

EANNASO MEETING REPORT



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Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
ANNEA	AIDS NGOs Network in East Africa
ASO	AIDS Service Organisations
CBOs	Community Based Organisations
CSO	Civil Society Organisations
EAC	East African Community
EALA	East Africa Legislative Assembly
EANNASO	Eastern African National Network of AIDS Service Organisations
HIV	Human Immunodeficiency Virus
NGOs	Non-Governmental Organisations
RMNCAH	Reproductive, Maternal, Newborn, Child and Adolescent Health and Nutrition
SAT	Southern Africa Trust
SRHR	Sexual Reproductive and Health Rights
ToRs	Terms of Reference
TWG	Technical Working Group

1. Introduction

The average maternal mortality ratio in the EAC is 477 per 100,000 live births; the rate of female genital cutting is as high as 21% and 10% in Kenya and the United Republic of Tanzania respectively; adult HIV prevalence is as high as 7.1% in Uganda yet only 1.3% in Burundi and the proportion of family planning demand satisfied by modern methods is only about 40%. Only half of pregnant mothers in the region attend the recommended 4 Antenatal Care visits and deliver under skilled care.

Although the recommended level of the “package” of physicians, nurses and midwives” and financing required to attain the SRG related SDGs are 44.5 per 10,000 population and US \$86 per person per year, the status in the EAC as a whole is only 12 per 10,000 population and US \$ 49 per capita per year respectively.

Furthermore, EAC statistics shows that about 10% of children under the age of 15 in the Partner States have had sex, adolescent birth rate averages 100 per 1,000 women aged 15-19 years, young people are the largest age group with the highest incidence of HIV, the effect on low empowerment and intimate partner violence among young girls are key drivers of new infections and 37% of young women aged 20-24 years were married as children. Legal, policy and legislative reforms required to improve SRH needs of the population within the Community.

The deliberations from the meeting herein highlights the roadmap to the adoption of the draft EAC Sexual and Reproductive Health Rights Bill, 2017 by the EAC and deliberation on its contents by civil society for EAC Partner States to influence the amendments of the said Bill.

2. Background

Article 118 of the Treaty for the Establishment of the East African Community (EAC) is the basis for adopting the Draft East African Community Sexual And Reproductive Health Rights, 2017 with the objective of providing a legal framework for matters relating to sexual and reproductive health, to protect children, adolescents and young persons from sexual abuse and other forms of exploitation.

In the spirit of integration and in order to improve economy, effectiveness and efficiency in service delivery, the EAC adopted the strategy of integrating policies, strategies, resources, programme and monitoring & evaluation. By harmonizing national health policies and regulations a healthy community with quality services and products will be realized. The Integration of sexual and reproductive health including HIV&AIDS is key to achieving the EAC health Goal, “Strengthened and expanded collaboration in the health sector”.

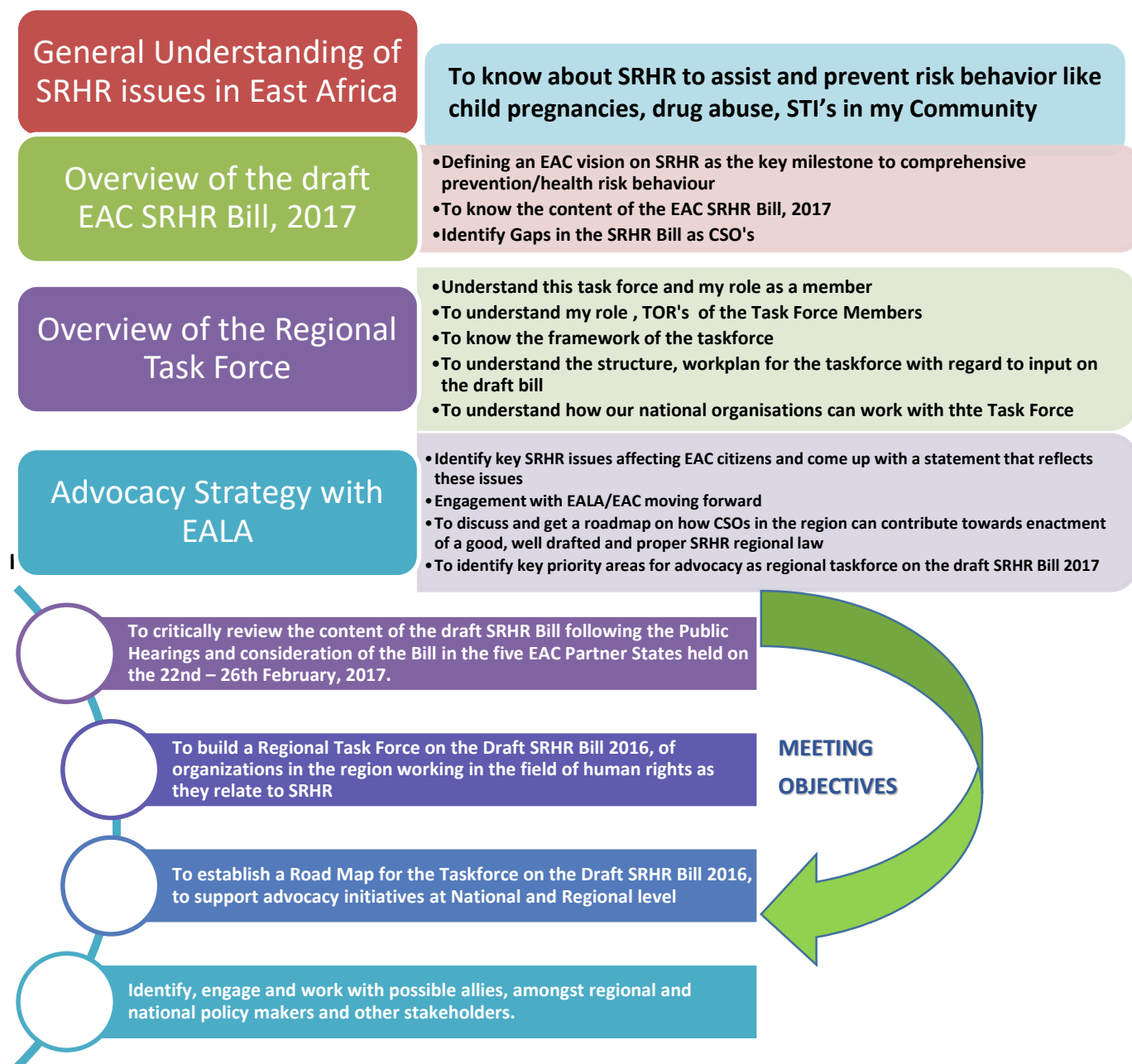
The EAST African Community Sexual and Reproductive Health Rights, 2017 Bill has undergone several processes and now it is time to receive contributions and perspectives from the stakeholders from across EAC Partner states. Comments and contributions from stakeholders will be coordinated and harmonized by EANNASO through a taskforce; ‘Regional Task Force on Sexual Reproductive and Health Rights (SRHR), Policy and Legislation’. The first task force meeting took place in Arusha Tanzania on March 1st, 2017, this is the report of the meeting.

MEETING PROCEEDINGS

3. Welcome Remarks: Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO

A welcome remark was given by Ms. Bwisa. She welcomed and thanked participants for finding time to attend the meeting and for agreeing to be nominated as Taskforce members taking up the role of engaging with various stakeholders at national and regional level to ensure the draft EAC SRHR Bill, 2017 includes comments/issues of the communities they serve.

Ms. Bwisa requested participants to jot down on card their expectations from the one day meeting and the responses from the participants were as follows:



SESSION I

A LOOK BACK AND STOCK TAKING

4. Introduction to EANNASO, Presented by Vianney Hasabamagara, Finance Manager, EANNASO

Eastern Africa National Network of AIDS Service Organizations (EANNASO) is a network of national networks of AIDS Service Organizations (ASOs) in Seven Eastern Africa Countries namely: Burundi, Kenya, Rwanda, Tanzania (including Zanzibar), Ethiopia, S. Sudan.

EANNASO evolved from the AIDS NGO Network in East Africa (ANNEA). ANNEA was a network of NGOs/CBOs from Kenya, Uganda and Tanzania formed in 1994 to network, share experiences and have a single advocacy voice on HIV & AIDS issues in East Africa. Later on Rwanda and Burundi joined EANNASO as Members. The Secretariat of EANNASO is based in Arusha Tanzania.

EANNASO Guiding Principles are:

1. Respect for diversity
2. Commitment
3. Non partisan
4. Collaboration
5. Integrity and shared responsibility

EANNASO's Vision is an empowered Civil Society effectively contributing to Eastern Africa region enjoying a quality of life free of the HIV epidemic and its associated impacts.

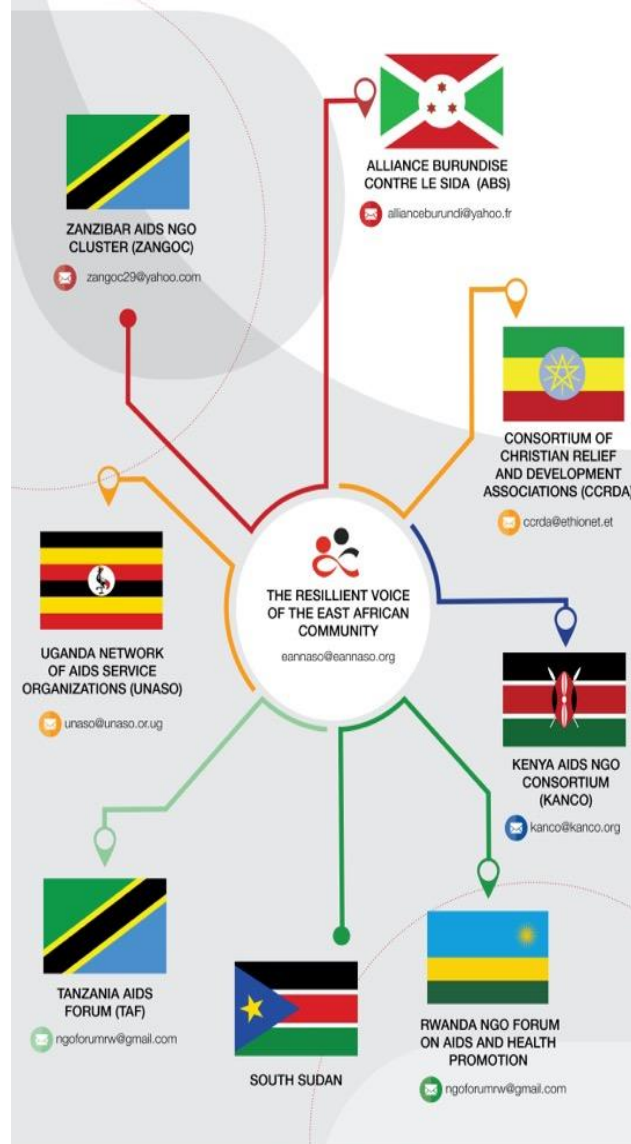
Whereas EANNASO's Mission is building the capacity of CS to effectively contribute to their national responses in ending HIV, TB and other diseases, by enhancing the voice of CSOs and strengthening their institutional and programmatic capacities.

