**Concept note**

Regional review to map laws, policies and practices related to UNFPA’s mandate across the Arab States region

This concept note outlines the background, objectives, expected outputs/deliverables methodology, tentative time frame and budget of the regional review to map laws, policies and practises related to UNFPA’s mandate in the Arab States Region.

# 1. Background

In 1994, States around the globe, under the auspices of the United Nations, gathered together in Cairo at the International Conference of Population and Development (ICPD) and adopted a Programme of Action in which they agreed that population policies must be aimed at empowering couples and individuals – especially women – to make decisions about the size of their families, providing them with the information and resources to make such decisions, and enabling them to exercise their reproductive rights. For the first time in an international consensus document, states agreed that reproductive rights are human rights that are already recognized in domestic and international law.

Programme of Action broadly defines reproductive health as a state of complete *physical*, *mental* and *social well-being* and not merely the absence of disease or infirmity in all matters relating to the reproductive system and its functions and processes. Sexual and reproductive health implies that people are able to have a safe and satisfying sex life, the ability to reproduce, and the right to decide if, when, and how frequently to reproduce. States agreed that coercive laws, policies and practises that do not respect individuals’ autonomy and decision making must be eliminated. In adopting the ICPD Programme of Action, states committed to take legal, policy, budgetary and other measures to effectuate the principles and rights enshrined in the document.

Subsequent to the ICPD, the 1995 Beijing Platform for Action[[1]](#footnote-1) expanded these definitions by affirming, the right to exercise control over and make decisions about one´s sexuality, including sexual and reproductive health, free of coercion discrimination and violence. This has since been reiterated in a number of United Nations documents[[2]](#footnote-2). By referring to sexual and reproductive health and reproductive rights, the ICPD Programme of Action clarifies that it is not creating a new set of rights. Rather, it encompasses both **entitlements** and **freedoms** ‘*recognised in national laws, international human rights documents and other consensus statements’ of relevance in the contest of sexual and reproductive health and well-being’*.

To accelerate the progress and to drive ambition of the ICPD and the 2013 agenda, the United Nations Population Fund (UNFPA) Strategic Plan (2018-2021) is designed to achieve universal access to sexual and reproductive health and reproductive rights. Additionally, UNFPA have a vision to achieve the below transformative results by 2030.

End unmet need for **family planning**

End preventable **maternal deaths**

End **gender-based violence** and **harmful practises**

Since the Programme of Action was developed, major achievements have ensured the realisation of sexual and reproductive health and reproductive rights for many, including people in the Arab States region[[3]](#footnote-3). However, major challenges and gaps still exists to ensure that all people have access to sexual and reproductive health and reproductive rights. To accelerate the progress of the Programme of Action, UNFPA Arab States Regional Office has identified a regional knowledge gap in the national laws, policies and practises, which governs the areas within UNFPA’s mandate including the ICPD.

# 2. Objectives

The overall objective of this exercise is to support UNFPA Arab States Regional Office and Country Offices’ work in meeting the three transformative goals through policy related interventions. More specifically, the objectives of this study are:

**Strategically position** UNFPA as **lead agency** on sexual and reproductive health and reproductive rights

**Inform programmes** and **create demand** for more substantive work in the areas of UNFPA's mandate related to the legal framework

**Knowledge production** to enhance UNFPA's ability to provide information to Universal Periodic Review, Common Country Analysis; Treaty Bodies, etc.

**Strengthen UNFPA's partnership** with sexual and reproductive health and reproductive rights actors, including NHRIs

This regional report must apply a Human Rights Based Approach to map all existing laws and policies that are related to UNFPA’s mandate across the Arab States region. It is expected that this report will draw a situation analysis, highlight the existing laws and policies, identifying gaps, challenges and opportunities for UNFPA to engage with national institutions, and recommendations for improving the work of national institutions with SRHRR. Moreover, this report must include a mapping of active regional and national NGOs and civil society organisations that are working on these areas.

# 3. Expected outputs/deliverables

Below are the deliverables, which are expected.

1. A **comprehensive review tool** in English and Arabic, which can be used to map all existing laws including the constitution and national policies that are related to UNFPA’s mandate across the Arab States region linked to international human rights treaties, ICPD, UNFPA’s Strategic Plan, UNDAFs etc. This tool should also show how national human rights institutions work in the region in relation to SRHRR.
2. Separate **draft country profiles** for each of the 15 countries selected in English and Arabic, which should assess the laws, policies and practises related to the *minimum areas of concern* as indicated under the methodology section. Each country profile should include a short summary overview of the legal framework and how the NHRI uses this framework nationally and in its work with the international human rights system. As part of this summary overview, each country’s laws and policies should be categorised using a simple four colour code system that compares the laws and policies identified in the country profiles with international human rights standards, the recommendations of the United Nations Treaty Bodies and country recommendations under the country’s respective Universal Periodic Reviews. Moreover, the country profiles must include info-graphs and mapping of active regional and national NGOs and civil society organisations that are working on the areas relevant for UNFPA.
3. Presenting the results at **Expert Group Meeting**
4. Present preliminary findings at **Nairobi Summit** on ICPD+25
5. **Regional comparison** of the 15 countries based on the country profiles in English and Arabic.
6. One **draft** **policy brief** for each of the countries selected in English and Arabic.

