ASSOCIATION BETWEEN PLURAL LEGAL SYSTEMS AND SEXUAL AND REPRODUCTIVE HEALTH OUTCOMES FOR WOMEN AND GIRLS IN NORTHERN NIGERIA

A Regional and State-level Ecological Study from 1990-2013

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OVERVIEW:

- Human Rights & Plural-legal Systems
- Situation in Nigeria
- Data Sources
- Time-trend analysis
- Associations & Mediators
- Conclusions

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW): IMPACT ON SEXUAL & REPRODUCTIVE HEALTH

In particular:

- Article 10: Access to specific educational information to help ensure the health and well-being of families, including information and advice on family planning.
- Article 12: Ensure appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary
- Article 14: Ensure the right to have access to adequate health care facilities, including information, counselling and services om family planning.
- Article 16: A woman's right to exercise choice as to whether or not to marry, who to marry and when to marry. The marriage of a child will have no legal effect

- Customs, practices and laws that discriminate against women must be abolished

PLURAL LEGAL SYSTEMS

- Countries with plural or multiple legal systems allow various sources of law to govern simultaneously
  - Examples include: English common law; French civil or other law; Statutory law; Customary law; Religious law; Tradition/practice
- Customary and religious laws enjoy the status of binding sources of law or practice in the vast majority of countries in the African region and a number of countries in Asia and the Americas.
- These laws permit cultural and religious customs or practices, some of which are discriminatory, to persist, which have direct implications on adolescent rights and health

CUSTOMARY, RELIGIOUS AND TRADITIONAL LAW

LEGAL PLURALISM PERMITS RELIGIOUS, TRADITIONAL AND CUSTOMARY LAW OR PRACTICE TO TRUMP NATIONAL LEGISLATION THROUGH TWO PRIMARY AVENUES:

- Reservations to international conventions (ie. CEDAW) on grounds based on:
  - Islamic law
  - Areas regulating matters of personal status (marriage, etc.,)
  - Laws of personal status as determined by various religious/ethnic communities

- Exceptions to national legal frameworks based on customary/religious/traditional law
  - Example: national legislation sets age of marriage at 18, but exceptions for religious/customary laws exists which have their own rules regarding age of marriage

NIGERIA: LEGAL SYSTEM

- Nigeria has a **tripartite legal system** consisting of statutory, customary, as well as religious law (in the northern states)
- These three bodies of law create contradictions and inconsistencies and discriminatory provisions are widespread within each source of law
- Nigeria ratified CEDAW without reservation in 1985
- Nigerian National Assembly rejected the domestication of the CEDAW and it therefore is not part of Nigeria's national legal framework and is not justiciable or enforceable

NIGERIA: LEGAL FRAMEWORK

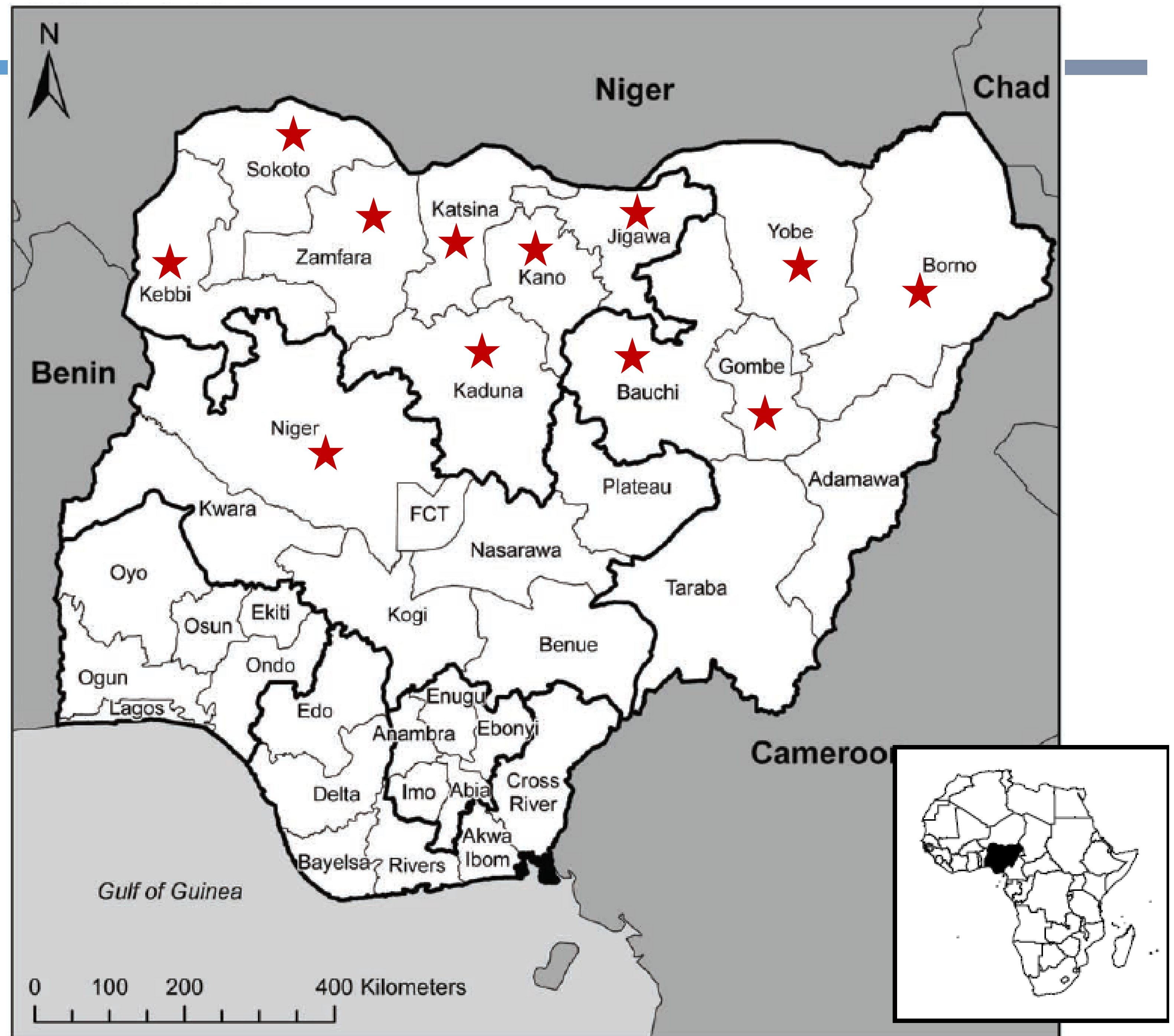
	Nigeria
Age of majority*	21
Customary or religious law exception	Yes
Other exceptions	Marriage
Minimum working age	None
Customary or religious law exception Other exceptions	None
Minimum drinking age	18 or Illegal
Customary or religious law exception Other exceptions	Yes
Minimum smoking age	None
Customary or religious law exception Other exceptions	None
Age of criminal responsibility†	None
Customary or religious law exception Other exceptions	Yes
Minimum age of marriage	9–18
Customary or religious law exception	Yes
Other exceptions	Gender
Heterosexual age of sexual consent	Puberty-18
Customary or religious law exception	Yes
Other exceptions	State variance
Same-sex age of sexual consent	No information
Customary or religious law exception	None
Other exceptions	Legally restricted
Age of consent to medical treatment	16
Customary or religious law exception	None
Other exceptions	
Age to access contraceptives‡	Unknown
Customary or religious law exception	Yes
Other exception	
Age to access abortion§	Illegal
Customary or religious law exception	Yes
Other exception	Mother's life
Age of consent to HIV test‖	18
Customary or religious law exception	None
Other exception	