EANNASO is currently implementing the following Programmes:

- 1) **Technical Support:** Brokering and linking CSO beneficiaries to technical support providers through needs assessment, developing appropriate response plans, and mobilizing partners. Host Anglophone Africa RCC Platform.



OUR MEMBER NETWORKS OF AIDS SERVICE ORGANIZATIONS IN EASTERN AFRICA.



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- 2) **Policy and Advocacy:** Advocates for space and representation for civil society in various decision making platform within the East African Community for HIV/AIDS and TB.
- 3) **Knowledge Management and Learning:** Develops & Promotes a Regional Learning Platform for exchange of knowledge on HIV prevention and related matters among the CSOs in the region.
- 4) **Institutional Development:** Provides strategic direction and stewardship to the Secretariat focusing on governance, leadership, management of Financial and Institutional resources for organisational sustainability.

5. Introduction to SAT, Presented by Agnes Nyoni, SAT, Tanzania

The Southern Africa Trust (SAT) was established in 2005 to support civil society organisations to participate effectively and with credibility in policy dialogue so that the voices of the poor can have a better impact in the development of public policies. SAT is based in South Africa but have offices in five African countries namely Botswana, Zimbabwe, Malawi, Zambia, Tanzania, and a satellite office in Swaziland.

SAT has five programme areas which are:

- 1) Learning for Better Poverty Reduction Results;
- 2) Understanding Civil Society Organisations and Building Capability to Do Pro-Poor Policy Work; Constructing Regional Identity and Civic Participation amongst Citizens;
- 3) Creating New Opportunities for Voices of the Poor to Be Heard In Policy Dialogue and
- 4) More and Better Financing to Civil Society Organisations in Africa a programme which aims to develop new knowledge about aid and funding flows to the sector,
- 5) Strengthen dialogue between civil society organizations and donors,
- 6) Improve the volume and quality of financial resources to civil society organizations for regional policy work.

SAT programmes are implemented through the following strategies;

1. **Capability building** – Strategic leadership development, building new linkages and alliances, developing new knowledge and improving the environment within which civil society operates.
2. **Evidence-based advocacy** – This involves generating research that is owned by and usable to civil society and non-state actors, policy makers and private sector practitioners.
3. **Policy dialogues** – Creating space and platforms for convening within the civil society sector and between civil society organizations and other role-players including the private sector as well as the public sector. **Creating an enabling environment** –Providing support to enable meaningful and effective engagement between civil society organizations and policy makers, among others.
4. **Grant-making** – Providing financial resources and the related institutional and programme technical support to various civil society groups working in regional policy.

6. Defining EANNASO's role and partnership with SAT in the roadmap for the EAC Sexual and Reproductive Health Rights Bill, 2017,

Presented by Maureen Bwisa, EANNASO Policy & Advocacy Team Leader

The partnership between EANNASO and SAT was on a project that aimed at creating a conducive legal environment to eradicate child marriages in the EAC Partner States by using human rights based approaches to enhance national and regional responses to eradicate child marriages.

The Goal of the Project was to enhance regional as well as national responses to eradicate child marriages using a human rights based approach within Partner States.

The Objectives of the Project was:

1. To take stock through research and consult on the state of the law and policy on CM within the EAC and PS, if deemed necessary – a regional law to Eradicate Child Marriages for the EAC;
2. Convene a Regional Meeting with the EAC TWG and Inter Agency Working Group on Child Rights and Well Being to discuss roadmap to promote a conducive legal environment to Eradicate CM within the EAC PS;
3. To share experiences from the SADC region on the roadmap to the development of the Model Law;
4. In-country support towards advocacy for assent of the (proposed) regional, once adopted by EALA;
5. To build a Regional Task Force of organizations in the region monitoring, reporting on and advocating against violation of human rights as they relate to Child Marriages and raising rights awareness.

It was explained that during the conceptualization of the Project in August 2016, the concept was creating a conducive legal environment to eradicate child marriages. However, in November 2016, it came to the attention of EANNASO that the EAC had made some progress on drafting an EAC Sexual and Reproductive Health Rights Bill which included components on Child Marriages as a result of which the project changed into creating a conducive legal environment on sexual and reproductive health rights in the EAC.

SESSION II

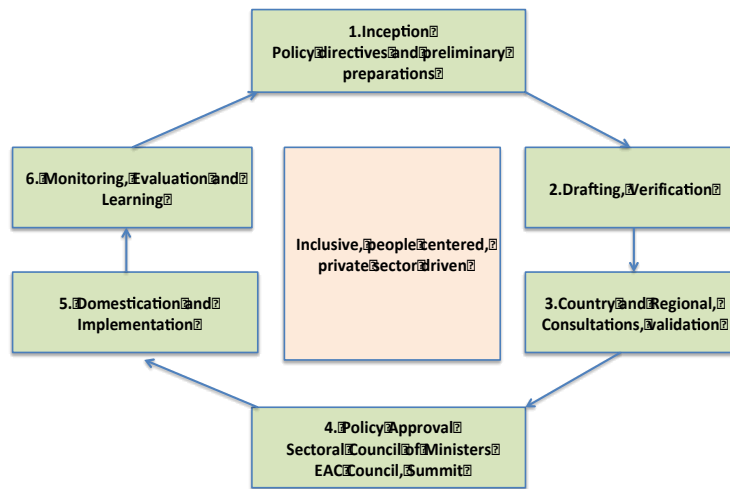
PRESENTATION OF THE DRAFT EAC SRHR BILL, 2017

7. The EAC Legislative Processes: Progress Towards the Adoption of the EAC Sexual and Reproductive Health Rights Bill, 2017 Presented by Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO

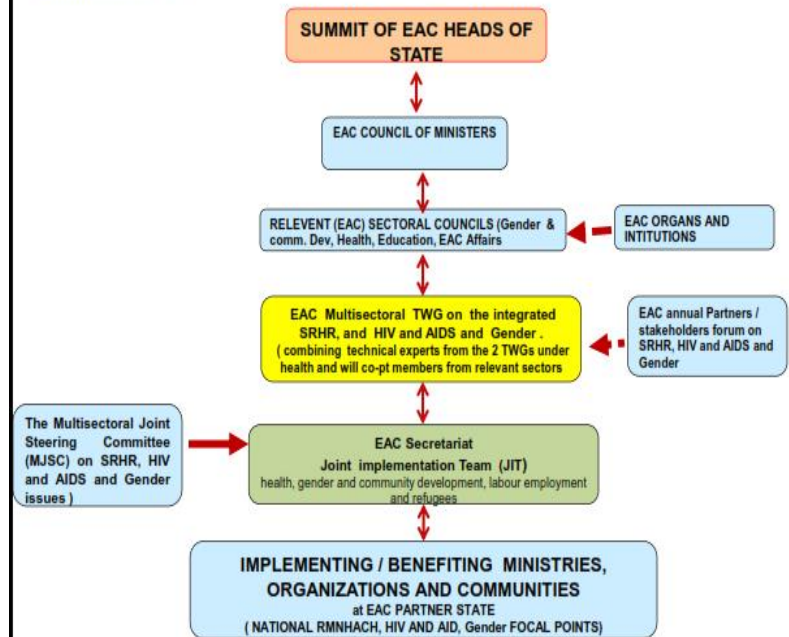
The presenter commenced her presentation by giving a background of the East African Community (EAC). The EAC is a Regional Inter- Governmental Organization Comprised of 5 Partner States comprising of Burundi, Kenya, Rwanda, Tanzania and Uganda. The EAC was established under Art. 2 of the Treaty for the Establishment of the EAC which came into force in July 2000. Articles 127, 128 and 129- Treaty envisages structured and meaningful involvement of the PSO and CSO and other interests groups in EAC integration processes.

Subsequently, the EAC outlined to participants how the EAC goes about Policy Formulation and Implementation Cycle as follows:

At the EAC Secretariat Level



Governance Structure



The presenter then gave an over view of how laws in the EAC are initiated and formulated either through a Protocol or Bill as follows:

- 1) A **Protocol** is a negotiated instrument which becomes an integral part of the EAC Treaty upon signing and ratification by PS. The Protocol restates and amplifies the scope, objectives and principles of cooperation set out in the Treaty covering specific sectors and provides strategies to be applied in the Sectoral integration process.

The process of concluding Protocols at the EAC is as follows:

- Begins with a user Department, by seeking approval of the relevant Sectoral Council and then the full Council;
- Upon approval, zero draft is initiated: may be done by officer in charge or a consultant/ experts;
- Draft Protocol is subject to review: series of negotiations by experts & stakeholders from PS;
- Negotiated draft is presented to relevant Sectoral Council for guidance on technical issues;
- If Sectoral Council approves, it is submitted to full Council for adoption and policy pronouncements
- Sent to Sectoral Council on Legal and Judicial Affairs to address Legal (SCLJA) Content;
- After SCLJA, sent to Council for final adoption & signature;
- After signature it is sent to PS for ratification;
- Last stage: depositing instrument of ratification with the EAC SG by all PS;
- Due to political interests some Protocols take long to pass one stage to another e.g. Since 2006 extension of EACJ never concluded yet Common Market Protocol was negotiated in 18 months.