# 5. Methodology

The study must consist of a systematic review of the laws, policies and practises 15 countries in the Arab region to assess how these institutions work and the gaps related to the promotion and protection of sexual and reproductive health and reproductive rights.

The analysis should include the following **minimum areas of concern**.

Contraceptive information and services

Safe abortion services and post-abortion care

Maternal health care to ensure safe pregnancy and childbirth

Cervical cancer prevention, screening and treatment

STI prevention, screening and treatment

Prevention and management of HIV and AIDS

Comprehensive sexuality education

Gender-based violence including harmful practises

Autonomous decision making and bodily integrity concerning marginalised and disadvantaged groups

The study should consist of profiles for each of the selected countries addressing as a minimum the above topics. Each profile must as a minimum assess whether the laws, policies or practises governing the above subject areas comply with the ICPD, international human rights standards and with the recommendations of the human rights treaty bodies. Consideration should be given to recommendations under the Universal Periodic Reviews. Each country profile must highlight where progress has been made as well as the main challenges and opportunities including recommendations to improve the current legal framework.

The study must be conducted in the below two phases:

Literature review

A literature review of the various laws, policies and practises related to the above-mentioned topics for each of the selected countries, which should form the basis of the draft country assessments. The literature review must review recommendations from e.g. UPR and treaty bodies.

National consultations

Realising the limitations of desk-based literature reviews, comprehensive country consultation processes for each of the draft country assessments should take place led by UNFPA Country Offices and national consultants (expect in countries where there is no UNFPA presence).

The views of government partners, non-governmental organisations including women's rights organisations and youth organisations, National Human Rights Institutions, media and UN agencies ought to be included.

Each of the profiles should focus on whether the laws, policies and practises support the full realization of all people’s sexual and reproductive health and reproductive rights or whether they fail to provide protection. Furthermore, it is important that the study also acknowledges that sexual and reproductive health and reproductive rights also includes the rights of men and boys. This also applies for survivors of gender-based violence, which can be both males and females.

The aim of each country profile is to provide a baseline for UNFPA Arab States Regional Office and Country Offices to support governmental and non-governmental actors at the national, regional and international level to ensure the realization of UNFPA’s mandate in the Arab States region. Since changes in legislation mostly happen at the country level, it is essential for national actors to reflect on their own country findings and to develop an agenda for action that addresses their specific country needs.

All documents should be submitted in English during the drafting phase, once the documents have been finalised and approved by UNFPA, the consultant must translate all the final deliverables into Arabic.

## Expert Group

UNFPA Arab States Regional Office will establish an expert group, which will contain people from UNFPA and possibly other UN agencies both from the country and regional level. The role of the Expert Group will be to provide input to the planning, implementation and evaluation phase of this initiative. Tasks will e.g. include feedback to methodology and draft reports. All comments put forward by the Expert Group must be addressed by the Consultant. UNFPA will appoint persons to join this Expert Group.

## Relevant literature

Below are some background literature, which is relevant to this review.

* Sexual and Reproductive Health Laws and Policies in Selected Arab Countries (2016)
* National Sexual and Reproductive Health Strategies
* GBV referral pathways
* Mapping of Population Policies in the Arab Region – ten countries (2018)
* Mapping of the capacities of the HNRIs to promote and protect SRHRRs in the Arab Region – 11 countries- (2017)
* The Gender Justice in the Arab Region (2018)
* Human Rights Reports submitted to treaty bodies including shadow reports
* UNFPA Strategic Plan (2018-2021)

## Human Rights & indicative state obligations underpinning sexual and reproductive health

The following key international human rights treaties relates to sexual and reproductive health and reproductive rights, which are relevant to UNFPA’s mandate.

International Convention on the Elimination of All Forms of Racial Discrimination (1969)

International Covenant on Civil and Political Rights (1976)

International Covenant on Economic, Social and Cultural Rights (1976)

Convention on the Elimination of All Forms of Discrimination against women (1981)

Convention against Torture and other Cruel, Inhumane and Degrading Treatment or Punishment (1987)

Convention on the Rights of the Child (1990)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)

Convention on the Rights of Persons with Disabilities (2008)

United Nations treaty monitoring bodies and other regional human rights bodies interpret rights under their respective treaties, how they relate to sexual and reproductive health and well-being, and how they should be applied in practice. Annex 1 provides an illustrations of how existing human rights are related to sexual and reproductive well-being and dignity of all persons, which should be addressed and included for each of the selected countries.

Other civil and political rights such as the right to participate in public affairs, freedom of expression, freedom of assembly and the right to association are instrumental to the achievement of sexual and reproductive health and well-being. This is true in particular for those individuals whose sexual and reproductive health and well-being is most at risk, such as adolescent girls, stigmatised or disenfranchised women, and other individuals belonging to marginalised and excluded populations. Such rights create an enabling environment that empowers individual and groups to claim their rights and provides specific protections allowing human rights defender to operate in conditions of safety.

