**QUESTIONNAIRE**

**“Violence and its impact on the right to health”**

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 “Violence and its impact on the right to health”, which will be presented to the Human Rights Council in June 2022.

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 750 words per question. Please submit the completed questionnaire to ohchr-[srhealth@un.org](mailto:srhealth@un.org). The deadline for submissions is: **18 January 2022.**

Tlaleng Mofokeng

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

**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)  Transnational: Argentina, Chile, Ecuador, Egypt, Guatemala, India, Paraguay, and Rwanda. |
| Name of State  Name of Survey Respondent | Hidden Pockets Collective, India Realizing Sexual and Reproductive Justice (RESURJ), Transnational Alliance |

# Background

Within the framework of Human Rights Council resolution 42/16, the Special Rapporteur on the highest attainable standard of physical and mental health has identified sexuality, gender based violence and femicide as one of her priorities during her tenure (See [A/HRC/47/28](https://undocs.org/A/HRC/47/28) paras 50-64). In compliance with her mandate and in line with this priority she has decided to devote her next thematic report to the 50th session of the Human Rights Council in June 2022 to the theme of “Violence and its impact on the right to health.”

# Objectives of the report

The Special Rapporteur intends to shed light on who is seen as victims of violence, and who is affected by what type of violence, with emphasis on the violence experienced by women, children, LGBTI persons and conflict related gender based violence. She will also explore the role of men as perpetrators and their experience as victims of violence. Her analysis will look into the responses that survivors of violence receive with a focus on good practices, as well as the obligations, responsibilities, and protections that arise under the right to health framework and other relevant human rights in this connection. She will also report on emerging trends related to the impact of COVID-19 on all forms of violence and related responses.

In her report, the Special Rapporteur will address, inter alia, issues related to gender based violence, (including inter-personal and intimate violence), as well as structural violence. She will also assess the impact of the criminalization of sex work, same sex relations, transgender persons, abortion, drug use etc. on the enjoyment of the right to health. The Special Rapporteur would like to identify good practices and examples of comprehensive health responses to survivors of violence, and to identify lessons learned at the community, national, regional and international levels.

# Key questions

*You can choose to answer all or some of the questions below. (750 words limit per question).*

When responding to the questions below, please use the glossary with definitions at the end of the questionnaire, and refer to all or some of the forms of violence in focus for this study as applicable in your country, countries or region in focus:

1. Please describe, share data and information on the characteristics, number of cases, and the profile of victims and perpetrators in your country/ies or region(s) regarding:
   1. gender based violence against women

India

India does not have statistical data around marital rape, as it is not recognized in the country as a criminal offence. There is a case pending in the Supreme Court of India, challenging the exemption provided to marital rape under section 375 of Indian Penal Code[[1]](#footnote-1).

* 1. gender based violence and other forms of violence against children:
  2. gender based violence against LGBTI or other persons based on real or imputed sexual orientation, sex characteristics, and gender identity:

Egypt

According to a report published by Human Rights Watch[[2]](#footnote-2) that reflected testimonies from LGBTQ individuals who have been persecuted by the Egyptian state since 2017, forced anal and virginity tests are notorious practices carried out by security forces against LGBTQ persons in Egypt. Such violations seek viability and credibility on medical grounds to further persecute and incriminate sexual orientations and gender identities. Another sexual violation associated with sexual orientation in Egypt, is the hindered access to PEP. Access to post-exposure prophylaxis (PEP) is only available through the Ministry of Health and Population, where the preventive medication is only dispensed upon the submission of a police report of proved sexual assault. Such a process is designed with the assumption that exposure to HIV can only happen as a result to sexual assault. Tying access to sexual health services to police reports further stigmatizes people living with HIV, reinforces virginity and anal examination as part of proving sexual assault which exposes gay men and transwomen to security and state reprisals[[3]](#footnote-3), and unnecessarily blocks the access to sexual health services and preventive measures.

