

CENTER *for* REPRODUCTIVE RIGHTS

Call for inputs: Report on freedom of expression and the gender dimensions of disinformation

6 July 2023

The Center for Reproductive Rights (the Center)—an international non-profit legal advocacy organization headquartered in New York City, with regional offices in Nairobi, Bogotá, Geneva, and Washington, D.C. and a staff of approximately 200 diverse professionals in 14 countries—uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to respect, protect, and fulfil. Since its inception 30 years ago, the Center has advocated for the realization of women and girls’ human rights on a broad range of issues.

The Center is pleased to provide this submission for the call for inputs on gender dimensions of disinformation and support the mandate of the United Nations Special Rapporteur on freedom of expression and opinion in its next thematic report to be presented at the 78th session of the General Assembly. This submission will mainly focus on the interlinkages between gendered misinformation and sexual and reproductive health and rights (SRHR). It will also look at States obligations under international human rights law (IHRL) in issues related to SRHR and will explore the links between the gender dimensions of disinformation and ill treatment and the right to life, effective remedies, comprehensive sexual education, substantive equality and public morals and also includes recommendations to the mandates and to States. In a complementary annex this submission presents some examples of gendered misinformation and censorship affecting the right to seek, receive and disseminate information and ideas about SRHR and the right to individuals to receive specific information on their particular health status.

1. Background

Sexual and reproductive health and rights entails a set of freedoms and entitlements that are deeply related to gendered misinformation. Sexual and reproductive health and rights include the realization of the right to bodily autonomy, free of violence, coercion and discrimination.¹ The entitlements include unhindered access to a whole range of information, health facilities, goods and services, which ensure all people full enjoyment of the right to sexual and reproductive health.²

There is a deliberate attempt to censor the dissemination of gender-related information that is deeply impacting the full realization of SRHR.³ In addition to censorship, Governments and conservative lobbies, with some degree of coordination, share and spread false or misleading gender and sex-based narratives against women, girls and non-gender conforming people with the intent to impede, criminalize and stigmatize the access and enjoyment of SRHR.⁴ They present SRHR as perpetuating

² CESCR, General Comment 22, 2016) E/C.12/GC/22 para 5

³ E.g. the so-called campaign named “Con mis hijos no te metas” in Latin America, General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 37

⁴ Nina Jankowicz and others, *Malign Creativity: How Gender, Sex, and Lies are Weaponized Against Women Online* (Washington, D.C., Wilson Center, 2021) in UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 21.

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“gender ideology” and threatening culture, religion, traditional values, parental rights and the right to life.⁵ Even if spread without the knowledge that it is false, this misrepresentation contribute to a toxic environment in which fabricated information gains traction appealing to pre-existing gendered stereotypes.⁶ The persistence of a global discriminatory cultural construction of gender, is contributing to fragmenting and weakening the human rights system and it is obfuscating the need to put women’s human rights at the centre of policy considerations regarding SRHR.⁷

It is therefore critical that the Special Rapporteur on freedom of expression clarifies States’ obligations to protect freedom of expression and opinion to guarantee women, girl and persons of diverse sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) sexual and reproductive health and rights (SRHR).

2. Gendered misinformation and Sexual and Reproductive Health and Rights

Gendered disinformation is on the rise.⁸ It reflects the current rise of movements opposing the universality of women’s rights⁹ and the misreferences to culture, religion and family that States use to dilute their international obligations to fulfil women’s rights and achieve gender equality.¹⁰ These stereotypes portray women’s “natural role” as mothers and caregivers which work to impede their access to the full range of reproductive health information and services without discrimination and also puts their well-being at risk.¹¹ They operate to deny women information to make informed decisions about their sexual and reproductive health and rights, substitute the decisions of others for their own, and deprives them of control over their own bodies, leading to violations of, inter alia, the rights to health, privacy, self-determination, physical integrity, bodily autonomy and to life.¹²

United Nations treaty bodies,¹³ Special Procedure mandate holders¹⁴ and the Human Rights Council¹⁵ have clarified that such stereotyped discourses are misleading, and incompatible with and antagonistic

⁵ Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/38/46, (2018), para 14; UN general Assembly, Report of the Special Rapporteur in the field of cultural rights, A/72/155 (2017) in General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 37

⁶ <https://demos.co.uk/wp-content/uploads/2020/10/Engendering-Hate-Report-FINAL.pdf>, p. 12.

⁷ Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/38/46, (2018), para 15 and 31

⁸ A/HRC/47/25 in UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 21.

⁹ Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/38/46, (2018), para 15

¹⁰ Id. Para 27

¹¹ CEDAW, Summary of the inquiry concerning the Philippines under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women 22 April 2015, [CEDAW/C/OP.8/PHL/1](#), paras. 33, 36 and 43; and CESCR, general comment No. 22 para. 28.

¹² *Report of the UN Working Group on the issue of discrimination against women in law and in practice*, UN Doc. A/HRC/32/44 (2016), para. 63. Notably, the CEDAW Committee in the case of *L.C. v. Peru*, has affirmed that this stereotype, “understands the exercise of a woman’s reproductive capacity as a duty rather than a right” and relegates her to a reproductive instrument leading to the subordination of women and girls in society, see CEDAW Committee, *L.C. v. Peru*, Communication No. 22/2009, UN Doc. CEDAW/C/50/D/22/2009 (25 November 2011), para 7.7.