NIGERIA: LAWS AND POLICIES

- Family Life and HIV/AIDS Education (FLHE) 2002: adopted in 34 of 37 states, but poor implementation everywhere
- National Gender Policy: remains un-implemented
- National Policy of Health and Development of Adolescents and Young People (2007): poor implementation, availability and accessibility to youth services remains critically low.
- National Policy on Population for Sustainable Development
- CEDAW: implementation has stalled
- Abuja Declaration: Nigeria has not allocated 15% of its annual budget to health

LEGAL SYSTEMS & GEOGRAPHY

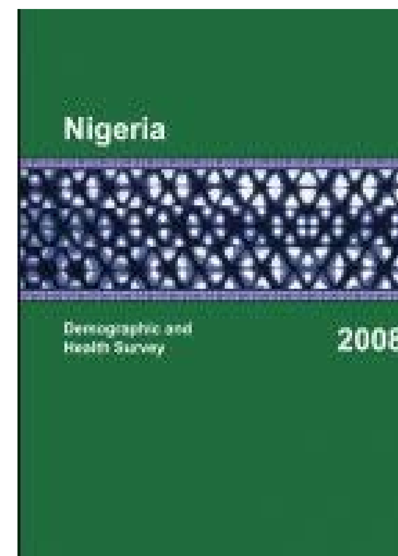
- ★ 12 Northern States have customary and/or religious law exceptions.
  Since 2000, these states have added criminal law to the jurisdiction of Shari'a courts.



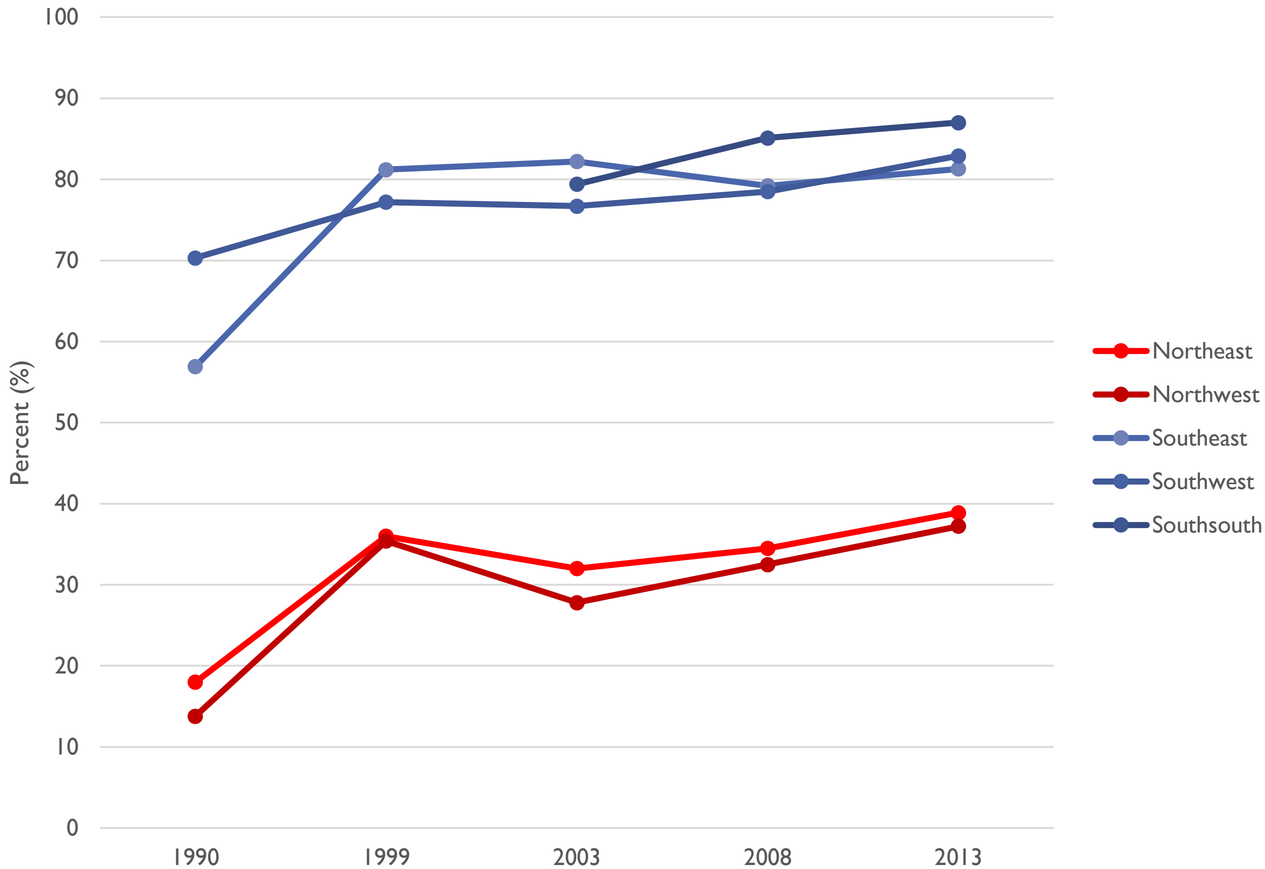
Research Question: Do states with customary and religious laws and laws that impede access to sexual and reproductive health services have worse SRH outcomes?

