 October 2017); and UNICEF ROSA and Country Office specialists. See annex for the full list of legal and policy sources. Note: N/A here means that information on the issue is 'not available'.

5. THE RIGHT TO HEALTH

The right to health for all children and adolescents is enshrined in the CRC, which places particular attention on primary health care and preventive health care, combating disease and malnutrition, providing all necessary information to children and their parents, and abolishing traditional practices prejudicial to children's health (art. 24). The ICESCR also prescribes that States parties "recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (art. 12). The Committee on the Rights of the Child (2016), in its General comment No. 20, further calls on States parties to review the social and economic determinants and structural inequalities related to adolescent health outcomes, and the barriers adolescents face in accessing health care services (para. 57), and to adopt an approach based on public health and psychosocial support in relation to mental health and psychosocial problems experienced in adolescence (para. 58).

In South Asia, access to health care is guaranteed as a right and provided free of charge in most of the eight countries. The rights to public health, to medical services and/or to health for all citizens are guaranteed in specific contexts; in other contexts, such rights are only aspirational. In some countries, these rights are guaranteed in the constitution (e.g., the Constitution of Afghanistan), while in others they are specified in policy documents (e.g., Health Policy 2011, Bangladesh). In only a few cases (e.g., Nepal) does a country's constitution or other legal/policy document include provisions to protect or guarantee the right to public health and/or medical services specifically for women and girls.

5.1. Alcohol and tobacco control

Minimum ages for the purchase of alcoholic beverages and for the purchase and sale of tobacco products are in place in some South Asian countries (see *Table 8*). In those countries for which data are available, children are prohibited de jure from purchasing alcoholic beverages,¹² whether off-premise alcohol purchase or on-premise alcohol service, except in Bangladesh, which has not set minimum ages. For matters related to tobacco consumption and sales, the World Health Organization (WHO) Framework Convention on Tobacco Control is the pre-eminent global tobacco control instrument, containing legally binding obligations for its Parties. As well as establish a foundation for reducing both demand for and the supply of tobacco products, it provides a comprehensive direction for tobacco control policy at all levels. All countries in the region are Parties to the Framework Convention on Tobacco Control, and the publicly available information suggests that most South Asian governments offer adolescents de jure protection from purchasing tobacco, in compliance with international standards.

¹² The WHO Global Information System on Alcohol and Health disaggregates age limits by alcohol type (beer, wine, spirits). South Asian countries, however, apply the same minimum ages irrespective of alcohol type.

Table 8. Minimum ages for the purchase of alcohol and the purchase and sale of tobacco in South Asia

Country	Minimum age for off-premise alcohol purchase	Minimum age for on- premise alcohol service	Minimum age for access to and purchase of tobacco products	Minimum age for sale of tobacco products
Afghanistan	N/A	N/A	18	18
Bangladesh	No minimum age	No minimum age	18	18
Bhutan	18	18	None*	None*
India	N/A	N/A	18	N/A
Maldives	N/A	N/A	18	18
Nepal	18	18	18	N/A
Pakistan	21	21	18	N/A
Sri Lanka	21	21	21	N/A

Source: Author's elaboration from WHO Global Information System on Alcohol and Health: Alcohol control policies, retrieved from <http://www.who.int/gho/alcohol/policies/en/> (2012 is the year of reference for all countries); and Tobacco Control Laws, retrieved from <http://www.tobaccocontrolaws.org/> * Sale of tobacco products is prohibited in Bhutan. Note: N/A here means that information on the issue is 'not available'.

5.2. The right to sexual and reproductive health

5.2.1. The right to sexual and reproductive health information, education and services

Sexual and reproductive health (SRH) rights are critical during adolescence, both to reduce the risk of early childbearing, abortion, HIV/AIDS and other risks, and to impart an adequate sexual education. International standards reflect this importance and require States parties to guarantee the right to SRH for all women and men as well as for adolescents. The Committee on the Rights of the Child has often reiterated the SRH rights of children and adolescents. In its General comment No. 15 (paras. 56, 69–70, cited in CRIN, 2016a), it states that children should have access to the full range of SRH services, including counselling information and services, and safe abortion services. In its General comment No. 20, the Committee on the Rights of the Child (2016) urges States parties “to adopt comprehensive gender and sexuality-sensitive sexual and reproductive health policies for adolescents” (para. 59) and to ensure that there are “no barriers to commodities, information and counselling on sexual and reproductive health and rights, such as requirements for third-party consent or authorization” (para. 60). Furthermore, services should include “access to confidential HIV testing and counselling services and to evidence-based HIV prevention and treatment programmes” (para. 63) and the Committee also calls for the decriminalization of abortion (para. 60). The Committee on the Elimination of Discrimination against Women, in its General Comment on the right to health, has also called for adolescents to be provided with SRH education via means that respect their privacy and confidentiality (para. 18, cited in Sedletzki, 2016). It has also identified the need for “preliminary authorization by spouse, parent or hospital authorities” as one of the barriers to accessing health care services, and that such barriers should be removed (para. 21, cited in Sedletzki, 2016).

The right to SRH in the SDGs

SDG indicator 3.7.1: Proportion of women of reproductive age (aged 15–49 years) who have their need for family planning satisfied with modern methods

SDG indicator 5.6.2: Number of countries with laws and regulations that guarantee women aged 15–49 years access to sexual and reproductive health care, information and education

National policy and legal frameworks in South Asia broadly prescribe the right to SRH for adolescents in the region. International standards specifically require countries to guarantee the rights of adolescents and other individuals to obtain and impart SRH information. Access to information is only one aspect of ensuring SRH rights, however. To ensure effective SRH rights for adolescents it is crucial that the law does not require third-party consent (e.g., from a parent, guardian, spouse) nor specify a minimum age or marital status to obtain certain SRH services such as contraception, abortion, and prenatal and post-natal care. Two issues are presented: the legality of abortion and potential restrictions of concern to adolescents; and the existence of law or policy around the distribution or availability of contraceptive services, and the ability of adolescents to access such services.

Abortion services in the region are restricted – either in terms of the grounds for access to safe and legal abortion, or because third-party authorization is required – which hampers adolescents’ right to obtain such services as prescribed by international standards. Access to contraception is also limited in many countries, because it is based either on marital status or parental consent. Ensuring that adolescents do access SRH information, education and services, including contraception and abortion, also involves providing them with the knowledge and means to make informed choices, and with opportunities to continue their education and to develop aspirations for the future.

Table 9. The right to sexual and reproductive health for adolescents in South Asia

Countries	The right to SRH information and services	Access to safe abortion	Access to contraception
Afghanistan	N/A	(1) To save a woman’s life	No policies that restrict access to contraceptive services ^{xliii}
Bangladesh	Health Policy 2011: The right to SRH information and services, with specific reference to adolescents. Strategic Plan for Health, Population and Nutrition Sector Development Program 2011–2016: One of the services mentioned is reproductive health and family planning counselling for adolescents and eligible couples. National Strategy for Adolescent Health 2017–2030: The right to SRH information and services for adolescents. National Reproductive Health Strategy (cited in Strategic Plan for Health, Population and Nutrition Sector Development Program 2011-2016): Priority interventions include safe motherhood, family planning, menstrual regulation, care for post-abortion complications, and management of sexually transmitted infections and other reproductive tract infections. ^{xliv}	(1) To save a woman’s life, with parental/guardian consent ^{xliv}	Parental/guardian consent required for unmarried adolescents
Bhutan	Constitution: The right to SRH is neither guaranteed under the Constitution nor under any other legal and policy documents. Adolescent-friendly health services are available in three regional hospitals. Y-PEER Bhutan: This youth group advocates for SRH rights with the support of the Department of Youth and Sports.	(1) To save a woman’s life; (2) To preserve her mental health Additional grounds: woman’s age; capacity to care for a child	No policies on restricting access to contraceptive services