¹³ See e.g. CCPR/C/21/Rev.1/Add.10 and CCPR/C/GC/36 in UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 37

¹⁴ See e.g. A/HRC/38/46, A/HRC/40/60, A/75/152 and A/74/181 in UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 37

¹⁵ See e.g. Human Rights Council resolution 38/1 in in UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 37

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to human rights standards.¹⁶ Additionally, the CEDAW Committee has also recognized that access to information is a critical element of accessing abortion services.¹⁷ Nevertheless, access to the full range of sexual and reproductive health facilities, services, goods and information, as required under international human rights law, is seriously restricted.¹⁸ In recent years, the CEDAW Committee has recognized the limited access for women and girls to comprehensive sexuality educations, sexual and reproductive health information, including information on responsible sexual behaviour, and to family planning and modern contraceptives, especially in rural areas.¹⁹ The Committee has specifically highlighted the need to ensure that all patients give free, prior and informed consent for any treatment or medical intervention and provide them with the support that they need to make an informed decision.²⁰

All these restrictions negatively impact maternal mortality rates and the course of pregnancy, jeopardizing the life, dignity, and other human rights of all persons, including women, girls and other persons who can get pregnant.²¹ Furthermore, they especially affect individuals and population groups who experience intersecting forms of discrimination, exacerbating their exclusion in both law and practice.²² Gendered disinformation is likely to affect different groups of women, girls and marginalized in different ways, and to “[target] one or more aspects of a woman’s identity e.g., racism, transphobia, etc.),” overlapping, for instance, with racist disinformation when women of colour are the targets.²³ Likewise, adolescent girls and gender non-conforming persons continue to face barriers to access sexual and reproductive health services and adolescents autonomy in decision making and their evolving capacities are not given due consideration as a part of the decision-making process, contrary to standards on presumption of legal capacity of adolescents to access these services set out by the Committee on the Rights of the Child (CRC Committee).²⁴ The CEDAW Committee has also shown concern about the lack of free, prior and informed consent given by women, particularly women with intellectual or psychosocial disabilities and migrant women, and intersex children for any medical treatment or intervention.²⁵

2. State obligations

a) Sexual and reproductive health and Rights (SRHR)

States’ obligations to respect, protect, and fulfill SRHR under international human rights law (IRHL) must be implemented in a way that ensures that all SRH information and services are available,

¹⁶ CCPR/C/21/Rev.1/Add.10; see also the Vienna Declaration and Programme of Action, para 38 in UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 37

¹⁷ CEDAW Committee, Concluding Observations: Zambia, UN Doc. CEDAW/C/ZMB/CO/5-6 (2011), paras 33, 34.

¹⁸ CESCR, General Comment 22, (2016) E/C.12/GC/22, para 5

¹⁹ CEDAW Committee, Concluding observations on the ninth periodic report of Honduras CEDAW/C/HND/CO/9 (2022) para. 38; CEDAW Committee, Concluding observations on the seventh periodic report of Armenia, CEDAW/C/ARM/CO/7, (2022) para.37

²⁰ CEDAW Committee, Concluding observations on the eighth periodic report of Belgium, CEDAW/C/BEL/CO (2022) para. 49

²¹ For instance, the regulation of Abortion must not result in “violation of the right to life of a pregnant woman or girl, or her other rights under the Covenant. Thus, restrictions on the ability of women or girls to seek abortion must not, inter alia, jeopardize their lives, subject them to physical or mental pain or suffering which violates article 7, discriminate against them or arbitrarily interfere with their privacy”, in Human Rights Comm., Gen. Comment No. 36, supra note 57, para. 8; CESCR, Gen. Comment No. 22, supra note 4, para. 28, *Alyne da Silva Pimentel Teixeira v. Brazil*, CEDAW Committee, Commc’n No. 17/2008, U.N. Doc. CEDAW/C/49/D/17/2008 (2011)

²² CESCR, General Comment 22, (2016) E/C.12/GC/22

²³ Amnesty International. *Toxic Twitter - Women’s Experiences of Violence and Abuse on Twitter*, Chapter 3. 2018..

²⁴ Id.

²⁵ CEDAW Committee, Concluding observations on the eighth periodic report of Belgium, CEDAW/C/BEL/CO (2022) para. 45

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accessible, acceptable, and of good quality,²⁶ guided by contemporary human rights instruments and jurisprudence, as well as the most current international guidelines and protocols established by UN agencies, in particular the World Health Organization (WHO).²⁷ Specific obligations include, inter alia, guaranteeing access to comprehensive sexuality education and sexual and reproductive health information and services free from discrimination, bias and evidence-based and access to effective remedies and redress including through administrative and judicial means for SRHR violations.²⁸

Information accessibility includes the right to seek, receive and disseminate information and ideas concerning sexual and reproductive health and rights issues generally, and also for individuals to receive specific information on their particular health status.²⁹ This places an obligation on States to respond to information requests from the public or the media and proactively publish and widely disseminate information of significant public interest.³⁰ The dissemination of misinformation and the imposition of restrictions on the right of individuals to access information about sexual and reproductive health and rights violates State's obligation to respect human rights.

All individuals and groups, including adolescents and youth, have the right to evidence-based information on all aspects of sexual and reproductive health, including contraceptives, maternal health, family planning, sexually transmitted infections, HIV prevention, safe abortion and post-abortion care, infertility and fertility options, and reproductive cancer.³¹ Such information must be provided in a manner consistent with the needs of the individual and the community, taking into consideration, for example, age, gender, language ability, educational level, disability, sexual orientation, gender identity and intersex status.³²

The lack of information on the access to abortion has facilitated misinformation, hampering the right of women, girls and pregnant persons to access abortion endangering their health.³³ This has reached a level where in certain contexts, anti-abortion activists stand disguised as doctors and nurses, providing inaccurate, fake and threatening information about abortion.³⁴ States, including donor States, must refrain from censoring, withholding, misrepresenting or criminalizing the provision of information on sexual and reproductive health and rights,³⁵ both to the public and to individuals. Such restrictions impede access to information and services and can fuel stigma and discrimination.³⁶ States must prohibit and prevent private actors from imposing practical or procedural barriers to health services, such as

²⁶ CESCR Committee, [Gen. Comment No. 22](#), paras. 12-21; CESCR Committee, *General Comment No. 14: The right to the highest attainable standard of health* (Art. 12), para. 12, U.N. Doc. [E/C.12/2000/4](#) (2000).

²⁷ *Id.*, para. 14.

²⁸ *Id.*, para. 49(e-h).

²⁹ CESCR, General Comment 22, (2016) E/C.12/GC/22, para.17; WHO, Abortion Guideline (2022) p. 9-12, 32-37. The guideline recognizes that access to relevant, accurate, and evidenced-based health information and counseling if and when desired is an essential first step in improving access to and the quality of abortion care and is also a human rights obligation. It notes that two types of information must be made available: (1) "information of a general nature for the public" and (2) "specific information tailored to be relevant to each person seeking abortion . . . and underpinning free and informed consent."

