

JOINT CIVIL SOCIETY STATEMENT
45TH SESSION OF THE UN HUMAN RIGHTS COUNCIL
INTERNATIONAL SAFE ABORTION DAY 2020

A shorter version will be delivered under Item 8 General Debate at HRC45 (expected on 30 September)

In the Vienna Declaration and Programme of Action, States recognized that women's rights are human rights and that all human rights are universal, indivisible, interdependent and interrelated. This should have been the basis for an intersectionalⁱ approach to human rights and the recognition that the denial of access to safe and legal abortion impacts all aspects of women's lives.

Everyone has the right to life-saving interventions during or outside of crises.ⁱⁱ And yet, women and girls' rights to bodily autonomy and safe abortion have been some of the first rights to be conveniently sacrificed under the guise of prioritizing COVID, as if health was a zero-sum game. That includes free, safe and legal abortion and comprehensive abortion and post-abortion care,ⁱⁱⁱ without which women, girls and gender-non-conforming persons are forced to seek unsafe clandestine abortions or to carry unwanted pregnancies to term, in complete violation of our rights.^{iv}

During this pandemic, some governments are increasing barriers to abortion services by deeming it a non-essential medical procedure,^v or are instrumentalizing the crisis to further restrict access in law or practice.^{vi} In health systems, for example, inadequate planning and the redeployment of medical personnel and resources to COVID-19 have decreased access to abortion and contraception.

Confinement measures have restricted the ability to travel to health facilities exacerbating the onerous requirements to comply with strict gestational limits on abortion. Moreover, confinement measures have resulted in a loss of livelihoods for many, such as sex workers, domestic workers, and informal workers.

The dramatic rises in domestic and intimate partner violence, the exponential increase in care burdens on women and girls, the closing of borders, crackdowns based on migration status, as well as systemic racism in policing and lockdown enforcement all limit access to abortion care.

This does not have to be the case. During the pandemic, some states have expanded access by increasing legal limits for medical abortion and facilitating telemedicine procedures, proving that these barriers were never medically necessary.

These barriers and inequalities are not exceptional to this moment. Legal frameworks and policies criminalizing or otherwise restricting access to safe abortion existed before the pandemic. Moreover, social and other determinants of health^{vii} are the product of the same capitalist, neo-liberal, patriarchal, racist and ableist power structures that shaped disparities in COVID-19 infection and mortality rates, consider some lives as expendable, and shape reproductive politics around population control and social control over women's bodies rather than bodily autonomy and reproductive justice.^{viii} These systems of oppressions are also "pre-existing conditions" that cannot be part of an effective response.

For decades, global financial institutions, donors, and governments pushed austerity, structural adjustments, and privatization that eroded health systems. Now these actors are imposing these conditions on their COVID-19 loans and assistance, with devastating consequences for women and girls in the Global South.^{ix}

On this International Safe Abortion Day, we urge states to respect, protect and fulfill women and girls' human rights and to:

- Ensure uncompromised access to available, accessible, acceptable and quality sexual and reproductive health commodities and services, including modern contraception and comprehensive abortion and post-abortion care on request, as part of universal health coverage and as essential health care, at all times, including during COVID-19. This should include the option of telemedicine, medical and self-managed abortion.
- Remove all legal, administrative and social barriers to safe abortion, including criminalization, and implement evidence-based guidance to abortion care, and maintain any positive changes to abortion laws and policies after the pandemic.
- Adopt an intersectional^x and rights-based approach to COVID-19 response and recovery that addresses white supremacy and other systemic oppressions and determinants of health in law and practice. Center reproductive justice and its emphasis on the rights to bodily autonomy, self-determination and to parent or not in safe and healthy environments when regulating access to abortion, contraception, sexual and reproductive health services and all the material conditions necessary to enjoy these rights.^{xi}
- Strengthen and finance public health systems through taxation and free from control from other governments, multilateral agreements and transnational corporations. This requires donor states, international financial institutions and other creditors and donors to adhere to human rights and ensure that financial and other assistance is sustainable, designed with meaningful participation of local feminist movements, women human rights defenders, young women and gender non-conforming people and does not depend on any conditionality negatively impacting human rights, such as austerity measures, privatization and structural adjustments.^{xii}

ⁱ On intersectionality, see Crenshaw, Kimberlé "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," University of Chicago Legal Forum: Vol. 1989: Iss. 1, Article 8. Available at: <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>

