Recommendations for the 3rd cycle of the UPR of Jamaica

Sexual and Reproductive Health Rights

Sexual and reproductive health rights (SRHR) provide the pathway for women and girls to realise their right to bodily autonomy and achieving gender equality. SRHR entails the right to accurate information about related issues, access to SRH services including contraception and exercising choice about their overall reproductive health.

Every woman has the recognized human right to decide freely and responsibly without coercion and violence the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health (ICPD 1994)

United Nations Population Fund (UNFPA) explains that when sexual and reproductive health needs are not met, individuals are deprived of the right to make crucial choices about their own bodies and future. This may exacerbate their chances of poverty and inequity.

For the purpose of this presentation, SRHR issues such as the right to safe and legal abortion, the rights of lesbians, gays, bisexuals and transgender and the importance of comprehensive sexuality education in schools will be discussed.

Access to Abortion in Jamaica

The debate to legalize safe abortion in Jamaica continues to draw the attention of policy makers and various stakeholders. Entrenched societal and cultural norms, pro-life individuals and

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1. https://www.who.int/health-topics/abortion#tab=tab_1
paternalistic leaders prohibit progressive conversations around the issue. Although there have been many conversations, the legislative framework that prohibits women to access the service remains untouched. The Offences against the Person Act (1861) sections 72 and 73, a law of over 159 years continue to criminalize women who seek the service, medical practitioners who perform the procedure under the request of the female and the guardian or parent under the age of 18 who facilitates the act. With those stringent measures in place, women resort to other remedies to terminate the pregnancy. A prominent local newspaper, The Gleaner Company reports that January and September [2017], of the 1,088 expectant mothers who presented to VJH with bleeding in early pregnancy, 91 admitted to having attempted to abort the foetus while an additional 47 had complications that suggested that they had attempted abortions.

The World Health Organization (2009) cites that:

1. Between 2010–2014, on average, 56 million induced (safe and unsafe) abortions occurred worldwide each year.
2. Each year between 4.7% – 13.2% of maternal deaths can be attributed to unsafe abortion.
3. The annual cost of treating major complications from unsafe abortion is estimated at US$ 553 million.
4. Around 7 million women are admitted to hospitals every year in developing countries, as a result of unsafe abortion.

Women are often recognized as the nurturers of the household. Women who become pregnant are at a disadvantage. In Jamaica, approximately 50% of women report being forced on their first sexual encounter, this contrasts to 16% among males\(^3\). This high percentage of sexual violation at the time of initial sex leaves girls vulnerable to early, unwanted, and unplanned pregnancy, which they have no option but to bring to term. The absence of a link between abortions and the maternal mortality rate is largely due to the illegality of abortion in Jamaica, which prevents the reporting and record-keeping of such operations in the private sector and inhibits analysis of abortion to maternal mortality cases at the national level.

In the 2nd cycle of the UPR, recommending state France made recommendations to softening legislation towards decriminalisation of abortion especially in cases of rape\(^4\). To date, the recommendation has not been considered.

\(^3\)Caricom.(2014). Integrated Strategic framework for the reduction of adolescent pregnancy in the Caribbean.

\(^4\)https://www.upr-info.org/database/
LGBT Rights

Same-sex relations are still illegal in Jamaica and as such have been the subjected of a lot of discrimination. Homosexual acts carry sentences of up to 10 years of imprisonment with hard labour for those convicted under Article 76 of the Offences against the Person Act, also known as the “buggery” statute. The law is predominantly enforced against homosexual men\(^5\). While Jamaica’s Charter of Fundamental Rights and Freedoms contains anti-discrimination language, sexual orientation and gender identity are not listed as protected classes.

Comprehensive Sexuality Education (CSE)

Delivering high quality and comprehensive information in an age-appropriate manner requires trained educators who should regularly be monitored and their knowledge reinforced. This is to ensure they are able to deliver the information to evolving young people in a non-judgemental and unbiased manner.

The current the Age of Majority Act, 1979 allows young people age 16 to be able to consent to sex. However, conflicting language embedded in the Child Care Protection Act, 2004 prohibits them from accessing various health services such as access to contraception\(^6\). This contradiction heightens their vulnerability to unplanned pregnancies because they are given the choice to have sex but not the chance to prevent a pregnancy.

The rights to education and health are also embedded in international agreements, including the Programme of Action of the 1994 International Conference on Population and Development and the Convention on the Rights of the Child\(^7\). These are international instruments that the country has aligned itself with. Therefore, the state has an obligation to uphold such commitments.

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\(^6\)https://moj.gov.jm/laws/law-reform-age-majority-act
\(^7\)https://www.unfpa.org/comprehensive-sexuality-education#
Recommendations

1) Revise the strict laws that prohibits safe and legal abortion and decriminalize women who have been pregnant through sexual coercion and/or abuse such as rape or incest and desire to terminate the pregnancy.

2) Revise/review laws that decriminalize same sex relationships and undertake public education to promote non-discrimination and human dignity for all.

3) Review existing curriculum to ensure it is comprehensive and aligns with UN guidelines on education and secure adequate resources to sustain the training of teachers who deliver the curriculum.