³⁰ E/CN.4/2000/63, para. 44 in in General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 54

³¹ CESCR, General Comment 22, (2016) E/C.12/GC/22, para. 17

³² CESCR, General Comment 22, (2016) E/C.12/GC/22, para 19

³³ <https://radio.uchile.cl/2020/02/16/desinformacion-y-objecion-de-conciencia-los-traspies-de-la-ley-de-aborto-en-tres-causales/>

³⁴ <https://www.mutante.org/contenidos/ciudad-de-mexico-15-anos-de-la-despenalizacion-del-aborto-entre-el-derecho-y-el-privilegio/>

³⁵ Committee on Economic, Social and Cultural Rights general comment No. 14; and Committee on the Rights of the Child general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child in CESCR Committee, General Comment 22, (2016) E/C.12/GC/22, para 41

³⁶ CESCR Committee, General Comment 22, (2016) E/C.12/GC/22, para 41

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physical obstruction of facilities, dissemination of misinformation, informal fees and third-party authorization requirements.³⁷

United Nations treaty monitoring bodies have consistently emphasized that abortion should be decriminalized³⁸ and that access to information is a critical element of accessing abortion services.³⁹ They have found that States should not place criminal sanctions on providers who provide information about abortion.⁴⁰ Further, they have called on States to eliminate informational barriers to abortion services, such as unnecessary or biased counseling requirements,⁴¹ and to ensure that information provided is science and evidence-based and includes both the risks of having an abortion and carrying a pregnancy to term, in order to ensure women's autonomy and informed decision-making.⁴²

The World Health Organization (WHO) also sets forth some key human rights considerations in this regard, including that i) the provision of information on abortion should not be criminalized, even where the procedure itself may be illegal; ii) information should be evidence based and easy to understand for all persons undergoing an abortion; iii) non-directive voluntary counseling should be provided to persons who request it; iv) information should be available without third-party authorization and must respect privacy and confidentiality; v) the dissemination of misinformation, the withholding of information, and censorship should be prohibited; v) information and counseling on abortion should not fuel stigma or discrimination.⁴³ Notably, in its recently updated Abortion Care Guidelines the WHO urged “specific attention from a human rights perspective,” and recommended, the full decriminalization of abortion and that abortion be available on the request of the woman, girl or other pregnant person without need for outside authorization or mandatory waiting period.⁴⁴

³⁷ *Id.* para 43

³⁸ In outlining states' core obligations of the right SRHR, the CESCR Committee notes that States should be guided by the current international guidelines established by UN agencies, in particular the World Health Organization (WHO) see CESCR Committee, Gen. Comment No. 22, para. 49; World Health Organization, *Abortion Care Guideline* (2022), Section 2.2.1 (pp. 24–25). See also CERD, Concluding observations of the United States of America (2022) CERD/C/USA/CO/10-12 para 36 : “...It (the Committee) further recommends that the State party take all measures necessary to mitigate the risks faced by women seeking an abortion and by health providers assisting them, and to ensure that they are not subjected to criminal penalties. In that respect, the Committee draws the State party's attention to the World Health Organization's Abortion Care Guideline”; CAT, Concluding observations El Salvador, CAT/C/SLV/CO/3 (2022) para 31: “The Committee invites the State party to take the necessary measures, in accordance with the World Health Organization's abortion care guideline (2022), to ensure that neither patients who resort to abortions nor the medical professionals who perform them face criminal sanctions, and that women and girls have effective access to post-abortion care, regardless of whether they have had an abortion legally or illegally.”

³⁹ *Id.* para. 18.; Committee on the Rights of Persons with Disabilities, General Comment No. 3: Women and girls with disabilities, in *Compilation of General Comments*

and General Recommendations Adopted by Human Rights Treaty Bodies, para. 40, U.N. Doc. CRPD/C/GC/3 (2016) [hereinafter CRPD Committee, Gen. Comment No. 3].; Convention on the Elimination of All Forms of Discrimination against Women, adopted Dec. 18, 1979, art. 10, para. H, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW].; CEDAW Committee, Gen. Recommendation No. 24, *supra* note 12, para. 28 in Center For reproductive Rights, *Breaking Ground 2020*, page 9

⁴⁰ Human Rights Committee, Gen. Comment No. 36, *supra* note 11, para. 8.; Human Rights Committee, Concluding Observations: Netherlands, paras. 30-31, U.N. Doc. CCPR/C/NLD/CO/5 (2019).; Human Rights Committee, Concluding Observations: Ireland, para. 9, U.N. Doc. CCPR/C/IRL/CO/4 (2014).; CESCR Committee, Gen. Comment No. 22, *supra* note 1, para. 40 in Center for Reproductive Rights, *Breaking Ground 2020*, page 9

⁴¹ CESCR Committee, Gen. Comment No. 22, *supra* note 1, para. 41.; CEDAW Committee, Concluding Observations: Germany, para. 38(b), U.N. Doc. CEDAW/C/DEU/CO/7-8 (2017).; CEDAW Committee, Concluding Observations: Hungary, para. 30, U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013) in Center For reproductive Rights, *Breaking Ground 2020*, page 9. The CESCR Committee has even that States prohibit any exposure of women to biased or medically unsound information on the risks of abortion that impedes their access to sexual and reproductive health services, see CESCR Committee, Concluding Observations: Slovakia, para. 42(b), U.N. Doc. E/C.12/SVK/CO/3 (2019) in Center For reproductive Rights, *Breaking Ground 2020*, page 9

⁴² CESCR Committee, Gen. Comment No. 22, *supra* note 1, paras. 18, 21, 47.; CEDAW Committee, Concluding Observations: Slovakia, para. 31(e), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015) in Center For reproductive Rights, *Breaking Ground 2020*, page 9

⁴³ WHO, Abortion Guideline (2022) Sections 1.3.2 (p. 12); 3.2 (pp. 34, 36, 39) see also Center for Reproductive Rights, WHO's *New Abortion Guideline: Highlights of Its Law and Policy Recommendations* (2022)

⁴⁴ World Health Organization, *Abortion Care Guideline*, 2022, p. xxv, xxvi, xxxiv, 1,

