

JUSTICE FOR WOMEN AMIDST COVID-19



COVID-19
RESPONSE



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FOREWORD

“Gender equality and women’s rights are essential to getting through this pandemic together, to recovering faster, and to building a better future for everyone.”

These words of the United Nations Secretary-General are a strong reminder that our collective quest to achieve gender equality is a critical precondition to solving all types of global problems, including COVID-19, in a manner that leaves no one behind.

Access to justice is an essential ingredient of gender equality and it cannot be denied any woman or girl during this time of crisis. The COVID-19 pandemic has highlighted the need to examine the impact of the crisis through a gender lens – from how lockdowns and stay at home orders can impinge on the rights of women, including increasing the risks of gender based violence – to the economic impact of the crisis on women who are more likely to work in the informal sector and are disproportionately impacted by the economic consequences. In broader terms, the rule of law and access to justice remains the foundation through which people are able to uphold their rights, seek redress for grievances, and protect those who are most at risk of being left behind, regardless of the necessities of our time.

We celebrate the frontline healthcare workers, who are predominantly women, for their dedication and commitment to fight this common cause. At the same time, we need to ensure that even when justice systems are under stress, access to justice and accountability for violations of fundamental rights cannot be undermined. They should be part of the *essential services* that need to continue to function in times of crisis.

It is on this basis that we are pleased to present this publication, *Justice for Women Amidst COVID-19*. Albeit based on limited data, it presents a global synthesis of the state of justice systems in connection with women’s justice needs, ongoing initiatives as well as policy recommendations to address deficits in justice delivery during this critical period. Placing a gender lens on justice impacts, the report documents major threats to women’s lives and livelihoods associated with COVID-19 – namely, curtailed access to justice institutions, rising intimate partner violence, hazards to women’s rights to sexual and reproductive health, growing injustice for workers, discriminatory laws and lack of legal identity, as well as repercussions on forcibly displaced women and those deprived of their liberty.

This publication may be used as a companion piece to an earlier publication, *Justice for Women (2019)*. It presents a comprehensive overview of the challenges and opportunities that women face in their quest for justice in the context of both Sustainable Development Goal (SDG) 5 on gender equality and women’s empowerment and SDG 16 on peaceful, just and inclusive societies. It contextualizes them in the current situation where countries and communities are seeking to address the heightened challenges presented by the COVID-19 crisis and recover from its devastating effects.

We anticipate that this assessment will help raise awareness of the gender-related impacts of the pandemic. We hope that the policy recommendations will be adopted or adapted by stakeholders across different legal systems to help *build back better* – towards a brighter future that protects and advances the human rights of all women and girls.

Phumzile Mlambo-Ngcuka
Executive Director
UN WOMEN

Jan Beagle
Director-General
**International Development Law
Organization**

Achim Steiner
Administrator
UNDP

Ghada Fathi Waly
Executive Director
UNODC

Sandie Okoro
Senior Vice President and Group
General Counsel
The World Bank Group

Liv Tørres
Director, Pathfinders for Peaceful,
Just and Inclusive Societies
**Center on International Cooperation
New York University**

Graça Machel
Deputy-Chair
**The Elders and Founder, The Graça
Machel Trust**

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LIST OF ACRONYMS

CGD	Center for Global Development	UNODC	United Nations Office on Drugs and Crime
COVID-19	Coronavirus Disease 2019	UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
CRSV	Conflict-related sexual violence	UK	United Kingdom
CSO	Civil society organization	US	United States
DRC	Democratic Republic of Congo	WAVE	Women Against Violence Europe
GBV	Gender-based violence	WHO	World Health Organization
GSMA	Global System for Mobile Communication	WPS	Women, Peace and Security
IAWJ	International Association of Women Judges		
ICE	Immigration and Customs Enforcement		
ICT	Information and Communications Technology		
ID	Identification card		
IDLO	International Development Law Organization		
ILO	International Labour Organization		
INFORM	Index for Risk Management		
IPV	Intimate partner violence		
IRC	International Rescue Committee		
OHCHR	Office of the United Nations High Commissioner for Human Rights		
UN	United Nations		
UNDP	United Nations Development Programme		
UNESCO	United Nations Educational, Scientific and Cultural Organization		
UNHCR	United Nations High Commissioner for Refugees		
UNICEF	United Nations Children's Fund		

EXECUTIVE SUMMARY

The COVID-19 pandemic has created a global emergency of multiple dimensions. In the several weeks since the pandemic has exploded around the world, a multitude of repercussions are emerging – beyond the threats to life and health associated with the virus itself. The urgent need to contain and mitigate COVID-19 has brought unprecedented disruption to the ways that people live and work, with most countries having introduced some form of social distancing, lockdowns, and quarantines.

Prior to the COVID-19 global crisis, 2020 was expected to be a year for reviewing achievements and accelerating progress in the implementation of the Beijing Declaration and Platform for Action 25 years since its adoption and 20 years since adopting UN Security Council Resolution 1325 on Women, Peace and Security. There is now major concern that COVID-19 and its impact will push back fragile progress on gender equality, including slowing progress in reversing discriminatory laws, the enactment of new laws, the implementation of existing legislation and broader progress needed to achieving justice for all.

This rapid assessment builds on what we know about women’s existing justice needs as documented in an earlier [Justice for Women report \(2019\)](#). It examines the impacts of COVID-19, policy responses and outlines policy recommendations for the period ahead.

Using a gender lens, the report documents major threats to women’s lives and livelihoods associated with COVID-19 – namely, curtailed access to justice institutions, rising intimate partner violence (IPV), threats to women’s rights to sexual and reproductive health, growing injustice for workers, discriminatory laws and lack of legal identity, as well as repercussions on forcibly displaced women and those deprived of their liberty.

An adequate response requires informed, as well as inclusive action. Around the world, innovative interventions are emerging on the parts of states and non-state actors, including efforts to:

- **Prevent and respond to Intimate Partner Violence.** Multiple innovative platforms have emerged during

the COVID crisis to prevent and respond to IPV. Some use existing programs, like WhatsApp, while others have developed new free applications or instant messaging. Some aim at raising awareness, while others are connected to emergency and support services. There is a range of innovative solutions to offer direct help to victims through helplines and emergency services that do not require cell phones and internet access. Some countries have also taken steps to ensure access to the courts through virtual means and continued protection through extension of judicial orders.

- **Address legal and other disadvantages for poor and marginalized women.** A welcome innovation in this unique crisis is that several governments around the world are providing emergency assistance regardless of people’s previous entitlements. Therefore, while some women who were in informal employment or out of the workforce are normally at an enormous disadvantage in terms of benefits eligibility, they may be receiving benefits regardless of their former job status.
- **Support collective action of women and women’s organizations.** Grassroots justice actors such as unions of informal sector workers, civil society justice defenders, community-based paralegals, public-interest lawyers, human rights activists, and other community leaders are playing active roles in many settings.

Building on the Call to Action of the Justice for Women report and other sources, this report outlines ten policy recommendations to safeguard women’s right to access justice during this crisis:

1. **Recalibrate justice delivery:** There is need to ensure that justice institutions are fully responsive to the rights and needs of all population groups during this period of crisis. One example can be drawn from the United Nations Office on Drugs and Crime (UNODC) and the United Nations Development Programme’s (UNDP) Guidance Note on “Ensuring Access to Justice in the Context of COVID-19”. The emphasis is on preparation, response, and recovery, through actions

such as business continuity, establishing criteria for prioritization of cases, while addressing the gender justice gap by mainstreaming gender and designing targeted interventions for women.

- 2. Rights holders and duty bearers must be protected.** Encapsulating the recommendations of the Committee on the Elimination of Discrimination against Women, the UN Special Rapporteur on violence against women, its causes and consequences and the UN Special Rapporteur on the independence of judges and lawyers, this two-pronged solution includes attention to safe spaces, hotlines and instituting urgent judicial orders, especially for serious crimes such as domestic violence, as well as supporting justice staff to perform their duties.¹
- 3. Substitute full trials with interim orders:** Interim orders can be used to ensure the immediate safety and well-being of women and children. Examples of relevant interim judicial orders include protection orders, restraining orders, orders for child maintenance and/or custody, injunctions against evicting widows and children from family or matrimonial accommodation and orders nullifying and/or preventing the marriage of a child.
- 4. Protect women deprived of their liberty:** Promote the use of non-custodial measures in appropriate cases and ensure the health and safety of women who need to stay in prison. To reduce overcrowding, pregnant women, women in prison with their children, pre-trial detainees, elderly women, those with underlying health conditions, those detained for low-risk offences and with less than 12 months to serve on their sentence should be released on a case by case basis, accompanied by effective economic recovery and social welfare services.²
- 5. Keep the repeal of discriminatory laws on track:** Efforts should be made to use appropriate technology and social distancing to continue parliamentary business related to repealing discriminatory laws,³ with emphasis on prioritizing those which can worsen the already existing precarious situation of women and girls as a result of the pandemic. Discriminatory laws or provisions which should be considered for immediate review and repeal during this period of COVID-19 include statutory provisions

which sanction child marriage, laws which prevent women from passing on their nationality to their spouses and/or children and those which deprive widows and/or children of the right to inherit and protection from eviction and abuse.