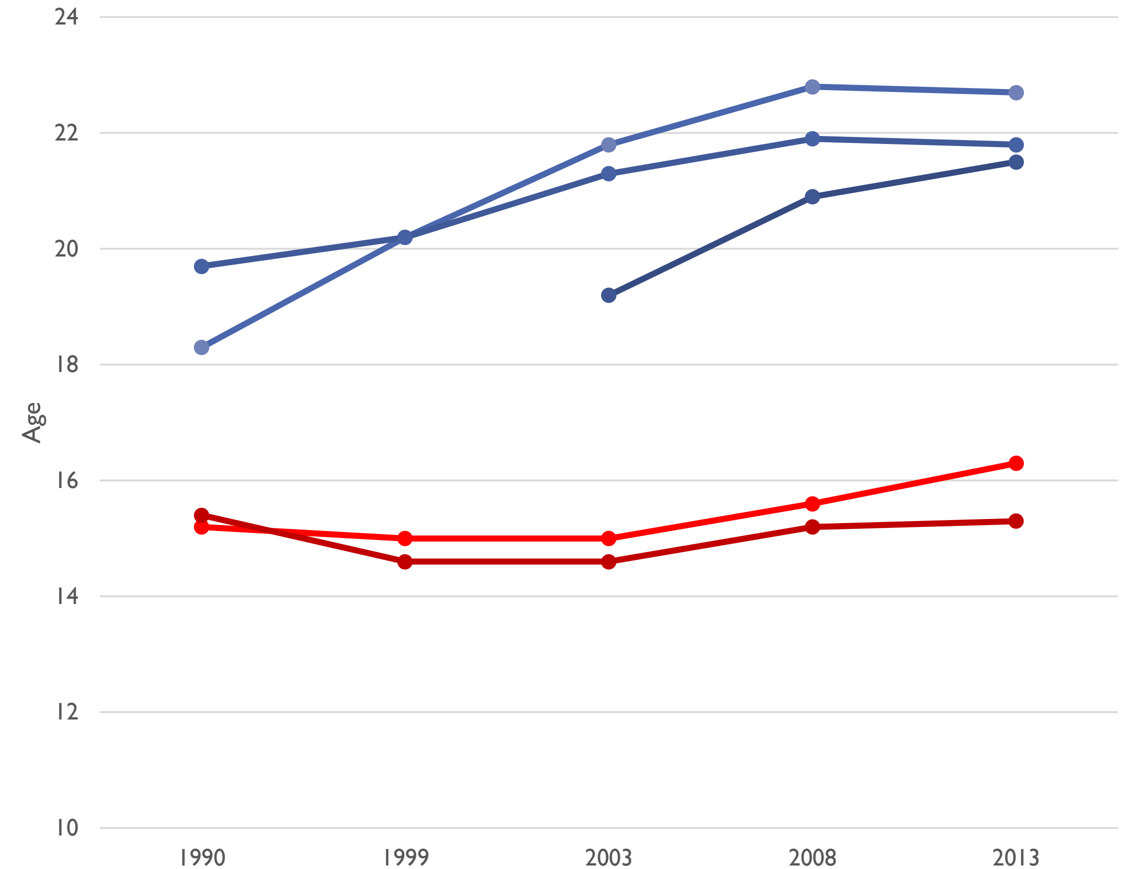
DATA SOURCES

- Nigerian Demographic and Health Survey Reports (1990, 1999, 2003, 2008, 2013)
- Exposure: living in an region or state with customary and religious laws, and laws that impede access to sexual and reproductive health services
  - Regional data for all DHSs
  - State-level data for 2008 and 2013
- Indicators:
  - Fertility: total fertility rate, median age at firth birth, unmet need for family planning, total demand for FP, percentage demand satisfied
  - Sexual Health: knowledge of contraceptive method, current use of contraception, heard of family planning on mass media, knowledge of HIV/AIDS
  - Maternal and Child Health: infant mortality, antenatal care provider, health facility delivery, assistance during delivery
  - Other: education, participation in own health decisions, median age of marriage