Countries	The right to SRH information and services	Access to safe abortion	Access to contraception
India	National Health Policy (1983): Recommends population stabilization for balanced population growth. National Population Policy (2000): Refers to SRH needs of adolescents and newly-wed couples (particularly in urban slums, remote rural areas, border districts and among tribal populations), including information, counselling, education, and accessible and affordable contraceptive services. Draft National Health Policy 2015: Mentions the need to provide adolescents with sexual health education, information and services, including male sterilization.	(1) To save a woman's life; (2) To preserve her mental health; (3) To preserve her physical health; (4) In instances of rape or incest; (5) Because of foetal impairment; (6) For economic and social reasons. Parental/guardian consent required. ^{xvi}	National Population Policy: no mention of the requirement (or not) for parental, guardian or spousal consent
Maldives	N/A	(1) To save a woman's life; (4) In instances of rape or incest; (5) Because of foetal impairment Spousal authorization required	Officially restricted on the basis of marital status ^{xvii}
Nepal	Constitution: Article 38 guarantees the right of safe motherhood and reproductive health to every woman, however, no legal or policy document addresses SRH rights and issues for adolescents. The right to receive and impart SRH information is broadly guaranteed for individuals in general, but no specific reference is made to adolescents.	(1) To save a woman's life; (2) To preserve her mental health; (3) To preserve her physical health; (4) In instances of rape or incest; (5) Because of foetal impairment, but prohibited if due to foetal sex; (6) For economic and social reasons; (7) Upon request ^{xlviii}	No policies on restricting access to contraceptive services
Pakistan	N/A	(1) To save a woman's life; (2) To preserve her mental health; (3) To preserve her physical health	No policies on restricting access to contraceptive services
Sri Lanka	No dedicated adolescent-friendly services are available, only mainstream health care services. National Policy on Maternal and Child Health (2012): Family planning services and SRH information to adolescents. National Strategic Plan Adolescent Health (2013–2017): <ul style="list-style-type: none"> · need to increase information, education, counselling and other reproductive health and contraceptive services for adolescents, including through adolescent-friendly services at institutional, school and community levels · school system does not allow the discussion of certain SRH issues; SRH service provision to early adolescents (defined as under 16 years) is hindered by sociocultural and legal barriers, so there is a need to improve the quality and coverage of SRH education, family planning, counselling and services, including emergency contraception; proposal of teacher training and student education programme to be delivered by health officers · health service package for adolescents consisting of five interventions, including the provision of contraceptive services for sexually active young persons, and clinical management of reproductive health problems. 	(1) To save a woman's life	National Policy on Maternal and Child Health: no mention of the requirement for parental/guardian consent to distribute contraceptives to adolescents. National Strategic Plan Adolescent Health: need to increase access to contraceptives and family planning services among sexually active adolescents

xliii UNDESA (2015) reports no policies on restricting access to contraceptive services in Afghanistan, Bhutan, Nepal, Pakistan and Sri Lanka, either because access to contraceptive services is not restricted on any grounds or because the lack of available information meant it was not possible

to ascertain a restriction on the grounds of minimum age, marital status or parental consent (for minors). Potential grounds for restrictions considered by the database are: minimum age, marital status, parental consent (for minors), emergency contraceptive pills, female sterilization, and male sterilization.

- xliv In Bangladesh, selected reproductive health services are not provided to adolescents without parental/guardian consent (see also the Access to safe abortion and Access to contraception columns) (UNICEF, 2009; Guttmacher Institute, 2012; UNDESA, 2015; UNICEF ROSA and Country Office specialists).
- xlv In Bangladesh, abortion/menstrual regulation is legal only to save a woman's life, and for adolescents is subject to parental/guardian consent (Penal Code, 1860; Guttmacher Institute, 2012; UNDESA, 2015).
- xlvi In India, the written consent of a parent/guardian is required for any girl under the age of 18, or for a female of any age who suffers from mental illness (Medical Termination of Pregnancy Act, 1971). The National Population Policy (2000) recognizes the barriers to legal and safe abortion for many women, and mentions the need for community-level education campaigns to target women, household decision-makers and adolescents about the availability of safe abortion services and the risks of unsafe abortion. It does not, however, provide any information on the requirement (or not) for parental, guardian or spousal consent for adolescents to access abortion services.
- xlvii According to UNICEF ROSA and Country Office specialists. According to USDOS (2016e), unmarried couples and single women do not have the legal right to access contraception but can obtain contraception over the counter on the country's larger islands.
- xlviii In Nepal, abortion is prohibited if due to the sex of the foetus, as prescribed by the Muluki Ain, 2020 (General Code, 1963). In 2002, abortion was legalized in Nepal, with no restrictions in the first 12 weeks of pregnancy, and on specific grounds thereafter (Eleventh Amendment of National Code of Nepal [Muluki Ain] on Women's Rights 6–7 [2002], cited in Center for Reproductive Rights, 2014). In 2009, "The Supreme Court of Nepal, in the case of Lakshmi Dhikta v. Nepal ordered the Nepalese government to secure women's access to safe and affordable abortion services through a comprehensive abortion law and the creation of a scheme to cover the cost of abortions for those unable to pay" (Center for Reproductive Rights, 2014).

Source: Author's compilation from multiple sources and databases, including: UNDESA, 2015; Center for Reproductive Rights, 2017 (last accessed 30 June 2017). Note: N/A here means that information on the issue is 'not available'.

5.2.2. Minimum age of consent to sexual activity

The minimum age of consenting to sexual activity is the age at which a female or male adolescent which protects adolescents from abuse and risks likely to harm them, and from "situations in which they may be pressured or coerced in any way to engage in sexual activity without having the means or power to resist and/or give their genuine and fully informed consent" (Sedletzki, 2016). Yet, establishing a minimum age of sexual consent is far from straightforward. The age difference between the two parties is a key consideration, as a power imbalance may affect the ability of an underage adolescent to freely give her/his consent to sexual activity (Sedletzki, 2016). If such an age difference is minimal, "it may be possible to demonstrate that consent was not affected by lack of balance of power" (Sedletzki, 2016). International standards are concerned with the prohibition of child sexual abuse, which comprises "all situations in which sexual activity with a person under 18 is illegal" (Sedletzki, 2016). The CRC (art. 19) considers all forms of violence against children and makes specific reference to sexual abuse. Furthermore, article 34 requires States parties to protect children from all forms of sexual exploitation and sexual abuse, including "the inducement or coercion of a child to engage in any unlawful sexual activity" (CRC, art. 34, cited in Sedletzki, 2016). According to Sedletzki (2016), "The CRC therefore infers that consent is irrelevant when sexual activity is prohibited by law – in particular when the child has not reached the minimum age of sexual consent."

Secondly, when sexual activity involves two adolescents, "too strict legislation may lead to criminalize attitudes rather than protect adolescents" (Sedletzki, 2016). This risks being counterproductive: "By making sexual activity illegal under an age where most adolescents are already in practice sexually active, the risk is to prevent them from accessing critical sexual and reproductive healthcare and information" (Sedletzki, 2016). International standards suggest that consent is a primary criterion. The Committee on the Rights of the Child refers to the notion of equal power as a proxy to define free, full and informed consent, and states that any form of pressure from one child on another characterizes abuse, while underlining the role of age difference. In its General comment No. 20, it reiterates that States parties "should avoid criminalizing adolescents of similar ages for factually consensual and non-exploitative sexual activity" (Committee on the Rights of the Child, 2016, para. 40).

Table 10. Adolescent consent to sexual activity in South Asia

Country	Consent to sexual activity	Gender	Exceptions
Afghanistan	Marital status	Applies to females and males	
Bangladesh	Age 14 (based to definition of rape)	Applies to females only	Sexual activity is legal only between married couples
Bhutan	Age 18	Applies to females and males	Age of consent does not apply to married adolescents
India	Age 16	Applies to females only	
Nepal	Marital status	Applies to females and males	
Maldives	Age 16	Applies to females only	
Pakistan	Marital status	Applies to females and males	Sexual activity is legal only between married couples
Sri Lanka	Age 16	Applies to females only	Age of consent does not apply to married Muslim girls

Source: Author's compilation from multiple sources, including Family Online Safety Institute (n.d.) (last accessed 30 June 2017) and UNICEF ROSA and Country Office specialists. See annex for the full list of legal and policy sources.