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b) Comprehensive sexual education and access to SRH services for adolescents

TMBs have long included in their concluding observations and recommendations the legal obligation of States to ensure that comprehensive sexuality education, that includes, inter-alia, a gender-sensitive, accessible education on SRHR and sexuality is included in school curricula at all levels of education.⁴⁵ They have further elaborated that this education must include issues of sexual orientation and gender identity, family planning and contraceptives, as well as on the prevention and treatment of sexually transmitted infections.⁴⁶ In the implementation of these measures, special consideration should be given to children in vulnerable situations and include adolescents and young women and men out of school.⁴⁷ States should also set up programs to educate and sensitize the general public in this area.⁴⁸ As recognised by the Inter-American Court of Human Rights, limitations on the comprehensive sexual education curriculum may lead to misinformation with dire consequences on adolescents including suicide, as they don't receive the appropriate information they need to face violence and other aspects in their sexual health and rights.⁴⁹

States parties should also respect, protect and fulfill women's and girls' right to mental health by ensuring access to safe abortion and preventing unsafe abortion from occurring. In particular, they should ensure access for everyone,⁵⁰ to quality and evidence-based information and education on sexual and reproductive health⁵¹ and to a wide range of affordable contraceptive methods,⁵² and prevent the stigmatization of women and girls who seek abortion.⁵³

TMBs have noted the specific barriers to access sexual and reproductive health information and services that adolescents continue to face.⁵⁴ Upon these barriers they have reiterated the importance that their views are always heard and given due consideration as a part of the decision-making process.⁵⁵ This includes expanding the provision of free and confidential sexual and reproductive health information and services, including access to contraceptives, to adolescent, without the need for the consent of or

⁴⁵ CEDAW Committee, Concluding observations on the seventh periodic report of Armenia, CEDAW/C/ARM/CO/7, (2022) para. 34; CEDAW Committee, Concluding observations on the eighth periodic report of Belgium, CEDAW/C/BEL/CO (2022) para. 42; CRC Committee, Concluding observations on the combined third to sixth periodic reports of Kuwait, CRC/C/KWT/CO/3-6 (2022), para. 35; In the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention and general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, and taking note of targets 3.7 and 5.6 of the Sustainable Development Goals, the Committee recalls its previous recommendations and recommends that the State party; CRC Committee, Concluding observations on the combined fifth and sixth periodic reports of the Philippines, CRC/C/PHL/CO/5-6 (2022), para. 32; CRC Committee, Concluding observations on the fifth periodic report of Uzbekistan, CRC/C/UZB/CO/5, para.39; CESCR review Guatemala para 53; Mongolia CESCR review para 43

⁴⁶ CRC Committee, Concluding observations on the combined third to sixth periodic reports of North Macedonia, CRC/C/MKD/CO/3-6 (2022), para.33; CEDAW Committee, Concluding observations on the sixth periodic report of the Gambia, CEDAW/C/GMB/CO/6 (2022), para. 30. CEDAW

⁴⁷ CEDAW Committee, Concluding observations on the ninth periodic report of Honduras CEDAW/C/HND/CO/9 (2022) para. 39

⁴⁸ CESCR Committee, Concluding observations on the sixth periodic report of El Salvador (2022) E/C.12/SLV/CO/6, para.57

⁴⁹ https://www.corteidh.or.cr/docs/casos/articulos/seriec_405_esp.pdf Para. 141. See also *Camila v Peru* para.9 f) The State party should provide the author with an effective remedy for the violations suffered, including the provision of adequate sexual and reproductive health education, accessible to all children.

⁵⁰ CCPR/C/POL/CO/7, para. 24; CCPR/C/COL/CO/7, para. 21 in Human Rights Committee, General comment No. 36 Article 6: right to life (2019), CCPR/C/GC/36, para 8.

⁵¹ CCPR/C/LKA/CO/5, para. 10; CCPR/C/MWI/CO/1/Add.1, para. 9; CCPR/C/ARG/CO/5, para. 12 in id. Para 8

⁵² CCPR/C/POL/CO/6, para. 12; CCPR/C/COD/CO/4, para. 22 in Id. Para 8

⁵³ CCPR/C/PAK/CO/1, para. 16; CCPR/C/BFA/CO/1, para. 20; CCPR/C/NAM/CO/2, para. 16 in Id. Para 8

⁵⁴ CRC Committee, Concluding observations on the combined third to sixth periodic reports of Kuwait, CRC/C/KWT/CO/3-6 (2022), para. 35

⁵⁵ CRC Committee, Concluding observations on the combined third to sixth periodic reports of Kuwait, CRC/C/KWT/CO/3-6 (2022), para. 35; CRC Committee, Concluding observations on the combined third to sixth periodic reports of North Macedonia, CRC/C/MKD/CO/3-6, para 33

⁵⁵ CRC Committee, Concluding observations on the initial report of South Sudan, CRC/C/SSD/CO/1, para. 49

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the need to be accompanied by a parent or legal guardian.⁵⁶ The CRC Committee has also urged States to “decriminalize abortion to ensure that girls have access to safe abortion and post-abortion services.”⁵⁷ The CRC Committee has also stated that “all adolescents have the right to have access to confidential medical counselling and advice without the consent of a parent or guardian, irrespective of age, if they so wish.”⁵⁸ The CRC Committee has emphasized that this right “should not be subject to any age limit.”⁵⁹

c) The right to be free from cruel, inhuman and degrading treatment, and the right to life

The restrictions on the access to SRHR information may further impact the right to life and to be free from ill-treatment.⁶⁰ The Human Rights Committee notes that the duty to protect life implies that States should take appropriate measures to address the general conditions in society that may prevent individuals from enjoying their right to life with dignity,⁶¹ e.g., ensuring access to essential goods and services, including health care, developing campaigns for raising awareness of gender-based violence and harmful practices, and improving access to medical examinations and treatments designed to reduce maternal and infant mortality.⁶² The Human Rights Committee’s General Comment no. 36 regarding State’s obligations to protect the right to life, includes prevention of maternal mortality requiring that States ensure access to abortion.⁶³