- 6. Include women as decision makers:** Women judges, police, prosecutors, lawyers and legal aid providers, and associations of women working in the justice sector play an important role in shaping the justice for all agenda.⁴ It is therefore critical to boost levels of women's participation in justice delivery to promote its transformational potential and the essence of equality before the law.
- 7. Partner with customary and informal justice systems:** Given the long-term impacts of the pandemic on the ability of formal courts to respond to women's justice needs, more attention should be paid to enhancing the ability of customary and informal justice systems to fill the justice gap. IDLO's forthcoming paper on "Navigating Complex Pathways to Justice: Women and Customary and Informal Justice" provides insights into methodologies for strategic engagement with such systems.⁵
- 8. Address the digital divide and explore alternatives:** While technology is playing a transformative role in women's access to justice, a prior digital gender gap is deepening and manifesting as a cause and consequence of gender inequality. Addressing this will require policies and programmes that aim to make technology more accessible to poor women and ensuring alternative routes to access justice for those who are digitally excluded. Community based paralegal organizations play an important role in addressing these needs and gaps by broadening knowledge of law and recourse to justice among such women.
- 9. Sharpen the leave no one behind agenda:** Overcoming legal disadvantages for poor and marginalized women requires targeted legal empowerment policies and programs. Accessing legal aid can enable poor people to seek justice that would otherwise be out of reach.⁶ Such services should be advertised extensively – in public but also on TV, social media, public service announcements – so that women and their families know

about them. This also suggests a strong role for women's organizations, which are often part of strategic legal and justice networks in low and middle-income countries.

10. Invest in data and monitoring and evidence-based policies: It is critical to ensure that relevant data is collected for purposes of informed decision-making. As underlined in a recent briefing of The Pathfinders on "Justice in a Pandemic", this crisis is moving at

lightning speed, and to be effective, justice leaders need timely access to relevant data and evidence on the extent to which all population groups are resolving their justice issues.⁷ Across the board, it is important to collect sex-disaggregated data to understand the social and economic as well as legal impacts of the pandemic on women and girls at national and sub-national levels.

INTRODUCTION

The COVID-19 pandemic has created a global emergency of multiple dimensions. Most national governments have adopted extraordinary measures to protect their citizens and overcome the pandemic. At the time of writing, an estimated 3.1 million people have been infected and nearly 300,000 have died.⁸ Some estimates show that 162 countries have instituted either full or partial lockdowns, affecting billions of people.⁹

Prior to the COVID-19 global crisis, 2020 was expected to be a year for reviewing achievements and accelerating progress on gender equality after 25 years of the adoption of the Beijing Declaration and Platform for Action and 20 years since adopting UN Security Council Resolution 1325 on Women, Peace and Security. There is now major concern that COVID-19 and its impact will push back fragile progress on gender equality, including in relation to reversing discriminatory laws, the enactment of new laws, the implementation of existing legislation and broader progress needed to achieving justice for all.

While the health sector and its frontline staff are at the epicenter of the crisis, COVID-19 has brought the resilience of the justice sector into sharp focus. A recent briefing of The Pathfinders on “Justice in a Pandemic” highlights that justice systems – the police, health services, judiciary, prosecution, social services, prison services, lawyers, paralegals, community justice workers and other legal aid providers are vital to responding to the COVID-19 pandemic and mitigating its worst effects, but they face many challenges.¹⁰

This rapid assessment examines how the impacts of COVID-19 are threatening women’s ability to access justice. Conducted through a desk review, it faced inevitable constraints in terms of gathering comprehensive and comparable evidence and data. It drew on published and grey literature, blogs, technical briefs, reports, and statements by relevant organizations, UN Special Procedures, and advocacy groups.

The assessment reflects challenges faced by women and girls of diverse backgrounds and socio-economic groups, including those experiencing overlapping disadvantages – e.g., women on the front lines – and those facing amplified challenges in humanitarian settings. Cross-regional and local experiences are highlighted, and quantitative data is utilized where available. Past epidemics are informative – and sobering – in terms of risks for women and offer lessons about how to prevent and mitigate these risks.¹¹

The report is organized into four main parts. **Section 1** briefly draws on the key findings of the [2019 report on Justice for Women](#) to better understand the underlying factors which impede women’s access to access justice. **Section 2** highlights women’s justice needs in the context of the pandemic and corresponding challenges. **Section 3** presents examples of interventions underway by different stakeholders around the world in response to the growing justice deficit. Lastly, **Section 4** outlines ten policy recommendations for addressing women’s justice needs during the period of the crisis.



1

SECTION 1.

**PRE-EXISTING GENDER
JUSTICE GAPS**

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PRE-EXISTING GENDER JUSTICE GAPS

The transformational potential of equitable justice outcomes across all country contexts is clearly articulated in the report, *Justice for Women*.¹² It outlines women's justice needs, existing gaps, lessons learned in justice delivery, and makes a case for increased investments in gender-responsive justice reforms. The report serves as a valuable foundation for examining the potential enduring impacts of COVID-19 in an already challenged justice sector.

For too many women, gaps persist between the promise of justice and realities in communities, in the workplace, and at home. They face legal discrimination, patchy legal protections, and uneven implementation of safeguards. Discriminatory social norms, compounded by many layers of disadvantage – such as poverty, ethnicity, disability, geography, and migratory status – remain powerful obstacles to equal rights. The poorest and most vulnerable people experience more frequent and complex interrelated legal problems, leading to cumulative disadvantage when other personal and situational factors intersect.¹³

In Australia, where just nine per cent of survey respondents accounted for 65 per cent of legal problems, people with multiple disadvantages reported six times as many problems as those with none.¹⁴ The major challenges around justice for women which were investigated in the report included those outlined in Box 1.

The next sections review how the COVID-19 crisis is deepening pre-existing challenges and how these are creating new risks for women and their families.

BOX 1:

PRE-EXISTING CONDITIONS – MAJOR INJUSTICES FOR WOMEN BEFORE COVID-19

Intimate partner violence. In 2018, more than one billion women lacked legal protection from sexual violence by an intimate partner, including women living in 21 out of 36 fragile and conflict-affected states. Even where legislation exists, enforcement may be weak due to serious gaps in national laws, lack of protection orders, and inadequate police and judicial responses.

Discrimination against women at work. Labor legislation in many countries is still discriminatory against women and legal barriers to women's entrepreneurship persist. Alongside the gender-based discrimination that characterizes property, employment, and family law in many countries, many women in informal work are regulated by a complex range of legislation, rules, and enforcement practices—often in the realm of public law—that can be restrictive and even punitive.

Discriminatory family laws. Discriminatory practices in marriage and family life, codified into law, are major obstacles to justice for women in many countries. Women face more family-related legal problems than men.

Unequal property laws. According to the World Bank, 40 per cent of economies limit women’s property rights, and women do not have equal ownership rights to immovable property in 19 countries. Property inheritance regimes – such as whether sons and daughters are treated equally and whether spouses have equal inheritance rights to each other’s estates – also impacts a woman’s ability to access property. In locations where the system is governed by customary rules, women’s use of land may depend on relationships with their husband or male relative.

Gaps in legal identity. The possession of legal identity documents – including those relating to property, business, housing, marriage, employment, children or immigration status – influences a woman’s ability to protect her rights and access benefits and services. Globally, an estimated one billion people face challenges in proving who they are. In low income countries, on average, over 45 per cent of women lack an ID, compared to 30 per cent of men.

Exclusion from decision-making. Women justice professionals contribute to improved justice for women and other development outcomes. Nevertheless, they continue to be excluded from public life and senior decision-making roles.

Customary and informal justice systems. The primary mechanisms through which people, and especially disadvantaged groups –poor, women, remote and minority populations – seek justice are not fully equipped to deliver justice based on human rights and gender equality norms and standards.

Source: Justice for Women, Chapter 2.

A photograph of a woman with dark hair in a braid, wearing a white surgical face mask, holding a young child with curly hair in a pink dress. They are standing in a brightly lit room, possibly a hallway or a room with large windows. The woman is looking down at the child. The image has a teal overlay at the bottom where the text is located.

2 SECTION 2. WOMEN'S JUSTICE NEEDS AND THE JUSTICE GAP IN THE PANDEMIC

SECTION 2.