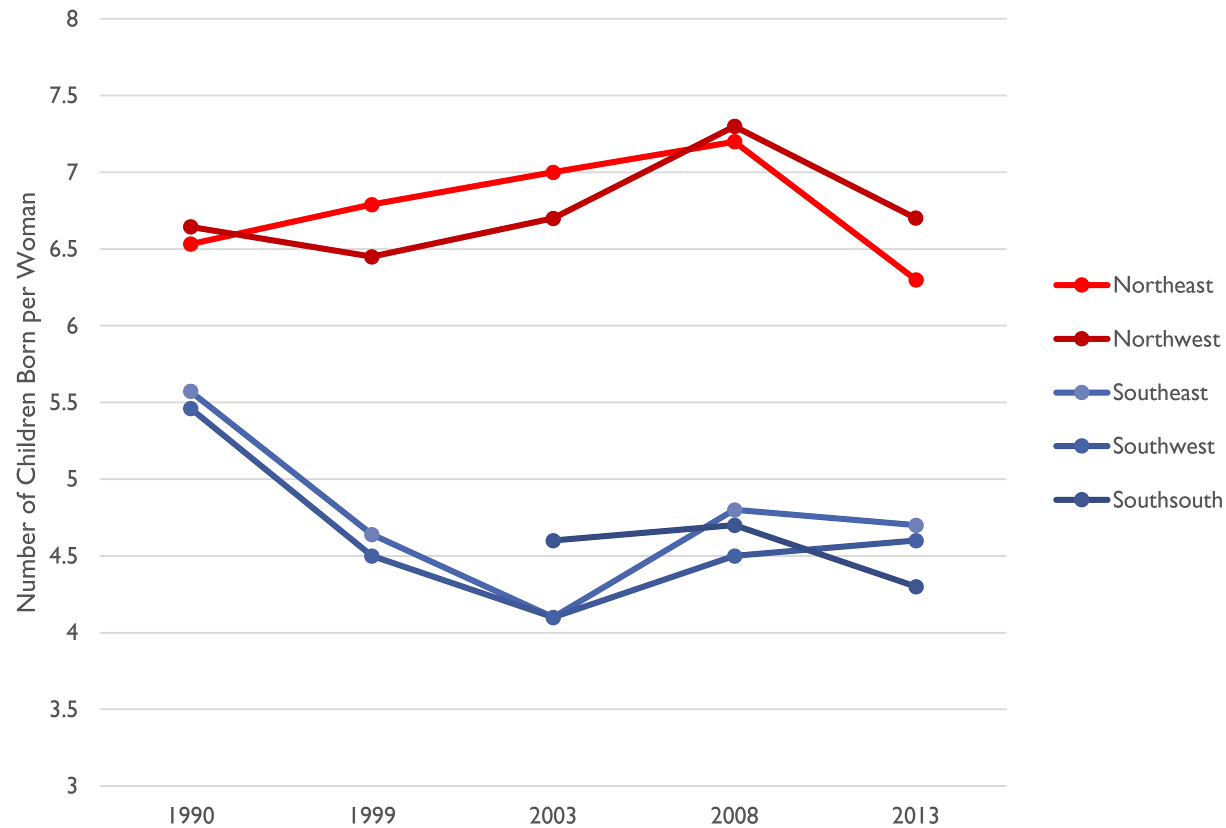


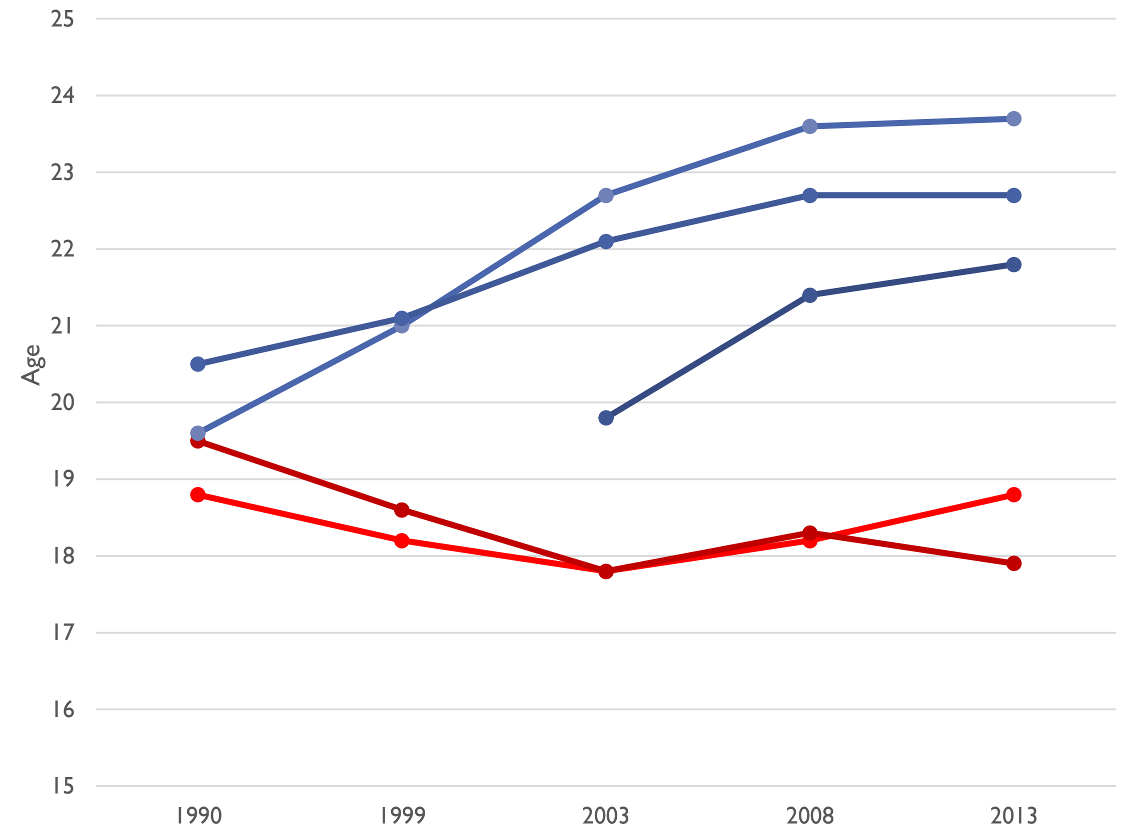
REGIONAL TIME TRENDS (1990-2013)