Regarding the right to be free from torture and cruel, inhuman, and degrading treatment (TCIDT), it is worth noting international and regional human rights bodies have long recognized that restrictive abortion laws violate women’s human rights, including their right to be free from TCIDT, and States have an obligation to liberalize restrictive laws.⁶⁴ The CAT, Human Rights and CEDAW Committees have found that denying or delaying safe abortion or post-abortion care may amount to TCIDT.⁶⁵ In every single abortion related case before the Human Rights Committee, it found a violation of article 7 of the Convention.⁶⁶ Also, in a recent case, the CRC Committee acknowledged that the physical and psychological harm as a result of not being able to access abortion reveal the existence of a series of acts and omissions attributable to the State which constituted torture or other cruel, inhuman or degrading treatment or punishment.⁶⁷ Furthermore, under IHRL, States bear responsibility for acts of

⁵⁶ CRC Committee, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) CRC/C/GC/15, para. 31; CRC Committee, Concluding observations on the combined third to sixth periodic reports of Kuwait, CRC/C/KWT/CO/3-6 (2022), para. 35; CEDAW Committee, General Recommendation No. 24, para 18

⁵⁷ CRC, General Comment No. 20 (2016), para. 60.

⁵⁸ *Id.* at 39.

⁵⁹ *Id.* at 39,

⁶⁰ For instance, the regulation of Abortion must not result in “violation of the right to life of a pregnant woman or girl, or her other rights under the Covenant. Thus, restrictions on the ability of women or girls to seek abortion must not, inter alia, jeopardize their lives, subject them to physical or mental pain or suffering which violates article 7, discriminate against them or arbitrarily interfere with their privacy”, in Human Rights Comm., Gen. Comment No. 36, supra note 57, para. 8; CESCR, Gen. Comment No. 22, supra note 4, para. 28, *Alyne da Silva Pimentel Teixeira v. Brazil*, CEDAW Committee, Commc’n No. 17/2008, U.N. Doc. CEDAW/C/49/D/17/2008 (2011)

⁶¹ Human Rights Comm., Gen. Comment No. 36, supra note 57, para. 26 in Center For Reproductive Rights, *Accountability for Sexual and Reproductive Health and Rights in Humanitarian Settings*, page 23.

⁶² *Id.*

⁶³ Human Rights Comm., Gen. Comment No. 36, para 8 in Center for Reproductive Rights, *Accountability for Sexual and Reproductive Health and Rights in Humanitarian Settings*, page 23.

⁶⁴ Center for Reproductive Rights, *Breaking Ground 2018*, at 30; See also CEDAW/C/OP.8/GBR/1 para.65; HRC GC 36, para 8

⁶⁵ Committee against Torture (CAT Committee), Concluding Observations: Poland, para. 33(d), U.N. Doc. CAT/C/POL/CO/7 (2019); CAT Committee, Concluding Observations: United Kingdom of Great Britain and Northern Ireland, para. 46, U.N. Doc. CAT/C/GBR/CO/6 (2019); Human Rights Comm., Gen. Comment No. 36, supra note 57, para. 8.

⁶⁶ See e.g. *Mellet v. Ireland* (CCPR/C/116/D/2324/2013), paras. 7.4–7.8;

⁶⁷ CRC Committee, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in respect of communication No. 136/2021, CRC/C/93/D/136/2021, 13 de junio de 2023, (*Camila vs Peru*). The complainant suffered severe physical and psychological harm as a result of not being able to access in practice the termination of her pregnancy that Committee concludes reveal the existence of a series of acts and omissions attributable to the

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torture or ill-treatment committed also by non-State or private actors as part of their due diligence obligations.⁶⁸ Treaty monitoring bodies recognize, that women seeking health care may experience abuse and mistreatment at the hands of health care personnel, who hold clear positions of authority and often exercise significant control over women in these contexts. These abuses are often exacerbated when the health services they seek, such as abortion, are highly stigmatized.⁶⁹

d) Effective remedies

States must implement effective, immediately accessible, rapidly-responding processes by which individuals can assert their rights to treatment and receive an authoritative response from an independent body when they are denied access to reproductive health services.⁷⁰ States' failure to put in place a system which ensures effective judicial action in the context of access to healthcare services, information and education constitutes a violation of the right to health.⁷¹ Furthermore, accountability for SRHR violations requires the provision of reparations.⁷² Reparations must be timely, effective, transformative and address root causes of violations including, among other things, guarantees of non-recurrence and rehabilitation.⁷³

e) Substantive equality

The distinct sexual and reproductive health needs of women and girls must be addressed to ensure substantive equality.⁷⁴ Substantive equality posits that States" must immediately assess the *de jure and de facto* situation of women and take concrete steps to formulate and implement a policy that is targeted as clearly as possible towards the goal of fully eliminating all forms of discrimination against women and achieving women's substantive equality with men".⁷⁵

States' obligations to guarantee SRHR require that women and girls not only have access to comprehensive and accurate reproductive health information and services, but also that they experience positive reproductive health outcomes such as lower rates of maternal mortality and have the opportunity to make fully informed decisions—free from violence, discrimination, and coercion—about their sexuality and reproductive lives.⁷⁶ This means that States must ensure that women are protected against discrimination by public authorities and the judiciary, including by the competent courts, other public institutions and by private actors.⁷⁷ The principle of substantive or de facto equality,

State party, which constituted treatment prohibited by article 37(a) of the Convention, in violation of that provision (para. 8.12). Also, The Committee notes, that the fact that the author lacked information on the existence of pregnancy tests, that she did not receive any information from the medical staff regarding both the risks of pregnancy for her age and the possibility of requesting a therapeutic abortion, and that her request to the Prosecutor's Office went unanswered, resulted in an obstetric emergency such as a miscarriage. the Committee considers that these facts reveal violation of the author's right to seek and receive information under article 13, paragraph 1, of the Convention, and concludes that this article was violated (para 8.14)

⁶⁸ *Id.* para. 18 ("Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission.").

⁶⁹ CRR Breaking Ground 2020: Treaty Monitoring Bodies on Reproductive Rights

⁷⁰ See P. and S. v. Poland, No. 57375/08 Eur. Ct. H.R., para. 99 (2012); L.C. v Peru, No. 22/2009, para. 8.17 in Center for reproductive Rights, Response to Call for Submissions in Connection with the Convention on the Elimination of Discrimination Against Women General Discussion on Access to Justice (2013).