- 2) A **Bill** is a draft legislation either generated after approval of the Council and/ or by a Private Member of EALA for the purposes of presentation to EALA for debate & enactment: Art. 14(3) (b) and 59 of the EAC Treaty.

The process of initiation of a Bill is two- fold:

- a) **By the Council:** Primary responsibility of initiation of Bills for submission to EALA at EAC rests with Council of Ministers (Policy Organ);
- Legislative Process from Council flows from Policy, to Protocol and then to legislation;
 - N.B: Not a prerequisite that all Acts become Protocols;
 - Process: Almost similar to a Protocol diff. where Protocol exists, there is no lengthy negotiations as most provisions are in Protocol;
 - Consultations, relevant Sectoral Council, SCLJA, full Council
 - Last Bill by Council to EALA: Vehicle Control Bill and One Stop Border Bill brought 3 yrs ago
- b) **By EALA:** Right to propose Bills through a Private Members' Motions: Art. 59(1) of the Treaty
- Process requires extensive lobbying with members of PS, in country validations, before debate in EALA
 - Council may take over the Bill as was the case with the EAC HIV and AIDS Prevention & Management Act, 2010: sent Bill to Sectoral Council of Health to do all technical and policy inputs, SCLJA said bill was drafted as Ntl law
 - EALA saw no progress and re-intro Bill as Private Members Bill which was passed
 - To circumvent this, obtain approval from EAC Secretariat then have it tabled for legislation at EALA

To conclude with the presenter gave the challenges envisaged in developing Protocols and Bills at the EAC as follows:

- Negotiations/ in- country validation requires a lot of resources for which Secretariat will require support;
- It's expensive to bring together stakeholders and experts to discuss technical documents;
- Negotiations phase may take more than one year before it is concluded.
- For Protocols, some have taken over 6 years before they are ratified by PS e.g. Protocol for the Establishment of the EAC Health Research Commission: signed in Sept. 2008, ratified in 2014 after several reminders & council directives
- Recommended that Bills be pursued as best option

8. EAC Roadmap to Adoption of the Draft EAC SRHR Bill, 2017

The EAC Secretariat through the EAC Technical Working Group (TWG) on Reproductive, Maternal, Newborn, Child and Adolescent Health and Nutrition (RMNCAH) has convened several meetings for purposes of drafting the EAC Sexual and Reproductive Health and Rights (SRHR) Bill 2016 as detailed below:

1. Meeting of the EAC Technical Working Group on Reproductive Maternal New-born Child and Adolescent Health and Nutrition held on 3rd – 6th October, 2016 in Mwanza, Tanzania

The EAC Secretariat convened the Third Meeting of the EAC Technical Working Group (TWG) on Reproductive, Maternal, Newborn, Child and Adolescent Health and Nutrition (RMNCAH) was convened in **Mwanza, United Republic of Tanzania** from 3rd to 6th October 2016 in accordance with the EAC Calendar of activities for the period of July-December 2016.

The purpose of the 3rd TWG on RMNCAH meeting was to review the status of implementation of the various EAC RMNCAH and Nutrition Initiatives/Projects and provide technical guidance on sustainability of actions and results in order to help shape maternal, newborn, child and adolescent health outcome for the region.

The specific objectives of the meeting was to:-

1. Present the draft East African Community Sexual and Reproductive Health Rights Bill 2016 incorporating provisions on child marriage by East African Legislative Assembly Member of Parliament from the Republic of Burundi, Hon. Dr. Odete Nyiramilimo
2. Generate inputs for incorporation into the draft East African Community Sexual and Reproductive Health Rights Bill 2016.
3. Develop/refine Terms of Reference (TORs) for the drafting of the East African Community Sexual and Reproductive Health Rights Bill 2016 and review country specific RMNCAH Policy and Advocacy briefs.

In conclusion, the EAC Reproductive Maternal Newborn Child Adolescent and Nutrition Technical Working Group recommends to the 22nd Ordinary Meeting of the EAC Sectoral Committee on Health to consider and:

- a) Adopt the proposed framework for the EAC SRHR Bill;
- b) To direct the EAC Secretariat to finalize and share draft bill the SRHR Bill with all relevant stakeholders by June 2017
- c) The EAC Secretariat should involve the Partner States legal drafts men/women from the beginning to assist in drafting the EAC SRHR bill.

2) Third Joint Regional Workshop to Draft the East African Community Sexual, Reproductive, Health and Rights Bill held on 13th to 16th December 2016, Nairobi, Kenya

The EAC Secretariat convened the first Regional Workshop to draft the EAC SRHR in collaboration with other key stakeholders following the review and updating of the draft Bill in Nairobi, Kenya from 24th – 28th October 2016 by subject matter technical and legal Experts drawn from the collaborating Partners.

The aim of the Workshop was to refine the draft EAC Sexual Reproductive Health and Rights Bill in preparation for the elaborate Bill enactment processes in East African Legislative Assembly.

Participants interrogated the draft Bill Clause by Clause and Section by Section while making reference to relevant key global, regional and national policy and legal instruments for further enrichment.

The main outcome from the meeting was to have a refined EAC Sexual Reproductive Health and Rights Bill ready for further development through the elaborate enactment processes in East African Legislative Assembly plenary sessions.

3) The East African Legislative Assembly (EALA) Workshop on Sexual and Reproductive Health and Rights in East African Community, Kampala, Uganda on the 23rd January, 2017.

The EALA Workshop on Sexual and Reproductive Health and Rights in East African Community was convened along the side-lines of the 4th Meeting of the 5th Session of the 3rd Assembly (EALA) in preparation for tabling the draft Bill for the First Reading on Tuesday, 24th January 2017.

The Workshop Participants included Hon. Members of the East African Legislative Assembly; Hon. Members of Parliament from the Health Committee of the Parliament of Uganda; staff and technical Experts from the EAC TWG on RMNCAH.

The objective of the workshop was to update the Members of EALA and other stakeholders on the spirit and content of the draft EAC SRHR Bill and generate valuable inputs for its further refinement.

Hon. Dr. Odette Nyiramilimo, the mover of the EAC Sexual and Reproductive Health Bill, presented the draft Bill in collaboration with a team of legal Drafters who participated in the drafting of the Bill. The presentation was thereafter preceded by a status of SRH in the East African Community Partner States, and inputs from Policy Makers on the spirit, context and content of the draft Bill for further refinement.

4) Public Hearings on the EAC Sexual and Reproductive Health Rights Bill, 2017 and Consideration of the Bill, Nairobi, Kenya on the 22nd to 26th February, 2017

The main purpose for this meeting was for EALA Members, Partner States, civil society organizations and Government officials and experts on Sexual Reproductive Health to exchange ideas during the consideration of the draft Bill in the five EAC Partner States.

Following the consolidations of the country submissions on the draft amendments, the Bill shall thereafter undergo 2nd and 3rd reading during the next sitting of EALA on 15th and 16th March, 2017 in Kigali, Rwanda.

Session Questions

1. What are our specific opportunities of engagement as the Task Force? Is EALA open to feedback from the taskforce?
2. Does the Bill we are working on today already have incorporated consolidated comments from the Public Hearings? What are the entry points to ensure we are working with the right version of the Bill?
3. What will be our option if our views are not accepted?
4. What mechanism is in place to ensure CSOs inputs/comments are included?
5. Are there mitigation measures to address the gaps/issues raised?
6. Is there a document/report to support drafting of the Bill?
7. What is your feeling on engaging with the Bill so as to be strategic when engaging?

Responses to questions

The presenter explained that the version of the Bill used in this meeting is not the updated version in that comments from the public hearings are still being incorporated by the EAC Secretariat and EANNASO is working on getting the updated version of the Bill.

In order to influence and advocate for our amendments to be incorporated in the Bill, the presenter stated that once the Task Force is institutionalized it shall endeavor to come up with a brief analysis of the Bill and a joint CSO Statement on the content and present the same to EALA and General Purpose Committee Members by identifying select EALA champions in each Partner State to lobby.

It was explained that the Bill has been fast-tracked being the last term of office for EALA Members and is most likely to be assented into law in 2017. Thus the Task Force has a lot of work to undertake throughout the EALA legislative process.

It was further noted that since EANNASO's interaction with the TWG and EALA the controversial sections of the Bill include:

1. Inconsistencies in the Title of the Bill in the Memorandum and Preliminary: The EAC Sexual and Reproductive Health Rights Bill, 2017 vis-à-vis The EAC Sexual and Reproductive Health Act, 2017
2. The Bill is anchored in key international and regional legal instruments and provisions of the Treaty for the Establishment of the EAC and relevant EAC Policies, but however leaves out certain instruments e.g. ICPD.
3. Interpretation: The Bill omits the interpretation of certain terms which brings about a lot of ambiguity and inconsistencies such as: Child Marriages, Child, Youth, Young persons aged 10 – 24 years, Family Planning, harmful practices, FGM, Sexual and reproductive health, Vulnerable groups and Most at Risk Population
4. Harmful Practices: The issue of Child Marriages should be addressed in this Section
5. The issues of molestation and abuse of young boys need to be expanded further in the Bill
6. The provisions on Termination of Pregnancy and Sexuality Education need to be written in a manner that does not generate unnecessary resistance to the entire Bill.
7. The Bill covers many areas and should not clash with other related laws such as the EAC HIV/AIDS Prevention and Management Act 2012, draft EAC Gender and Equality Bill.
8. The role of Religious and Cultural leaders need to be reflected in the content and the spirit of the Bill.
9. Expulsion of girls from school due to pregnancy and mistreatment of client especially mothers in health facilities should be strongly addressed in the Bill.
10. There is widespread lack of capacity to effectively inform and educate young people on SRH and HIV/AIDS issues, and so, the Bill should promote programmes for sensitization and capacity building for parents, guardians and teachers on the same to enable young people access such services.
11. The issues of Assisted Conception/ Surrogacy is currently unregulated in PS and the Bill introduces regulation on the same

9. Overview of the Draft EAC SRHR Bill, 2017 presented by Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO

It was noted by the Presenter that the entire Bill contains 31 Clause and 15 pages. The presenter noted that on the floor of EALA there were already sentiments as to why EALA should pass a SRHR Bill yet already there are already several Bills pertaining to women issues already tabled such as the EAC Gender Equality and Development Bill, 2015, the EAC Female Genital Mutilation Bill.

