**WORD LIMIT – 3000 WORDS**

**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**

|  |
| --- |
| Q.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.  |
| After the first case was confirmed in Kenya the Government’s pandemic response was delayed and fragmented and the communication and information around it was piece- meal and opaque.However, in the last few months preceding the first confirmed case, the Government of Kenya made significant strides in its response to the pandemic and commenced the progressive implementation of a series of preventive measures including (but not limited to): cessation of movement in hotspot counties; guidelines on and police enforcement for wearing of masks; physical social distancing and; re-designation of health facilities into COVID-19 isolation and treatment centres.**Curfews and lockdowns:** The Kenya Government imposed curfews and lockdowns of some areas to curb the spread of the corona virus. This restriction in movement meant hospital visits had to be planned in advance or one had to secure a permit to visit a hospital beyond curfew hours. In a society where SRH is still considered a taboo topic, many were shy to approach authorities seeking permission to visit hospitals for checkups on SRH. Women and girls were forced to stay in homes with abusive partners, children were now away from the structured school systems and parents struggling to entrench school education within the home set up. The state did not provide effective contingency measures to factor these ripple effects exacerbated by the pandemic. This surge of SGBV incidences was raised by the retired Chief Justice during a [press briefing](https://citizentv.co.ke/news/sexual-offenses-on-the-rise-in-kenya-as-more-people-work-from-home-over-covid-19-328846/) convened at the onset of the pandemic, given the alarming sexual offenses cases coming to the courts. These trends ended up positing girls and women at heightened risk of violence in the home and cutting them off from essential protection services and social networks.**Lack of access to timely and relevant (SRHR) information and guidelines** Communities, Civil Society Organisations(CSOs) were and continue to be unable to access critical information for the protection of the right to health held by the state, constraining the space for effective participation of CSOs in health governance during the pandemic; limiting the ability of civil society to provide essential services to the communities that they serve including women, girls and vulnerable populations; and putting at risk the enjoyment of the right to health and reproductive healthcare for these communities and access to sexual reproductive health services.In April 2020, the Ministry of Health issued the Kenya COVID‑19 Reproductive Maternal and Newborn Health Guidelines: A Kenya Practical Guide for Continuity of Reproductive, Maternal, Newborn and Family Planning Care and Services in the Background of COVID 19 Pandemic (hereafter referred to as RMNH Guidelines). The Guidelines were intended to provide health care service providers as well members of the general public, particularly women and girls, information related to provision and acquisition of sexual and reproductive health services. However, there was the exclusion of key provisions on access to safe and legal abortion as enshrined under Article 26(4) of the Constitution and other key components of Reproductive health such as access to contraception by adolescents (as guided by the National Adolescent Sexual and Reproductive Health Policy and Package of Care). On 28 April 2020, KELIN and partners under the auspices of the Women and Girls Committee (COVID-RBA Advocacy Group) wrote an advisory letter to the Ministry of Health raising concerns around the comprehensive nature of the guidelines, and seeking clarity and provision of supplementary information on securing sexual and reproductive health and rights; and the provision of services for women and girls in the country in a manner that is comprehensive and accessible to all. The letter was not responded and the information was not provided.**Listing of information on essential services and designation of health facilities as COVID treatment centers**The National government released guidance on categories of persons comprising essential persons whence containment measures for COVID-19 were enforced. At the onset of the pandemic these orders were not popularized to the general public and as such there was a lack of clarity on which public institutions were allowed to operate within the containment measures that included cessation of movement. This confusion also exacerbated fear of accessing health care institutions and there were reported incidences of [women giving birth at home that led to complications and in some instances death.](https://sayitforward.org/access-to-srhr-covid-19-kenya/) **De-prioritisation of SRHR services and information:**First, there was limited access to SRHR services as efforts and resources were directed to managing COVID. Secondly, services needed by victims including shelters, health care services, police and justice sector services were limited and in most instances, unavailable. There are reports of shelters for gender-based violence survivors being closed as well as reports of emergency hotlines operating with reduced service and mobile clinics and counselling services being cancelled. |
| Q.2: 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.  |
| In April 2020, the Ministry of Health issued the Kenya COVID‑19 Reproductive Maternal and Newborn Health Guidelines: A Kenya Practical Guide for Continuity of Reproductive, Maternal, Newborn and Family Planning Care and Services in the Background of COVID 19 Pandemic (hereafter referred to as RMNH Guidelines). The Guidelines were intended to provide health care service providers as well members of the general public, particularly women and girls, information related to provision and acquisition of sexual and reproductive health services. However, there was the exclusion of key provisions on access to safe and legal abortion as enshrined under Article 26(4) of the Constitution and other key components of Reproductive health such as access to contraception by adolescents (as guided by the National Adolescent Sexual and Reproductive Health Policy and Package of Care). On 28 April 2020, KELIN and partners under the auspices of the Women and Girls Committee (COVID-RBA Advocacy Group) wrote an advisory letter to the Ministry of Health raising concerns around the comprehensive nature of the guidelines, and seeking clarity and provision of supplementary information on securing sexual and reproductive health and rights; and the provision of services for women and girls in the country in a manner that is comprehensive and accessible to all. The letter was not responded and the information was not provided. Subsequently, KELIN alongside representatives of community who were affected by these measures and other CSO partners filed Constitutional Petition 2018 of 2020 challenging the aforementioned violations anchored on the right to health and reproductive health (Article 43(1)(a) )and the right to access information (Article 35). |
| Q.3 Regarding sexual and reproductive health care, what services, goods and information is being provided in your country (or countries in focus), during the pandemic? 3.1. Any changes compared to pre-COVID 19? Has any service, good or information been deprioritized or defunded? Who is this affecting in particular? |
| * Government Censorship - In addition to the above outlined unwillingness of the Government to consult or respond to concerns raised by civil society regarding the COVID 19 response, resulting in a reduced space for popular political involvement and access to critical health information, its increased intolerance to media and civil society activities was manifested through harassment, intimidation or arbitrary arrest of human rights defenders. There have been reports of arrests of journalists during the course of COVID 19 reporting. Police brutality featured prominently in the immediate response. This arbitrary use of power was meted out on mostly indigent persons including vulnerable populations such as women, children, sex workers. Civil Society actors who raised concerns- on health-related violations in the state’s response to the pandemic - through legal and administrative processes were dismissed and/or not responded to; organised action as protected by the freedom of association was also capped arbitrarily for example during [Saba Saba day](https://www.capitalfm.co.ke/news/2020/07/more-than-50-activists-arrested-as-police-break-saba-saba-march-in-nairobi/) various civil society and grassroots actors planned to march against the unconstitutional response to the pandemic, they were however arrested before making it to the march. KELIN and partners provided pro bono legal representation for the arrested activists.
* Access to maternal and newborn health services - reduced during the advent of the COVID-19 pandemic as expectant persons avoided the hospitals and health facilities for fear of COVID infection.
* Contraceptives – There were reported stock outs of contraceptive commodities at county level. Key reports documented included Nairobi and Nakuru Counties.
* HIV/AIDS diagnosis and treatment - reduced during COVID-19. In addition, as recent as 2021 we have had an interruption of ARV dissemination by state owing to tax disputes and prevailing governance irregularities therein.
* Provision of SRHR information - reduced during COVID-19. Restrictions on social gathering and social distancing affected community sensitizations. Nonetheless, hotlines and use of social media tried to fill the gap in providing SRHR info and linking individuals to services where available.
* Provision of menstrual hygiene products - reduced as school going girls could not access them as schools were closed.
 |
| 3.2. Please explain if there have been any impacts on the availability, accessibility, acceptability or quality of sexual reproductive services during COVID – 19. |
| COVID affected availability and accessibility of SRHR specific services as resources were diverted to manage COVID and loss of incomes affecting peoples’ purchasing power. The prevailing stock out of contraceptive commodities and ARVs are some key examples of lack of accessibility. Secondly, the onset of the pandemic has envisaged, to date prevalent strikes by medical personnel due to unsafe working conditions this has in turn affected health service delivery at county and national level including sexual and reproductive health services. In addition, the prevailing stigma and fear around the pandemic translated into poor health seeking behaviors among Kenyans including going to facilities to access SRH care and services for example, women and girls were not attending ante natal care and maternal services. |
| 3.3.Please also share information on other practical obstacles or challenges to access sexual reproductive services during the pandemic, and who were most affected. |
| * Misinformation and disinformation from anti-SRHR and anti-gender groups on SRHR and COVD-19 was prevalent. For example, some were centered on attributing the pandemic to punishment for support of SRHR and LGBTQI+ rights.