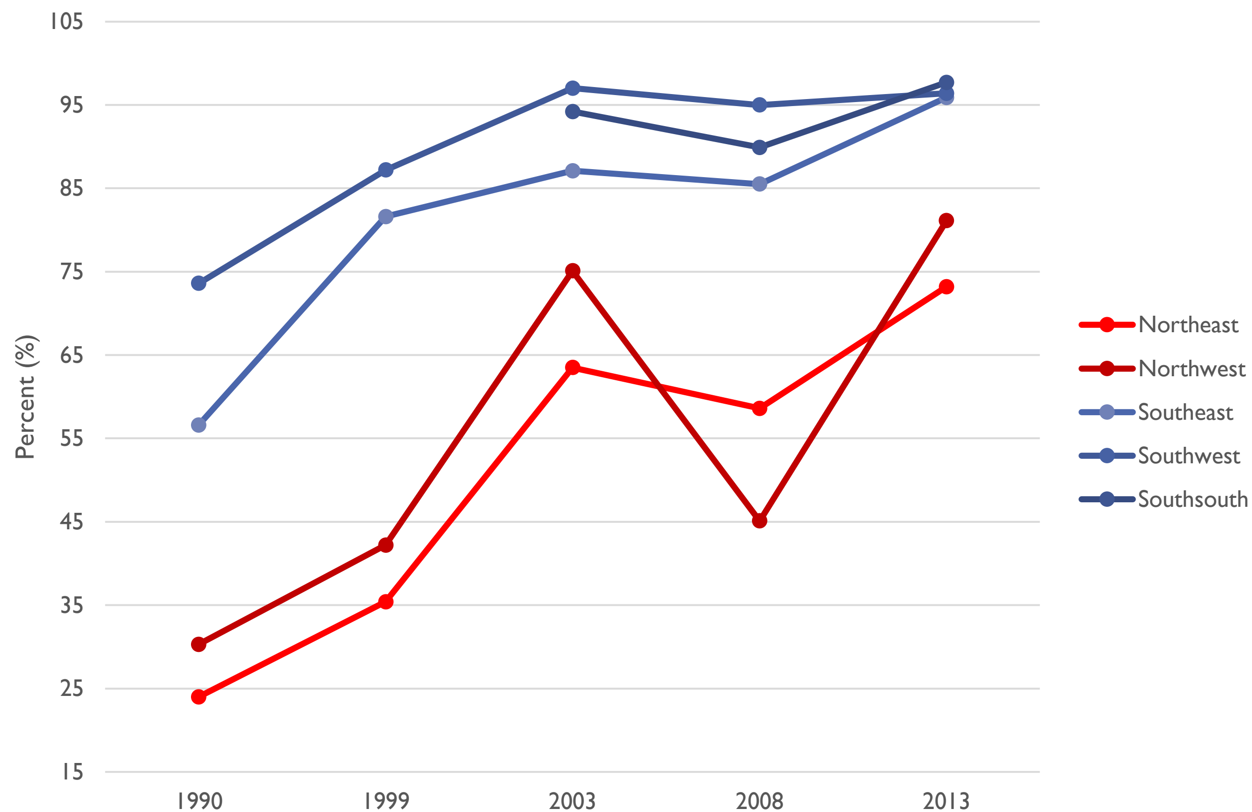


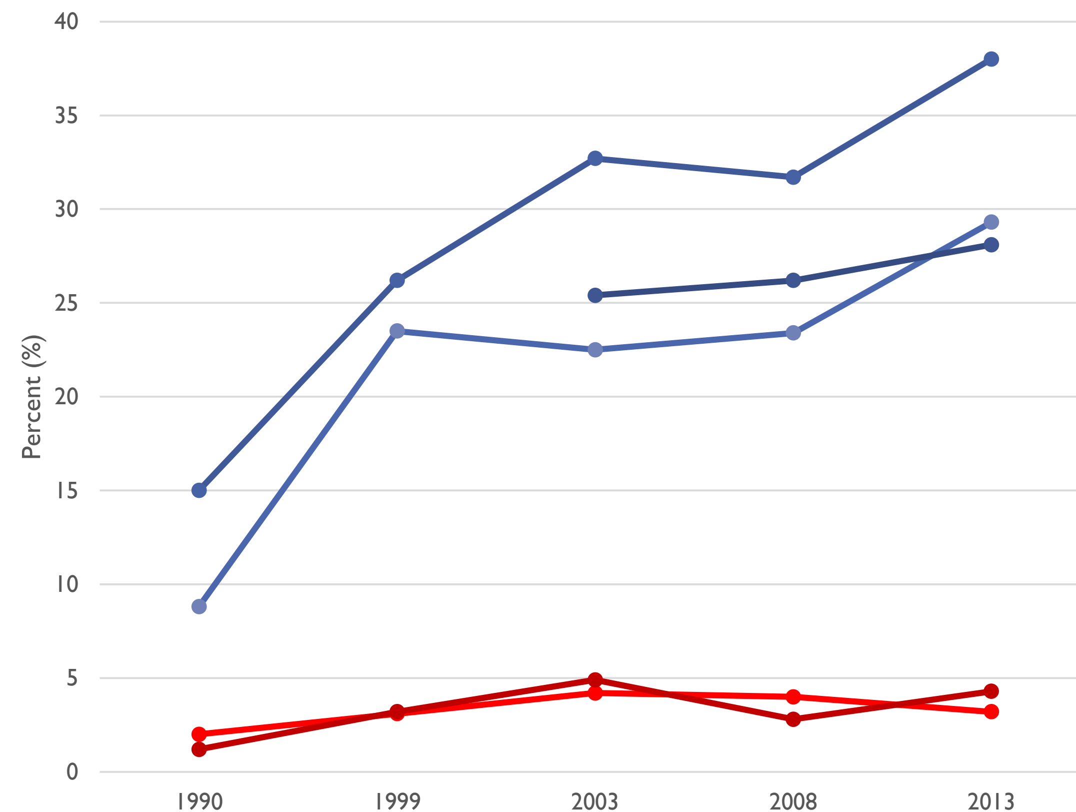
FERTILITY



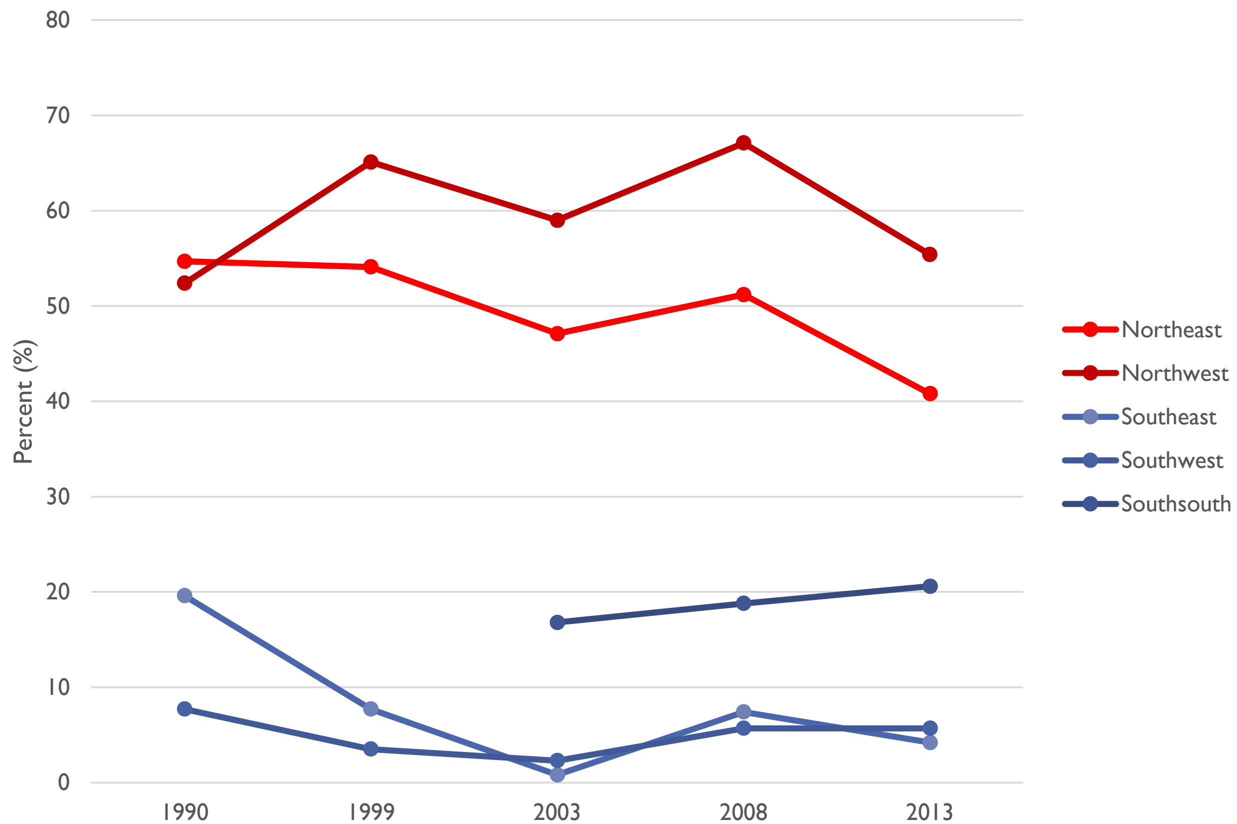