WOMEN'S JUSTICE NEEDS AND THE JUSTICE GAP IN THE PANDEMIC

In the several weeks since the pandemic has exploded around the world, a multitude of repercussions have emerged – beyond the threats to life and health associated with the virus itself. The urgent need to contain and mitigate COVID-19 has brought unprecedented disruption to not only the ways that people live and work, but also the delivery of public services, including justice. As noted by the UN Special Rapporteur on the independence of judges and lawyers, COVID-19 “poses special threats and challenges to the justice systems as a whole around the world – including judges, prosecutors and lawyers – and to its effectiveness and independence.”¹⁵

Concerns are emerging about violations of the principles of rule of law, democracy, and fundamental human rights more broadly. Lockdowns and emergency orders have exacerbated existing risks for women in abusive relationships, for those working without security and legal protection, for women and girls at risk of harmful practices and discriminatory laws, as well as those in fragile humanitarian settings. As outlined by the Lancet, “people whose human rights are least protected are likely to experience unique difficulties from COVID-19.”¹⁶

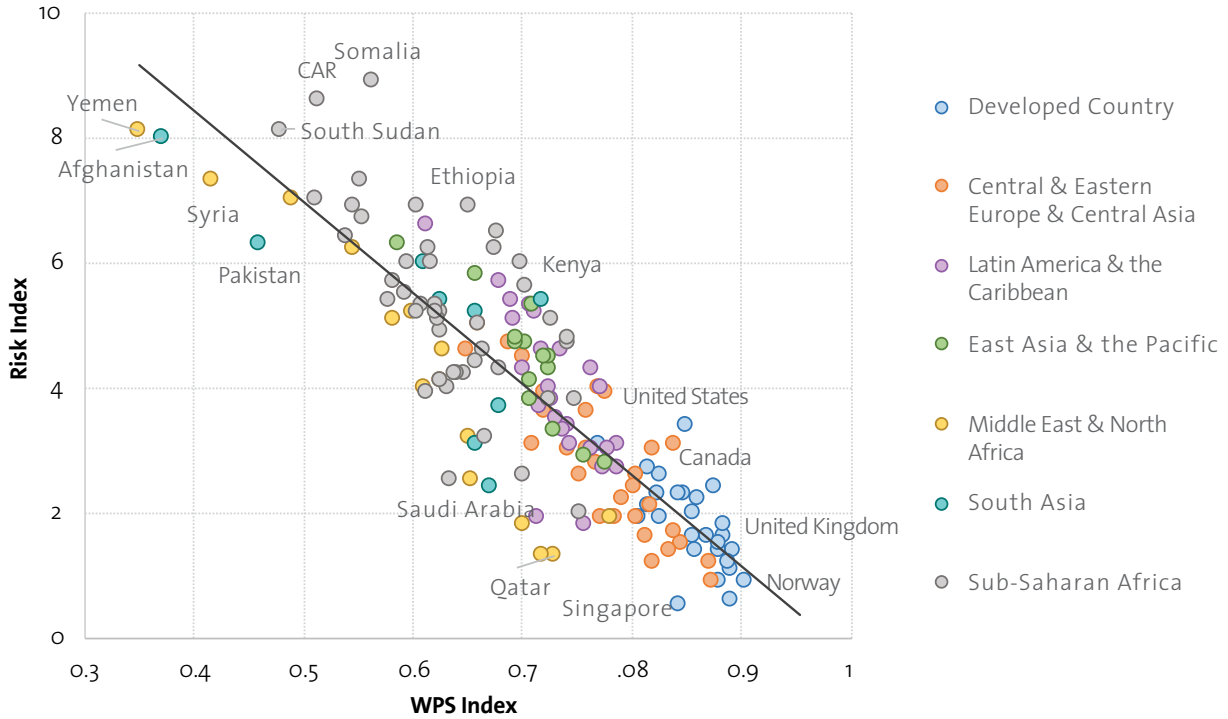
In setting the global scene, the Women Peace and Security (WPS) Index offers insights into some of the global risks that COVID-19 poses to women.¹⁷ The Index incorporates three basic dimensions of women’s well-being – inclusion (economic, social, political); justice (formal laws and informal discrimination); and security (at the family, community, and societal levels) – which are captured and quantified through 11 indicators. The indicators are aggregated at the national level to create a global ranking of 167 countries. The earlier [Justice for Women report](#) demonstrates that in countries where the situation of women is worse overall – in terms of

inclusion, justice and security, countries in the bottom tercile of the WPS Index – a higher share of women, around 60 per cent, express legal needs.

Given current threats, it is useful to compare achievements on the WPS Index to the Inform Global Risk Index that measures country level risk of humanitarian crisis and disaster that would overwhelm national response capacity (Figure 1).¹⁸ The correlation is striking – 0.86 – much higher than the correlation between the WPS Index and income per capita (0.62). This shows the major risks of exclusion, injustice, and insecurity for women amidst the hazards created by the COVID-19 crisis.¹⁹

FIGURE 1:

Countries that do worse on the WPS Index have a higher risk of humanitarian disaster



Source: Author estimates based on Georgetown Institute for Women, Peace and Security and Peace Research Institute, Oslo, Women Peace and Security Index 2019/20 report. Index for Risk Management, INFORM Global Risk Index, 2020.

Countries in the bottom decile on the WPS Index average about six times higher risk of humanitarian disaster than countries in the top decile. The former group comprises Afghanistan, Central African Republic, Chad, Democratic Republic of Congo (DRC), Iraq, Libya, Mali, Mauritania, Niger, Pakistan, South Sudan, Sudan, Somalia, Sierra Leone, Syria and Yemen. While these statistical correlations do not prove causation, the patterns point to key connections – specifically, that nations which extensively exclude women from economic, social, and political life and perpetuate injustice and insecurity for women are also often in situations of multiple disadvantage as it relates to major humanitarian risks. It also underlines the need to urgently focus on women’s status and well-being in countries that are impacted by humanitarian disasters.

Applying a gender lens, the below now captures the state of justice systems and major problems that women face in accessing justice to resolve problems that impact their lives.

2.1

Curtailed access to justice institutions

As noted above, **the COVID-19 crisis has brought the resilience of justice systems into sharp focus.** In countries where the justice system “does not guarantee gender equality, where deliberate discrimination against women persists, and/or legal protection is lacking, justice for women is undermined.”²⁰ Furthermore, in countries which perform poorly on the WPS Index, a high share of women express legal needs – around 60 per cent.²¹

Women report legal issues at a substantially higher rate than men in the areas of social welfare, family, and children – 40 and 75 per cent more women report legal issues relating to domestic violence and child support, respectively.²² As noted above, access of IPV survivors to support services, including first responders and crisis hotlines which often serve as connecting points to legal channels and housing and financial assistance, are restricted due to the pandemic.²³ Job losses caused by COVID-19 will affect alimony and child support, including potential alteration of case management, decisions, and enforcement.

As noted by the United Nations Office on Drugs and Crime (UNODC), “Resources are being diverted away from the criminal justice system towards more immediate public health measures to deal with COVID-19.”²⁴ Other services, such as hotlines, crisis centers, shelters, legal aid and social services are at risk of being scaled back for the same reason.²⁵

In Palestine, the complete lockdown of the Family Courts in the West Bank and Gaza has heavily impacted on the ability of women and children to claim alimony, maintenance, custody, visitation rights, protection orders and inheritance rights. “Many services that require gatherings, face-to-face engagement, and field visits have stopped, and new services have been introduced.”²⁶

Similarly, in Afghanistan, court proceedings have ground to a halt and women have been prevented from submitting and moving forward with their cases. In provinces under lockdown, informal justice mechanisms have become impractical during the COVID-19 response.²⁷

COVID-19 is also changing how justice institutions (courts, police, prosecutors, lawyers, prisons) work, resulting in long-overdue innovations in some instances. Many states have temporarily postponed all non-urgent court hearings and are seeking ways to keep the courts running through information and communications technology (ICT) for remote access, including via video or telephone hearings.²⁸ Others are drawing lessons on e-justice programming, including digitalization of case management systems.²⁹

Some courts are also utilizing email for submission of protection orders, such as in cases of IPV, and other urgent circumstances.

While important and necessary, these interim measures mask the potential worsening of existing case backlogs in several countries and how these will be addressed once the crisis is over.

Delays have also affected efforts in addressing conflict related sexual violence (CRSV). Combatting impunity for sexual violence is critical to deterring and preventing such crimes, and to providing redress for survivors. An investigation into mass rape in the DRC has been suspended due to the pandemic, and the Special Representative of the Secretary General on Sexual Violence in Conflict anticipates that COVID-19 will have significant repercussions for legal responses to CRSV,³⁰ including accountability, given reduced capacity to receive and process reported incidents. Relevant investigative work, pre-trial hearings, and trials are likely to be limited and justice will be delayed. The cumulative effects could significantly restrict survivors’ access to justice.

A webinar hosted by the International Association of Women Judges elaborated experiences and challenges around the world, highlighting the shifts to simple technology in the administration of justice in Trinidad and Tobago, Canada and the United Kingdom (UK).³¹ As courts make these shifts, an emerging concern is that, as underlined in Figure 2 and Box 3, poor women often have less access to mobile phones and computers to use these services. In rural Canada, broadband bandwidth may not be adequate, and in the UK it has been noted

in the context of child protection that challenges arise for many people unfamiliar with the technology, and in some instances, the integrity of such hearings can be perceived to be compromised.³² These issues need to be appropriately taken into account and alternatives provided where necessary.

The COVID-19 pandemic means that “court officials across countries have been advised to stay home, and hearings have been postponed in the United States, the United Kingdom, and elsewhere.”³³ In Uganda, the Chief Justice suspended court hearings and appearances.³⁴ Some court systems continue to hear family law proceedings, but reduced staff results in delays in issuing restraining orders and adjudicating divorce and child custody proceedings. Some protective measures have been taken to help ensure women’s security – for example, the District of Columbia’s Superior Court automatically extended protection orders that were due to expire over the next several months.³⁵

Courts are adopting different approaches in classifying limited in-person appearances in “*exceptional*”, or “*urgent*” cases. The list of what constitutes “*exceptional*” or “*urgent*” varies widely and the question is whether gender-related cases – like IPV – will be considered sufficiently “*exceptional*” or “*urgent*” by all judicial administrators.