ⁱⁱ See e.g. OHCHR: "No exceptions with COVID-19: "Everyone has the right to life-saving interventions" – UN experts say" (26 March 2020) available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25746&LangID=E>; OHCHR: "UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19" (24 March 2020) available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25742&LangID=E>

ⁱⁱⁱ See e.g. Human Rights Committee, General comment No. 36 - Article 6 (the right to life), CCPR/C/GC/36, 2018, para. 8. Available at

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f36&Lang=en

^{iv} Including the rights to bodily autonomy, equality, physical and mental health, privacy, freedom from torture and cruel, inhuman or degrading treatment, and even the right to life. See, e.g. Joint statement "International Safe Abortion Day- Friday

28 September 2018” by the Working Group on discrimination against women in law and in practice; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on violence against women, its causes and consequences; and the Special Rapporteur on extrajudicial, summary or arbitrary executions, available at

[https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23644&LangID=E#:~:text=Geneva%20\(27%20September%202018\)%2D,autonomous%20decisions%20about%20her%20pregnancy.](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23644&LangID=E#:~:text=Geneva%20(27%20September%202018)%2D,autonomous%20decisions%20about%20her%20pregnancy.)

“Denial of abortion services and the prohibition of torture and cruel, inhuman and degrading treatment” by the Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on violence against women, its causes and consequences, available at

https://www.ohchr.org/Documents/Issues/Disability/SR_Disability/AmicusBrazilFINAL.pdf

^v See e.g. the Statement by the UN Working Group on discrimination against women and girls and endorsed by the Special Rapporteurs on violence against women, its causes and consequences; on the human rights to safe drinking water and sanitation; on the rights of persons with disabilities; on minority issues; on the right to adequate housing; and the Independent Expert on the enjoyment of all human rights by older persons: “Responses to the COVID-19 pandemic must not discount women and girls,” available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25808&LangID=E>

^{vi} See e.g. Sexuality Policy Watch: “Abortion under attack during COVID-19 pandemic” (16 April 2020) available at <https://sxpolitics.org/abortion-under-attack-during-covid-19-pandemic/20624>; Joint statement from the Working Group on Discrimination against Women and Girls and the Special Rapporteurs on the right to health, on violence against women, and on cultural rights: “Poland urged not to criminalise sex education or tighten access to abortion” (16 April 2020), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25796&LangID=E>; Joint statement from the

Working Group on Discrimination against Women and Girls and the Special Rapporteurs on the right to health and on violence against women: “United States: Authorities manipulating COVID-19 crisis to restrict access to abortion, say UN experts” (27 May 2020) available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25907&LangID=E>

^{vii} Social and other determinants of health refer to the material conditions necessary for people’s enjoyment of their rights to health, safe abortion and bodily autonomy and for the realization of reproductive justice. See e.g. UN Committee on Economic, Social and Cultural Rights, General Comment 22 on the right to sexual and reproductive health, paras. 7-8, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f22&Lang=en; and World Health Organization, About social determinants of health (2017), available at

http://www.who.int/social_determinants/sdh_definition/en

^{viii} On reproductive justice, see e.g. Ross, Loretta, and Rickie Solinger. 2017. *Reproductive Justice: An Introduction*.

^{ix} See e.g. : Alexander Kentikelenis, Daniela Gabor, Isabel Ortiz, Thomas Stubbs, Martin McKee, David Stuckler: “Softening the blow of the pandemic: will the International Monetary Fund and World Bank make things worse?” *The Lancet*, 9 April 2020. DOI: [https://doi.org/10.1016/S2214-109X\(20\)30135-2](https://doi.org/10.1016/S2214-109X(20)30135-2); Independent Expert on Foreign Debt, COVID-19: Urgent appeal for a human rights response to the economic recession, available at

https://www.ohchr.org/Documents/Issues/Development/IEDebt/20200414_IEDebt_urgent_appeal_COVID19_EN.pdf

^x On intersectionality, see Crenshaw, Kimberlé “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” *supra* note i.

^{xi} On reproductive justice, see e.g. Ross, Loretta, and Rickie Solinger. 2017. *Reproductive Justice: An Introduction*.

^{xii} See e.g. Special Rapporteur on the Right to Health, Report on health financing in the context of the right to health, A/67/302, para 28; and Independent Expert on Foreign Debt, COVID-19: Urgent appeal for a human rights response to the economic recession, page 12.