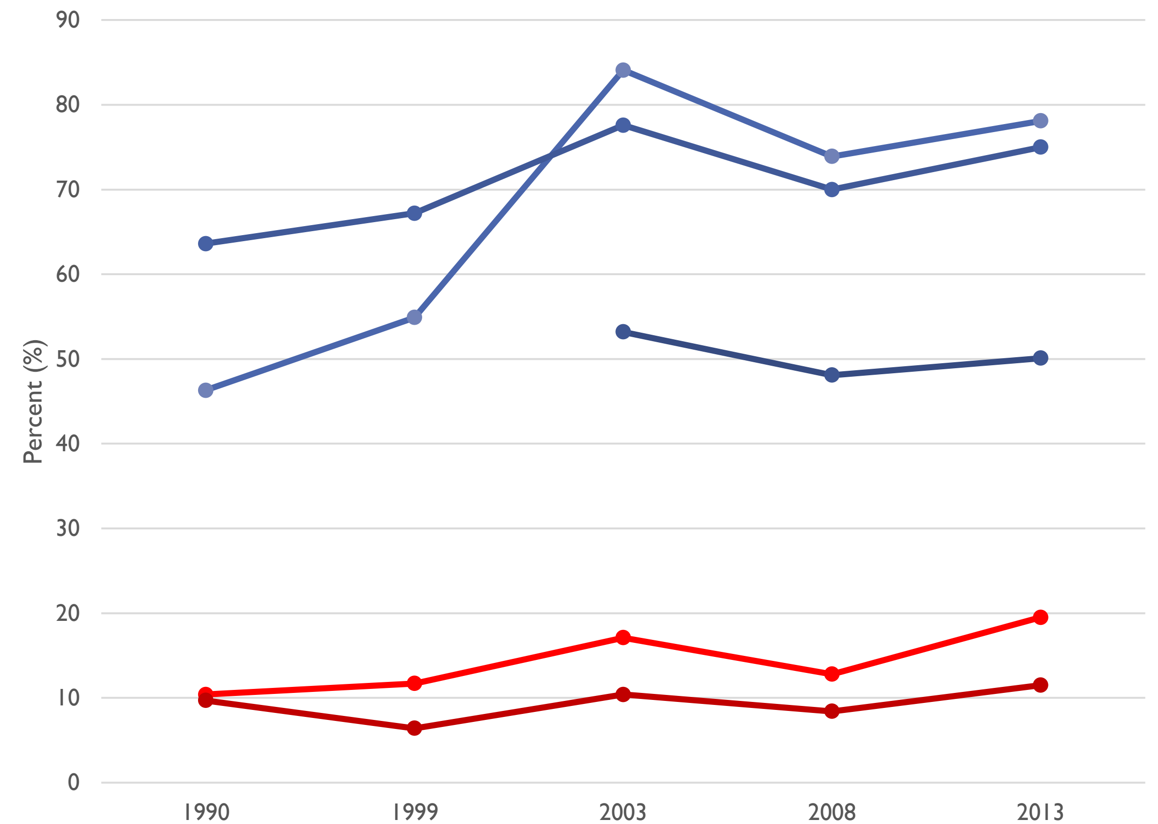
FAMILY PLANNING



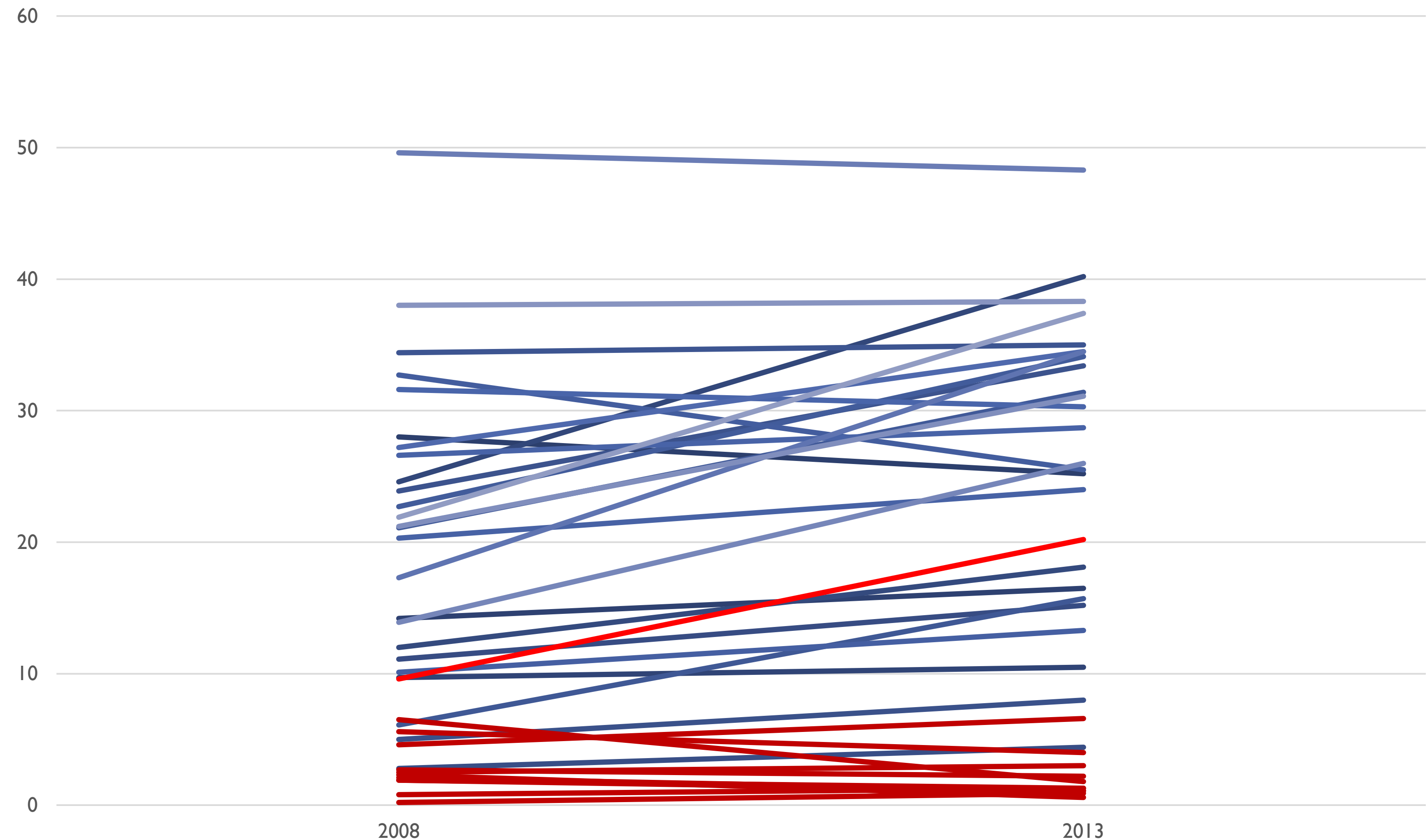


MATERNAL HEALTH





