



RIGHT HERE
RIGHT NOW

35th

Session of the Universal
Periodic Review (UPR)

Something Needs
To Change

**Right Here
Right Now**

UPR of Kenya

The summary is based on a report prepared by Right Here Right Now Kenya, Sexual and Reproductive Health and Rights Alliance Kenya, Network for Adolescent and Youth of Africa, Love Matters Kenya, CHOICE for Youth and Sexuality, Rutgers, Sexual Rights Initiative and International Planned Parenthood Federation - Africa Region Office which address the below four SRHR themes:

Barriers To Accessing Comprehensive Youth Friendly Sexual And Reproductive Health Services

Whereas Kenya has developed key policies and guidelines on SRHR, they have not been adequately implemented. Further, there's no legislative framework on SRHR in Kenya. Despite evidence that young people require services that are youth friendly and address their needs, only one in ten public health facilities provide comprehensive youth friendly services, and they are inequitably distributed

across the counties (SARAM). While Kenya is a signatory to the Abuja Declaration, it's budgetary allocation to health has fallen short of 15% target. Further, there exists numerous structural, systemic and socio-cultural barriers and access to existing services is challenged by systemic stigma and discrimination, particularly towards LGBTIQ+ and other marginalized youth.

R e c o m m e n d a t i o n s



Increase the proportion of public health facilities providing comprehensive youth friendly services from 10% to 30% by 2020.



Enact a Reproductive Health Law to provide a human rights based legal framework for young people's sexual and reproductive health.



Increase budgetary allocation to health to at least 15% as per the Abuja Declaration and allocate resources to the Adolescent Sexual Reproductive Health (ASRH) Sub Program.

Restrictive Policy and Legal Environment on Comprehensive Abortion Care

In 2012, around 465,000 abortions were performed in Kenya, one of the highest national abortion rates in the world (MoH et al), resulting in complications, injuries and deaths - on average 7 deaths per day-, which are often unnecessary and preventable. This has been attributed to the restrictive legal environment on abortion, which has been highlighted by several international and regional mechanisms. In 2013, the Ministry of Health (MoH) unprocedurally withdrew the Standards

and Guidelines for Reducing Morbidity and Mortality from Unsafe Abortion in Kenya, barely a year after they were launched. In 2019, The High Court in determining a petition challenging the withdrawal, ruled that the decision to withdraw the Standards and Guidelines was unjustified, discriminatory and violated the rights of women and adolescent girls of reproductive age. However, this judgment remains unimplemented.



For sexual and reproductive health and rights



Key Recommendations



Implement the judgment in Petition No 266 of 2015 to reinstate the Standards and Guidelines on Reducing Maternal Mortality and Morbidity related to unsafe abortions and the Training Curriculum for medical professionals in public hospital.



Repeal Cap. 63 article 158, 159, 160 and 228 of the Penal Code that criminalise access to abortion.



Withdraw the reservation on Maputo protocol section 14 (2) (c) on access to safe and legal abortion.

Inadequate Access And Provision of Comprehensive Sexuality Education for Young People

In Kenya, young people have inadequate access to scientifically accurate information on sexuality, which hinders effective decision making on SRHR. This leads to a multitude of negative health outcomes, including a teen-pregnancy rate of 30%. Although several national policies set out to provide

for comprehensive sexuality education (CSE) to address such challenges, the Ministry of Education is yet to integrate CSE in the school curriculum. As a result, young people are denied access to sexuality education and information to inform decisions about their sexual and reproductive lives.

Recommendations for Actions



Develop National Guidelines on Comprehensive Sexuality Education in line with UNESCO Technical Guidelines.



Include CSE in the National school curriculum



Put in place a joint framework for coordination and implementation of Comprehensive Sexuality Education between the Ministry of Education and Ministry of Health.

Discrimination Based on Sexual Orientation, Gender Identity and Expression and Sex Characteristics

The Constitution of Kenya and the Kenya Health Policy 2014-2030 stresses the importance of inclusiveness, non-discrimination, and gender equality in provision of health services. However, sexual and gender minorities still face barriers in enjoying their constitutional rights including right to the highest attainable standard of healthcare. In Kenya, consensual, adult, and private sexual conduct between persons of the same sex is a crime under Kenya Penal Code.

Despite Kenya accepting a recommendation to **“Adopt a comprehensive anti-discrimination law affording protection to all individuals, irrespective of their sexual orientation or gender identity”**, during the last UPR; Kenya is yet to enact this act, and discrimination and violence based on actual or perceived sexual orientation and gender identity remains rife. In 2019, the High Court ruled to uphold Sections 162 and 165 of the Penal Code, dismissing a case that had challenged the constitutionality of the sections.

Key Recommendations



Repeal Sections 162, 163 and 165 of the Penal Code and decriminalize consensual same sex conduct between adults.



Adopt laws, policies and measures to prevent violence and discrimination on the grounds of sexual orientation and gender identity and expression.