It is not yet clear what will happen in jurisdictions in which judicial systems do not have the ability to utilize telecommunication tools and operate remotely. One concern is the handling of filing that is done remotely in systems that do not have a robust electronic case management in place. Amid the COVID-19 crisis, all judicial systems “will have to find innovative ways of handling cases of recurring domestic violence, rape, child custody, divorce, right to alimony and property.”³⁶

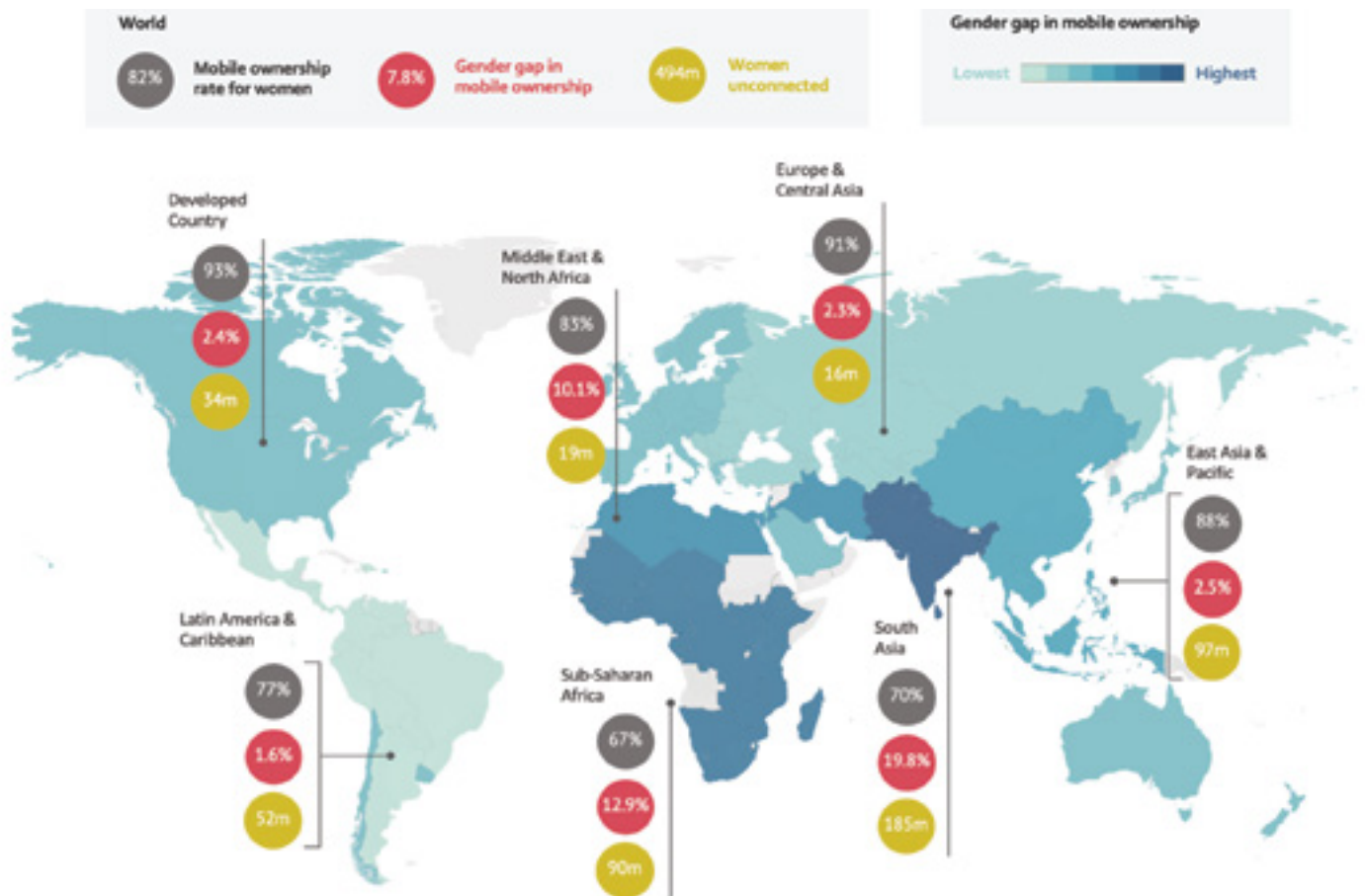


2.2 The digital divide

The impact of the curtailment in justice services is magnified by the digital divide and the escalation in violations of women’s rights, bringing into question the extent to which such violations can be addressed. In low-income countries, approximately 65 per cent of people with identification have a mobile phone, compared to only 40 per cent of those without identification.³⁷ In the COVID-19 emergency, women’s access to savings and

cell phones are vital resources— as noted below in the context of IPV.³⁸ Figure 2 presents an analysis based on the Gallup World Poll which surveys 150 countries around the world. It demonstrates that almost 500 million women were not connected in 2017.³⁹ The largest gender gaps were in South Asia (20 per cent), Sub-Saharan Africa (13 per cent) and the Middle East and North Africa (10 per cent).

FIGURE 2:
GLOBAL AND REGIONAL GENDER GAPS IN MOBILE PHONE OWNERSHIP



Box 2 highlights the extent of women’s exclusion from mobile access – due to barriers related to identity, lack of affordability and adverse norms. Without a mobile phone or internet connection, accessing justice and other services is rendered difficult for women who need it the most during the pandemic.

BOX 2:
EXCLUSION FROM DIGITAL SERVICES

At a time when digital access is more important than ever to access life-saving information and services as well as access to justice and government support, many women and girls face large barriers to mobile phone and internet connectivity. A recent Harvard study in India usefully investigated how social norms discourage their use by women and girls – such that 2/3 of men in the country own a phone, compared to only 1/3 women.⁴⁰ There may also be obstacles in terms of affordability. This creates barriers as remote services are delivered via mobile phone or messaging apps.

According to the Gallup World Poll which surveys 150 countries around the world, about 546 million women (aged over 15) did not have a cellphone in 2017. The ten countries with the largest gender gaps are Afghanistan, Chad, DRC, Ethiopia, Mali, Malawi, Niger, Pakistan, Sierra Leone, and South Sudan.

The Groupe Speciale Mobile Association (GSMA) 2020 report on the mobile gender gap estimates that 2.9 billion people now access the internet over their mobiles. However, in 15 developing countries investigated,* there is a significant gender gap, including that women are 20 per cent less likely to own a smartphone and 20 per cent less likely to access the internet from mobile phones than men.

While these gender gaps have been narrowing over time, current gender gaps suggest that women are less able to access vital information from the government and health services.⁴¹

*Algeria, Bangladesh, Brazil, Guatemala, India, Indonesia, Kenya, Mexico, Mozambique, Myanmar, Nigeria, Pakistan, Senegal, South Africa and Uganda.

While the digital exclusion of women and girls is a challenge in several developing regions, evidence suggests that the **digital exclusion of women can be worse in humanitarian settings**. A recent GSMA study conducted with support from the United Nations High Commissioner for Refugees (UNHCR) undertook a mixed methods study in Jordan (urban refugees), Rwanda (Kiziba refugee camp) and Uganda (Bidi Bidi refugee settlement).⁴² Key findings include that:

- Over two-thirds of refugees in all three locations were active mobile phone users, with the highest proportion in Jordan, and that refugees access mobile services in creative ways: sharing or borrowing handsets and owning multiple SIMs.
- Awareness of mobile internet was high, but only used by about a third of respondents in Bidi Bidi and Kiziba.
- There was a gender gap, widest in Bidi Bidi where women are 47 per cent less likely than men to own a mobile.
- In both Bidi Bidi and Kiziba, the use of SMS is significantly lower among refugees with disabilities.
- A key reported barrier to phone use was limited livelihood opportunities for refugee women and people with disabilities, which makes them disproportionately affected by the cost of connectivity.

The above points to the need for solutions that do not rely only on cell phones and digital connectivity to address women’s access to justice, as recommended by the United Nations Children’s Fund (UNICEF) and other organizations.⁴³

2.3

Worsening risks of intimate partner violence and other forms of domestic violence

Stay-at-home orders have been instituted in an estimated 162 countries around the world.⁴⁴ Estimates based on the British Broadcasting Corporation and other published sources suggest that **roughly 2.73 billion women around the world live in countries where stay-at-home orders are in place.**⁴⁵ Yet in many places, the risks of IPV and other forms of domestic violence means that even in “normal” times, the least safe place for women is their own home. As recounted by Feminist Alliance for Rights,⁴⁶ mobility restrictions are expected to increase women’s vulnerability to abuse and their need for protection services and UNODC and others underline that avoiding harm is more difficult when the abusive partner is at home all the time.⁴⁷ In some cases, while children can be victims as well as witnesses of abuse, mothers can be at risk of abuse from adolescent children in the household.⁴⁸

Furthermore, women in institutions, nursing homes, and psychiatric and other facilities may be at heightened risk of violence, particularly due to lack of external oversight.⁴⁹ In all contexts, one or more of the different elements of domestic violence – verbal, sexual, economic, physical, psychological may be present.

Some survivors report being unable to seek legal redress against their perpetrators due to court closures and forensic doctors being unable or unwilling to document physical abuse of survivors at police stations for fear of COVID-19 spread.⁵⁰ The United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) notes that while it is too early for comprehensive data, there are already many deeply concerning reports of increased violence against women all over the world. The number of domestic violence cases reported to a police station in Jingzhou, China tripled in February 2020 compared to the same period the previous year.⁵¹ In the UK’s first week of lockdown, there was a 25 per cent rise in phone calls to the National Domestic Abuse Helpline and visits to their website were 150 per cent higher than the last week in February.⁵² The Seattle Police Department in the US reported a 21 per cent increase in domestic violence in March 2020, following

state-wide stay home orders.⁵³ In Brazil, where a state-run drop-in center saw a surge in cases attributed to coronavirus isolation, a judge of a domestic violence court in Rio de Janeiro observes that “We think there has been a rise of 40-50 per cent, and there was already really big demand”.⁵⁴ In Argentina, emergency calls have increased by 25 per cent⁵⁵ and in Italy, calls to helplines have dropped sharply, and instead desperate text messages and emails are on the rise.⁵⁶

Since in “normal times”, fewer than one in 10 cases of violence are reported in developing countries⁵⁷ and about 14 per cent across Europe,⁵⁸ the above accounts are very likely to represent only the tip of the iceberg.

