10 May 2021

I have the honour to address you in my capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolution 42/16.

I would like to invite you to respond to the questionnaire below. Submissions received will inform my next thematic report on the right of everyone to sexual and reproductive health – challenges and opportunities during COVID-19, which will be presented to the UN General Assembly in October 2021.

The questionnaire on the report is available at OHCHR website in English (original language) as well as in French, and Spanish: (<https://www.ohchr.org/EN/Issues/health/pages/srrighthealthindex.aspx>).

All submissions received will be published in the aforementioned website, unless it is indicated that the submission should be kept confidential.

There is a word limit of 3000 words per questionnaire. Please submit the completed questionnaire to [srhealth@ohchr.org](mailto:srhealth@ohchr.org). The deadline for submissions is: **10 June 2021.**

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

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**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

|  |  |
| --- | --- |
| Type of Stakeholder (please select one) | Member State  Observer State  Other (please specify) NGO |
| Name of State  Name of Survey Respondent | UGANDA  Women’s Probono Initiative (WPI) |
| Email | INFO@WOMENPROBONO.ORG |
| Can we attribute responses to this questionnaire to your State publicly\*?  \*On OHCHR website, under the section of SR health | **Yes**  No  Comments (if any): |

**QUESTIONNAIRE**

# Background

The right to sexual and reproductive health is an integral part of the right to health enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights and a key priority theme for the work of the Special Rapporteur on the right to physical and mental health during her tenure.

The Special Rapporteur, Tlaleng Mofokeng will focus her next thematic report to the General Assembly on “The right to sexual and reproductive health – challenges and opportunities during COVID – 19”.

# Objectives of the report

With her report, the Special Rapporteur intends to shed light on the current status/level of realization of the right to sexual and reproductive health and the availability, accessibility, acceptability and quality of related services, during the COVID-19 pandemic. Building on the work and previous reports of the mandate, she aims to further develop understanding of the structural and systemic issues preventing all persons from freely and fully enjoying the right to sexual and reproductive health.

She will focus on elements historically neglected, including the impact of colonialism and racism in the enjoyment of these right, with an intersectional approach and will also analyze the impact of COVID -19 and related policies, legal developments and practices on access to sexual and reproductive health services. She will also aim to present challenges and opportunities in the operationalization of the right to sexual and reproductive health in the current context of pandemic.

*For the purpose of this questionnaire:*

*The* ***Right to sexual and reproductive health*** *entails the right to make free and responsible decisions and choices, free of violence coercion and discrimination regarding matters concerning one’s body and sexual and reproductive health. It also entails entitlement to unhindered access to a whole range of health facilities, goods, services and information, which ensure all people full enjoyment of the right to sexual and reproductive health under article 12 of CESCR.*

***Sexual reproductive health care*** *refers to services, goods and facilities including:*

* *Pregnancy and post-natal related services*
* *Family planning and contraception, including access to safe abortion*
* *Prevention, diagnosis and treatment of reproductive cancers, sexually transmitted infections, and, HIV/AIDS*
* *Hormonal treatments*
* *Gender affirming treatments*
* *Access to information on all aspects of sexual and reproductive health issues.*

# Key questions

1. Since the beginning of COVID-19 pandemic, States have adopted new policies, laws and other measures in response to the crisis. Please refer to the relevant measures in your country (or countries in focus) and their impact on the right to sexual and reproductive health. Please share information on opportunities and challenges.

In March 2020, Uganda declared a total lock-down for about 4months with restrictions on movements of non essential service providers. The restrictions on movement as we battle the second wave and second partial lock-down impact women and girls in need of essential SRHR services quite significantly. The government has since lifted the restrictions from mexpecting mothers and those seeking emergency health service providers but access to safe and legal abortion services for women and girls that have suffered sexual violence remains a challenge.

Article 22(2) of the Constitution of the Republic of Uganda, 1995 as amended provides that *“no person has the right to terminate the life of an unborn child except as may be authorized by law,”* which restricts the termination of pregnancy to instances permitted by law. Uganda’s Penal Code Act, Cap 120 in Section 224 permits safe and legal abortion if; ***“it is performed in good faith and with reasonable care and skill for the preservation of the mother’s life, if the performance of the operation is reasonable, having regard to the patient’s state at the time, and to all the circumstances of the case.”***

**T**he Uganda [2006 National Policy Guidelines](https://www.prb.org/wp-content/uploads/2018/05/National-Policy-Guidelines-and-Service-Standards-for-Sexual-and-Reproductive-Health-and-Rights-2006.Uganda.pdf) and Service Standards for Sexual and Reproductive Health and Rights (SRHR) permit abortion under certain circumstances including; severe maternal illness; severe foetal abnormalities; rape, defilement and incest; if the woman is HIV-positive and requesting under severe maternal illness; or has cancer of the cervix. It is noteworthy that in April 2015 the Ministry of Health developed Guidelines on Reducing Maternal Morbidity and Mortality from unsafe Abortion intended to guide health service delivery, advocacy, and capacity building geared towards addressing abortion and its complications in Uganda. On 7th December, 2015 the then Director General for health services, Ministry of Health, through circular **No. 103/206/01** addressed to all implementing partners and Heads of Health Care Facilities in Uganda stayed the implementation of the standards and guidelines for reducing maternal morbidity and mortality from unsafe abortion in Uganda.

**The** stay of implementation of the standards and guidelines for reduction of mortality and morbidity due to unsafe abortion in Uganda created an environment where women eligible for safe and legal abortion services such as survivors of sexual violence cannot access safe and quality services in the absence of guidance or information as to whom and where the services can be accessed. Each year, 1,500 women and girls in Uganda die from unsafe abortions – approximately 4 women and girls every day. The Uganda Demographic Health Survey 2016 states that the maternal mortality ratio is still high at 336 per 100,000 live births, and maternal deaths are estimated at 16-18 per day with 4-6 deaths attributed to unsafe abortion. Unsafe abortion continues to be among the leading causes of maternal death. Many more women also continue to suffer as a result from complications that are serious, debilitating or life- threatening. The COVID-19 pandemic has exacerbated the statusquo and the deaths from unsafe abortions may not be audited due to the governments efforts and priorities being redirected to fighting the pandemic at hand.

**W**omen and girls in Uganda continue to practice unsafe abortions due to lack of information about when abortion is allowed, who can provide a safe and legal abortion and sometimes out of fear that the cost of seeking legal abortion services may be beyond their economic means. The Uganda Government has an obligation to provide safe and legal abortion health care services relevant to women and girls in Uganda respectively and failure to provide guidance and information has resulted in violation of women’s sexual reproductive rights. It is against this background that we seek the SR’s intervention to appeal to the Uganda government to address the issue of access to safe and legal abortion services during the COVID-19 pandemic.