In South Asia, consent to sexual activity is restricted either on the basis of marital status or by minimum age requirements. In the latter case, the requirements generally apply only to females and are often drawn from the definition of rape. Setting marital status as a requirement for sexual consent, or establishing too high a minimum age for sexual consent might risk criminalizing unmarried adolescents, according to international standards. At the same time, setting an excessively low minimum age risks inadequately protecting children and adolescents from being coerced and/or pressured into unwanted sexual intercourse.

6. PROTECTION AGAINST CHILD, EARLY AND FORCED MARRIAGE, AND EQUALITY IN MARRIAGE

6.1. The right to protection against child, early and forced marriage

Marriage before the age of 18 is a violation of a fundamental human right and implies significant social and economic consequences for the lives and well-being of millions of girls and boys. Due to poverty, material constraints and deprivation, social norms, and customary or religious laws, adolescent girls in particular are at risk of child and early marriage¹³, which is associated with premature pregnancy and early childbearing, dropping out of school, and other adverse effects on social, political and economic participation in society.

International standards set the minimum age for marriage at 18 years.¹⁴ While the CRC does not refer directly to child marriage, the CEDAW states, “the marriage of a child shall have no legal effect” (CEDAW, art. 16, cited in Sedletzki, 2016). The first joint General comment/recommendation No. 31 of the Committee on the Rights of the Child and No. 18 of the Committee on the Elimination of Discrimination against Women, on harmful practices, specifies that the minimum legal age of marriage for girls and boys must be set at 18 years, irrespective of parental consent (Sedletzki, 2016). While the Committees accept that exceptions can exist in exceptional circumstances, 16 years is the absolute minimum legal age for marriage. Sedletzki (2016) suggests that the Committees’ recognition of the possibility of exceptions may be explained by “pragmatism in light of the sometimes-difficult situations in which adolescents may find themselves”, and it also demonstrates an affirmation of the principle of the evolving capacities of the child.

The right to protection against child, early and forced marriage in the SDGs

SDG indicator 5.3.1: Proportion of women aged 20–24 years who were married or in a union before age 15 and before age 18

A critical issue in this matter is therefore the notion of consent, in particular who is able to give consent to marriage (Sedletzki, 2016), without which marriage is considered as ‘forced’. The UDHR, International Covenant on Civil and Political Rights, ICESCR, CEDAW and Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages¹⁵ recognize that “freedom of marriage implies the consent of the spouses”, and provide for “the prohibition of marriage without the full and informed consent of the intending parties” (Sedletzki, 2016). With regard to children, the issue is thus whether a third party, for example a parent or guardian, is entitled to provide consent to marriage on behalf of a child. The joint General comment No. 31/recommendation No. 18 states that “a child marriage is considered as a form of forced marriage given that one or both parties have not expressed their full, free and informed consent” (cited in Sedletzki, 2016). The conditions that exceptionally allow the marriage of an adolescent aged 16 to 18 years thus consider only the ability of the adolescent (rather than guardian third party) to give her/his free, full and informed consent (Sedletzki, 2016).

¹³ This paper refers to child marriage and early marriage interchangeably.

¹⁴ See, for instance, General comment No. 20 (Committee on the Rights of the Child, 2016, para. 39).

¹⁵ While all South Asian countries have signed and ratified both the CRC and CEDAW, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages has been signed only by Sri Lanka (in 1962) and signed and ratified only by Bangladesh (with reservations to articles 1 and 2 of the Convention).

In South Asia, four of the eight countries have legislated de jure appropriate protection of adolescents against child and early marriage, by setting the minimum age of marriage at 18 years, 20 years or even older. The remaining countries maintain a lower minimum age of marriage for girls, however, denoting gender disparities in protection against child and early marriage. Gender-based de jure discrimination is further complicated when the law considers the possibility of a lower marriage age with parental or judicial consent, to meet religious or customary law, or due to exceptions on the basis of pregnancy or childbearing. Only a few countries in South Asia specify the right to choose a spouse and enter into marriage only with full, free and informed consent, and the right to protection against forced marriage. While the legal age for marriage in most countries in the region is in line with international standards, the many exceptions based on gender, religion and third-party consent suggest the need for reform and enforcement of legal mechanisms that prevent child and early marriage, as well as for socio-economic policies and measures to address the root causes of these practices.

Table 11. Protection against child and early marriage in South Asia

Country	Minimum age		Exceptions	Consent
	Female	Male		
Afghanistan	16	18	Religious law (applies to girls only); parental/judicial consent ^{xlix}	
Bangladesh	18	21	Pregnancy/childbearing ⁱ	Parental consent accepted
Bhutan	16	18		Consent of both parties required
India	18	21		
Maldives	18	18	Judicial consent ⁱⁱ	
Nepal	20	20	Pregnancy/childbearing ⁱⁱⁱ	Consent of both parties required
Pakistan	16–18 ⁱⁱⁱ	18	Religious/customary law	Coerced marriage prohibited
Sri Lanka	18	18 ^{iv}	Parental consent; religious law	

- xlix In Afghanistan, a father or competent court can grant the right to marry to a girl younger than 16 years of age but not less than 15 years of age. Regarding consent, the Presidential Decree on Endorsement of Law on Elimination of Violence against Women criminalizes forced, underage, and baad marriages (used to settle disputes) (USDOS, 2016a; Habib, 2017).
- i In Bangladesh, the Child Marriage Restraint Act (2016) allows in special circumstances the marriage of underage girls with parental/guardian consent and a court order, and when in the best interests of the girl child, such as if she becomes accidentally or illegally pregnant (Asadullah & Wahhaj, 2017). Note also that the Gender and Land Rights Database (FAO, n.d.) reports that in Bangladesh, under the Hindu personal laws, a woman's consent to marriage is not required.
- ii In Maldives, the Family Act (2000) specifies that a person under the age of 18 who has attained puberty may marry at the discretion of the Registrar of Marriages. USDOS (2016e) reports: "according to a September [2016] amendment to the Family Regulation, the Family Court must petition the Supreme Court for approval for girls and boys under age 18 to marry. The Ministry of Gender and Family must also submit an assessment of the proposed marriage to the Supreme Court".
- iii The Center for Reproductive Rights (2016) reports that in 2015 the Government of Nepal replaced "the legal provision that previously allowed marriages at the age of 18 with parental consent". The national legal framework recognizes child marriage as voidable, but a marriage may only be voided if a couple has not yet had children.
- iiiii In Pakistan, the minimum age of 18 years only applies in the Sindh province. If Muslim, the parties must have a Quazi's permission to marry. With regard to consent, Pakistan's federal law prescribes punishment for violators of the general minimum age of marriage, and some provincial laws do the same (USDOS, 2016g). Such marriage laws have, however, encountered the opposition of religious Islamic leaders (USDOS, 2016g). The Prevention of Anti-Women Practices Amendment Act (2011) criminalizes and punishes the practice of settling disputes by marrying a woman; coercing or compelling a woman to marry; and compelling, arranging or facilitating the marriage of a woman with the Quran, including forcing her to vow to remain unmarried or forgo her inheritance (USDOS, 2016g). The purchase and sale of brides continues to be reported, however, despite being illegal (USDOS, 2016g).
- liv In Sri Lanka, the minimum age of 18, set by the Marriage Registration (Amendment) Act (1995), applies to all Sri Lankans except Sri Lankan Muslims, for whom the Muslim Marriage and Divorce Act (1951) instead applies. The 1951 Act does not specify a minimum age, although the minimum age of 12 has been applied in practice. Tamil girls and boys, and girls and boys from other ethnic and religious communities, can marry younger if a father – or, in some cases, mother – consents to marriage; if consent is withheld by parents without good reason, the marriage can instead be authorized by a court (Marriage Registration Ordinance, 1907, amended in 1995). Lack of proof of parental consent does not make marriages registered under the Ordinance invalid. Muslim girls younger than 12 may be married with the permission of a Quazi; the Quazi may overrule the requirement for guardian consent (for girls of the Shafi sect) if this is unreasonably withheld (Muslim Marriage and Divorce Act, 1951, amended in 2006). Under the Marriage Registration Ordinance (1907, amended in 1995), marriage registration is not mandatory, and so (unregistered) customary and religious marriages are deemed valid; the 1951 Act requires Muslim marriages to be registered, although failing to do so does not render a marriage invalid (FAO, n.d.).

