

# 49<sup>Th</sup> SESSION

## Universal Periodic Review of Kenya

The summary is based on a collaborative report submitted by the Network for Adolescent and Youth of Africa, Right Here Right Now II Kenya, and the Sexual Rights Initiative. The report focuses on four key sexual and reproductive health and rights issues which are mutually interlinked and combine to deny adolescents and young people their fundamental rights.

There is evidence that comprehensive sexuality education (CSE) increases young people's knowledge and improves their attitudes related to SRHR and behaviours with positive effects including delay of sexual debut, decrease in sexual partners, reduced sexual risk-taking and use of condoms and contraception.

Inadequate access to CSE limits young people's ability to make informed choices, with devastating consequences for their well-being. Low age of sexual debut contributes to high rates of STIs including HIV/AIDS, adolescent pregnancies, unsafe abortions and risks of maternal mortality and morbidity. These consequences are exacerbated by inadequate access to comprehensive youth-friendly SRHR services where adolescents and young people can access non-judgmental services that respond to their needs. There is clear evidence that meaningful and inclusive youth participation is key to achieving SRHR program outcomes, as young people contribute to the development of policies and programmes that are relevant to their needs, tailored to their realities and enjoy their ownership.

### 1 | INADEQUATE MEANINGFUL PARTICIPATION OF YOUNG PEOPLE AND CIVIL SOCIETY IN POLICY-MAKING

Despite the Constitution and other laws stressing the centrality of public participation as a key inalienable human right, young people's participation in decision-making processes is hindered by several barriers such as the lack of frameworks that define the threshold for effective public participation and the tokenisation of youth participation. There has been inadequate engagement of civil society and young people in key policy processes including the development of the National Reproductive Health Policy 2022– 2032 which includes clauses excluding young people from accessing SRHR services.

#### Recommendations

- ▶ Strengthen the meaningful and inclusive participation of young people in decision-making processes.
- ▶ Collect and analyse disaggregated data on sexual and reproductive health indicators for informed decision-making.

### 2 | INADEQUATE ACCESS TO COMPREHENSIVE SEXUALITY EDUCATION BY YOUNG PEOPLE

Whereas Kenya has Policies and Guidelines that provide for sexuality education, the Ministry of Education has yet to integrate CSE into the school curriculum. In 2023, Kenya quietly withdrew from the Eastern and Southern Africa (ESA) Ministerial Commitment on Comprehensive Sexuality Education.

#### Recommendations

- ▶ Integrate comprehensive sexuality education in the school curriculum.

### 3 | INADEQUATE ACCESS TO COMPREHENSIVE YOUTH-FRIENDLY SEXUAL AND REPRODUCTIVE HEALTH SERVICES

There are numerous structural and systemic barriers such as laws and policies requiring parental or partner consent, socio-cultural barriers such as restrictive norms and harmful gender norms and individual barriers such as young people's limited or incorrect knowledge of SRH that limit access. Kenya has yet to enact a Reproductive Health Law to provide a human rights-based legal framework for young people's SRHR. Whereas Kenya is a signatory to the Abuja Declaration, it has consistently allocated less than the minimum target of 15% to health.

#### Recommendations

- ▶ Enact a Reproductive Health Law to provide a human rights-based legal framework for young people's sexual and reproductive health.
- ▶ Remove all legal, policy, and structural barriers that impede the provision of sexual and reproductive health services, in particular against adolescent girls, young women, and members of key populations more vulnerable to HIV.
- ▶ Review the National Reproductive Health Policy 2022-2030 to address the exclusion of adolescents and young people from accessing SRHR services and information.
- ▶ Repeal Sections 162, 163, and 165 of the Penal Code and decriminalise consensual same-sex conduct between adults.
- ▶ Increase the budgetary allocation to health to at least 15% as per the Abuja Declaration.

### 4 | HIGH MATERNAL MORTALITY AND MORBIDITY FROM UNSAFE ABORTION

Article 26(4) of the Constitution permits abortion when in the opinion of a trained health professional, there is a need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law. Parliament has yet to enact a law to ensure the implementation of the Constitution. Instead, the state relies upon sections 158, 159, 160 and 228 of the Kenya Penal Code which criminalises abortions and places jail terms of up to 14 years for women seeking abortion services and service providers. Progressive rulings by the Judiciary on the legality of these sections remain unimplemented. There is limited updated data on the magnitude of unsafe abortions with the last survey conducted in 2012 revealing that there were about half a million abortions in Kenya in that year.

#### Recommendations

- ▶ Implement the judgements in Petition No 266 of 2015 to reinstate the 2012 Standards and Guidelines on Reducing Maternal Mortality and Morbidity and Petition E009 of 2022 of the High Court of Kenya which affirmed the right to abortion under the Constitution.
- ▶ Repeal Cap. 63 Articles 158, 159, 160, and 228 of the Penal Code criminalise women seeking abortions and abortion providers.
- ▶ Withdraw the reservation on Maputo protocol section 14(2)(c).



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