⁷¹ CEDAW Committee, Gen. Recommendation No. 24, para. 13

⁷² CEDAW Committee, General Recommendation No. 30, para. 77.

⁷³ *Id.*, paras. 77-79;

⁷⁴ HRC Report of the Working Group on discrimination against women and girls *Women's and girls' sexual and reproductive health rights in crisis UN Doc A/HRC/47/38*, (2021), Para 18;"

⁷⁵ CEDAW Committee, General Recommendation No. 28 CEDAW/C/GC/28, (2010), para. 24.

⁷⁶ Center for Reproductive Rights, Breaking Ground 2018 Treaty Monitoring Bodies on Reproductive Rights, page 5 (Breaking Ground 2018).

⁷⁷ CEDAW Committee, Gen. Recommendation No. 28, para. 17.

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must be applied to interpret laws, including national, religious and customary laws, including laws on sexual and reproductive health.⁷⁸ International law recognizes the obligation of States to address not only discriminatory laws, policies and practices, but also the structural and systemic factors that perpetuate disadvantages, including through socially, culturally and legally entrenched gender stereotypes.⁷⁹

f) Public morals

All legal measures to restrict gendered disinformation should comply with the three-part test of legality, necessity and proportionality, and legitimate objectives, as set out in article 19 (3) of the International Covenant on Civil and Political Rights.⁸⁰ To this end, it must be noted that ideologically based policies or practices cannot serve as a barrier to SRH services.⁸¹ Furthermore, as clarified by the Human Rights Committee, restrictions to protect public morals cannot be based exclusively on a single tradition⁸² and must respect the universality of human rights and the principle of non-discrimination.⁸³

The Human Rights Council and the General Assembly have reinforced the nature of the public morals limitation, calling on States to ensure that any legislation aimed at preserving morals is compatible with international human rights law,⁸⁴ and that all policies, administrative measures and legal provisions aimed at preserving public morals are clearly defined, determinable, non-retroactive and compatible with international human rights law.⁸⁵

3. Recommendations

The Center respectfully suggest that the report includes the following recommendations:

Reiterate that the right to information includes the right to seek, receive and disseminate information and ideas concerning sexual and reproductive health and right generally, and also for individuals to receive specific information on their particular health status.

States obligation to provide SRHR information in a manner consistent with the needs of the individual and the community, taking into consideration, for example, age, gender, language ability, educational level, disability, sexual orientation, gender identity and intersex status, without third party consent.

⁷⁸ Id CESCR GC 22 on this.

⁷⁹ Article 5 (a), Convention on the Elimination of Discrimination against Women. See also A/67/287, paras. 40–54 in General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 51

⁸⁰ UN General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 73

⁸¹ *Id.*, para. 14.

⁸² CCPR/C/21/Rev.1/Add.4, para. 8. in General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 60

⁸³ 92 CCPR/C/GC/34, para. 32; see also CCPR/C/106/D/1932/2010 (*Irina Fedotova v. Russian Federation*), para. 10.5 in General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 60.

⁸⁴ 4 Human Rights Council resolution 22/6 in General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 60

⁸⁵ See General Assembly resolution 68/181, entitled “Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders”, para 10; and General Assembly resolution 70/161 in in General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/76/258, 2021, para 60

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States obligation to guarantee that SRHR information is available, accessible, acceptable, and of good quality, guided by human rights instruments and jurisprudence and World Health Organization (WHO), including its abortion care guidelines (2022) which based on public health evidence, recommend the 1) full decriminalization of abortion, 2) abortion be available on the request of the woman, girl or other pregnant person, 3) against gestational age limits, 4) mandatory waiting periods, and 5) third-party authorization.

States obligation to guarantee effective, immediately accessible, rapidly-responding processes by which individuals can assert their rights to treatment and receive an authoritative response from an independent body when they are denied access to reproductive health services including through administrative and judicial means.

Prohibit the criminalization of information on abortion, eliminate the unnecessary or biased counseling requirements and ensure that the information provided is science and evidence-based reiterating that these are necessary elements to ensure autonomy and informed decision-making.

States have an obligation to guarantee non-discrimination and the inclusion of an intersectional perspective as central to their duty to respect, protect and fulfil the right to freedom of opinion and expression. They should take appropriate measures to eliminate gender stereotypes, negative social norms and discriminatory attitudes through legislative measures, social policies and educational programs.

Ensure that substantive or de facto equality, are reflected in laws and in their application and interpretation, including national, religious and customary laws, including laws on sexual and reproductive health. States must ensure that women are protected against discrimination by public authorities and the judiciary, including by the competent courts, other public institutions and by private actors.

Accountability for SRHR violations requires the provision of reparations that must be timely, effective, transformative and address root causes of violations including, among other things, guarantees of non-recurrence and rehabilitation.

Ideologically based policies or practices cannot serve as a barrier to access SRHR and that all policies, administrative measures and legal provisions are clearly defined, determinable, non-retroactive and compatible with international human rights law.

Ensure that anti-abortion demonstrators do not inhibit access to sexual and reproductive health services and do not stigmatize and harm those seeking abortion in any way.

Annex I

a) Gendered disinformation and censorship of sexual and reproductive rights information and SRHR activists in Europe.