The presented brought to the attention of the participants that the contents of the Gender Bill entail:

1. Memorandum: to make provision for the accelerated achievement of gender equity and equality, enhanced protection of human rights of those most affected by different forms of gender inequalities and for development in the Community.
2. Objectives of the Act: The principle objective of this Act is to advance gender equality and equity among the EAC Member States in the economic, political, socio-economic and cultural aspects through the development and implementation of gender responsive legislation, policies, programmes and projects at national and regional levels.
3. Clause 9: Health

9(1) Member States shall incorporate the standards of protection set out in the 1994 Programme of Action of the International Conference on Population and Development, and other regional and international instruments on issues relating to gender and health.

9(2) Member States shall implement legislative frameworks and policies, and provide services to enhance gender sensitive, appropriate and affordable quality healthcare, and in particular undertake to-

 - a) reduce child and maternal mortality ratios by at least 5% every five years;
 - b) develop and implement policies and programmes to address the primary health care needs of women and men including mental, sexual and reproductive health so that by the year 2025 fully harmonized and integrated primary health care systems are in place in the Community;

Thereafter the presenter analyzed the Draft EAC SRHR Bill, 2017 Clause by Clause as follows:

1. **Memorandum:** Provides for the object of the Bill, international and regional instruments it recognizes and the intention/ purpose of the Bill;
2. **Part I Preliminary:** addresses the short title of the Bill, provisions of Interpretation, and the Objectives of the Bill
3. **Part II:** tackles Sexual and Reproductive Health Rights and covers issues like general rights of the child, right to information on SRH, protection from sexual exploitation and abuse, prohibition and prevention of child marriages and the right to education for pregnant girls.
4. **Part III:** addresses various aspects of Access to Sexual and Reproductive Health Services including: Sexual and Reproductive health education, services in humanitarian settings, programmes to promote positive healthy behavioural change, access to contraceptives and family planning services, access to maternal and newborn health care, skilled care pre-delivery, during delivery and post-delivery, termination of pregnancy, notification of maternal and perinatal deaths, adolescents and young persons living with HIV. Other aspects are measures to address special needs for adolescents and persons with disability, protection against sexually transmitted diseases, etc., protection from discrimination, voluntary medical male circumcision and privacy and confidentiality.
5. **Part IV:** has provisions for Assisted Conception such as regulation of assisted conception, access to information on assisted reproductive technology and regulations of rights to gestational surrogacy.
6. **Part V:** talks of Support Programmes and Policies for Vulnerable Groups namely policies, laws, and measures on vulnerable groups and strengthen referral systems and linkages between

education, health, legal etc. for adolescents and young persons and provisions for vulnerable groups.

7. **Part VI:** makes provisions on Harmful Practices highlighting issues of initiation rites and genital mutilation.
8. **Part VII:** has Miscellaneous Provisions, which focus on research and data management including but not limited to clinical trials and operational research, improving and digitizing SRH management information systems, M&E by PS and regulation of various aspects in this Bill by the Council to give effect to provisions of this Act.

10. GROUP WORK: What are the Gaps identified in the Draft EAC SRHR Bill, 2017

Analysis by Regional Task Force on Draft EAC SRHR Bill, 2017

S/N	Issue	Relevant Section in the Draft EAC SRHR Bill, 2017	Regional CSO Task Force on SRHR, Policy and Legislations in the EAC Propositions
1.	Contradictions in the Title of the Bill found in the Memorandum and Preliminary Clause 1 which lacks the word Rights	<p>The Memorandum reads, “ The East African Community Sexual and Reproductive Health Rights Bill, 2017: whilst in the Preliminary in Clause 1 it reads:</p> <p>This Act may be cited as the East African Community Sexual and Reproductive Health Act, 2017</p>	There needs to be consensus on the correct title to use for the Bill. It is proposed that the Bill should read as, “The East African Community Sexual and Reproductive Health Rights Bill, 2017”, as the object of this Bill is to provide a legal framework for matters relating to sexual and reproductive health rights, to protect children, adolescents and young persons from sexual abuse and other forms of exploitation, to provide for assisted reproductive technology and to provide for other matters related to those matters.
2.	The Bill lacks provisions on Application and Enforcement of this Bill by EAC Partner States, thus leaves the implementation of the Provisions of this Act to the Council.	Clause 31 The Council may make regulations generally for the better carrying into effect the provisions of this Act	<p>It is proposed that the following Clause be added after Clause 3 as follows;</p> <ol style="list-style-type: none"> 1) Member States shall ensure the implementation of this Act at the national and regional level and in particular, they shall <ol style="list-style-type: none"> (a) harmonise existing legislations, policies and programmes with the provisions of the Act; (b) Eliminate all provisions, laws and practices that hinder or compromise the achievement of sexual and reproductive health rights for all citizens of the Community; (c) report periodically on progress made through the relevant organs of the EAC including the Summit;

			(d) adopt all necessary measures and in particular provide adequate budgetary allocations and other resources for the full and effective implementation of the Act.
3.	The Bill lacks provisions on Legal and State Obligations to Protect Human Rights/ General Duty of Partner States	Clause 4 The Partner States shall ensure the protection and advancement of sexual and reproductive health rights to all persons	The Draft Bill should incorporate a clear and prescriptive approach on Application of the Bill, specifically Partner State principal roles and obligations to Respect, Protect and Fulfill its role towards the full realization of sexual and reproductive health rights.
4.	The Bill generalizes the SRHR needs of the different segments of the population. Use of the term SRHR in the Bill should be looked at holistically so as to cater for the needs of ALL categories of individuals in our society as opposed to lumping them together.	For example: Clause 18: The Partner States shall provide supportive infrastructure, equipment, educational materials and other services targeting adolescents and persons with disabilities including.....	The rights in the Bill should explicitly provide for the needs of children, adolescents, young persons, youth, men, women and elderly women, persons with disability and young persons living with HIV applying universally and without discrimination on any grounds including but not limited to race, sex, sexual orientation, gender, pregnancy, marital status, health status, ethnic or social origin, age, disability, religion, conscience or belief, culture, dress, language or birth;
5.	Definition/ Interpretation of terms. The Bill makes reference to certain terminologies but fails to define them in accordance to concepts, frameworks and definitions on SRHR as	Part I- Preliminary, Clause 2 Interpretation in specific: Clause 3(d) risky abortion Memorandum, Clause 3, Clause 8, Clause 28(2)	Ensure that the Bill confirms to all relevant international conventions and treaties that the partner states are signatories. Terms that are causing ambiguity and need to be defined properly include: Child Marriage means a statutory or customary union in which one party is a child or both of the parties are children;

	<p>pronounced in these instruments including;</p> <ul style="list-style-type: none"> • International Conference on Population Development (ICPD, 1994); • UN Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health, 2000; • Maputo Plan of Action 2006; • Africa Health Strategy 2010; • Eastern and Southern Africa Ministerial Commitment, 2013; • Sustainable Development Goals 2015 (Target Goals: 3.7 and 3.8 and 5.6); • WHO Guidelines on Maternal, Reproductive and Women's Health. 	<p>Memorandum, Clause 3, Clause 29</p> <p>Clause 3, Clause 29</p> <p>Clause 26</p> <p>Clause 12</p> <p>Clause 18, Clause 26</p> <p>Memorandum, Clause 3</p> <p>Several Clauses in the Bill</p>	<p>Female Genital Mutilation means any procedure involving the partial or total removal of the external female genitalia or other injury to the female sexual organs whether for cultural, religious or other non-therapeutic reasons.</p> <p>harmful practices means all behavior, attitudes and/or practices which negatively affect the fundamental rights of women, men, girls and boys, such as their right to life, health, dignity, education and physical integrity;</p> <p>Most at risk populations means any groups or persons who because of their particular personal, behavioural, situational or environmental characteristics are, or perceived to be at an increased level of risk of exposure to infection with HIV;</p> <p>Person living with HIV means a person whose HIV test results reveal the presence of HIV or HIV antibodies;</p> <p>Person with Disability includes those who have long – term physical, mental, intellectual, development or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.</p> <p>Use of term Risky Abortion should be replaced with Unsafe abortion</p> <p>Sexual and reproductive rights means the universal human rights relating to sexuality and reproduction, including the right to sexual autonomy, sexual integrity and safety of the person, the right to sexual privacy, the right to make free and responsible reproductive choices, the right to sexual information based on scientific enquiry, and the right to sexual and reproductive health care</p>
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		<p>Not mentioned in the Bill</p> <p>Not mentioned in the Bill</p> <p>Clause 28 (2)</p> <p>Memorandum, Clause 3</p> <p>Clause 10(3), Clause 11, Clause 26, Clause 27</p> <p>Memorandum, Clause 11, Clause 17, Clause 20, Clause 27, Clause 30(3)</p>	<p>Sexual Health means a state of physical, emotional, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity.</p> <p>Sexual Rights</p> <p>Unintended Pregnancies should be replaced with the term Unplanned pregnancies</p> <p>Unwanted Pregnancies should be replaced with the term Unplanned pregnancies</p> <p>Vulnerable groups means any group whose members may have special needs or may experience poorer outcomes or be at a higher risk of exposure to infection with HIV if their needs are not specifically addressed, and includes persons with disabilities, children, women and girls, older persons, refugees, internally displaced persons and prisoners</p> <p>Young Persons means every person between the ages of 10 to 24</p>
6.	The Bill explicitly confers on Partner States to go against the spirit and content of the EAC HIV and AIDS Prevention and Management Act on the principle of disclosure of one's HIV status which	Clause 19(1) The Partner States shall ensure that every person has- (b) the right to be informed of the health status of their sexual partners including their HIV statuses	<p>This specific clause 19(1)(b) to be paraphrased as follows: The result of a HIV test shall be confidential and directly communicated to the person concerned or of the person is a child or a person with a disability which renders the person incapable of understanding the meaning or consequences of the test result, to the parents or the guardian of that child or of that person.</p>