Past epidemics have been accompanied by increases in gender-based violence (GBV), suggesting that similar patterns could occur now. According to a Center for Global Development (CGD) Working Paper, outbreaks of Ebola (in West Africa and DRC), Cholera (in Yemen), and Zika (in the Caribbean, Central and South America) correlated with increased IPV and sexual violence against first responders and healthcare workers, particularly women nurses.⁵⁹ Not only were rates of violence higher, but also women experiencing violence had restricted access to related healthcare services due to movement restrictions and fear of infection. Furthermore, those earlier epidemics were accompanied by an atmosphere of impunity because police and security systems were overwhelmed.

According to the International Commission of Jurists, guidelines or information on how to contact police, access medical treatment, psychological support, or access to shelters are currently limited in many countries.⁶⁰ The UN reports that “judicial, police and health services that are the first responders for women are overwhelmed, have shifted priorities, or are otherwise unable to help. Civil society groups are affected by lockdown or reallocation of resources. Some domestic violence shelters are full; have had to close or have been repurposed as health centres.”⁶¹ In the UK, for example, one quarter of the 25 organizations helping domestic violence victims report not being able to effectively support them

because of technical issues, inability to meet victims, and staff sickness.⁶²

There are concerns that law enforcement and justice systems in many countries may “de-prioritize gender-based violence during the pandemic,” especially in the Arab region, where most countries have not criminalized domestic violence, including marital rape.⁶³ In Lebanon, there have been reports of forensic doctors being unable and/or unwilling to document physical abuse of survivors at police stations for fear of the spread of

COVID-19, with only a few instances of judges waiving these requirements.⁶⁴

More generally, there is limited information on whether protection orders are easily accessed or enforced during the pandemic, as well as whether helplines and legal counselling translate into actual support. Furthermore, the status of gender-based violence (GBV) cases which were pending in court prior to the pandemic and their impact on complainants, their lawyers and witnesses also remains unclear.

2.4

Threats to sexual and reproductive health and rights

The right to sexual and reproductive health services – an important dimension of women’s legal rights, is at risk during the crisis. This is especially so where the services are not regarded as a life-saving priority and integral to the response.⁶⁵ When health providers are overwhelmed, as they are now, there is a danger that women and girls do not access the sexual and reproductive services they need. Furthermore, systemic racism, discrimination, and stigma can compound legal and logistical barriers to access such services among marginalized groups in crisis situations.⁶⁶

A series of studies documenting the impacts of the Ebola outbreak found reduced access to sexual and reproductive health services, with serious repercussions across affected countries:⁶⁷

- The closure of clinics and reduced reproductive healthcare services in Sierra Leone caused 3,600-4,900 additional maternal, neonatal, and stillbirth deaths between 2014 and 2015, compared to 4,000 deaths from the Ebola virus itself during the entire epidemic.⁶⁸
- Across all districts in Sierra Leone during the Ebola virus epidemic, there was an 18 per cent decline in the number of women attending antenatal care, a 22 per cent fall in women seeking postnatal care and a 11 per cent drop in the number of women attending for birth at a healthcare facility – and

there was a 34 per cent increase in the facility maternal mortality ratio and 24 per cent increase in the stillbirth rate.⁶⁹

- A study published in *The Lancet* found that most maternal and child health indicators significantly worsened in Guinea during the Ebola outbreak in 2014, and that the use of maternal and child health services failed to recover to pre-outbreak levels in the subsequent period.⁷⁰

There is therefore a risk that where public resources are already stretched to combat the virus, governments may not see access to comprehensive sexual and reproductive health services for women as a priority.

The UN Working Group on Discrimination against Women and Girls maintains that “Restrictions on the provision of health services essential to women and girls...imposed in many countries to address the excessive demands on health services caused by the pandemic, also affects women and girls’ health disproportionately.”⁷¹

In some countries, protocols are ignored during and after pregnancy and childbirth (such as cesarean sections and forceps delivery performed without medical indication, separation of newborns from mothers, among others) to allegedly prevent contagion and expedite procedures.⁷²

2.5

Growing injustice against women workers

Globally, women undertake the bulk of unpaid work and care at home, are more likely than men to work informally, part-time and in the services sector – areas of work which are often unevenly regulated and monitored, if at all, by law. The insecurity and lack of legal entitlements that characterize informal and temporary work put women and their families at extreme risk. Furthermore, unpaid work and childcare in the home has been substantially amplified with country-wide school closures in 177 countries.⁷³ The United Nations Educational, Scientific and Cultural Organization (UNESCO) estimates that almost 1.6 billion learners have been affected around the world.⁷⁴ The COVID-19 crisis has brought to the fore, the impact of home-based schooling on women who work in the justice and security sector. Several judges, police, and prosecutors are working from home, making use of technology (see Sections 2.2 and 3.1 of this report) and home-based care will require more of women's time as well as expanded use of technology and internet connectivity at household level.

In South Asia, over 80 per cent of women in non-agricultural jobs are in informal employment, as do 74 per cent in Sub-Saharan Africa and 54 per cent in Latin America and the Caribbean.⁷⁵ Many of these workers are currently unable to work – and because they lacked clear terms of employment and legal guarantees, are normally not entitled to health insurance, paid sick and maternity leave, pensions and unemployment benefits.⁷⁶

Many women work informally in occupations that closed down early in the crisis – for example, the Self Employed Women's Association of India reports that daily domestic workers from Lucknow, Punjab, Madhya Pradesh, Kerala, and several other states in the country are “facing a lot of trouble”, as the households where they go regularly for work are not in a position to give them work.⁷⁷

Temporary workers are expected to bear the brunt of job losses during the pandemic. According to the International Labour Organization (ILO) estimates, on average about 36 per cent of the female labour force work on a temporary basis, amounting to some 461 million women.⁷⁸

The good news is that a number of governments have moved away from entitlements based on formal employment and linked to previous earnings – in limited instances, providing emergency assistance in the form of lump sum payments, sometimes one off or on a continuing basis, in cash or in kind.

BOX 3:

COVID-19 AND THE LGBTQ COMMUNITY

There is emerging evidence that the COVID-19 could adversely affect the lives and livelihood of the LGBTQ community at disproportionate rates. A recent brief by the Human Rights Campaign, focused on the US, shows that in many cases, LGBTQ people in the US are at greater exposure and risk of both economic and health complications than non-LGBTQ people because of the types of jobs they are more likely to have (for example in restaurants and hospitality), because of their higher rates of poverty and lack of paid leave, and health disparities (such as higher rates of asthma).

OHCHR has highlighted that LGBTQ people face heightened risks during this pandemic and called for specific measures in response plans to address these impacts. Available data suggests LGBTI people are more likely to work in the informal sector, and also have higher rates of unemployment and poverty. Health services particularly relevant for LGBTQ people should continue during this crisis, including, HIV treatment and testing. OHCHR called on States to address misinformation fueling further stigma and discrimination against LGBTQ people, including narratives blaming LGBTQ people for the pandemic.

Sources Human Rights Watch Foundation. 2020. “The Lives and Livelihoods of Many in the LGBTQ Community Are at Risk Amidst COVID-19 Crisis; COVID-19 and the human rights of LGBTI people. Available at: <https://www.ohchr.org/Documents/Issues/LGBT/LGBTIpeople.pdf>

A recent estimate suggests that 133 countries have new, expanded and/or adapted social assistance programs in response to COVID-19 covering nearly 622 million beneficiaries – largely in India (440 million people), and sizable programs in several countries in South East Asia (i.e., Indonesia, Malaysia, and Philippines).⁷⁹ Such interventions are an important feature of the COVID-19 response and are being tracked by the World Bank and the ILO, among others.⁸⁰

Female-dominated service sectors such as food, hospitality and tourism have experienced the harshest contraction. The service sector – where, globally, about 59 per cent of women work – is reeling under restrictions, closures, and bankruptcies. A recent National Bureau of Economic Research working paper⁸¹ suggests that, compared to “regular” recessions which tend to affect men’s employment more severely compared to women, social distancing measures have hit sectors with significant shares in female employment. As underlined

by the Women’s Budget Group, women are more likely to be employed in service activities like retail, hotels and personal care⁸² and as noted above, more likely to be on insecure and zero-hours contracts.