 * Adolescents - schools were closed and most could not access SRHR information, menstrual hygiene products and guidance and counselling that they normally received in schools.
* People living in refugee and displacement camps were mostly affected due to poor health facilities and lack of WASH facilities affecting their general health.
* Survivors of Sexual and Gender Based Violence could not get timely assistance due to unavailable care facilities (converted into COVID centers) and poor use of referral pathways.
 |
| 3.4. Please also share good practices and opportunities in the provision of sexual and reproductive health care during the pandemic.  |
| * Collaborative and multi sectoral approaches in working with communities, national and county government and partners to tackle the spread of coronavirus, and to ensure that the impacts of the crisis on the rights and well-being of children, particularly girls, and young women, are fully understood and taken into account in their national response efforts and in their international cooperation.
* Installing additional handwashing facilities, distributing hygiene kits and sharing age-appropriate, gender-aware health and hygiene information.
* Maintaining essential services for adolescent girls and young women, such as sexual and reproductive health services, and maternal, newborn and child health services.
* The setting up of emergency SRHR hotlines to address the surges in related hotlines has provided an avenue to document and also rapidly respond to these violations within the pandemic.
 |
| Q. 4: 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. |
|  |
| Q.5: 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. |
| At the onset of the pandemic the developing world was still struggling with the USA’s decrease in funding for UNFPA and WHO. However, the Biden administration addressed this and slowly the funding space in the USA begun to improve. Most recently, the reduction of funds from the UK on SRHR (UNFPA et al) will have a ripple effect in funding of SRHR in Kenya and other key countries funded by the UK. The shrinking in funding for the SRHR civic space continues to be a dominant concern for many actors. It is now seemingly anchored on state policies and respective government politics as opposed to the humanitarian context and assistance. This has been documented with the impact of the reinstatement of the global gag rule and with the recension a collaborative effort of undoing the harm.  |
| Q.6: 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. |
| N/A |