STATE-LEVEL TIME TRENDS (2008-2013)



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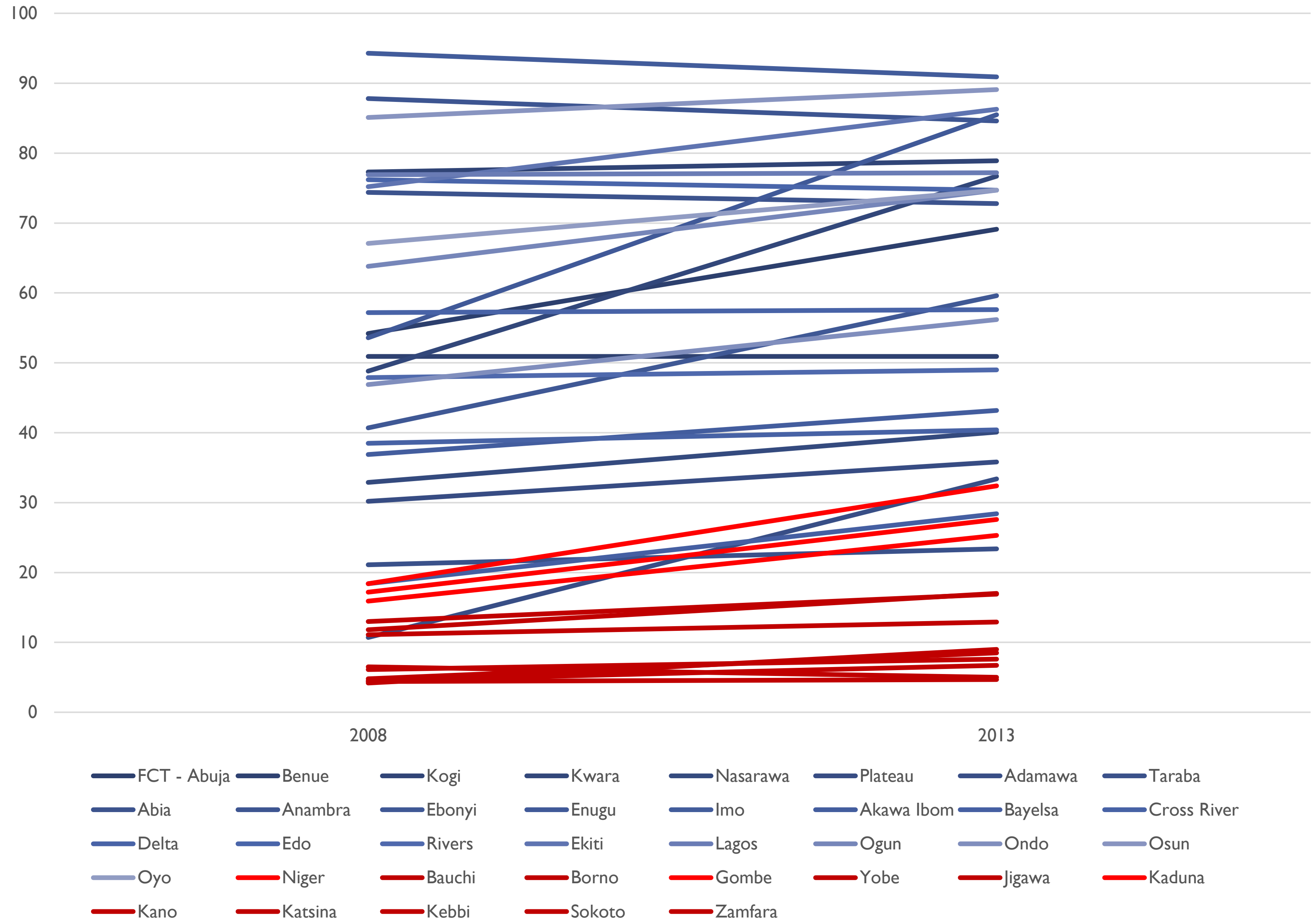