The World Bank similarly notes that the Ebola outbreak in 2014-2015 resulted in increased hardship for women due to both their higher infection rates (as a result of their caregiver roles), and because they worked in sectors hardest hit by the outbreak (e.g., retail, hospitality, and tourism).⁸³ The UN projects “a prolonged dip in women’s incomes and labor force participation” in view of COVID-19.⁸⁴

As front-line providers in health care, comprising 70 per cent of the global health and social care workforce,⁸⁵ women work at huge risks to their right to life and health,⁸⁶ while also facing restrictions on speaking out against their working conditions,⁸⁷ and in some instances, subjected to violence in their homes or in the workplace.⁸⁸

2.6

Discriminatory property law and inheritance regimes

It is well-documented that in many countries, women are disadvantaged in their access and control over property.⁸⁹ Many widows, daughters, and divorced women are already barred, in law or in practice, from claiming their ownership rights in the case of death or dissolution of marriage. When a household breaks down, property rights are “particularly critical as a resource for women.”⁹⁰

Widows’ inheritance rights are restricted in approximately 1 in 5 countries.⁹¹ In 44 countries (including Afghanistan, Algeria, Indonesia, Iran, Jordan, Kenya, Pakistan, and the United Arab Emirates), wives are not permitted to inherit marital assets, and in 43 countries, daughters do not possess equal rights to inherit their parents assets in the same way as sons.⁹² Based on national population estimates, this potentially affects some 890 million women.⁹³ Upon the death of a spouse in these countries, women typically lose access to and control over property and for many women, while the home is also their place of work, they do not have secure tenure.⁹⁴

Lessons from the HIV/AIDS crisis in Sub-Saharan Africa suggest that without the certainty of access to inheritance and property following a spouse’s death, women’s opportunities to mitigate COVID-19 are negatively impacted.⁹⁵ **Coupled with discriminatory property rights, the COVID-19 pandemic is directly impacting women’s right to housing, shelter and security.** The prospect of losing both home and place of work in these settings could be devastating for women widowed by the pandemic – in Iran, for example, 59 per cent of COVID-19-related deaths are men.⁹⁶ Rough estimates based on data published by Global Health 5050 and Johns Hopkins School of Medicine suggest that as of April 23, about 114,000 women have been widowed as a result of COVID-19.⁹⁷

Women seeking to enforce their rights during the crisis can face heightened barriers, particularly when court systems are shuttered.⁹⁸ Weak implementation can also impose barriers to women’s land and property rights. Landesa notes that poor access to legal services and

a lack of understanding of laws within communities and households – and by women themselves – “build an invisible but near impenetrable wall to women realizing land and property rights in rural and urban areas alike”.⁹⁹

In several countries, governments and courts have placed moratoriums on evictions and foreclosures. This may be important for COVID-19 widows who were dependent on their partner’s income.

2.7

Discrimination in legal identity and legal status

As underlined in the Justice for Women report, the possession of “legal identity” influences a woman’s ability to protect her rights and access benefits and services. **In low income countries, on average, over 45 per cent of women lack an identification card (ID), compared to 30 per cent of men. Legal identification may be required to access to health services and public benefits. This can be especially damaging to the rights of undocumented migrants.**¹⁰⁰ Specific examples include:

- An estimated 7.1 million undocumented immigrants lack health insurance in the US, and the COVID-19 pandemic has “exposed the risk of limiting access to primary care for segments of the population, including undocumented immigrants.”¹⁰¹
- As highlighted by the Tahrih Justice Center, undocumented immigrants in the US are ineligible to file for unemployment benefits and the economic

relief package will not reach most undocumented immigrants, further affecting over 5 million children born in the US.¹⁰²

- In the UK, women with no migration status are charged for maternity care after treatment as it is considered ‘immediately necessary’ by the Department for Health. Treatment is subsequently followed by a bill of at least 150 per cent of the care’s value, creating debts many cannot pay.¹⁰³
- By way of contrast, Portugal announced that people with pending asylum and residency applications will be treated as permanent residents, thereby providing access to healthcare.¹⁰⁴
- Italy has also extended all existing residency permits that were due to expire in order to ensure access to healthcare.¹⁰⁵

2.8

Specific threats facing forcibly displaced women

For many of the 71 million refugees, asylum seekers, or internally displaced in their own countries, half of whom are women and girls, movement restrictions are not new.¹⁰⁶ However the impact of the pandemic in fragile settings such as Afghanistan, South Sudan and Syria is potentially devastating, given the already weak health systems and rule of law, and high levels of violence against women and girls and gender inequality. Refugees are often stigmatized and unjustly discriminated against for spreading disease. Such attitudes further risk wider public health outcomes, including for host populations since refugees could be fearful of disclosing symptoms or seek treatment.¹⁰⁷

The pandemic has led to border closures and restricted migration policies that have significantly affected resettlement processes¹⁰⁸ as well as safe passage for people seeking asylum or migrating for economic reasons. This means that women and girls fleeing violence and persecution will not be able to leave their countries of origin or enter asylum countries. In other instances, mass quarantine measures, involving confinement are being pursued, placing women and girls at risk of abuse. Asylum seekers face long delays where the courts are closed, or are being returned to their home country without having a chance to pursue their claims, sometimes in violation of the principle of

non-refoulement.¹⁰⁹ The suspension of visa processing creates long delays for those applying to change their migration status, as well as exclusion from basic services.¹¹⁰

Turning to humanitarian settings, an estimated 84 per cent of the 20 million refugees and internally displaced live in developing countries, in overcrowded and under-serviced camps and informal settlements.¹¹¹ As noted by the International Commission of Jurists, when the virus hits overcrowded displacement sites, the consequences can be catastrophic, with especially serious risks and repercussions for women and girls. These include:

- Poor sanitation facilities can make hand-washing and other basic hygiene practices difficult to undertake. Because communal facilities in crisis settings are often shared and distant from residential shelters,¹¹² women and girls face high risks of gender-based violence in simply following hand-washing guidance.¹¹³ Earlier studies find that women and girls are often exposed to sexual violence and exploitation while walking to such shared sanitation facilities.¹¹⁴ Strategies to mitigate this risk – such as moving in groups and ensuring adequate female aid staff – have become increasingly difficult to continue given COVID-19 distancing practices.¹¹⁵

- The risk of sexual exploitation and abuse can be heightened during public health crises. Earlier research on Uganda and Lebanon investigated how sexual exploitation and abuse manifests in relation to the distribution of food, water, shelter, fuel and firewood, and cash assistance.¹¹⁶ During the Ebola response in West Africa, a range of actors took advantage of women and girls – including taxi drivers, burial teams, and even vaccinators.¹¹⁷
- Adolescent girls and those living with disabilities may face increased risks, given potential shortages of aid and/or increased difficulties in access due to containment measures.
- Lack of culturally and linguistically accessible information about COVID-19 and how to protect oneself and others.¹¹⁸

It is essential that the prevention and response to sexual violence be considered central to the broader COVID-19 mitigation and response measures in refugee and internally displaced settings, including the continued functioning of ‘safe-spaces’ for women and girls and service delivery in refugee camps and settlements.¹¹⁹

2.9

Heightened risks for women deprived of their liberty

Prisons and other places of detention are settings in which COVID-19 can spread at high rates due to higher prevalence of risk factors, close contact, overcrowding, poor ventilation and limited access to healthcare services.¹²⁰ While there are more men than women in prison, the number of incarcerated women has been rising and the number of women in prison globally now exceeds 700,000, an increase of 50 per cent over the past 20 years (the male prison population grew by 20 per cent over the same period).¹²¹ Most women are detained for low-risk offences, often associated with economic and social challenges, and many countries have high rates of pre-trial detention.¹²² In the US, close to 200,000 women and girls are on pre-trial detention or in prison, according to the American Civil Liberties Union and Prison Policy Initiative.¹²³ The problems faced were documented in the 2019 Human Rights

Council report, “Women Deprived of Liberty”, by the UN Working Group on Discrimination against Women and Girls.¹²⁴

It has been reported that women in prison have poorer health outcomes and are “disproportionately affected by underlying health conditions” than the broader population.¹²⁵ Not only are women at risk of contracting COVID-19, they are also exposed to an increased threat of sexual violence during the pandemic due to decreased security in prisons.¹²⁶

COVID-19 cases have been reported among prisoners and/or prison employees in multiple countries around the world, including Austria, Belgium, Canada, China, France, Germany, Italy, Iran, Moldova, the Netherlands, Pakistan, South Africa, South Korea, Spain, Switzerland, Turkey, the UK, and the US.¹²⁷ There are therefore global

calls to reduce prison overcrowding in order to prevent COVID outbreaks – for example over 30 civil society organizations (CSOs) in Africa signed an open letter¹²⁸ and UNODC issued a COVID-19 preparedness and responses in prisons position paper.¹²⁹

These calls include the release of pregnant women, women with children in detention, pre-trial detainees, elderly, those with underlying health conditions, those detained for low-risk offences, and those with less than 12 months to serve on their sentence. In Cambodia, for example, prison monitors have highlighted the harsh conditions for pregnant women, who face “severe overcrowding, inadequate food and access to health care, scarce contact with their families, and limited time and space for children to play.”¹³⁰ While the release of the aforementioned categories of women prisoners is essential, there are indications that such measures must be accompanied by effective economic recovery and social welfare services, such as in Afghanistan where over 700 of such women have been released from prison.¹³¹

In detention centers, recommended procedures for preventing COVID-19 (e.g., hand-washing, social distancing, and quarantine) are difficult to follow.¹³²

Women in Immigration and Customs Enforcement (ICE) detention centers in the US are reportedly “terrified that they have been exposed to a person who may be ill with the coronavirus, and they fear that they, too, will get sick.” Detainees report that “no information about COVID-19” was being provided, and women were being punished for using videos to voice their concerns.¹³³

In an order issued March 28, 2020, a federal Central District of California court held that the 1997 Flores Settlement Agreement requires both the Office of Refugee Resettlement and ICE to protect unaccompanied, detained children by providing safe and sanitary conditions as well as appropriate medical care and living conditions.¹³⁴ In another order issued on March 30, 2020, a federal judge acknowledged that the Fifth Amendment’s due process clause requires ICE to “maintain safe and sanitary conditions of confinement.”¹³⁵ While the order extended the Flores Agreement to adults detained with those children,¹³⁶ it remains to be seen how these orders will be implemented in US detention facilities.