	should be done by the person living with HIV on a voluntary basis		A person providing treatment, care or counselling services to a person living with HIV shall encourage that person to inform the persons spouse or spouses or sexual partner or partners or any other third party who is at significant risk of HIV transmission from the person living with HIV, of the person's HIV status.
7.	The Bill in its entirety makes reference to the right to health is closely related to and dependent upon the realization of other human rights, however excludes the impact and consequences of gender based violence and the rights therein.	—	The Bill should explicitly ensures a systematic integration of health services policies; greater and more effective linkages and increased support for work that connects SRHR, HIV programming, and Gender Based Violence;
8.	Rights to information on sexual and reproductive health	<p>Clause 6(2) The Partner States shall strengthen parents' capacity to provide appropriate information to their children relating to sexual and reproductive health, in a manner consistent with the evolving capacities of their children.</p> <p>Clause 9(5) The Partner States shall introduce measures to protect children from any forms of abuse or related stigma or discrimination in the instances of early pregnancies by affording sexual and reproductive health information and where to access services to prevent early pregnancies.</p> <p>Clause 10(2) Sexual and reproductive health related public education shall</p>	<p>The Bill should conform to the concepts, frameworks and guidelines as prescribed in The Eastern and Southern Ministerial Commitment (ESA Commitment) signed by Ministers of Education and Health from 20 Eastern and Southern Africa countries in December, 2013 in Cape Town, South Africa, committed to scaling up comprehensive sexuality education and sexual reproductive health services for adolescents and young people in the region. In specific the ESA Commitment provides for 2015 targets as follows:</p> <ul style="list-style-type: none"> • A good quality CSE curriculum framework is in place and being implemented in each of the 20 countries; • Pre and in-service SRH and CSE training for teachers, health and social workers are in place and being implemented in all 20 countries; • By the end of 2015, decrease by 50% the number of adolescents and young people who do not have access to youth-friendly SRH services including HIV that are equitable, accessible, acceptable, appropriate and effective.

	The Bill accords some form of stigma and discrimination against adolescent girls who get pregnant whilst in school, by merely stating the need of maintaining records.	include but not limited to (See list from Bill) Clause 9(4) The Partner States shall, for the purposes of this section maintain records of all pregnancies occurring among adolescents in schools.	As it reads, the Draft Bill puts the sole responsibility of sharing information on parents excluding the state responsibility to do so under either the Ministry of Education or Health through enactment of Comprehensive Sexuality Education through a curriculum written in an age-appropriate language which can be utilized in schools by teachers to inform adolescents and young persons on their sexual and reproductive health and rights bracing the issue of Age of Consent so as to curb the social and cultural barriers hindering such access to these services. Clause 9 (4) should move beyond maintaining records but also put in place a mechanism to do due diligence to investigate teenage pregnancies and have perpetrators prosecuted and further a follow up mechanism by the Ministry of Education to ensure they implement a Return to School formula/policy for adolescent girls/young mothers after delivery.
9.	The Bill has not exhausted the list of Harmful Practices	Part VI- listed as Initiation Rites and Genital Mutilation	It is proposed to include but not limited to: Child Marriages, Coerced/ Forced sterilization. Furthermore, the Bill should expressly state the punitive measures
10.	Rights of a Child	Clause 5 The general rights of a child shall be as specified in the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the relevant laws of the Community relating to child	This Clause should explicitly state in addition the rights of a child as they relate to sexual and reproductive health rights and in specific the right to health care, immunization, vaccination and de-worming
11.	The Boy child is left out in the content of the Bill, only makes reference to voluntary male circumcision	Clause 21 The Partner States shall put in place mechanisms to promote voluntary medical circumcision to protect the welfare of boys	It is proposed that the Bill should also accord rights and needs of the boy child

12.	Access to contraceptives and family planning services:	<p>Clause 12 (1) The Partner States shall ensure that every individual has the right to- (Refer to Bill)</p> <p>Clause 12 (2) The Partner States shall ensure availability and accessibility of quality integrated sexual and reproductive health services including- (b) management of cancers including cervical, breast and prostate cancers</p>	<p>Generally this provision should ensure every citizen of the Community is accorded comprehensive family planning services so as to be able to make an informed decision such as access to safe abortion services, well equipped facilities and trained professionals who shall discharge such services.</p> <p>The Bill needs to broaden the section on both communicable and non-communicable diseases rather than just</p>
13.	<p>Termination of Pregnancy- The Bill needs to take into consideration the circumstances under which a trained health professional may terminate a pregnancy (upon consultation with the pregnant woman) needs to be broaden and not merely instances which endanger the health or life of the woman.</p> <p>In addition the issue of counselling of a pregnant woman should be undertaken by a trained health professional.</p>	<p>Clause 15(1) The Partner States shall safeguard and give effect to the reproductive rights of a woman by permitting the termination of pregnancy when in the opinion of a trained health professional, the pregnancy endangers the health or life of the woman.</p> <p>Clause 15(2) The Partner States shall put in place measures to ensure that before termination of pregnancy is undertaken, counseling is provided to</p>	<p>The termination may be effected upon consultation with the pregnant woman by the health trained professional circumstances to be included may read as follows: States shall take measures to protect the reproductive rights of women by authorizing termination of pregnancy in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus.</p> <p>The termination of pregnancy may take place-</p> <ul style="list-style-type: none"> a) Only with consent of the pregnant woman; b) In the case of a pregnant minor, after consultation with the minor's parents, guardian or such other persons with parental responsibility over the said minor, provided that the best interest of the minor shall prevail; or c) In case of a mentally unstable person, after consultation with the parents, guardian or such other persons with parental responsibility over the said person. <p>The submission is that such counselling should be undertaken by a trained health professional who shall offer non-mandatory and non-directive counselling, before and after the termination of pregnancy.</p>

		the pregnant woman before and after the termination.	Further, State obligation to undertake research/ gather information on the health consequences of unsafe termination of pregnancies and tailor interventions to address the same based on the research/information gathered; the information may come from head facilities' in charge.
14.	Protection from discrimination: The Bill should clearly state what these grounds of discrimination may include, and entitlement to comprehensive sexuality education	Clause 20- The Partner States shall ensure that men, women and the young people have access to sexual and reproductive health services without any form of discrimination.	The grounds for discrimination may include: Should explicitly apply universally and without discrimination on any grounds including but not limited to race, sex, sexual orientation, gender, pregnancy, marital status, health status, ethnic or social origin, age, disability, religion, conscience or belief, culture, dress, language or birth;
15	The use of the term Assisted conception and gestational surrogacy yet the latter is not defined	Clause 25 The Partner States shall put in place policies, laws and measures to regulate the right to gestational surrogacy	Gestational surrogacy means the process by which a woman attempts to carry and give birth to a child created through in vitro fertilization using the gamete or gametes of at least one of the intended parents and to which the gestational surrogate has made no genetic contribution

11. Overview of the Regional Task Force on SRHR, Policy and Legislation in the EAC

The Task Force on SRHR, Policy and Legislation (hereinafter referred to as The Task Force) in the EAC was established on 1st March, 2017, voluntarily by organizations having interest on the issues of sexual reproductive and health rights IN East Africa.

Composition of Task Force

The Proposed Task Force is recommended to be a team of multiple expertise drawn on organizational representation by senior officers from organizations of persons living with HIV, National AIDS umbrella CSOs, regional HIV and Health organizations, National CSOs working in the field of Sexual and Reproductive Health, Youth Organisations, international NGOs from all EAC Partner States and technical advisers.

Mandate of the Task Force

The overall goal of the Task Force is to enhance regional as well as national responses to SRHR issues in East Africa that are respectful to human rights in a conducive legal and policy framework in Burundi, Kenya, Rwanda, United Republic of Tanzania and Uganda.

The Task Force shall endeavor to achieve several significant strides in the course of the implementation of its mandate including several successful consultative meetings with the EALA, the EAC secretariat, the Speaker of EALA and the Clerk to the Assembly.

Task Force Terms of reference

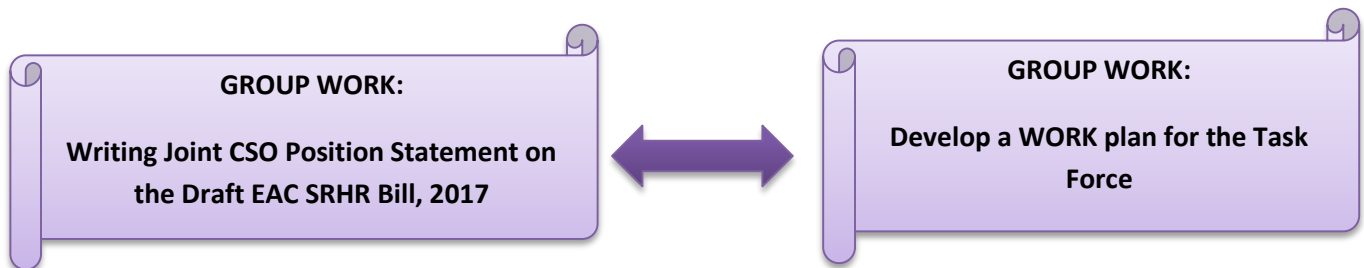
1. Popularize and promote the Right- based Approach (RBA) in legislative processes and in the resulting legislation within the region
2. Put in place a regional team of legal experts to do an environmental audit of legislation and policy on SRHR in the region pertaining to their (existence or otherwise) legal, ethical and human rights standards
3. Develop 'Principles and Guidelines on Good SRHR Legislation' to guide processes in the region
4. Mobilize sustainable resources (financial, human, technical and physical) for the Task Force
5. Identify, engage and work with potential partners and collaborators in the Task Force.
6. Lobby, advocate for, and promote a regional SRHR Bill to be developed by EALA
7. Lobby and advocate for a harmonized SRHR policy and legislation within the region based on the regional SRHR Bill
8. Mobilize mass and popular support for the activities of the project
9. Be responsible for the effective execution of the project plan of action
10. Monitor and evaluate the implementation and the results of the project activities.