The following countries must be assessed.

* Algeria
* Djibouti
* Egypt
* Iraq
* Jordan
* Lebanon
* Libya
* Morocco
* Oman
* Palestine
* Somalia
* Sudan
* Syria
* Tunisia
* Yemen

# 6. Tentative time frame

Below is the time frame expected by UNFPA.

|  |  |  |
| --- | --- | --- |
| Item | Deadline | Responsible |
| Submit draft methodology, outline, draft review tool and detailed timeline | By 2week | Consultant |
| Provide input to draft methodology, outline, draft review tool and detailed timeline | By 4week | UNFPA/Expert Group |
| Submit revised methodology, outline, review tool and detailed timeline | By 6 week | Consultant |
| Approval of revised methodology, outline, review tool and detailed timeline | By 8 week | UNFPA/Expert Group |
| Conduct desk review and submit first draft | By 10 weeks | Consultant |
| Provide feedback to desk review | By 12 week | UNFPA/Expert Group |
| Revise and submit second draft | By 14 week | Consultant |
| Conduct and complete all country level consultations[[4]](#footnote-4) | By 16 week | UNFPA/Expert Group |
| Submit first draft of all the deliverables as stipulated above | By 18 week | Consultant |
| Provide input to first draft of all documents as stipulated above | By 22 week | UNFPA/Expert Group |
| Revise and submit final version[[5]](#footnote-5) of all documents as stipulated above | By 24 week | Consultant |
| Proofreading and translation of approved deliverables into Arabic | By 28 Week | Consultant |

# 8. Budget

# Annex 1: Human Rights and indicative state obligations underpinning sexual and reproductive health as set out in human rights norms and by the United Nations Treaty Bodies

|  |  |
| --- | --- |
| **The Right to Life** | * Prevent maternal mortality and morbidity through safe motherhood programmes * Ensure access to safe abortion services when the life and health of the mother is at risk |
| **The Right to Health** | * Ensure adolescents have access to full range of sexual and reproductive health care services and information * Ensure reproductive health services are available, accessible, acceptable and of good quality |
| **The Right to Education and Information** | * Ensure school curricula include comprehensive, evidence-based and non-discriminatory sexuality education * Ensure accurate public education campaigns on the prevention of transmission of HIV |
| **The Right to Equality and Non-Discrimination** | * Prohibit discrimination in access to health care on grounds of sex, age, disability, race, religion, nationality, economic stats, sexual orientation, health states including HIV, etc. * Do not deny access to health services that only women need |
| **The Right to Decide Number and Spacing of Children** | * Ensure the full range of modern contraceptive methods * Ensure women are given comprehensive and accurate information to ensure informed consent to contraceptive methods, including sterilization |
| **The Right to Privacy** | * Ensure the right to bodily autonomy and decision-making around sexual and reproductive health issues * Guarantee confidentiality and privacy with regards to patient health care information, including prohibiting third party consent, such as spousal and parental, to sexual and reproductive healthcare services |
| **The Right to Consent to Marriage and Equality in Marriage** | * Prohibit and punish child, early and forced marriages * Set the age limit for marriage at 18, equally for boys and girls |
| **The Right to be Free from Torture or Other Cruel, Inhumane or Degrading Treatment or Punishment** | * Guarantee access to Emergency Contraception, especially in cases of rape * Guarantee access to termination of pregnancy when a women's life or health is in danger, in cases of rape and fatal foetal impairment |
| **The Right to be Free from Practices that Harm Women and Girls** | * Prohibit and punish all forms of female genital mutilation (FGM) |
| **The Right to be Free from Sexual and Gender-Based Violence** | * Ensure gender-based violence, including domestic and intimate partner violence, is effectively prohibited and punished in law and in practice * Prohibit and punish all forms of rape, in peacetime and in conflict, and including marital rape * Prohibit and punish all forms of violence perpetrated because of sexual orientation |
| **The Right to an Effective Remedy** | * Ensure effective mechanics are in place for women to complain of sexual and reproductive health and reproductive rights violations * Ensure women who are unable to afford a lawyer access to effective counsel |

1. *Report of the Fourth World Conference on Women*. Beijing, China, 4-15 September 1995 [↑](#footnote-ref-1)
2. For example, Commission on Population and Development, resolution 2012/1 (E/2012/25-E/CN.9/2012/8) [↑](#footnote-ref-2)
3. Sexual and Reproductive Health Laws and Policies in Selected Arab Countries, MENA Health Policy Forum, July 2016 [↑](#footnote-ref-3)
4. If UNFPA approves the revised draft, then conduct country level consultations. Otherwise, further revision might take place until UNFPA is satisfied with the submitted product as mentioned in this concept note. [↑](#footnote-ref-4)
5. Please note that several rounds of comments might be expected from UNFPA in case, UNFPA is not satisfied with the products submitted for review. [↑](#footnote-ref-5)