3

SECTION 3.
COVID-19-RELATED
JUSTICE
INTERVENTIONS

IMMIGRATION
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SECTION 3:

COVID-19-RELATED JUSTICE INTERVENTIONS

Around the world, innovative interventions are emerging on the parts of states and non-state actors. While it was not possible to capture all such interventions, this section focuses on efforts which address the challenges identified in Section 2. They cover efforts to prevent and respond to IPV, address legal and other disadvantage for poor and marginalized women, and overall collective action of women and women’s organizations.

3.1

Preventing and responding to IPV

The surge in IPV under conditions of lockdown poses major challenges for survivors, and for effective responses. There are lessons and guidance about how to provide support remotely – such as the International Rescue Committee’s (IRC) 2018 guidelines for remote GBV service delivery – which were piloted in Burundi, Iraq and Myanmar.¹³⁷ The COVID-19 guidance, “Identifying and Mitigating Gender-based Violence Risks within the COVID-19 Response”,¹³⁸ highlights the need for informed actions, such as ensuring the Minimum Initial Services Package, a set of agreed life-saving practices to address sexual and reproductive health needs in emergencies, that should be prioritized from the outset.¹³⁹ Other useful resources include the “Essential services package for women and girls subject to violence,” designed by UN Women, UNFPA, WHO, UNDP and UNODC, to provide greater access to a coordinated set of essential and quality multi-sectoral services for all women and girls who have experienced gender based violence; and “Preventing and Managing the Spread of COVID-19 Within Domestic Violence Programs”, in shelters, designed by the National Resource Center on Domestic Violence of Pennsylvania, US.¹⁴⁰

Multiple innovative platforms have emerged during the COVID-19 crisis to prevent and respond to IPV. Some use existing programs, like WhatsApp, while others have developed new free applications or instant messaging. Others aim at raising awareness, while others are connected to emergency services, such as the police across different locations. One example is the International Development Law Organization’s (IDLO) support to the establishment of a virtual legal aid mechanism for women facing violence in Tunisia. The mechanism operates in close collaboration with relevant state institutions, the national bar association, and other legal/women’s organizations to establish a platform for online provision of legal aid. It supplements support currently provided via hotlines, by providing referral pathways to ensure legal aid provision. Parallel efforts are in place to advocate for hotlines and other critical IPV responses that are considered essential.

Box 4 provides a summary of examples of innovative legal protection social media platforms.

BOX 4:

INNOVATIVE SOCIAL MEDIA LEGAL PROTECTION PLATFORMS TO COMBAT IPV DURING COVID-19

- Women in China use social media to disseminate information and resources regarding domestic violence.¹⁴¹ The hashtag #AntiDomesticViolenceDuringEpidemic has been used over 3,000 times on the Chinese social media platform Sina Weibo along with user-created posters on how to respond to domestic violence. Some women's rights non-profits, such as Weiping in Beijing, have seen upwards of a threefold increase of inquiries from victims since the quarantine. These non-profits provide women with support and resources on how best to handle their situations and who to reach out to different kinds of services.
- UK police have encouraged the use of a disguised free app called 'Bright Sky,' which provides support for survivors, including contact information of all domestic abuse support services in the UK. A journal function allows episodes of abuse to be securely documented through text, audio, video, or photo, and the entries are saved in the app as well as a 999-emergency button. This evidence would be immensely helpful in court proceedings in order to recall the dates, times, and occurrences of abuse.
- In Madrid, Spain, women can send instant messages to an online chat room, which uses GPS to locate women who need emergency aid for immediate psychological support.¹⁴² Authorities in Spain have also launched a WhatsApp service for women, and the Equality Ministry has reported a 270 per cent increase in consultations.
- Italian police are utilizing a "YouPol" app, originally designed to assist young people in reporting bullying and drug dealing, but now adapted to provide survivors with a way in which to message the police without the knowledge of their partner. Italy's national network of domestic violence shelters ("DiRe") opened emergency phone and Skype calls to provide support, and approximately two-thirds of Italian domestic violence organizations have emergency phone lines.¹⁴³
- Women against Violence Europe (WAVE) made available a list of COVID-19 resources for women's specialist support services and women's organizations featuring several 'counselling at a distance' manuals.¹⁴⁴

A range of innovative solutions offer direct help to victims through helplines and emergency services that do not require cell phones and internet access have emerged. For example:

- In the Canary Islands, Spain, the Institute for Equality launched the "Mascarilla-19" ("Mask-19") campaign to provide assistance to victims through pharmacies.¹⁴⁵ Because pharmacies are one of few essential businesses that remain open during Spain's quarantine, any woman who is faced with domestic violence is encouraged to go to a local pharmacy and request a "Mask-19." Pharmacy staff note her name, address,

and phone number, and call the police and support workers. The survivor can wait until the police and support workers arrive, or she can return home where they will meet her. Since the successful implementation of the campaign in Spain, Mask-19 has been adopted in Argentina, France, Germany, Italy and Norway.

- Cumbria Police in the UK have appealed to postal workers, delivery drivers, food delivery companies, and essential workers who visit homes to look out for signs of abuse and report them to the police department.¹⁴⁶

- Italy’s Equality Ministry also launched the “Contingency Plan against Gender Violence,” categorizing assistance services for victims of violence as “essential services.”¹⁴⁷
- The Canadian Women’s Foundation is encouraging women to use certain hand signals in video conversations to signal help.¹⁴⁸
- The Chilean Ministry of Women and Gender Equality announced continued operations centers for women and shelters, campaigns to encourage reporting of violence, and online prevention training. Italy is also promoting an awareness campaign designed to reach victims of violence.¹⁴⁹
- To provide outreach to women in public places, France has implemented hotel rooms, pop-up help centers within supermarkets and pharmacies.¹⁵⁰
- In Palestine, Civil society organizations have in most cases successfully adapted to virtual methods of service provision, including psychosocial and legal support, raising awareness and documentation.¹⁵¹
- In China, over 2,500 volunteers signed up for the network “Vaccines Against Domestic Violence”; these volunteers watch for abuse and assist families in peacefully resolving conflicts.¹⁵²

In response to substantially reduced court services and the important role that temporary protection orders and restraining orders play in protecting women and their families, some countries have taken steps to ensure access to the courts through virtual means and continued protection through judicial extensions. Several approaches which have emerged that deal with this dilemma include the following:

- In Taiwan, courthouses enforce entry and other restrictions, including:
 - Temperature checks and face masks are required for staff and court users
 - Alcohol-based hand sanitizer dispensers are provided at the entrance
 - The Constitutional Court requires spectators and reporters to register and submit a health declaration for a hearing

- Spectators may be denied entry at the discretion of the court, and seating of spectators and reporters are arranged one meter apart
- Staff are monitored for symptoms and a contingency plan which include shifts of the work force is in place.¹⁵³
- Canadian courts are offering “online hearings to reduce the number of attendees, identifying a list of ‘urgent matters’ which can continue to be brought to court and, in some cases, hearings over telephone or videoconferencing.”¹⁵⁴
- Recognizing survivors’ emergency needs, courts in the US are utilising teleconference hearings for “emergency” cases, which include hearings on temporary protection orders and temporary restraining orders.¹⁵⁵ In New York City, family courts are conducting remote operations via email filings and video or telephone hearings.¹⁵⁶
- The Colombian Government issued an order guaranteeing virtual access to services for survivors of domestic violence, including legal advice, psychosocial advice, police and justice services, and court hearings.¹⁵⁷
- Courts in Argentina have extended protection orders for domestic violence survivors for 60 days.¹⁵⁸
- The Australian Government has modified the family law to allow the justice system to respond to cases during the COVID-19 pandemic. These “allow courts to impose electronic monitoring requirements for bail, conditionally suspend imprisonment orders, enable online filing of restraining orders and create a new offence, increased fine, and extended limitation period for restraining orders, among other measures.”¹⁵⁹
- In Sierra Leone, AdvocAid, a CSO devoted to providing legal aid to women deprived of their liberty and affected by violence, is changing its modus operandi in the wake of the pandemic. For example, instead of physical contact with correctional centers, paralegals now hand out forms to detainees and prison staff to fill out or call Correctional Centre Managers to determine urgent needs.¹⁶⁰

3.2

Addressing legal and other disadvantages among poor and marginalized women

Overcoming legal disadvantages for poor and marginalized women requires targeted policies and programs. Legal aid can enable poor people seek justice in ways that would be otherwise out of reach. This suggests a strong role for CSOs, which, in many low and middle income countries, have better networks of information, awareness and counselling for women.¹⁶¹ Such services need to be advertised extensively through TV, social media, public service announcements and other channels so that women know about them.