Source: Author's elaboration from multiple sources. See footnotes and the annex for specific legal and policy sources.

6.2. The right to equality in marriage

Useful information about gender inequalities in marriage across South Asian countries is provided by laws and policies on the rights of young women and men in marriage as well as by the law and policy framework protecting adolescents from child, early and forced marriage. International standards such as the UDHR and Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages provide for equality between women and men in entering marriage, during marriage and at its dissolution, in the guardianship of children, and in inheritance and property ownership.¹⁶ International human rights law also calls for the elimination of all discrimination against women in all matters related to marriage and family relations (CEDAW, art. 16).

In South Asia, girls and women typically have fewer rights than boys and men in entering marriage, within marriage and on exiting marriage, although a range of legislation often applies in a single country according to the particular religion or sect of the couple. The most visible disparity is in the right to divorce at will: a woman must generally meet a stricter set of criteria to request divorce, which may involve, for example, obtaining a judicial decree or a court intervention; or giving evidence of crimes committed by her husband.

In addition, while the legal framework of each country prescribes the right of individuals and couples to freely decide upon the number and spacing of children, anecdotal evidence suggests that decision-making on birth spacing by women is restricted in practice. Both gender and social norms that discriminate against women and the limited availability of and access to SRH services are among the root causes of women's restricted decision-making on birth spacing (see, for instance, United States Department of State [USDOS], 2016a).

Furthermore, although the national constitutions of many of the eight countries entitle women to equal rights in all public and private spheres, the legal frameworks related to inheritance law reveal significant inequalities in the right to inherit movable and immovable property for women (e.g., in the event of divorce or the death of her spouse) and for daughters (who inherit less than their brothers). Bhutan and India are two exceptions: both countries establish equal rights for female and male heirs to inherit parental property.

Finally, in all of the countries except Nepal same-sex marriages and civil partnerships are illegal and punishable with imprisonment or other sanctions. In Nepal, where homosexuality is legal, same-sex marriage ceremonies have been performed, although they are not legally recognized (Equaldex 2017).

The right to equality in property in the SDGs

SDG indicator 1.4.2: Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure

SDG indicator 5.A.1: (a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and (b) share of women among owners or rights-bearers of agricultural land, by type of tenure

SDG indicator 5.A.2: Proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control

¹⁶ International standards also prescribe the right to choose a spouse and require the full, free and informed consent of females and males to enter into marriage (see section 6.1.).

Table 12. Equal rights for females and males in marriage in South Asia (excluding Afghanistan)

Country	Entering and within marriage	Divorce/dissolution of marriage	Right and responsibilities of parents, including guardianship	Property and inheritance
Bangladesh	Polygamy legal for men under Hindu personal laws	Women discriminated against in relation to grounds for divorce/dissolution ^{lv}	Discrimination against women in relation to guardianship and citizenship ^{lvi}	Discrimination against wives and daughters in relation to inheritance ^{lvii}
Bhutan	Women discriminated against in relation to polygamy; a woman does not need to assume her husband's name upon marriage ^{lviii}	Women discriminated against in relation to separation costs ^{lix}	Some discrimination against women in relation to maintenance payments for children if divorce is due to wife's misconduct ^{lx}	Equal rights de jure
India	Monogamy required ^{lxi}	Equal rights ^{lxii}	Depends on the religion of the family	Equal rights for daughters and sons to inherit parental property ^{lxiii}
Maldives	N/A	Under Islamic practice, it is more difficult for a wife to request divorce, on any grounds, than it is for a husband	N/A	Under Islamic law, male heirs inherit twice as much as female heirs
Nepal	Polygamy legal in some cases ^{lxiv}	Grounds: if husband has committed rape, domestic violence or remarried ^{lxv}	Some discrimination against women in relation to maintenance payments for children in the event of divorce, and in relation to citizenship ^{lxvi}	Discrimination against women and daughters in relation to inheritance and disposal of property ^{lxvii}
Pakistan	(See section 6.1. of this paper)	Some discrimination against women in relation to the right to request divorce ^{lxviii}	Some protection and income support for a divorced woman and her children, who receive maintenance payments from the ex-husband	Some discrimination against women and daughters in relation to inheritance and disposal of property ^{lxix}
Sri Lanka	Polygamy legal; a woman has the right to keep her name upon marriage ^{lxx}	Some discrimination against women in relation to grounds for divorce ^{lxxi}	See 'Divorce/dissolution of marriage' and footnote 84; some discrimination against women in relation to guardianship ^{lxxii}	Some protection under general law, but discrimination against wives and daughters in certain subnational contexts ^{lxxiii}

lv In Bangladesh, under the Dissolution of Muslim Marriages Act (1939), Muslim Family Laws Ordinance (1961) and the Hindu personal laws, a woman can request a divorce with her husband's consent, or upon obtaining a judicial decree (for certain grounds). Under the Christian personal laws, to request a divorce in the event of adultery, a woman must prove that her husband has committed adultery, plus another crime such as rape; a man is not required to do the same to request a divorce on the grounds of his wife's adultery.

lvi In Bangladesh, a mother is never given guardianship of her children; this rests with the father and, after him, with his father and brothers. The mother is, however, entitled to custody of her sons until they are aged 7 and of her daughters until puberty (FAO, n.d.). Under the Citizenship Act (1951), an individual can inherit citizenship only from her/his father, and the wife of a Bangladeshi man may receive citizenship (but the husband of a Bangladeshi woman may not) (FAO, n.d.).

lvii In Bangladesh, under Islamic inheritance law, widows inherit less than widowers do, and daughters inherit half as much as sons. Under Hindu inheritance law, a widow's rights to her deceased husband's property are limited to her lifetime and revert to the male heirs upon her death. Unmarried

