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. 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, Foundation |
| Name of StateName of Survey Respondent | PolandChildbirth with Dignity Foundation |
| Email | dominika.blaszkowska@rodzicpoludzku.pl |
| Can we attribute responses to this questionnaire to your State publicly\*? \*On OHCHR website, under the section of SR health |  Yes NoComments (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 the relation to pregnancy and post-natal related services (which is the filed of specialization of the Foundation) there was no law being introduced which would officially deprive the services of public hospitals in this area. Most of the medical facilities operated in an epidemic mode, therefore, pursuant to Art. 5 of the Act on Patients 'Rights and the Patient Ombudsman, it was possible to temporarily restrict patients' rights. This article has been interpreted extremely vague by hospitals’ administration during epidemic. Even though it does indicate that each case shall be recognized individually, in none of the signals which cam to Foundation this has happened.*

 *One of the biggest changes which happened during COVID-19 in Poland was verdict of the so-called Constitutional Tribunal in which Tribunal said that abortion due to incurable genetic defects violates constitution. As such it made almost impossible to have abortion in Poland. This has not been related directly to COVID-19, but the verdict was announced during COVID-19 and raised massive protests across the country.*

1. Please also specify legal or other measures introduced during the pandemic aiming at recognizing, or restricting, banning or criminalizing: a) access to legal abortion; b) consensual sex between adults; c) same sex sexual relations, d) consensual sex between adolescents of similar ages, e) sex work, f) same sex marriage, g) information on the right to sexual and reproductive health; h) HIV transmission and i) autonomy and free decision making on one’s body and sexual and reproductive health.

*As the situation in individual facilities significantly differed, and hospital directors, pursuant to Art. 5 of the above mentioned Act can independently decide which of patients' rights could be restricted, the situation was extremely precarious. In most contentious matters, hospitals operated on the basis of the recommendations of the Polish Society of Gynaecologists and Obstetricians, Gynecological and Polish Neonatal Society, guidelines of the Ministry of Health, positions of the Patient Ombudsman, Ombudsman for Children, or the content of interventions undertaken by authorities.*

*To the most important ones which directed the further course of actions one can include:*

* *Polish Neonatal Society, Guidelines: Management of a newborn when maternal SARS-CoV-2 infection is suspected / confirmed and diagnosed with SARS-CoV-2 infection*
* *Polish Society of Gynaecologists and Obstetricians : Recommended course of action for pregnant women with COVID-19*
* *Recommendations of the National Consultant in the field of Obstetrics and Gynecology and the National Consultant in the field of Perinatology regarding family deliveries*

*Ministry of Health also released information re: special procedures during COVID-19 in each area of health care*

1. Regarding sexual and reproductive health care, what services, goods and information is being provided in your country (or countries in focus), during the pandemic?
	1. Any changes compared to pre-COVID 19? Has any service, good or information been deprioritized or defunded? Who is this affecting in particular?

*in general, the level of care for pregnant and giving birth as well as newborns has largely been limited. This mainly concerned the participation of both parents in tests during pregnancy, the possibility of having a close relative, forcible separation of a child from a mother infected with COVID-19, forced termination of pregnancies of women infected with caesarean section, the inability to stay in a hospital with a premature baby (in many hospitals such as there was no possibility at all). If the child had to stay in the hospital and the mother was discharged home, the parents were not allowed to visit the child and the mothers were not allowed to provide their food. Especially in the initial phase of the epidemic, decision makers were in no way interested in improving the situation, a great deal of discretion was left to hospital directors who had no guidelines in this regard*.

* 1. Please explain if there has been any impacts on the availability, accessibility, acceptability or quality of sexual reproductive services during COVID – 19.

*In most of the hospitals families births were forbidden, same with family visits during the stay in the hospital. Birthing women were obligatory tested, in some of the hospitals even if the labor was in the final stages, women tested positively for Covid were not admitted (they were either transported to different hospital by the medical assistance or were required to do it on their own).*

*There were examples of aggression and discrimination against women in labor infected with COVID-19. Once the baby was delivered in some of the places newborns were obligatory isolated from their mothers. Breastfeeding was not possible at all for women infected with COVID-19. Due to organisational and technical problems some of the hospitals dedicated to patients infected with COVID-19 insisted on cesarian section while women has been infected. There were no possibility in many of those hospitals it was not possible to give birth to the forces of nature.*

* 1. Please also share information on other practical obstacles or challenges to access sexual reproductive services during the pandemic, and who were most affected.

*many pregnant women complained of difficulties in pre-delivery medical and obstetric appointments, standard examinations were performed with a delay or were omitted. Above all, correct communication, information and empathy were lacking.*

* 1. Please also share good practices and opportunities in the provision of sexual and reproductive health care during the pandemic.

*Despite the pandemic, some hospitals maintained an appropriate standard, including for most or all of the time they allowed for family births, did not separate children from their mothers, allowed the visit of relatives, and supported breastfeeding. However, this was the exception rather than the rule. During the epidemic, the number of home deliveries and deliveries with a dedicated midwife increased, also private medical facilities, which did not restrict the rights of giving birth, recorded an increase in interest*

1. In connection to questions 1 to 3, please also share other relevant information on legal, policy or other changes affecting the right to sexual and reproductive health and related health care in your country or countries in focus, unrelated to COVID-19.

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1. Please indicate if your country, institution or organization has decreased financial support or aid to other State, donor or institution or programme in the area of sexual and reproductive health, including through international cooperation, compared to pre-Covid time.

*None*

1. Please indicate if your country, institution or organization has been affected by a decreased in financial support or aid, including through international cooperation, compared to pre-COVID time, and how this has affected sexual and reproductive health care.

*None*