

Jamaica

ABORTION POLICY

Grounds on which abortion is permitted:

To save the life of the woman	Yes
To preserve physical health	Yes
To preserve mental health	Yes
Rape or incest	No
Foetal impairment	No
Economic or social reasons	No
Available on request	No

Additional requirements:

The spouse's consent is required. In order to perform an abortion on the grounds of mental health, foetal impairment, rape or incest, the approval of two specialists must be obtained.

REPRODUCTIVE HEALTH CONTEXT

Government view on fertility level:	Too high
Government intervention concerning fertility level:	To lower
Government policy on contraceptive use:	Direct support provided
Percentage of currently married women using modern contraception (aged 15-49, * 1997):	63
Total fertility rate (1995-2000):	2.5
Age-specific fertility rate (per 1,000 women aged 15-19, 1995-2000):	91
Government has expressed particular concern about:	
Morbidity and mortality resulting from induced abortion	Yes
Complications of childbearing and childbirth	Yes
Maternal mortality ratio (per 100,000 live births, 1990):	
National	120
Caribbean	400
Female life expectancy at birth (1995-2000):	76.8

* Including visiting unions.

Source: The Population Policy Data Bank maintained by the Population Division of the Department for Economic and Social Affairs of the United Nations Secretariat. For additional sources, see list of references.

BACKGROUND

Abortion is illegal in Jamaica under the Offences Against the Person Act of 1864, which is based on the 1861 English Act of the same title. Under the Act, any person who, intending to procure a miscarriage, regardless of whether the woman is with child, unlawfully administers to her any poison or noxious thing or unlawfully uses any instrument or other means to the same end is subject to life imprisonment, with or without hard labour. A pregnant woman who acts in the same way with respect to her own pregnancy is subject to the same penalty.

General criminal law principles of necessity, however, allow an abortion to be performed to save the life of the pregnant woman. Moreover, Jamaica, like a number of Commonwealth countries whose legal systems are based on English common law, follows the holding of the 1938 English *Rex v. Bourne* decision in determining whether an abortion performed for health reasons is lawful. In the *Bourne* decision, a physician was acquitted of the offence of performing an abortion in the case of a woman who had been raped. The court ruled that the abortion was lawful because it had been performed to prevent the woman from becoming “a physical and mental wreck”, thus setting a precedent for future abortion cases performed on the grounds of preserving the pregnant woman’s physical and mental health.

Physicians in Jamaica are usually hesitant to perform an abortion, as the law affords them no real protection, and many of them fear the possibility of prosecution. A survey conducted in 1973 found that 84 per cent of all physicians and 88 per cent of nurses and midwives in Jamaica favoured a more liberal abortion law. The majority of survey respondents supported offering the provision of abortions under the auspices of the National Family Planning Board, particularly as a backup method in the event of contraceptive failure.

The maternal mortality ratio in Jamaica is relatively high (120 per 100,000 live births in 1990). However, although liberalization of the current abortion law has been a topic of debate in Jamaica since the 1970s and the Government is concerned about the large number of women treated for septic abortion, as of 1999 there had been no change in the law.

The Government of Jamaica was one of the first in the Latin American and Caribbean area to adopt a policy designed to decrease the rate of population growth. The Jamaica Family Planning Association was established in 1956. Ten years later, a national family planning programme was initiated and was placed under the authority of the semi-autonomous National Family Planning Board. The percentage of women using contraception was 63 per cent in 1997.

Source: The Population Policy Data Bank maintained by the Population Division of the Department for Economic and Social Affairs of the United Nations Secretariat. For additional sources, see list of references.