* 1. violence against persons with disabilities, including GBV.  
     Women and girls living with disabilities face multiple challenges to exercise their bodily rights and reproductive autonomy. Their wishes to have or not a pregnancy are not taken into consideration within courtrooms and healthcare settings. The Injusta Justica[[4]](#footnote-4) campaign platforms the specific challenges and layered violence adolescent girls living with disabilities face:

Gabriela, Argentina, 13

Gabriela[[5]](#footnote-5) is an adolescent girl who lives with an intellectual disability got pregnant as a result of rape and could not access abortion services. Until her mother took her case to court and got a ruling approving her wishes. However, the court ruling dictated forced sterilization in order to protect Gabriela from future pregnancies. On the bases of protectionism and legal guardianship, Gabriela was not offered options, nor asked to define what kind of protection she needed, if any. Gabriela’s case sheds light on the complexity formed by tying health services to court rulings, instead of adhering to service provision protocols.

Cristina, Ecuador

Cristina[[6]](#footnote-6) who is an adolescent girl living with an intellectual disability, got pregnant as a result of rape. She took her case to court when she was denied access to abortion, even though it is legal in case of rape in Ecuador. The court ruled apathetically against her needs to access abortion. Moreover, Cristina got her request to set the baby up for adoption turned down by the court, and instead was forced to continue the pregnancy and look after the baby as the primary caregiver. Although abortion is legal in Cristina’s case, tying access to this health service had weighed down on her instead of focusing on providing her with recovery options and services as a survivor of sexual assault.

* 1. gender based violence against men
  2. conflict gender based violence, including sexual violence
  3. Please share analysis and available evidence on the impact of COVID on the above

The pandemic, including state precautionary measures to contain the spread of COVID-19, had a disproportionate impact on marginalized groups across regions. Activist and advocacy groups have been extremely challenged to sustain community mobilizations and holding the frontline along with their communities because of COVID-19[[7]](#footnote-7). The response to a global public health crisis with militarized task-forces[[8]](#footnote-8) in many countries[[9]](#footnote-9) has also affected people’s access to health services and information, in specific sexual and reproductive health services.    
  
Chile

In 2020, the parliament approved a bill addressing home quarantine non-compliance with prison sentences; leading to women getting arrested for breaching quarantine measures on their way to the police to report violence[[10]](#footnote-10). Meanwhile, the Ministry of Women and Gender Equity announced an increase in the calls by women reporting domestic violence reaching 70%[[11]](#footnote-11).

Egypt

There has been no record on changed or increased security targeting of LGBTQI people in Egypt during the pandemic. As for access to PEP, the Ministry of Health and Population along with UNAIDS launched two hotlines to respond to queries on HIV/AIDS and COVID-19. While designating a helpline is certainly a step forward to attend to the needs of people living with HIV, however, the launch came a few months late as an add-on and not an integrated service in the national COVID-19 response[[12]](#footnote-12). Especially, when Egypt designated fever hospitals[[13]](#footnote-13) to testing centers for COVID-19. Moreover, the Ministry of Health and Population and UNAIDS did not promote this service and relied on communities of people living with HIV/AIDS to reach out.

India

In India –– amidst a lockdown –– a total of 3,71,503 crimes against women were recorded in 2020.  Out of the total victims, 25,498 were adults, while 2,655 were below the age of 18 years[[14]](#footnote-14).  Even though crimes fell down, there seemed to be an increase in cybercrimes against women and girls.

Rwanda  
One of the precautionary measures taken in Rwanda to control the spread of the virus, was to pardon inmates imprisoned on minor offences through a conditional release, 50 women who were imprisoned for having an abortion were released. This is one of the examples on how the pandemic provided the political moment to rethink criminalization of abortion at national level[[15]](#footnote-15).

1. Please describe whether the legal framework prohibits and sanctions these forms of violence and the definitions and forms of violence included in the legal system. Please explain redress options for survivors of violence, (the pathway they go through if they decide to file a complaint), levels of impunity and if access to comprehensive physical and mental care for GBV-survivors is recognized as a form of reparation.