- daughters and married daughters with sons can inherit; married daughters beyond childbearing age and widows without sons cannot (USDOS, 2016b; FAO, n.d.).
- lviii In Bhutan, a woman cannot marry more than one man; a man can marry more than one woman, having obtained the permission of his existing wife before contracting a subsequent marriage. A woman does not assume her husband's name upon marriage, but no specific provision was found in the Marriage Act (1980) (USDOS, 2016c).
- lix In Bhutan, separation costs for divorce differ for women and men: irrespective of gender, the individual requesting divorce must bear the separation costs, except where the request is due to the misconduct of the wife (e.g., adultery). Maintenance payments for children also differ depending on whether it is the wife or husband who has defaulted.
- lx Bhutan's Marriage Act (1980) establishes that children younger than 9 years of age stay with their mother in the event of divorce, while children aged 9 or more are generally allowed to choose between their mother and father. If children decide to stay with the mother, the father will pay maintenance (but not vice versa). The law also establishes, however, that where a divorce is due to the wife's 'misconduct' or 'misdemeanour', no maintenance allowance for children is payable.
- lxi Hindu Marriage Act, 1955
- lxii In India, various legal frameworks prescribe equal rights to females and males for dissolution of marriage. The Dissolution of Muslim Marriages Act (1939) grants a Muslim wife the right to seek dissolution. The Indian Christian Marriage Act (1872) contains provisions relating to marriage and divorce among the Christian community. The Hindu Marriage Act (1955) allows divorce on certain specified grounds, and provides equal rights to Indian women and men in respect of marriage and divorce.
- lxiii Hindu Succession Act, 1956
- lxiv In Nepal, although the law generally prohibits polygamy, it is legal if the woman is infertile, sick or crippled, or has failed to give birth within the first 10 years of marriage (Muluki Ain, 2020/General Code, 1963).
- lxv Muluki Ain, 2020/ General Code, 1963
- lxvi In Nepal, if the mother of the minor does not wish to maintain the child, the father must. The mother is obliged to provide support only if her income is greater than the father's; if the mother maintains the child, the father must support the mother irrespective of his income (Children's Act, 2048 [1992]). Regarding naming a child, the law has a discriminatory provision where father has the 'first right' to name a child. The United Nations High Commissioner for Refugees (UNHCR) reports disparities between mothers and fathers in the ability to confer citizenship to offspring. Specifically, while children born to Nepalese fathers acquire Nepalese citizenship in all circumstances, children born in Nepal to Nepalese mothers and foreign citizen fathers must apply to acquire citizenship through naturalization, on condition of permanent domicile in Nepal and that they do not hold the father's citizenship (UNHCR, 2017).
- lxvii In Nepal, the Muluki Ain, 2020 (General Code, 1963) entitles a woman to a 'partition share' of her husband's property. On divorce, if the wife does not intend to keep her partition share, she can instead claim annual or monthly expenses from her ex-husband. Gender disparities exist in relation to a wife/daughter's right to dispose of property, however, and to property ownership in the event of adultery by the wife. Marital status defines a daughter's ability to inherit. If married, a daughter has no claim on parental property; if she marries after inheriting, the daughter must relinquish the parental property after deducting 10 per cent for marriage costs. An unmarried daughter, having obtained her share of parental property, can dispose of only half of her immovable property; disposal of the rest requires the consent of a male guardian. The daughter has the right to her mother's exclusive property on death only if her father and any brothers are deceased. Married daughters are not considered part of the family when defining co-heirs. In the case of intestate property, daughters fall below sons in the line of succession, and married daughters fall further still (Muluki Ain, 2020/General Code, 1963). The Gender Equality Act (2006) and more than 60 other laws contain discriminatory provisions, in so far as the law on property rights favours men in relation to land tenancy and the division of family property.
- lxviii In Pakistan, under the Muslim Family Laws Ordinance (1961), a woman requires a court intervention to divorce on the grounds that her husband has contracted a polygamous marriage in contravention of the Ordinance. Family law formulates protection for women in the event of divorce, including maintenance requirements, and sets clear guidelines for the custody and maintenance of minor children.
- lxix The Constitution of Pakistan establishes the right of every citizen to acquire, hold and dispose of property in any part of the country (FAO, n.d.). The Prevention of Anti-Women Practices Amendment Act (2011) criminalizes and punishes the use of deceitful or illegal means to deprive a woman of her inheritance rights; and compelling, arranging or facilitating the marriage of a woman with the Quran, including forcing her to vow to remain unmarried or forgo her inheritance (USDOS, 2016g). The Married Women's Property Act (1874) establishes the right of a married woman to separate property and to take legal proceedings in her own name, and her liability for contracts regarding her property (FAO, n.d.). Under the Muslim Family Laws Ordinance (1961), a daughter is entitled to half of the amount that a son inherits, and a wife inherits one-eighth of her husband's estate. Under Sunni law, there are 12 shares in a deceased person's property: 8 for females and 4 for males; Shia law recognizes 9 shares and excludes grandmothers/grandfathers and daughters/sons. Female shares of property are similar under the Sunni and Shia laws: a wife receives a quarter of the property if there is no child/grandchild of a son, otherwise she receives one-eighth of the property; a daughter receives half of the share of a son, or in the absence of a son, receives half of the inheritance, or if there is more than one daughter, collectively shares two-thirds of the property with the other daughter(s).
- lxx In Sri Lanka, under the Muslim Marriage and Divorce Act (1951, amended in 2006) polygamy is permitted, provided that the husband notifies a Quazi of his intention to contract a subsequent marriage. The general law governs most marriage-related matters for Tamil people, whereas Kandyan Sinhalese people can choose to be governed by the general law or by their customary laws. USDOS (2016h) reports that while women are legally free to marry without family consent, society frequently ostracizes women who have done so, or they risk becoming victims of 'honour' crimes. Recent trends noted by the UNICEF Sri Lanka Country Office suggest that females are generally keeping their maiden name upon marriage, which is in line with the constitutional right to choose one's name.
- lxxi In Sri Lanka, the Civil Procedure Code (1889) permits either spouse to petition for dissolution of marriage two years from the date of a decree of judicial separation or where there has been a separation from bed and board for seven years (FAO, n.d.). The Kandyan Marriage and Divorce Act (1952, amended in 1995), which extends only to Kandyan Sinhalese couples married under the Act, permits divorce on the grounds of: adultery by the wife; adultery by the husband, coupled with incest or gross cruelty; continued and complete desertion for two years; inability to live together; or mutual consent. Under the Muslim Marriage and Divorce Act (1951, amended in 2006), a husband who wishes to divorce his wife may pronounce talak unilaterally, without following any prescribed judicial procedures, and the pronouncement need not be made in the presence of the wife nor communicated to her. A wife may seek divorce on the grounds associated with fasah divorce, namely: failure or inability of the husband to provide support; malicious desertion; cruelty and ill treatment; continued dissension and quarrels; or the husband's leprosy, insanity and/or impotence. The availability and scope of fasah divorce, however, depends upon the sect to which the couple belongs. Furthermore, although Muslim personal laws do not recognize maintenance following divorce, the Act specifies three situations in which a divorced wife may claim maintenance: (1) until the divorce is registered; (2) for the period during which she must remain unmarried; or (3) until the woman delivers her child, if she is pregnant at the time the divorce is registered. The Quazi has exclusive jurisdiction over any maintenance claim by or on behalf of a wife or a legitimate/illegitimate child of two Muslim parents (USDOS, 2016h).
- lxxii In Sri Lanka, under Roman-Dutch law, fathers are generally recognized as the natural guardians, both during marriage and following its dissolution. Cases exist, however, of family courts granting a mother guardianship on the dissolution of marriage, in consideration of the best interests of the child.
- lxxiii In Sri Lanka, the right of both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property is guaranteed under the Married Women's Property Ordinance (1923), the general law on matrimonial property rights, but a female's right to ownership is diluted by marriage. The Married Women's Property Ordinance (1923) establishes that a married woman is able to hold, acquire and dispose of any property (including property she owns at the time of marriage or which she acquires after marriage) without her husband's consent or other intervention (FAO, n.d.). Specific legislation applies in certain contexts, however: e.g., Matrimonial Rights and Inheritance Jaffna Ordinance (1911, amended in 1947) applies in the city of Jaffna. Other legislation applies to certain religions and ethnic groups: e.g., Kandyan Law Declaration and Amendment Ordinance (1938, amended in 1944) and Muslim Intestate Succession Ordinance (1931) (FAO, n.d.).

Source: Author's elaboration from legal and policy sources, including databases, particularly USDOS (2016a–h) and Food and Agriculture Organization of the United Nations [FAO] (n.d.). Note: Afghanistan is excluded as almost no information for this country was found across the five issues. N/A here means that information on the issue is 'not available'.

7. THE RIGHT TO PROTECTION AGAINST CHILD LABOUR

The minimum age for admission to employment is the age at which an individual is considered capable of carrying out, without impairment to her/his development and wellbeing, generic work including full-time employment, even if certain restrictions apply under the age of 18 (Sedletzki, 2016). Child labour refers to work conducted by children below the minimum age for employment, but 'light work' – safe tasks carried out on a limited basis (e.g., for a restricted number of hours) – can allow a child to contribute to her/his family and society, and prepare for adulthood (Sedletzki, 2016). Determining whether or not a specific type of work is acceptable for children to perform depends on the nature of the work – from the hours involved and the environment in which the work takes place to the work tasks themselves (Sedletzki, 2016). Work is considered hazardous and is prohibited by international standards for anyone below the age of 18 (or in some cases, below 16) if by its nature (due to the hours, environment and/or tasks) it is dangerous or harmful to children's health and development.

The right to decent work in the SDGs

SDG indicator 8.8.2: Increase in national compliance of labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status

SDG indicator 8.B.1: Total government spending in social protection and employment programmes as a proportion of the national budgets and GDP

Given the great variation between full-time work, light work and hazardous work, international standards and many domestic laws set minimum ages according to specific work activity. Children's right to protection from economic exploitation and harmful forms of work is prescribed by the CRC (art. 32) and ICESCR (art. 10), which require States parties to set minimum age limits below which the paid employment of children should be prohibited and punishable by law. The CRC (art. 32) also "explicitly requests States Parties to establish a minimum age for employment, as well as specify hours and conditions of employment" (Sedletzki, 2016). The Convention concerning the Minimum Age for Admission to Employment (1973) (ILO Convention No. 138) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) (ILO Convention No. 182) help to establish the framework for child labour by distinguishing between the general minimum age for full-time employment, for light work, and for hazardous work and the worst forms of child labour (Sedletzki, 2016). International standards recognize the especially difficult economic conditions in some countries, however, and thus allow developing countries to lower these minimum ages by one year (Sedletzki, 2016).