STATUS OF WOMEN'S HEALTH 2013

	States w/o (n=25)	States w/ (n=12)	Sig. (2-tailed)
Determinants of Health			
Median age at first birth women aged 25-49	21.7	18.4	
Education level (none)	20.8%	67.1%	<0.0001***
% who participate in their own health care decisions	61.1%	16.3%	<0.0001***
Fertility			
Total Fertility Rate	4.74	6.71	<0.0001***
% of 15-19 y/o who have begun childbearing	12.2%	36.7%	<0.0001***
Family Planning/SRH			
Heard of any contraception method	93.9%	73.9%	<0.0001***
Current use of any contraception method (married women)	26.4%	3.7%	<0.0001***
Have NOT heard FP message on radio or TV	51.3%	79.8%	<0.0001***
Knoweldge of HIV/AIDS	93.8%	89.1%	0.102
Maternal Health			
No Antenatal Care provider	14.6%	52.1%	<0.0001***
Health facility delivery	62.1%	14.5%	<0.0001***
No assistance during delivery	3.1%	18.4%	<0.0001***

STATUS OF WOMEN'S HEALTH 2013

NORTHERN STATES ONLY

	States w/o (n=8)	States w/ (n=12)	Sig. (2-tailed)
Determinants of Health			
Median age at first birth women aged 25-49	20.8	18.4	
Education level (none)	31.0	67.1	<0.0001***
% who participate in their own health care decisions	54.1	16.3	<0.0001***
Fertility			
Total Fertility Rate	5.20	6.71	0.003**
% of 15-19 y/o who have begun childbearing	17.38	36.73	<0.0001***
Family Planning/SRH			
Heard of any contraception method	87.34	73.88	0.01*
Current use of any contraception method (married women)	17.26	3.68	0.001**
Have NOT heard FP message on radio or TV	64.14	79.82	0.03*
Knoweldge of HIV/AIDS	89.88	89.06	0.43
Maternal Health			
No Antenatal Care provider	21.36	52.11	<0.0001***
Health facility delivery	51.04	14.47	<0.0001***
No assistance during delivery	6.70	18.38	0.02*

THE ROLE OF EDUCATION

- Living in a state with customary and religious laws and laws that impede access to sexual and reproductive health services affect education opportunities for women – an example:

Child marriage.

- Customary law allows marriage of girls between 12 and 15 years, the minimum age of marriage can be as low as nine. Under Islamic law, age of marriage is defined as "age of puberty".
- Among married girls aged 15 to 19, 62 % have already given birth.
- Almost 1 out of 4 gave birth before age 15.
- <u>Only 2% of 15 to 19-year-old married girls are in school, compared to 69 % of unmarried girls.</u>

Source: Reuters/A Akinleye

EDUCATION AS A MEDIATOR

1. Living in a state with living with customary and religious laws and laws that impede access to sexual and reproductive health services is a significant predictor or current contraception use amongst married women

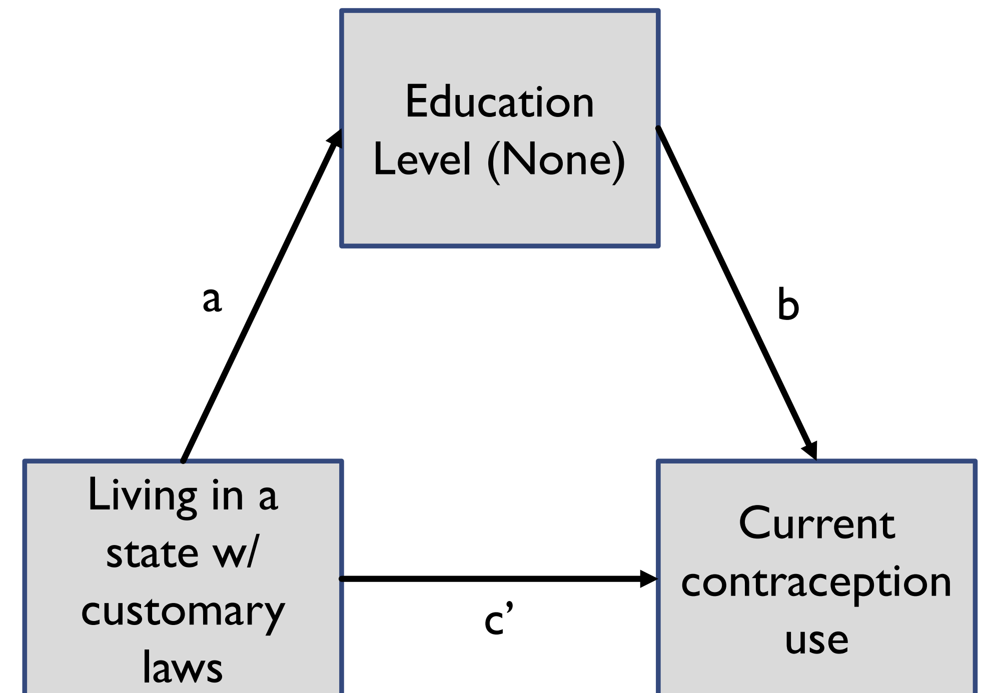
   (Pearson Correlation = -.747) (Linear regression: R^2=.56, F(1, 35)=44.23, p<0.0001***; β_{STATE}=-22.71, t=-6.65, p<0.0001***)

2. Living in a state with living with customary and religious laws and laws that impede access to sexual and reproductive health services is a significant predictor of education level

   (Pearson Correlation = .901) (Linear regression: R^2=.81, F(1, 35)=150.83, p<0.0001***; $\beta_{EDUCATION}$=46.24, t=12.28, p<0.0001***)

3. Living in a state with living with customary and religious laws and laws that impede access to sexual and reproductive health services is a significant predictor of education level

   (Linear regression: R^2 = .72, F(2, 34) = 43.98, p<0.0001***; β_{STATE}=2.74, t=.43, p=0.67; $\beta_{EDUCATION}$= -.55, t=-4.45, p<0.0001***)



TO CONCLUDE: WHY IS THE LAW IMPORTANT?

- Nigerian states with customary and religious laws and laws that impede access to sexual and reproductive health services have seen fewer, if any, improvements in women's health outcomes across the years.
- Education mediates the relationship between current contraception use amongst married women and living in a state with customary and religious laws
- Progress in achieving development goals have been slow and uneven, and wide regional differences exist.
- Customary, religious and traditional laws tend to have particular impacts on women and girls and must be addressed
- Domestic legal frameworks are largely inadequate in addressing sexual and reproductive health due to loopholes
- Social norms and practices are shifting, but others continue as part of deep-rooted value systems that subordinate women and girls
- Integrated approaches must be developed with the support and knowledge of women and girls and must involve traditional, cultural and religious leaders as well as men and boys.