Guatemala

The gap between minimum age of marriage and legal age of consent sends out confusing messaging on adolescents’ sexual and reproductive autonomy that affects their lives accordingly. Minimum age of marriage stands at 18 years old, while legal age for consent is 16 years old. Such a gap hinders adolescents’ access to reproductive health services, as many avoid the legal repercussions for their partners. Especially with the presence of staff from the prosecutor’s office and civil register, which is meant to facilitate processes and protocols, yet it stood as a challenge as captured in the Injusta Justicia campaign[[16]](#footnote-16). One of the cases reflects the impact of the gap between the minimum age of marriage and legal age of consent on adolescents’ realities. For instance, in some cases where adolescents below age of 18 need to access reproductive health services, they may consider not attending to their health needs in fear of legal repercussions; consequently making adolescent girls more prone to health risks during pregnancy and childbirth.

India

In India, even though there is a law to prohibit child marriage, under COVID, there has been an increase in child marriages, to escape poverty and teenage pregnancies[[17]](#footnote-17) heightened by pandemic fears and uncertainties. There are laws to protect girls, but these laws do not factor in social and economic conditions those girls live under. Such laws deny girls their autonomy in making reproductive health decisions. The laws around protecting the children against sexual offences make it difficult for young girls to access health services. This resulted in young girls not having access to adolescent friendly health services. In Prohibition of Child Marriages Act 2006[[18]](#footnote-18) the focus is mostly on ensuring young girls are not married off before 18 years. It is punitive in nature, and focuses on punishing people who support this marriage. The marriage is considered void ab initio, it is not considered legal, but there are no provisions to talk about girls who are already part of it.

1. Please share examples of the types of structural and institutional violence with origins within the State, (perpetrated or condoned by the State) or perpetrated by those not representing or affiliated to the state in your country/ies of region, and who is affected. In particular, describe structural/institutional violence in medical settings against women and girls, LGBTI persons and persons with disabilities or any other individuals or groups relevant in your country/ies or regions.

India

Single women find it difficult to access medical services especially with regard to making reproductive health choices. Under COVID-19, a good number of doctors refused to help single women in government health services to access to abortion[[19]](#footnote-19). Through Hidden Pockets Collective’s work with the Public health system, we have seen this happening again and again.

For young girls in India, it becomes very difficult to access services without their partners getting entrapped in the legal system due to current laws that make reporting mandatory for relationships below the age of 18 years. The young girls can't access health services, without endangering their boyfriends. Our online mailing system[[20]](#footnote-20) receives plenty of cases seeking help, as young girls do not know how to proceed. This further gets complicated by the fact that  a bill to raise the age of marriage to 21 has been presented in Indian Parliament, despite activists on the ground[[21]](#footnote-21), presenting the harm such a bill brings about to the agency of young girls. This further hinders the rights of young girls who are between 18-21 years[[22]](#footnote-22), now, are they girls? Are they adults? Do they need protection of laws? What happens to their consensual relationships?

Alex, Paraguay, 19, trans man[[23]](#footnote-23)

One of the cases from Paraguay highlighted by the Injusta Justicia campaign in Latin America, captures a relationship between two adolescents, one of them is a trans person. The family of the girl disapproved of this relationship and interfered to end it. This case draws on the different application of laws that are meant to protect children from sexual violence; and how they were used to incriminate a consensual relationship between two adolescents by attacking a transman’s identity in the name of protecting a minor from homosexual acts, as the report was filed by the girl’s family. More broadly, legal guardians and health providers attend to adolescents’ challenges and needs with a misconception of adolescence as one homogeneous group, overlooking its evolving capacity and bodily autonomy. The case in question enforces an oppressive attitude; had it not been for the trans identity of the partner, there would have been no conflict surrounding this relationship. The threat of potential two years behind bars under filed accusations, classified as statutory rape, would have not been a relevant threat in this context to cis boys and men.

1. Please also share information on the impact of criminalization of sex work, same sex relations, transgender persons, abortion, drug abuse, harmful practices in obstetric care, female genital mutilation on the violence experienced by the affected individuals and their enjoyment of the right to health.