Gendered censorship can be seen for instance in the judicial prosecution of Vanessa Mendoza Cortes in Andorra who is facing charges of criminal defamation for speaking about the human rights situation in

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Andorra including criminalisation of abortion.⁸⁶ The targeting of sexual and reproductive rights activists in Poland, including crack down on peaceful protests following regressive ruling by Poland's Constitutional Tribunal that has led to near-total ban on abortion in Poland and threats of prosecution of the protesters is another example of judicial harassment and gender censorship impacting SRHR.⁸⁷

Gendered disinformation in relation to sexual and reproductive health and rights services is also a major problem in Europe that may take many forms such as i) dissemination of false or misleading information on SRHR online; ii) misinformation and biased counselling; iii) limited access to evidence-based information on SRHR and iv) Attempts to prohibit public provision of evidence-based information on abortion.

i. ***Dissemination of false or misleading information on SRHR online:*** in countries such as Italy, Spain, Croatia, Romania and Ukraine websites have reportedly been created providing misleading information or disinformation on abortion care. This disinformation includes encouraging women to delay abortion and emergency contraception, misleading advertising and even reports on women being told that abortions can cause cancer.⁸⁸ Similarly anti-abortion 'crisis pregnancy centres' and other websites have been reported in Malta.⁸⁹

Following the full-scale invasion of Ukraine by the Russian Federation organised anti-SRHR actors have also created websites and targeted disinformation campaigns in Ukrainian, disseminating false and misleading information to refugees from Ukraine about certain forms of SRHR healthcare, in particular abortion.⁹⁰

ii. ***Misinformation and biased counselling:*** in the UK, it has been reported that so called 'crisis pregnancy advice centres' are misleading women and providing biased advice to women who are seeking abortions. A BBC investigation in 2023 has found that 21 centers it contacted gave misleading medical information or unethical advice on abortion.⁹¹ The establishment of so called 'pregnancy crisis centers' which spread misinformation on abortion care have also been reported in Romania and Moldova.⁹²

iii. ***Limited access to evidence-based information on SRHR:*** access to evidence-based information on SRHR is difficult in many European countries. For instance, in Spain, the Women on Web website providing information on access to safe abortions as well as assisting women to access mifepristone and misoprostol online, was shut down by the government's pharmaceutical agency, which forms part of the Ministry for Health since 2020. The website was shut down on the grounds that Women on Web were carrying out an illegal activity. Despite a Supreme Court decision from October 2022 ruling partially in favour of Women on Web and which affirmed that information on sexual and reproductive rights are protected by the right to information and freedom of expression, the website

⁸⁶ See, e.g., [Andorra: Threats and judicial harassment against Ms. Vanessa Mendoza Cortés \(fidh.org\);](https://www.amnesty.org/en/documents/eur12/6465/2023/en/)
<https://www.amnesty.org/en/documents/eur12/6465/2023/en/>

⁸⁷ <https://rm.coe.int/report-on-the-round-table-human-rights-defenders-in-the-council-of-eur/1680aaa813> (para. 17);
<https://www.hrw.org/news/2022/10/22/two-years-polands-abortion-crackdowns-and-rule-law>

⁸⁸ . See e.g. <https://www.opendemocracy.net/en/5050/european-lawmakers-demand-action-anti-abortion-misinformation/>
<https://www.opendemocracy.net/en/5050/trump-linked-religious-extremists-global-disinformation-pregnant-women/>.

⁸⁹ <https://privacyinternational.org/long-read/3096/how-anti-abortion-activism-exploiting-data>

⁹⁰ See e.g. page 39 of [Care in Crisis: Failures to guarantee the sexual and reproductive health and rights of refugees from Ukraine in Hungary, Poland, Romania and Slovakia | Center for Reproductive Rights](#)

⁹¹ See, e.g., <https://www.bbc.com/news/uk-64751800>.

⁹² See, e.g., [ASTRA_CEE_Bulletin_199.pdf](#)

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remains shut down. The Supreme Court found that the complete blocking of the website without judicial authorisation was a violation of the right to free speech.⁹³

iv. *Attempts to prohibit public provision of evidence-based information on abortion*: in the past few years several legislative proposals seeking to prohibit public provision of evidence-based information on abortion were debated and rejected by the Slovak Parliament.⁹⁴

To counteract gender censorship and misinformation, there have been some positive developments such as the decriminalization of public provision of evidence-based information on abortion in Germany. In 2022, this country repealed s. 219a of the German Criminal Code that prohibited doctors and other medical professionals from providing medically accurate information on abortion in the public domain.⁹⁵ Also in 2022, the Parliamentary Assembly of the Council of Europe adopted Resolution 2429 (2022) on access to abortion in Europe stopping anti-choice harassment which specifically calls on Council of Europe member states to counteract misinformation and disinformation on the topic of abortion.⁹⁶

b) Misinformation and censorship in Latin America

Misinformation and censorship in Latin America affect the i) provision of misinformation on SRHR, including abortion; ii) right to individuals to receive specific information on their particular health status.

i) *Provision of misinformation on SRHR*: misinformation on gender-related issues has been used by public officials and by candidates to public offices⁹⁷ to generate fear towards the “overly progressive movement and information”.⁹⁸ Most of the messages against gender perspective in Latin America aim to create apprehension and fear against a possible change of social dynamics that will, according to conservative movements, “destroy” traditional values, like family.⁹⁹

Sexual and reproductive health and rights (SRHR) are one of the main targets of gender misinformation. Specifically, misinformation is being widely spread about abortion. For example, fake information on the supposed “post abortion syndrome” has been widely spread on social media, websites and public events, and so on.¹⁰⁰ The World Health Organization has affirmed that there is no scientific evidence that this so-called syndrome exists.

In Guatemala, on March 8th, 2022, the Congress approved the regressive bill “Life and Family” that restricted the rights of women and lesbian, gay, bisexual, transgender and intersex people.¹⁰¹ Two days

⁹³ See, e.g., <https://digitalfreedomfund.org/womens-rights-website-blocked-in-spain/>

⁹⁴ See, e.g., <https://reproductiverights.org/slovakia-joint-civil-society-letter/>; <https://reproductiverights.org/joint-civil-society-letter-on-proposed-abortion-restrictions-in-slovakia-english-version/>

⁹⁵ See, e.g. <https://www.theguardian.com/world/2022/jun/24/germany-scraps-nazi-era-abortion-law-that-criminalises-doctors>

⁹⁶ <https://pace.coe.int/en/files/30069/html>

⁹⁷ As an example candidate to a local deputacy Angela Hernandez in Colombia, used the term gender ideology often in its campaign. <https://www.youtube.com/watch?v=hSL7FjIZ0Os>

⁹⁸ Jose Fernando Serrano. “Gender ideology, political populism and sexual politics”. Available at: <http://www.scielo.org.co/pdf/noma/n50/0121-7550-noma-50-155.pdf>

⁹⁹ ¿De qué hablamos cuando hablamos de ideología de género? - Pólemos (polemos.pe)

¹⁰⁰ Websites like redmadre <https://www.redmadre.es/te-apoyamos/pensando-en-abortar/el-sindrome-post-aborto/> and articles in journals such as “Perspectiva familia” <https://www.redmadre.es/wp-content/uploads/2023/01/Aspectos-psicologicos-asociados-al-aborto-en-Sudamerica.pdf> are example of that.