Table 13. Minimum age for employment by type of work (and related exceptions) according to international standards

International standard	General minimum age	Exceptional minimum age
Convention on the Rights of the Child (art. 32)	N/A	N/A
Minimum age for <i>full-time</i> work: ILO Convention No. 138 (arts. 1 and 2)	15	14
Minimum age for <i>light</i> work: ILO Convention No. 138 (art. 7)	13	12
Minimum age for <i>hazardous</i> work and worst forms of child labour: ILO Convention No. 138 (art. 3) ILO Convention No. 182 (arts. 2 and 3)	18	16 (with strict conditions)

Source: Sedletzki (2016); ILO NORMLEX (n.d.) retrieved from <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1>
 Note: N/A here stands for 'not applicable'.

While all countries in South Asia have ratified the CRC, and all but Bhutan have ratified the ICESCR, ILO Conventions No. 138 and No. 182 have not been signed and ratified by all countries in the region. Bhutan is not an ILO member and so these international labour standards do not apply to this nation. The seven remaining countries have ratified ILO Convention No. 182, and all of these but Bangladesh have ratified ILO Convention No. 138. Yet evidence exists of gaps in the implementation of the ILO Conventions. For example, in Pakistan, the minimum age for hazardous work and the worst forms of child labour remains 14 years, according to the Employment of Children Act (1991), while Nepal availed itself of the exception allowed to ILO Convention No. 182 and set the minimum age at 16 years. General comment No. 20 calls on States parties to stipulate the protection from hazardous work of all children under 18 years of age (Committee on the Rights of the Child, 2016, para. 86).

If legislated, the minimum age for light work is lower than the minimum age for full-time work. In some countries, only the general minimum age for work is legislated, but the laws or policies provide for exceptions (e.g., for training associated with education or department, or to work with one's family business). The minimum age for hazardous work is 18 years in most South Asian countries, although India and Pakistan allow adolescents as young as 14 years of age to perform any hazardous work, while Nepal has set the minimum age for hazardous work at 16 years. These data show that there is still significant room for improvement in the protection of adolescents – especially from hazardous work – while at the same time ensuring appropriate consideration of their evolving capacities and best interests. This would allow late adolescents to access safe and decent employment opportunities that neither interfere with their education nor hamper their health and development. It must also be noted that there is some discrepancy between the minimum age or educational level for the end of compulsory education, and the minimum age for full-time and light work. This inconsistency in education and employment policy in many of the region's countries raises the need for reform in both areas of policymaking, to both protect the right of adolescents to educational opportunities and simultaneously provide them with chances to acquire meaningful training and decent employment.

Table 14. Comparison of the minimum ages for the end of compulsory education and for full-time employment and light work in South Asia

Country	Minimum age/ educational level for end of compulsory education	Minimum age for full-time employment	Minimum age for light work
Afghanistan	Lower secondary	18	15, for light work; 14, to learn a profession
Bangladesh	10	14	12
Bhutan	Unclear ^{lxxiv}	18	13, for some work and workplaces other than the worst forms of child labour
India	14	No national minimum age	No national minimum age
Maldives	Grade 6	16	Exceptions to the general minimum age for full-time employment for training associated with education or department, and to work with one's family business
Nepal	Grade 8	14	None
Pakistan	16	Province-specific, no national minimum age	Province-specific, no national minimum age
Sri Lanka	16	14	Exceptions to the general minimum age for full-time employment for light agricultural or horticultural work

lxxiv See section 4.1. and Table 7.

Source: Author's elaboration from multiple sources. See annex for the full list of legal and policy sources.

8. THE RIGHT TO SOCIAL PROTECTION

Evidence shows that social protection schemes, particularly income transfers to families with children and adolescents, are crucial to achieve a range of positive outcomes for adolescents besides income security: cash transfers increase school enrolment, attendance and performance for adolescent girls, and have positive effects on their health, including their mental health, reducing child and early marriage and childbearing, delaying sexual debut and reducing HIV infection (see, for instance, Kilburn, Thirumurthy, Halpern, Pettifor & Handa, 2016; Handa, Halpern, Pettifor & Thirumurthy, 2014; Handa et al., 2015; Baird, Garfein, McIntosh & Özler, 2012; Baird, Chirwa, de Hoop & Özler, 2013).

The right to social protection in the SDGs

SDG indicator 1.3.1: Proportion of population covered by social protection floors/systems, by sex, distinguishing children, unemployed persons, older persons, persons with disabilities, pregnant women, newborns, work-injury victims and the poor and the vulnerable

The renewed and increased attention paid to social protection over recent decades is grounded in international standards and commitments to income security throughout the life cycle and access to social services for all, including for children and adolescents. The UDHR (arts. 22 and 25) and CRC (art. 26) affirm the right to social security. Specifically, the CRC calls for recognition of every child's right to social security, and provides that social security benefits should be granted when appropriate, taking into account the resources and circumstances of the child and her/his parents or

guardians. The Committee on the Rights of the Child (2016), in its General comment No. 20, urges countries to introduce social protection floors – as established by the Recommendation concerning National Floors of Social Protection (2012) (ILO Recommendation No. 202) – to provide adolescents and their families with basic income security, protection against economic shocks and crises, and access to social services. The ILO’s Social Security (Minimum Standards) Convention, (1952) (ILO Convention No. 102) establishes the legal grounds for social security, and specifies that Members must ensure that family benefit is provided to protected persons for the maintenance of children (arts. 39–45). The ICESCR (art. 10) also provides for the right to protection and assistance for the family, particularly for the care and education of dependent children.

While all South Asian countries have ratified the CRC, none of them¹⁷ has ratified ILO Convention No. 102. Nevertheless, some countries have laws or policies that prescribe cash or in-kind transfers for families with adolescent children, and may specifically mainstream disability, gender and income issues in these social protection laws and policies (see *Table 15*).¹⁸

The findings show that some countries have sought to address income insecurity. Social protection in the region has focused on the three aspects of disability, gender and income, seeking to address the particular vulnerabilities faced by adolescent girls and adolescents with disabilities and from low-income households. The specific efforts made to reduce child marriage and to ensure school enrolment and attendance are important, and point towards the necessity of social protection in achieving various development goals and providing young people with opportunities for empowerment.

9. DIGITAL RIGHTS

General comment No. 20 calls on States parties to protect children and adolescents in the digital environment without restricting their access to it, by promoting holistic strategies for their safety, strengthening legislation and law enforcement mechanisms to tackle online abuse, actively engaging adolescents in the design and implementation of initiatives to foster online safety, and requiring businesses to conduct child-rights due diligence (Committee on the Rights of the Child, 2016, para. 48). It is thus clear from General comment No. 20 that the Internet, social media and other information and communication technologies (ICTs) are considered a source of both potential risks and harms as well as incredible opportunities for adolescents to achieve their rights to information and digital education, which is instrumental to other social, economic, political and cultural rights. In the analysis that follows, the paper focuses on the right to protection against risks related to the use of ICTs, since the publicly available information on other, equally important digital rights is limited.

The right to information in the SDGs
 SDG indicator 16.10.2: Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information

17 Among those to which ILO Conventions apply: Bhutan is not an ILO member, and so is excluded.

18 This paper thus focuses on government-led social protection schemes, policies and programmes as opposed to other types of interventions run by other parties (including international and non-governmental organizations). Public availability of information on social protection policies and benefits in the region has largely driven the collation of information within this subsection. Table 15 does not aim to be comprehensive since the availability of such information is limited.