Already on Board as Members:

- Representation of organizations of persons living with HIV/ KP: ZAYEA (Zanzibar), International Community of Women Living with HIV EA (Uganda);
- Representation of the national AIDS umbrella CSOs: ABS (Burundi), RNGOF (Rwanda), UNASO (Uganda);
- Representation of regional organizations: EANNASO, EACSO, EAHP, EALS;
- Representation of National CSOs: KELIN (Kenya);
- Representation of international NGO's: Centre for Reproductive Health (Kenya), IPAS (Kenya);
- Representation from Youth Organization's: UMATI (Tanzania Mainland), RNJ+ (Burundi) ;
- Development Partners: SAT.

To be invited in future:

- Representation of National CSOs working on SRHR issues;
- Representation of National CSOs working with PWD's;
- Representation of national law reform commissions;
- Representation of development partners;
- Representation from EALA;
- Any other members as may be deemed fit.



PLENARY:

1. CSO Joint Position Statement

A position statement (**Attached as Annex 1**) was drafted and discussed by the CSOs represented in this meeting. EANNASO was given the task to include comments and share the statement to the rest of the group for advocacy at country level. It was agreed that the Position Statement incorporate the following aspects;

1. To take recognition and reference to the international and legal policies and instrument to be made of the same. Need for clarity of terms that are used to avoid general statements that leave room for other interpretations
2. The bill does not provide specific needs of some segments of the population in relation to the different components reproductive health (for disabled, children, elderly, specific needs of girls vs. young mothers vs. mothers safe abortion, bill focuses more on family – components such as information on safe sex etc.)
3. The bill approach is of more mitigation than of prevention
4. The bill doesn't give clarity of the roles of State and the wider community
5. The structure of the bill leaves room for inaction- left for partner states to act- needs to be more specific on state obligations.

2. Work Plan for the Task force of the Draft EAC SRHR Bill 2017

The taskforce members discussed and agreed upon the following work plan for March – December 2017. It was brought to the attention of members that currently the Task Force has minimal funding to undertake activities, however this should not limit the Activities to be elaborated in the Work Plan as fund raising for the Project shall be done.

GENERAL PLAN OF ACTION FOR THE TASK FORCE: Action Plan for 1 year

ACTIVITY	RESPONSIBLE	OUTPUT/OUTCOME	TIMELINE
OBJECTIVE 1: To promote advocacy of the EAC SRHR Bill			
1. Institutionalize the Taskforce	Taskforce/ EANNASO	ToRs for the taskforce in place and shared to members	March 1 st
2. Develop draft Proposal on the draft EAC SRHR bill, 2017	Task Force/ EANNASO	Draft zero of the Proposal	6 th March
3. Share the draft Proposal and request for inputs from CSOs, national organizations and interested stakeholders	Taskforce/EANNASO	Feedback from CSO and stakeholders	7 th March
4. Identify and rally other key CSO and power holders to push the agenda	Taskforce/EANNASO	Commitment, involvement and feedback from the allies and CSOs	1 st – 17 th March
5. Finalise Proposal	Taskforce/EANNASO	Final Proposal	8 th March
6. Meet EAC TWG and drafters to present the final factsheet.	EANNASO/Taskforce	Buy-in from the TWG and drafters	9 th March
7. Lobby/hold advocacy meetings with key power holders eg EALA members, GPS chair, commissioners	EANNASO/Taskforce members in their respective countries	Buy-in from the MPs	8 th March up to Kigali meeting
8. Attend the Kigali EALA meeting to continue lobby for the CSOs issues using the factsheet	Taskforce/EANNASO/ SAT	Buy-in from EALA members	Kigali meeting
OBJECTIVE 2: Coordination and monitoring passed Draft EAC SRHR Bill			
1. Review meetings on the passed Bill	Taskforce	Identify the Strengths and gaps	April – July
2. Develop IEC Materials			
3. Disseminate the review made on the passed SRHR Bill to our constituencies	Taskforce/EANNASO	Buy in from our constituencies	August – September
4. Tracking the final accent	Taskforce/EANNASO	The Law enacted	October – December

SESSION IV

11. CLOSING REMARKS AND WAY FORWARD

Closing Remarks presented by Vianney Hasabamagara, Finance Manager, EANNASO

Ladies and Gentlemen,

On this 1st of March 2017, on behalf of the EANNASO Executive Director, I would like to congratulate the team who has done a very good job.

You discussed on sensitive issues which are challenging in dealing with our population lives. You gave contributions which will help our decision-makers to make decisions which will contribute to the welfare of our populations-. You have showed that you are really the voice of voiceless. You showed how engaged and committed you are while fighting for Sexual and Reproductive Health Rights.

I encourage you to go forward. Never give up. The people will judge you to your actions and their satisfaction will be your pride.

I sincerely thank all partners who give their add-value to improve the population's health. I am particularly grateful to SAT who is supporting this process hand in hand in EANNASO and invite everybody to consider his the matters relating the SRHR.

To all of you, I say thank you

Wrapping up & Way Forward- Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO

Meeting was wrapped up by MS. Bwisa, she urged members of the Taskforce to take prompt actions according to the discussed Work Plan at the country level as the Bill is on fast track and CSOs cannot afford to miss in action, during EALA Legislative Process i.e. Upcoming 2nd and 3rd Reading of the Draft Bill during EALA's next sitting on 15th and 16th March, 2017 in Kigali, Rwanda.

ANNEX 1: AGENDA

REGIONAL TASK FORCE FOR THE DRAFT EAC SRHR BILL, 2017
NOMINATION TO THE REGIONAL TASK FORCE for the SEXUAL and REPRODUCTIVE HEALTH RIGHTS (SRHR) BILL, 2017.
DATE: WEDNESDAY 1ST MARCH, 2017
VENUE: GOLD CREST HOTEL, ARUSHA, TANZANIA

PROGRAMME	
TIME	ACTIVITY
0830 – 0900 0900 – 0930	ARRIVAL AND REGISTRATION Esta Mnzava – EANNASO Consultant WELCOMING REMARKS Meeting Objectives & Expectations <i>Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO</i>
0930 – 1030	SESSION I - A LOOK BACK AND STOCK TAKING Introduction to EANNASO and SAT <i>Vianney Hasamabagara, Finance Manager, EANNASO</i> <i>Agnes Nyoni, SAT Tanzania</i> Defining EANNASO's role and partnership with SAT in the roadmap for the EAC Sexual and Reproductive Health Rights Bill, 2017 <i>Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO</i>
10.30 – 11.00	TEA BREAK & GROUP PHOTO
11.00 – 12.30	SESSION II – PRESENTATION OF THE DRAFT EAC SRHR BILL, 2017 <i>Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO</i> The EAC Legislative Processes: Progress Towards the Adoption of the EAC Sexual and Reproductive Health Rights Bill, 2017 Overview of the Draft EAC SRHR Bill, 2017 ❖ Feedback from Participants: What are the gaps
1230 – 1330	LUNCH BREAK
1330 – 1600	SESSION III – INTERACTIVE SESSION <i>Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO</i> ❖ Overview of the Regional Task Force for the Draft EAC SRHR Bill, 2017 ❖ Group Work: What are the Gaps identified in the Draft EAC SRHR Bill, 2017 ❖ Writing of Statement
1600 – 1630	SESSION IV – CLOSING REMARKS AND WAY FORWARD Closing Remarks: <i>Vianney Hasamabagara, Finance Manager, EANNASO</i> Wrapping up: <i>Maureen Bwisa, Policy and Advocacy Team Leader, EANNASO</i>
1630 – 1700	TEA BREAK & DEPARTURES

THE EAST AFRICAN COMMUNITY

BILLS SUPPLEMENT

No. 1

20th January, 2017.

to the East African Community Gazette No. 2 of 20th January, 2017.

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THE EAST AFRICAN COMMUNITY

**THE EAST AFRICAN COMMUNITY SEXUAL AND
REPRODUCTIVE HEALTH RIGHTS BILL, 2017**

MEMORANDUM

The object of this Bill is to provide a legal framework for matters relating to sexual and reproductive health, to protect children, adolescents and young persons from sexual abuse and other forms of exploitation, to provide for assisted reproductive technology and to provide for other matters related to those matters.

This Bill is premised on Article 118 of the Treaty for the Establishment of the East African Community, under which the Partner States undertook to *inter alia*—

- (a) cooperate in health and promoting the management of health delivery systems and better planning mechanisms to enhance efficiency of health care services;
- (b) harmonising national health policies and regulations in order to achieve quality health in the Community; and

- (c) cooperating in the development of specialized health training health research, reproductive health pharmaceutical products and preventive medicine.

This Bill recognizes—

- (a) the Maputo Plan of Action for the operationalisation of the African continental policy framework for universal access to comprehensive sexual reproductive health services, which in effect makes it imperative for the Community to have a law to operationalize that policy and plan of action; and
- (b) the United Nations Commission on Population and Development 2013 resolution that recognizes that sexual and reproductive health rights as well as population and development, education and gender equality are integrally linked to global efforts to eradicate poverty and achieve sustainable development.

In addition, this Bill seeks to implement the East African Community Sexual and Reproductive Health Rights Strategic Plan which seeks to complement the Partner States' sexual and reproductive health rights as well as their reproductive health community security strategies by providing a strategic direction towards universal access to sexual and reproductive health facilities for all in the EAC.

This Bill therefore, intends to—

- (a) provide a framework for the protection and advancement of sexual and reproductive health rights to all;
- (b) promote safe motherhoods across the region for maternal, new born and adolescent morbidity and mortality rates;
- (c) prevent bad practices such as child marriage, female genital mutilation, retrogressive practices during initiations and circumcision of boys;
- (d) prevent unwanted pregnancies, risky abortion and sexually transmitted infections including HIV; and

(e) ensure quality sexually reproductive health care, education and services for all citizens of the East African Community.

HON. DR. ODETTE NYIRAMILIMO,
Member, East African Legislative Assembly.