¹⁰¹ The law would modify the penal code to criminalize miscarriages and impose prison sentences on anyone who “promotes or facilitates access to abortion.” <https://www.amnesty.org/es/latest/news/2022/03/guatemala-discriminatory-law-lives-rights-families-risk/>, <https://www.hrw.org/es/news/2022/03/15/la-ley-de-la-vida-y-la-familia-es-una-cortina-de-humo-para-la-corrupcion>.

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later, President Alejandro Giammattei announced that he would veto the law, noting that it violated international treaties.¹⁰² Fearing the veto, the bill was finally not approved. Nevertheless, it is concerning that it had a lot of support from the Congress. It was an attempt to expand the criminalization of abortion and subject women who have miscarriages to be questioned by law enforcement authorities, or even prosecuted. The proposal established that “freedom of conscience and expression” protects people from being “forced to share or participate in non-heterosexual conduct and practices”. The bill was also an affront to comprehensive sexuality education as it aimed at banning schools from teaching about sexual and reproductive health rights, curtailing children’s and adolescents’ rights to education, information, and health. Additionally, the bill aimed to limit access and diffusion of information regarding sexual and reproductive health services, including abortion.¹⁰³

In Colombia after a ruling in 2022 by the Constitutional Court that decriminalized abortion on all grounds up to 24 weeks of pregnancy, news outlets and social media channels affirmed that there is, supposedly, no right to access to abortion in the country, even though it exists since 2006 in Colombia.¹⁰⁴ This misinformation affects how health providers can effectively provide the service, how women access this health procedure, and the information they have to make it effective.¹⁰⁵ The movement Causa Justa is a movement in Colombia fighting for reproductive autonomy of all women, made up of more than 200 organizations, health care providers, academics, research centers, and activists working to protect women’s rights in Colombia. Part of their work has been to strategize and work together to clarify the scope of the Constitutional Court decision and how the standard did not change.¹⁰⁶

ii. *Right of individuals to receive specific information on their particular health status:* in some of the cases the Center litigated or in which it has been involved, gendered misinformation was key. For instance, in the case of Maria (fictitious name) before the Inter-American System of Human Rights, there is a focus on the lack of information on access to emergency contraception and the prevention of pregnancy after a sexual assault.¹⁰⁷ In the case *Britez Argentina*, where the Center presented an amicus brief, the Inter-American Court of Human Rights recognized that obstetric violence was result of the lack of information received on her health status and the availability of alternative treatments.¹⁰⁸

In Brazil, a 11-year-old was pregnant for the second time as a result of sexual violence. Her family received misleading information by health providers which made them wrongly believe that judicial authorization was required. Based on this misinformation her mother sought judicial authorization to access the abortion, which was finally denied. The lack and inadequate information led the 11 years old to a second forced maternity.¹⁰⁹

¹⁰² https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2022/052.asp

¹⁰³ “Life and Family” Bill is a Smokescreen for Corruption in Guatemala | Human Rights Watch (hrw.org)

¹⁰⁴ <https://colombiacheck.com/chequeos/es-falso-que-la-corte-constitucional-reverso-su-decision-sobre-la-despenalizacion-del>

¹⁰⁵ <https://diariocriterio.com/aborto-la-desinformacion-sobre-el-fallo/>

¹⁰⁶ <https://twitter.com/causajustaco/status/1668788015181840385?s=20>

¹⁰⁷ <https://incidenciainternacional.promsex.org/2020/09/28/informe-de-admisibilidad-caso-maria-vs-peru-comision-interamericana-de-derechos-humanos-cidh/>

¹⁰⁸ https://www.corteidh.or.cr/docs/casos/articulos/seriec_474_esp.pdf

¹⁰⁹ <https://g1.globo.com/pi/piaui/noticia/2022/09/11/crianca-de-11-anos-vitima-de-estupro-esta-gravida-pela-segunda-vez-em-teresina.ghtml>

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c) Case of criminalization of a human rights organization providing SRH information in Kenya

In November 2018, the Center for Reproductive Rights filed a case against the Ministry of Health, the Kenya Medical Practitioners and Dentists Board, (KMPDB) and Kenya Film and Classification Board (KFCB). The three public institutions had banned Marie Stopes Kenya (MSK) from providing information to adolescents and youth on the magnitude and impact of unsafe abortion in Kenya — including where to get help from — through radio and online platforms. Marie Stopes executives faced a potential five-year jail term or a Sh100,000 fine for violating the ban.¹¹⁰ The Center claimed that the ban constituted several unjustifiable violations to the right to access information, the right to the freedom of expression, and the right to health.¹¹¹

Marie Stopes —works in 37 countries providing free contraception, advice on family planning, sexual health, safe abortion and post-abortion care. It is a leading NGO in providing sexual and reproductive health services in Kenya since 1985.¹¹² The ban was meant to chill access to abortion information and services through unreasonable restrictions on access to abortion information and services, deterring women and girls from seeking evidence-based care.¹¹³

Following the filing of the case and advocacy from reproductive rights organizations, the Minister for Health withdrew the ban on the 20th December 2018. This may be considered a positive example of how legal action combined with advocacy efforts can protect access to information and life-saving reproductive health services.¹¹⁴

Should the mandate need any additional information, please do not hesitate to reach out to Tania Agosti Senior Global Advocacy Advisor at tagosti@reprorights.org or to Paola Salwan Daher Associate Director for Global Advocacy at pdaher@reprorights.org.

¹¹⁰ [Marie Stopes defies ban on advert linked to abortion | Nation](#)

¹¹¹ *Id.*

¹¹² <https://www.mariestopes.or.ke/about/company-profile/>.

¹¹³ *Id.*, p. 2.

¹¹⁴ *Id.*