Egypt, Female Genital Mutilation

In 2021, Egypt approved amendments proposed on articles criminalizing FGM, by heightening the punishment of parents with a minimum 3 years imprisonment, and service providers with up to and 20 years[[24]](#footnote-24). These amendments do not taken into account the challenges faced by adolescents and extended family members when reporting on FGM. In some cases, family members reach out to the child protection helpline to report planned FGM, yet they reporters are taken aback when they realize their report may send their family members to prison. It is worth noting that increasing the punishment in the absence of effective awareness raising campaigns on the dangers of FGM, contributes to parents resistance[[25]](#footnote-25) to abolishing this harmful practice in the name of preserving traditions.  Especially with the potential persecution of parents who might lack the knowledge on this harmful practice to be a violation of their daughters bodily and sexual rights. The focus on legislative positioning on FGM instead of mobilizing to shift cultures around this harmful practice adds more to the damage[[26]](#footnote-26). Since its criminalization in 2008, only a handful of cases had been made public when FGM victims lose their lives to health complications. It is unclear what are the best practices in ending FGM in Egypt, as reports from the designated hotline to FGM are absent, coincidently with the total absence of data around parents’ attitudes towards this harmful practice as a result of cancelling standard Demographic Health Survey (DHS) in 2018. Increasing punishment alone is ineffective.

1. Please share information on the health and other type of responses provided by the State and/or other actors in your country/ies or regions in focus to survivors of each/some of the aforementioned forms of violence. Please assess what works well and not so well, and whether COVID-19 impacted the response and how.
2. Please specify the budget allocated in your country/ies in focus, to health related response to survivors of all/some forms of violence mentioned above. Please indicate the percentage of the national budget devoted to this; the percentage of the international aid provided or received for this. Please explain the impact of Covid 19 to the funding of responses to all/some forms of violence in your State/institution.
3. Please describe the needs of survivors of the abovementioned forms of violence as identified by your State/institution. Please share survivor-self identified needs and those of their families, with a focus on health emergency and long-term needs.
4. Please share examples of good practices and examples of comprehensive health responses to survivors of violence and indicate efficient multi-sectorial efforts at the community, national, regional and international levels by State or non-State actors.
5. Please describe State and other actors initiatives and measures to prevent these forms of violence, specific budget allocated to prevention, and good practices in this regard.