*East African Community
Sexual and Reproductive Health Bill, 2017*

THE EAST AFRICAN COMMUNITY SEXUAL AND
REPRODUCTIVE HEALTH BILL, 2017

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

1. Short title and commencement.
2. Interpretation.
3. Objectives of the Act.

PART II—SEXUAL AND REPRODUCTIVE
HEALTH RELATED RIGHTS

4. Sexual and reproductive health rights.
5. General rights of a child.
6. Right to information on sexual and reproductive health.
7. Protection from sexual exploitation and abuse.
8. Prohibition and prevention of child marriages.
9. Right to education for pregnant girls.

PART III—ACCESS TO SEXUAL AND
REPRODUCTIVE HEALTH SERVICES

10. Sexual and reproductive health education.
11. Programmes to promote positive healthy behavioural change.
12. Access to contraceptives and family planning services.
13. Access to maternal and new-born health care.
14. Skilled care during and after delivery.
15. Termination of pregnancy.
16. Notification of maternal and perinatal deaths.
17. Adolescents and young persons living with HIV.
18. Measures to address special needs for adolescents and persons with disabilities.
19. Protection against sexually transmitted diseases, etc.

*East African Community
Sexual and Reproductive Health Bill, 2017*

Clause

- 20. Protection from discrimination.
- 21. Voluntary male circumcision.
- 22. Privacy and confidentiality.

PART IV—ASSISTED CONCEPTION

- 23. Regulation of assisted conception.
- 24. Access to information on assisted conception.
- 25. Regulation of right to gestational surrogacy.

**PART V—SUPPORT PROGRAMMES AND
POLICIES FOR VULNERABLE GROUPS**

- 26. Policies on vulnerable groups.
- 27. Referral systems.

PART VI—HARMFUL PRACTICES

- 28. Initiation rites.
- 29. Genital mutilation.

PART VII—MISCELLANEOUS PROVISIONS

- 30. Research and data management.
- 31. Regulations.

*East African Community
Sexual and Reproductive Health Bill, 2017*

**THE EAST AFRICAN COMMUNITY SEXUAL AND
REPRODUCTIVE HEALTH BILL, 2017.**

A Bill for an Act

ENTITLED

**THE EAST AFRICAN COMMUNITY SEXUAL AND
REPRODUCTIVE HEALTH ACT, 2017.**

An Act to provide for matters relating to sexual and reproductive health, to protect children, adolescents and young persons from sexual abuse and other forms of exploitation, to provide for assisted reproductive technology and for other related matters.

ENACTED by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY

1. This Act may be cited as the East African Community Sexual and Reproductive Health Act, 2017 and shall come into force on such date as the Council may, by publication in the Gazette appoint.

Short title
and
commence
ment.

2. In this Act, unless the context otherwise requires —

Inter-
pretation.

*East African Community
Sexual and Reproductive Health Bill, 2017*

“adolescent” means any person aged between ten and nineteen years;

“child” means an individual below the age of eighteen years;

“Community” means the East African Community established by Article 2 of the Treaty;

“contraception” means the deliberate prevention of pregnancy by measures that prevent the normal process of ovulation, fertilization and implantation;

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities;

“family planning” means the conscious effort by a person to plan for and attain the person’s desired number of children and to regulate the spacing and timing of the births of the children with or without the use of contraceptive commodities;

“healthcare provider” means any person or institution that has been authorised to deliver health care services;

“reproductive health” means a state of complete physical, mental and social well-being in all matters relating to the reproductive system and to its functions and processes;

*East African Community
Sexual and Reproductive Health Bill, 2017*

“reproductive rights” include the right of all individuals to attain the highest standard of sexual and reproductive lives free from discrimination, coercion or violence;

“Treaty” means the Treaty for the Establishment of the East African Community.

3. The objectives of this Act are to—

Objectives
of the Act.

- (a) provide a framework for the protection and advancement of sexual and reproductive health rights to all persons;
- (b) promote reproductive health and safe motherhood in the Partner States for a rapid and substantial reduction in maternal and new-born morbidity and mortality rate;
- (c) prevent harmful practices including child marriages, female genital mutilation, retrogressive practices during circumcision of boys and gender-based violence;
- (d) prevent unwanted pregnancies and risky abortions; and
- (e) ensure access to quality and comprehensive provision of sexual and reproductive health care services to all persons.

**PART II—SEXUAL AND REPRODUCTIVE HEALTH RELATED
RIGHTS**

4. The Partner States shall ensure the protection and advancement of sexual and reproductive health rights to all persons.

Sexual and
reproductive
health
rights.

*East African Community
Sexual and Reproductive Health Bill, 2017*

General
rights of a
child.

5. The general rights of a child shall be as specified in the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the relevant laws of the Community relating to children.

Right to
information
on sexual
and
reproductive
health.

6. (1) Every individual shall have the right to seek and receive age- appropriate sexual and reproductive health information, in any form, either orally, in writing or in print, in art, or through any other medium of their choice, subject to restrictions imposed by law.

(2) The Partner States shall strengthen parents' capacity to provide appropriate information to their children relating to sexual and reproductive health, in a manner consistent with the evolving capacities of their children.

Protection
from sexual
exploitation
and abuse.

7. (1) A child shall not be subjected to physical and psychological violence or abuse, neglect and any other form of exploitation, including being used in sexual work, induced or coerced to engage in any sexual activity, exposed to obscene or pornographic materials, sexually abused or groomed using the internet, or sold, enslaved, trafficked or abducted by any person.

(2) The Partner States shall put in place policies, laws and measures to ensure that necessary support is given to children and victims of sexual exploitation and abuse, rehabilitation and treatment of injuries or illnesses resulting from maltreatment, abuse or exploitation.

Prohibition
and
prevention
of child
marriages.

8. (1) The Partner States shall prohibit child marriages and the betrothal of children and shall put in place the necessary measures to prevent child marriages and betrothal of children through education, legal and other social mechanisms.

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(2) The Partner States shall put in place mechanisms to ensure that necessary support is given to victims of child marriages by ensuring rehabilitation and treatment of any injuries or illnesses resulting from maltreatment, abuse or exploitation.

9. (1) The Partner States shall ensure that pregnant girls have a right to access free and compulsory primary and secondary education.

Right to
education
for pregnant
girls.

(2) A child shall not be expelled from school or any learning institution as a result of pregnancy.

(3) Subject to subsection (1), the Partner States shall ensure that girls who become pregnant before completing their primary and secondary education are given the opportunity and facilities during pregnancy and after delivery, to continue with their education.

(4) The Partner States shall, for the purposes of this section maintain records of all pregnancies occurring among adolescents in schools.

(5) The Partner States shall introduce measures to protect children from any forms of abuse or related stigma or discrimination in the instances of early pregnancies by affording sexual and reproductive health information and where to access services to prevent early pregnancies.

(6) The Partner States shall put in place systems to identify, manage, and refer children, adolescents and young persons, who have been victims of sexual abuse and are coming to the health facilities and communities for psychological, health care, and legal support.

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**PART III—ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH
SERVICES**

Sexual and
reproductive
health
education.

10. (1) The Partner States shall design, implement and evaluate sexual and reproductive health education packages to promote positive healthy behaviours and increased uptake of services using community engagement and media.

(2) Sexual and reproductive health related public education shall include but not be limited to—

(a) partner communication and education about contraception, child-bearing, rearing and socialisation;

(b) safe pregnancies and delivery;

(c) prevention of sexually transmitted infections;

(d) sexual dysfunctions and reproductive health cancers;

(e) prevention of mother-to-child transmission; and

(f) gender-equitable and mutually satisfying, protective and safe relationships.

(3) Sexual and reproductive health education packages shall be targeted to those most vulnerable to ill-health with strategies and in the locations that are most accessible to them including in refugee camps, cross-border areas, truck corridors, mining and fishing communities, and workplaces.

Programmes
to promote
positive
healthy
behavioural
change.

11. The Partner States shall design, implement and evaluate innovative social behavioural change communication programmes and youth friendly services to promote positive healthy behaviours among adolescents and young persons

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with special emphasis to the marginalized communities, vulnerable groups including out-of-school and parenting adolescents and adolescents exploited into sex work.

12. (1) The Partner States shall ensure that every individual has the right to—

Access to
contraceptives and
family
planning
services.

(a) control their fertility by determining whether to have children or not, the number of children and the spacing of children;

(b) have family planning services and to receive family planning education and the available family planning methods, as part of a health care package; and

(c) choose and consent to any method of contraception including sterilisation.

(2) The Partner States shall ensure availability and accessibility of quality integrated sexual and reproductive health services including—

(a) access to contraceptives and related supplies; and

(b) management of cancers including cervical, breast and prostate cancers.

13. The Partner States shall promote access to maternal and new-born health care services and information including nutrition support from pre-conception to post-delivery care by ensuring the availability of—

Access to
maternal
and new-
born health
care.

(a) standard care and referral system;

(b) essential supplies and equipment;

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- (c) HIV prevention, detection and treatment services;
- (d) contraception and family planning services;
- (e) nutrition services and education; and
- (f) other related services.

Skilled care
during and
after
delivery.

14. (1) The Partner States shall ensure that maternal health care during the period of pre-conception, pregnancy, childbirth and after delivery is offered by trained health professionals.

(2) The Partner State shall ensure that during the period of pregnancy, childbirth and post-delivery, every woman is treated in a humane manner and accorded privacy, dignity and mutual respect with supportive infrastructure.

(3) Every woman shall have the right to—

- (a) access to essential and emergency obstetric care;
- (b) well equipped and adequately staffed maternal health care centers;
- (c) receive skilled attendance at childbirth;
- (d) postpartum care and effective referral and transport to get optimum level of care;
- (e) birth preparedness plans for institutional delivery with skilled birth attendance; and
- (f) safe abortion in accordance with section 15.

(4) The Partner States shall ensure that health facilities are in good condition and fully equipped to offer quality maternal and new-born health services.

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15. (1) The Partner States shall safeguard and give effect to the reproductive rights of a woman by permitting the termination of pregnancy when in the opinion of a trained health professional, the pregnancy endangers the health or life of the woman.

Termination
of
pregnancy.

(2) The Partner States shall put in place measures to ensure that before the termination of pregnancy is undertaken, counselling is provided to the pregnant woman before and after the termination.