Table 15. Social protection schemes for families with adolescents in South Asia

Country	Social protection schemes for adolescents	Gender- and disability-sensitive social protection schemes for adolescents
Afghanistan	<p>Afghanistan National Peace and Development Framework 2017–2021: Social protection as a key means to achieve poverty reduction and social inclusion, “primarily by helping the poor increase their skills, productivity, and access labour-intensive paid employment through the Jobs for Peace program” (p. 26). Specific reference is made to young people and to vulnerable, disabled, widowed and elderly citizens who need assistance.</p>	<p>Constitution of Afghanistan (2004) (art. 53): Prescribes financial aid provision for persons with disabilities, and the right to “active participation and re-integration into society” (Sida, 2014b).</p> <p>Law on the Rights and Benefits of Persons with Disabilities (2010): Provision of economic, social, political, cultural, educational and rehabilitation support to individuals with disabilities (Sida, 2014b).</p> <p>Memorandum of understanding between Ministry of Labor, Social Affairs, Martyrs and Disabled, and the Ministry of Education: To develop a five-year national action plan that includes the provision of scholarships to children and adolescents with disabilities (USDOS, 2016a).</p>
Bangladesh	<p>Primary Education Stipend Project: Run throughout rural Bangladesh, this project provides cash assistance to low-income primary school pupils (and their families) aged up to 11 years, the age at which students are expected to complete primary school.</p> <p>Additional programmes: (1) School feeding programmes run in both areas prone to poverty and elsewhere; (2) Rural Employment Opportunities for Public Assets, a public works programme for women, which prioritizes widows and divorced women with dependent children.</p> <p>Constitution of Bangladesh (1972) (art. 15): The right to social security.</p>	<p>Stipends to primary students as well as to female lower and upper secondary students from rural areas:</p> <p>Stipend and Access Increase for Secondary and Higher Secondary Level Students: This is the main component of the Female Secondary School Assistance Project, providing monthly stipends to girl students in Grades 6-10 (aged 11–15 years) to cover the direct costs of schooling (the benefit value depends on the child’s age and how many children in a family receive the stipend) (Government of Bangladesh Planning Commission, 2015). The project introduced a uniform stipend and tuition subsidy for each girl attending a secondary school in rural areas, with eligibility tied to academic attendance and proficiency, and to the condition the girl remains unmarried. For any school that participates, all female students who satisfy the criteria will receive a stipend to cover tuition costs and other allowances.</p> <p>Government-provided education stipends for children with disabilities (introduced in 2008–2009) and other stipends, for which disability is a priority selection criterion, to help adolescents to access income-earning opportunities and strengthen their life skills (UNICEF, 2014).</p> <p>Additional programmes: (1) Cash allowances for ‘financially insolvent’ persons with disabilities and injured freedom fighters; (2) Grants for special schools and subsidies for various public bodies, non-governmental organizations and self-help groups for disabled persons; (3) Grants, loans and other promotional services for persons with disabilities, including adolescent girls with disabilities; (4) Feeding programmes and monthly allowances for specific vulnerable groups, including adults and children with disabilities (UNICEF, 2014; Planning Commission, 2015; Sida, 2014a).</p>
Bhutan	N/A	N/A

Country	Social protection schemes for adolescents	Gender- and disability-sensitive social protection schemes for adolescents
India		<p>Various social protection schemes and transfers for adolescent girls to address the issues of child marriage and girls dropping out of school:</p> <p>Our Daughter, Our Wealth (State Government of Haryana) and Balika Samridhi Yojana (Government of India) social assistance schemes: Income transfer to the family of a girl is deposited in a savings account and can be redeemed when the girl turns 18, on condition that she remains unmarried at that age. Additional bonuses paid if she also completes her education.</p> <p>Dhanalakshmi cash transfer pilot scheme for female children (Ministry of Women and Child Development): Income transfer offered on condition of birth registration, immunization, enrolment and retention in school. Insurance cover and maturity benefit also provided.</p> <p>National Programme for Education of Girls at Elementary Level (Ministry of Human Resource Development): Aims to reduce the drop-out rate of girls in secondary education and keep them in school until the age of 18, by providing direct incentives (e.g., free books, uniforms, stationery) and a one-off transfer deposited in the name of the girl child upon her enrolment in Grade 9 and on condition that she remains unmarried until the age of 18.</p> <p>Ladli Scheme (started in 2008): All Delhi households with a second female child receive an income transfer each year for up to five years, as long as both girls survive. The money is invested in a government fixed deposit and released only when the younger girl turns 18.</p>
Maldives	N/A	N/A
Nepal	Draft National Framework for Social Protection (2016): Individual children from Dalit or low-income families receive nominal financial support for their education, and families with disabled members, including children, are also entitled to a transfer of 2,000 Nepalese rupees (equivalent to around US\$20).	N/A
Pakistan	Pakistan Bait-ul-Mal Act (1991): Food transfer scheme implemented by the Government of Pakistan, later complemented by the Child Support Programme pilot, which also provides an income transfer. The transfer is targeted at poor households with children aged 5 to 12 enrolled in primary school, and is paid on condition the children attend school and pass the final examinations. The transfer amount received by a family depends on how many children it has enrolled in and attending school.	<p>Tawana Pakistan Project: This aimed to reach the ultra-poor in schools in the most remote regions of the country, to address the nutritional requirements and low attendance of primary school-age girls.</p> <p>Punjab Female School Stipend Program (State Government of Punjab): Income transfer of about US\$3 per student per month provided on a quarterly basis to girls aged 10 to 14 years, on condition of attendance at a public secondary school.</p>
Sri Lanka	The WORLD Policy Analysis Center (n.d.) reports that Sri Lankan families, including families with disabled members, receive means-tested income support, but no further information about this was found online.	(See left.)

Source: Author's compilation from multiple sources, particularly Barrientos, Niño-Zarazúa and Maitrot (2010); Interactions Eldis (2017); WORLD Policy Analysis Center (n.d.). See annex for the full list of legal and policy sources. Note: N/A here means that information on the issue is 'not available'.

Publicly available information about the protection of adolescents against risks related to the use of ICTs is mostly limited to laws and policies that address the crimes of online child pornography and sexual exploitation, and cyberstalking. For instance, the Pornography Control Act (2012) of Bangladesh refers to the punishment of persons involved in producing pornography or who force women, men or children to participate in pornography (with or without their consent), and prescribes a specific punishment if the crime involves the use of the Internet, a website or any electronic device. Individuals found to specifically use children in the production and/or dissemination of pornographic materials will receive a more severe punishment. In India, the Information Technology (Amendment) Act (2008, para. 67B) provides for the severe punishment of persons who publish and/or transmit material in electronic form depicting children in sexually explicit acts and similar; or who create text or digital images, or collect, seek, browse, download or distribute material in electronic form that depicts children in an obscene, indecent or sexually explicit manner. It further prohibits actions to cultivate, entice or induce a child into an online relationship with another child or children for the purposes of committing a sexually explicit act or similar, and to facilitate the abuse of children online, or to record in any electronic form one's own abuse, or that of others, pertaining to sexually explicit acts perpetrated against children. In Pakistan's Khyber Pakhtunkhwa province, the Child Protection and Welfare Act (2010) punishes child pornography irrespective of any notional consent given by the child. It specifically mentions electronic forms (whether made or produced by electronic, mechanical or other means) of obscene or sexually explicit conduct. At the national level, Pakistan's Prevention of Electronic Crimes Ordinance (2008) covers issues such as unauthorized access to computer systems or data, malicious system damage, electronic fraud and forgery, and other electronic crimes, and states the punishment for cyberstalking (section 13), which is significantly aggravated if the crime's victim is a minor.

The limited information located on adolescent-sensitive laws and policies on digital rights in South Asia hampers a holistic understanding of how sensitive to adolescents' right to information, legal and policy frameworks in the South Asia region are. The available findings highlight the concern expressed by some countries, however, in relation to the online risks and vulnerabilities faced by adolescents. Future research is needed to understand whether the remaining South Asian countries have legislated to protect children and adolescents against online risks, and how all countries in the region have guaranteed the rights to information and digital education for adolescents.

10. THE RIGHT TO EQUALITY AND NON-DISCRIMINATION

Intersecting inequalities and discriminations affecting marginalized and vulnerable individuals, households and communities are detrimental, impeding educational and employment opportunities and the fulfilment of other political and civil, and social, economic and cultural rights. To ensure truly inclusive development, it is thus vital that national legal and policy frameworks specifically prescribe and enforce the right to equality and non-discrimination for all, including for adolescents.