**Glossary of definitions for the purpose of this questionnaire**

* Gender based-violence, is violence directed toward, or disproportionately affecting someone because of their gender or sex. Such violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering, threats of such acts, harassment, coercion and arbitrary deprivation of liberty. Examples include, sexual violence, trafficking, domestic violence, battery, dowry related violence, coerced or forced use of contraceptives, violence against LGBTI people, femicide, female infanticide, harmful practices and certain forms of slavery and servitude. Gender-based violence may be perpetrated against women, girls, men, boys, and non-binary persons. Gender-based violence, including sexual violence, may linked to a conflict.
* Gender based violence against women (including girls) refers to violence that is directed against a woman because she is a woman or that affects women disproportionately. (CEDAW, [General recommendation 19](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/GEC/3731&Lang=en), 1992). It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender based violence affect women to different degrees depending on their experience of varying or intersecting forms of discrimination including on the basis of ethnicity/race, socioeconomic status, age, disability, being lesbian, bisexual, transgender or intersex, etc. [(CEDAW, General recommendation 35, 2017).](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=enhttps://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en)
* Violence against children refers to all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse against children. (CRC, [General Comment No. 13](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f13&Lang=en), 2011). Violence experienced by boys and girls may also be a form of gender-based violence.
* Gender based violence perpetrated against LGBTI or other persons based on real or imputed sexual orientation, gender identity, and /or sex characteristics includes killings, imposition of death penalty for homosexuality, death threats, beatings, corporal punishment imposed as a penalty for same-sex conduct, and/or transgender persons, arbitrary arrest and detention, abduction, incommunicado detention, rape and sexual assault, humiliation, verbal abuse, harassment, bullying, hate speech and forced medical examinations, including anal examinations, and instances of so-called “conversion therapy” and forced/coerced medically unecessary procedures on intersex children and adults. (Report of the Independent Expert on protection against sexual orientation and gender identitiy, ([A/HRC/38/43](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/43), 2018, [OHCHR, Born Free and equal](https://www.ohchr.org/Documents/Publications/Born_Free_and_Equal_WEB.pdf), OHCHR, [Background note on human rights violations against intersex perople).](https://www.ohchr.org/Documents/Issues/Discrimination/LGBT/BackgroundNoteHumanRightsViolationsagainstIntersexPeople.pdf)
* Conflict related gender-based violence: Conflict can result in higher levels of gender-based violence against **women and girls**, including arbitrary killings, torture, **sexual violence** and forced marriage. Women and girls are primarily and increasingly targeted by the use of sexual violence, including as a tactic of war. M**en and boys** have also been victims of sexual violence, especially in contexts of detention. *Conflict related sexual violence* refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. That link may be evident in the profile of the perpetrator, (often affiliated with a State or non-State armed group, which includes terrorist entities); the profile of the victim, ( frequently an actual or perceived member of a political, ethnic or religious minority group or targeted on the basis of actual or perceived sexual orientation or gender identity); the climate of impunity, (generally associated with State collapse, cross-border consequences such as displacement or trafficking, and/or violations of a ceasefire agreement). The term also encompasses trafficking in persons for the purpose of sexual violence or exploitation, when committed in situations of conflict”. (Report of the Secretary General [S/2019/280](https://undocs.org/en/S/2019/280), 2019.)
* Systemic or institutional violence refers to institutional practices, laws or procedures that adversely affect groups or individuals psychologically, mentally, culturally, economically, spiritually, or physically. This violence has its origins within or outside the state, and is a major obstacle for the realization of the right to health, a right which is interconnected with rights to the underlying determinants of health.

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2. Egypt: Security Forces Abuse, Torture LGBT People, Human Rights Watch (October 2020)  
   <https://www.hrw.org/news/2020/10/01/egypt-security-forces-abuse-torture-lgbt-people> [↑](#footnote-ref-2)
3. These inputs are based on testimonies from allies working in the frontlines in Egypt. [↑](#footnote-ref-3)
4. Injusta Justicia Campaign   
   <https://www.injustajusticia.org/en/casos> [↑](#footnote-ref-4)
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6. Cristina’s case  
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7. The Cost of Virtual Advocacy on the Marginalized, Our Countries Reflections, RESURJ   
   <https://resurj.org/reflection/the-cost-of-virtual-advocacy-on-the-marginalized/>  [↑](#footnote-ref-7)
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12. These inputs are based on testimonies from allies working in the frontlines in Egypt. [↑](#footnote-ref-12)
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    <https://resurj.org/resource/the-criminalization-of-a-pandemic-a-cross-regional-feminist-analysis/> [↑](#footnote-ref-15)
16. Injusta Justicia Campaign, Andrea’s case  
    <https://www.injustajusticia.org/en/andrea> [↑](#footnote-ref-16)
17. Child Marriage and Teenage Pregnancy, Hidden Pockets Collective (May 2020).   
    <https://hiddenpocketscollective.org/2020/05/27/425/> [↑](#footnote-ref-17)
18. The Prohibition of Child Marriage Act (2006)   
     <https://legislative.gov.in/sites/default/files/A2007-06.pdf> [↑](#footnote-ref-18)
19. Abortion in Pandemic: Reality Check at the end of 2020, Hidden Pockets Collective (December 2020)   
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20. Adolescent Sexuality: the Age of Raging Hormones and Punishments?, Hidden Pockets Collective (December 2020) <https://hiddenpocketscollective.org/2020/12/21/adolescent-sexuality-the-age-of-raging-hormones-and-punishments/?preview_id=782&preview_nonce=6bf4adcbfc&preview=true&_thumbnail_id=790> [↑](#footnote-ref-20)
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26. Egypt and the Bill of FGM: More Punishment, Less Data, Our Countries Reflections, RESURJ.   
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