16. (1) The Partner States shall ensure that every head of a health facility in which maternal and perinatal death occurs, notifies the Ministry responsible for health and any other relevant body or authority, within a period not exceeding seven days. (7) days' from the date of such occurrence.

Notification
of maternal
and
perinatal
deaths.

(2) The Ministry responsible for matters relating to health and such other body or Authority referred to in subsection (1), shall put in place mechanisms to monitor, respond and take corrective measures.

17. (1) The Partner States shall design and implement programmes tailored to address the specific sexual and reproductive health needs of adolescents and young persons living with HIV, to ensure access to integrated services, treatment of opportunistic infections and other HIV related complications and to receive information on prevention of mother-to-child transmission.

Adolescents
and young
persons
living with
HIV.

(2) The Partner States shall ensure that adolescents and young persons get access to relevant quality and youth friendly sexual and reproductive health services including contraceptives and condoms.

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Measures to
address
special
needs for
adolescents
and persons
with
disabilities.

18. The Partner States shall provide supportive infrastructure, equipment, educational materials and other services targeting adolescents and persons with disabilities including —

- (a) health personnel trained to communicate with adolescents;
- (b) trained health personnel able to communicate with persons with disabilities through either sign, tactile languages and Braille in health facilities; and
- (c) a services' module for persons with disabilities to be integrated in pre-service and in-service training for health care providers.

Protection
against
sexually
transmitted
diseases,
etc.

19. (1) The Partner States shall ensure that every person has —

- (a) the right to self-protection and protection against sexually transmitted infections including HIV; and
- (b) the right to be informed of the health status of their sexual partners including their HIV status.

(2) The Partner States shall provide pre-exposure and post-exposure prophylaxis to persons at high risk of acquiring HIV.

Protection
from
discriminati
on.

20. The Partner States shall ensure that men, women and the young people have access to sexual and reproductive health services without any form of discrimination.

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21. The Partner States shall put in place mechanisms to promote voluntary medical male circumcision to protect the welfare of boys.

Voluntary
male
circumcision.

22. Partner States shall ensure the provision of sexual and reproductive health services complies with the exigencies of the right to privacy, dignity, respect and adherence to the principles of confidentiality.

Privacy and
confident-
iality.

PART IV—ASSISTED CONCEPTION

23. The Partner States shall put in place mechanisms for accreditation, supervision and regulation of assisted reproductive technology.

Regulation
of assisted
conception.

24. The Partner States shall designate or establish centres where people seeking assisted reproductive technology can access information and services on fertility and assisted conception.

Access to
information
on assisted
conception.

25. The Partner States shall put in place policies, laws and measures to regulate the right to gestational surrogacy.

Regulation
of right to
gestational
surrogacy.

**PART V—SUPPORT PROGRAMMES AND POLICIES FOR
VULNERABLE GROUPS**

26. The Partner States shall put in place policies, laws and measures for availing sexual and reproductive health services to vulnerable groups, including victims of child marriages, orphans, widows, persons with disabilities, and other populations at risk.

Policies on
vulnerable
groups.

27. The Partner States shall establish and strengthen referral systems and linkages between education, health, legal, psychological, rehabilitation and social support services for adolescents and young persons with special provisions for the vulnerable groups.

Referral
systems.

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PART VI—HARMFUL PRACTICES

Initiation
rites.

28. (1) The Partner States shall strengthen the capacity of traditional initiation structures to provide combined sexuality education and the beneficial elements in those traditional initiation rites.

(2) The Partner States shall prohibit harmful norms and sexual practices associated with particular initiation rites that expose adolescents to sexually transmitted infections, HIV, unintended pregnancies or child marriages.

Genital
mutilation.

29. (1) The Partner States shall prohibit all forms of female genital mutilation.

(2) The Partner states shall prohibit any health care provider from performing female genital mutilation in health care facilities and other settings.

(3) The Partner States shall design and implement programmes that provide legal, social and medical health services for the victims of female genital mutilation.

(4) The Partner States shall ensure that health care providers are trained to provide specialised services for girls and women subjected to female genital mutilation.

PART VII—MISCELLANEOUS PROVISIONS

Research
and data
manage-
ment.

30. (1) The Partner States shall ensure the collection and custody of accurate and updated data relating to sexual and reproductive health.

(2) The Partner States shall invest in developing sexual and reproductive health research including but not limited to clinical trials and operational research, and in improving and digitizing the sexual and reproductive health management information systems.

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(3) The Partner States shall set up monitoring and evaluation systems that track sexual and reproductive health indicators and related targets including those aimed at young persons.

31. The Council may make regulations generally for the Regulations.
better carrying into effect the provisions of this Act.

Annex 3: Regional CSOs Taskforce on SRHR, Policy and Legislations Joint Statement on the Draft EAC Sexual and Reproductive Health Rights (SRHR) Bill 2017

We the undersigned members of the Regional CSO Task Force on the Draft EAC SRHR Bill 2017, representing organizations of persons living with HIV, National AIDS umbrella CSOs, regional HIV and Health Organisations, National CSOs working in the field of Sexual and Reproductive Health Rights (SRHR) and Youth Organisations;

United in our diversity and commitment in contributing towards the realization of SRHR in East Africa Partner States, having assembled on **1st March, 2017 at Gold Crest Hotel in Arusha, United Republic of Tanzania** to review the draft EAC SRHR Bill 2017;

Concerned that Sub – Saharan Africa remains the epi- center of the HIV epidemic with an estimated 1.4 million new HIV infections, approximately 66% of the global total, with adolescent girls and young women continuing to bear the brunt of new infections increasing their elevated HIV risk and vulnerability;

Further concerned that about 10% of children under the age of 15 in the EAC have had sex, adolescent birth rate averages 100 per 1,000 women aged 15-19 years, young people are the largest age group with the highest incidence of HIV, the effect on low empowerment and intimate partner violence among young girls are key drivers of new infections and 37% of young women aged 20-24 years are married as children. Legal, policy and legislative reforms required to improve SRH is vital for our region.

Noting that access to SRHR information, reproductive health and safe motherhood services in EAC Partner States for a rapid and substantial reduction in maternal and new born morbidity and mortality rates remains a challenge in East Africa;

Applaud the East African Community (EAC) for taking cognizance of the SRHR needs of the citizens in the Community;

Appreciate the efforts of EAC to put in place a regional legal framework for matters related to SRHR in form of this draft Bill;

Further Appreciate the inclusivity of the East African Legislative Assembly (EALA) process that has embraced open engagement with Civil Society and general public from the Partner States;

And Realizing that significant strides have been made in the development of policies to implement mechanisms to strengthen health systems; and to ensure delivery of quality health care in pursuit of Sustainable ` that investing in health yields dividends which constitutes a fundamental goal of economic growth and development for the region;

Urge Partner States to avail sustainable access and optimal utilization of acceptable and quality healthcare services for both communicable and non-communicable diseases and emerging conditions that affect citizens in the community;

Assert that investing in communities keeps people at the center of the response and community systems contribute to responding to all SRHR needs of the citizens in the Community;

Recognize that the global adoption of SDG 5 provides an imperative opportunity to reinvigorate the women's rights agenda in ways that address HIV, gender equity and the empowerment of women. And that the attainment of gender equality/equity/ Planet 50-50 by 2030 is a precursor for the realization of peaceful, just and inclusive societies through identifying and correcting punitive, and retrogressive laws and policies that entrench social exclusion, injustice, discrimination and inequality;

Cognizant that prevalence of stigma and discrimination, which leads to depression and low levels of confidence to access services SRHR services remains a significant obstruction to achievement of SRHR for people living with HIV children, women and girls, , adolescents, youth, young persons, most at risk population and vulnerable groups;

Recognize that a community, women, and youth-centered prevention agenda that simultaneously takes into account the role and needs of men and boys, is a precursor and cornerstone of addressing all SRHR needs for the realization of a just and inclusive society;

Committed to working together with EALA by providing technical inputs and advocacy engagements with citizens in the Community throughout this legislative process;

AND Having deliberated on the spirit and content of the Draft Bill resolve to bring to the attention of EALA, our fellow Civil Society Members and the public at large the following issues for consideration;

1. **Noting** that the draft Bill recognizes regional and international legal and policy instruments, **we urge** EALA to fully embrace and conform to the concepts, frameworks and definitions on SRHR as pronounced in these instruments including;
 - i. International Conference on Population Development (ICPD, 1994);
 - ii. UN Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health, 2000;
 - iii. Maputo Plan of Action 2006;
 - iv. Africa Health Strategy 2010;
 - v. Eastern and Southern Africa Ministerial Commitment, 2013;
 - vi. Sustainable Development Goals 2015 (Target Goals: 3. 7 and 3.8 and 5.6);
 - vii. WHO Guidelines on Maternal, Reproductive and Women's Health.
2. **Observing** that the Bill generalizes the needs of the different segments of the population, **we recommend** that the rights in the Bill should explicitly provide for the needs of children, adolescents, young persons, youth, men, women and elderly women, persons

with disability and persons living with HIV applying universally and without discrimination on any grounds including but not limited to race, sex, sexual orientation, gender, pregnancy, marital status, health status, ethnic or social origin, age, disability, religion, conscience or belief, culture, dress, language or birth;

3. **Aware** that the Bill alludes to the fact that the right to health is closely related to and dependent upon the realization of other human rights, **we recommend** that the Bill explicitly ensures a systematic integration of health services policies; greater and more effective linkages and increased support for work that connects SRHR, HIV programming, and Gender Based Violence;
4. **Cognizant** of the principal roles and obligations of the Partners State in the enforcement of the provisions of the Bill, we recommend that the Draft Bill incorporates a clear and prescriptive approach on State obligations to Respect, Protect and Fulfill its role towards the full realization of SRHR;
5. **Recognizing** that the Bill emphasizes a mitigation approach which is more expensive and unsustainable, we urge that the Bill embraces a preventive approach to SRHR including clear and structured interventions such as the implementation of Age Appropriate Comprehensive Sexuality Education.

Dated this 1st day of March 2017 at Arusha United Republic of Tanzania.



Annex 4: List of Participants

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