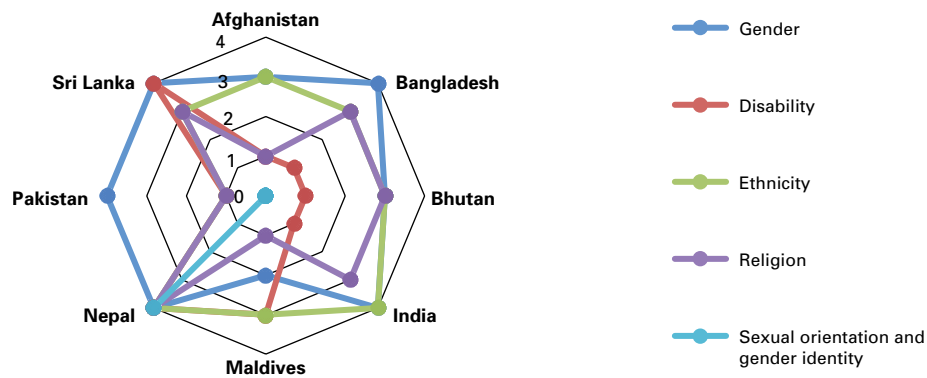
The right to equality in the SDGs

SDG indicator 5.1.1: Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex

This subsection reviews the coverage of five dimensions of equality and non-discrimination in the constitutions of the eight south Asian countries. The aim was to understand the extent to which each country guarantees de jure protection to everyone, including adolescent girls and boys, of the right to equality and non-discrimination on the basis of: (1) gender; (2) ethnicity; (3) religion; (4) disability; and (5) sexual orientation and gender identity.

The findings suggest that, generally, the constitutions specifically prohibit gender discrimination; in some cases – Bangladesh, India, Nepal, Pakistan and Sri Lanka – the constitution also prescribes for positive action to alleviate such discrimination. In Maldives, however, exceptions to the general right to protection against discrimination on the basis of gender are allowed. Furthermore, the Committee on the Elimination of Discrimination against Women has expressed concern that the Constitution of Bhutan does not prohibit direct and indirect forms of gender discrimination; but the Royal Government of Bhutan argued that such provisions are included in other legal frameworks (USDOS, 2016c). The findings in relation to the right to non-discrimination on the basis of disability, religion and ethnicity are mixed, and suggest a lower level of concern for and legislation in these dimensions across the eight countries. All of the countries except Pakistan guarantee the right to non-discrimination on the basis of ethnicity by at least one means; the Constitution of Pakistan does not explicitly mention ethnicity, however. Equal treatment irrespective of religion is a constitutionally guaranteed right in Bangladesh, Bhutan, India, Nepal and Sri Lanka (but not in Afghanistan, Maldives and Pakistan). Only the Constitution of Nepal provides for positive action to address religious discrimination. Maldives, Nepal and Sri Lanka address non-discrimination on the basis of disability in their constitutions; Nepal and Sri Lanka also provide for positive action to counter such discrimination.

Figure 2. The right to equality and non-discrimination on the basis of gender, disability, ethnicity, religion, and sexual orientation and gender identity in South Asia



Note: Countries were assigned scores from 0 to 4 based on the following scoring system: Non-discrimination in this dimension not guaranteed (0); Non-discrimination broadly guaranteed, but no mention of this specific dimension (1); Non-discrimination in this dimension guaranteed by at least one means, but exceptions allowed (2); Non-discrimination in this dimension guaranteed by at least one means (3); Non-discrimination in this dimension guaranteed and provisions for positive action included (4). Source: Author's elaboration from USDOS (2016a–h) and WORLD Policy Analysis Center (n.d.) (last accessed 21 June 2017).

Non-discrimination on the basis of sexual orientation and gender identity is not explicitly mentioned in any of the constitutions of the countries in South Asia, except that of Nepal. Article 18.3 of the Constitution of Nepal, on the right to equality, prescribes that the State shall not discriminate against citizens, and allows for the State to make special provisions in law to protect, empower or develop citizens, including sexual minorities. Similarly, article 42, on the right to social justice, prescribes that gender and sexual minorities (among other groups) have the right to be employed in state bodies according to the principle of inclusion. As discussed in section 6.2., same-sex conduct is illegal in most countries in the region, with the exception of Nepal. In Pakistan, however, although there is no law to protect against discrimination on the basis of sexual orientation and gender identity, a 2012 Supreme Court ruling recognized *hijras* (transgender persons, eunuchs and intersex persons) as being of a 'third gender', allowing them to obtain national identification cards and participate in the 2013 elections (USDOS, 2016g). In June 2016, a group of religious leaders in Pakistan issued a religious ruling to allow a transgender person to marry another transgender person (USDOS, 2016g).

A nation's constitution sets out the fundamental principles and rights of all of its citizens. Yet this overview suggests that only some of the constitutions of the region adequately address the right to equality and non-discrimination across the five dimensions explored. It is often left to other national laws, policies and plans established in the eight South Asian countries to define, interpret, enforce and implement the right to equality for all citizens irrespective of gender, disability, religion, ethnicity, and sexual orientation and gender identity.

11. CONCLUSION

The eight countries of South Asia share some cultural, political and social similarities, yet are at the same time incredibly diverse. To understand how the various governments have codified adolescent rights in their national laws and policies, this paper has examined the legal and policy frameworks for adolescents in the eight countries, and assessed these frameworks against overarching international standards.

This stocktaking exercise has aimed to shed light on the legal and policy environment for adolescents across the region, to give a sense of how well each country protects its adolescents and provides them with opportunities to make decisions, fulfil their potential, and participate fully in society. The overall objective has been to explore the means by which countries abide by the requirements of international conventions and treaties, and incorporate human rights within their legal and policy frameworks.

Beyond the international standards that codify human rights for all individuals – children and adolescents included – the Sustainable Development Goals (SDGs) represent a unique opportunity for South Asian governments to systematically address development issues. Adolescents and young people are represented in many of the goals, targets and indicators. As governments look ahead to 2030, it is important not only to collect more data and implement more effective programmes and interventions to achieve the SDGs, but also to analyse how policies and laws codify norms, practices and actions. By revealing more about the laws and policies for adolescents in South Asia, this paper can inform efforts to more sustainably address those issues, including harmful norms and institutions that affect adolescents.

This paper highlights how the legal and policy frameworks of the eight countries do not always align with international standards. This is particularly evident in the setting of minimum age requirements. Some South Asian countries have set minimum ages lower than prescribed by international standards. In other countries, legal and policy frameworks provide for significant exceptions, compromising the ultimate aim of protecting adolescents, especially the most vulnerable and at risk. For example, exceptions that allow child and early marriage on the basis of parental consent, religious or customary law, or other circumstances are in clear contravention of international standards.

A second stream of findings reveals that legal and policy frameworks for adolescents are not always enacted in an integrated and coherent way, as evidenced by discrepancies between the minimum age for the end of compulsory education and the minimum age for admission to employment. Legal and policy coherence – which is also enshrined in the SDG target 17.14 – is important as the issues, inequalities and types of discrimination that affect adolescents are complex and intertwined, and thus call for policy action across multiple lines, sectors and ministries.

Policy coherence in the SDGs

SDG indicator 17.14.1: Number of countries with mechanisms in place to enhance policy coherence of sustainable development

Finally, this paper points to gaps in the availability of information about marginalized and vulnerable adolescent groups, including: adolescents with disabilities; lesbian, gay, bisexual, transgender and intersex adolescents; adolescents from minority and indigenous groups; and adolescent migrants, refugees and internally displaced persons. Some countries have shown concern for some marginalized adolescent groups by implementing laws and policies in line with international standards; in other countries, legal and policy gaps suggest the need for legislators and policymakers to consider the particular vulnerabilities and types of discrimination faced by adolescents.

It is important to restate that this overview has focused only on the *legal* coverage of the legal and policy frameworks for adolescents in South Asia. While countries might have adequately codified international conventions and treaties within such frameworks, the enactment and enforcement of laws and policies – that is, the *effective* coverage – might hinder the actual fulfilment of rights for adolescents.

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ANNEX: LEGAL AND POLICY SOURCES

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