Nevertheless, in addition to responding to legal disadvantages, seeking justice also requires addressing other disadvantages faced by poor and marginalized women in claiming their rights. Hundreds of millions of women who were already poor and marginalized before COVID-19 have lost their livelihoods without any fallback savings or assets. The World Bank has identified 133 countries that, by mid-April 2020, had created or expanded social protection or jobs measures to help address the economic emergency.¹⁶²

A welcome innovation in this unique crisis is that some governments are providing emergency assistance regardless of people's previous legal entitlements. Such measures could empower some women to secure their legal rights through violence prevention and access to essential legal services should these become necessary. So, while women who were in informal employment or out of the workforce are normally at an enormous disadvantage in a recession in terms of benefit eligibility, some may be receiving benefits regardless of their former job status. This of course depends on their government's response to the crisis. Some examples are outlined in Box 5.

BOX 5:

SOCIAL ASSISTANCE FOR COVID-19—SELECTED GOVERNMENT INITIATIVES

Governments are targeting their poorest and most vulnerable citizens with social assistance, identifying recipients in various ways. Selected examples are below – in a very fast changing situation.

- In Nigeria, the governor of Lagos, Babajide Sanwo-Olu, announced an economic stimulus package that takes food to the doorsteps of residents in the country's most populous city. The package provides 200,000 households with deliveries of rice, beans, garri, bread, drinking water and vitamins to last about 14 days.¹⁶³
- In India, the Government announced a relief package, which includes delivery of free food, and is now working on a second relief package for hard-hit sectors of the economy after the lockdown is lifted.¹⁶⁴
- Italy is considering putting into place support measures to cover informal and temporary workers once their contracts are over.¹⁶⁵
- Canada's emergency response benefits, which provide employment insurance benefits during COVID-19, may be leaving out key populations – namely seasonal workers and students who were waiting for jobs to start, workers and freelancers who still have some income, and workers who were unemployed prior to the COVID-19 outbreak.¹⁶⁶
- The assistance provided in Peru is only given to people already registered on government welfare programmes, but appears to exclude informal sector workers, whereas Burkina Faso's program specifically targets informal sector workers and women.¹⁶⁷

Some of these measures are a welcome move away from the conventional linkage of safety nets to formal sector jobs and is therefore an important way to address traditional injustices affecting women workers in low paid and informal work.¹⁶⁸ Some caution is nonetheless in order and should be addressed during the design of such measures:

- To date, the average fiscal support package introduced by African governments amounts to a meager 0.8 per cent of GDP, one-tenth the level in developed countries.¹⁶⁹ The debt relief announced by international

financial institutions could well be directed towards boosting this support, but this is not yet known.

- There is a significant risk of exclusion of women without cell phones where the delivery of information, applications and sometimes the assistance itself is all online.
- Moreover, much of the assistance to date has been immediate but for a short period of time – even though significant social assistance will likely be needed for several months, if not years.

3.3

Collective action of women and women's organizations

Collective action can be a catalyst to inform and educate people about women's rights, provide spaces for women's and girls' groups and campaign for reforms.¹⁷⁰ Grassroots justice actors such as civil society justice defenders, community paralegals, public-interest lawyers, human rights activists, and other community leaders who are involved in providing justice can play a key role.

In India, for example, women's groups have taken action to combat the effects of the COVID-19 pandemic by "meeting shortfalls in masks, sanitizers and protective equipment, running community kitchens, fighting misinformation and even providing banking and financial solutions to far-flung communities," and 67 million Indian women comprise membership of 6 million self-help groups.¹⁷¹ These self-help groups have produced more than 19 million face masks, 100,000 liters of sanitizer, and 50,000 liters of hand wash, arranged over 10,000 community kitchens across India to "feed stranded workers, the poor, and the vulnerable" and disseminated COVID-19 information and messaging to difficult-to-read populations in rural areas.

Another example comes from Bangladesh, where Rohingya volunteers, with support from UN Women are mobilizing communities to prevent the spread of COVID-19 in refugee camps. Volunteers are trained on COVID-19 prevention, including "handwashing, respiratory hygiene and social distancing, as well as when to seek medical help and the importance of staying calm."¹⁷² They also assist in resolving disputes among community members and guide women and girls to

the women-friendly areas established by UN Women in the camps. Given the congested nature of camps and limited access to treatment and supplies, this provision of prevention information is invaluable. In early April, Rohingya volunteers had reportedly reached 2,863 community members in one week.

Connected via an online platform, the Women in Prison Network covers 21 countries and provides a safe space for advocates to share information and best practices, seek collaborations, and build capacity for improved monitoring and reporting of conditions in women's prisons worldwide. Examples of interventions and associated challenges at the local level to protect women in detention from the threat of the virus include:

- In Kenya, Network member *The FARAJA Foundation* is working to ensure access to water and providing soap and toiletries for women deprived of liberty in Nairobi. However, detention centers in Kenya do not provide freely accessible sanitary and cleaning products to women deprived of liberty and furthermore, the supply of water is not regular.¹⁷³
- In Mexico, Network members *WOLA and EQUIS – Justicia para las Mujeres* successfully advocated for an amnesty law that will lead to the release of thousands of prisoners convicted for minor offenses, including women detained on abortion charges. While the capacity of the Mexican prison system is 170,000, it currently holds 210,000 adult prisoners in facilities that do not offer adequate healthcare.¹⁷⁴

Global and regional partners can support national and local action through support to women’s groups and networks, as well as conducting research on emerging challenges, disseminating models for providing justice

and online legal aid services, and building a virtual forum where justice leaders can share experiences and learning, including impacts on women’s access to justice.¹⁷⁵

BOX 6:

EXAMPLES OF INNOVATIVE STRATEGIES FROM MEMBERS OF THE INTERNATIONAL ASSOCIATION OF WOMEN JUDGES

In **Trinidad and Tobago**, while there are general court closures, innovative approaches have been adopted to bring emergency justice services closer to the people. Women judges and court staff are working from home, using their computers and mobile phones as channels for conducting court proceedings. WhatsApp groups have been created among members of the Association of Women Judges (IAWJ) of the Caribbean. Electronic filing of documents is being promoted and as it relates to the prisons, container courts are stationed in prison yards to deal with urgent matters. In the **DRC**, there are a few court sittings during which minimum services are provided. Handwashing basins and sanitizers are provided at the main entrance of courts and offices. Judge Ayitoma Ilonga takes all protective precautions and engages in face to face meetings and sessions on a case by case basis. Administrative staff work on a rotating basis. In **Kenya**, Hon. Hannah Okwengu delivered 57 judgments and rulings of the Court of Appeal via video link. All decisions are subsequently available online within 48 hours. “For the criminal cases, I basically read the analysis and conclusion after a brief introduction for the benefit of the appellants who were also connected. For civil cases, I did not have to read, but a copy of the judgment was forwarded to the parties via email and also published on the Kenya Law website. We have learnt that technology is a sleeping giant in the dispensation of justice.”

Source: International Association of Women Judges (IAWJ), Webinar on “Comparative Discussion on COVID-19 and the Courts”, held on April 24th 2020 and <http://www.iawj.org/women-judges-respond-to-the-coronavirus-covid-19-pandemic/>



4

SECTION 4.
TEN-POINT POLICY
RECOMMENDATIONS
TO ENSURE WOMEN'S
ACCESS TO JUSTICE IN
COVID-19

SECTION 4:

TEN-POINT POLICY RECOMMENDATIONS TO ENSURE WOMEN'S ACCESS TO JUSTICE IN COVID-19

This report has placed a gender lens on the response of the justice system to women's justice needs in the wake of COVID-19, highlighting multiple threats to women's lives and livelihoods. The ten-point recommendations below, build on the Call to Action of the Justice for Women report and complement those highlighted in policy briefs and reports of various organizations. Measures needed to ensure a healthy justice system more generally are well covered elsewhere.¹⁷⁶ Adaptable by all stakeholders, the recommendations suggest ways in which justice systems can enable full access for women and girls.

Recalibrate justice delivery: There is need to ensure that justice institutions are fully responsive to the rights and needs of all population groups during this period of crisis. One example can be drawn from the UNODC and the United Nations Development Programme's (UNDP) Guidance Note on "Ensuring Access to Justice in the Context of COVID-19", which recommends three-part planning phases consisting of preparation, response, and recovery. Interrelated actions across these phases include the design of business continuity plans, establishing criteria for prioritization of cases, providing equipment and training to enable formal and customary court systems to function virtually, addressing case backlogs, and safeguarding access to social, psycho-social, economic, and legal services. To ensure that gender dimensions are not neglected, gender mainstreaming and women-targeted interventions are necessary to address justice gaps that women face.

Rights holders and duty bearers must be protected:

The Committee on the Elimination of Discrimination Against Women, the UN Special Rapporteur on violence against women, its causes and consequences and UN Special Rapporteur on the independence of judges and lawyers recommend attention to safe spaces, hotlines and instituting urgent judicial proceedings, especially serious crimes including domestic violence, using technology.¹⁷⁷ Pre-trial detentions should apply only in extraordinary circumstances and judges, magistrates, public prosecutors and their staff must be supported to perform their duties, including through COVID prevention and treatment measures.¹⁷⁸

Substitute full trials with interim orders: In place of full trials, courts can issue interim judicial orders to ensure the immediate safety and well-being of women and children. Examples of interim judicial orders of relevance to women as well as children include protection orders, restraining orders, orders for child maintenance and/or

custody, injunction against evicting widows and children from the matrimonial home, and injunction against the marriage of a child. Full trials can be initiated or adjourned until the end of the crisis period while such interim orders are utilized, enforced, and extended where necessary.

Protect women deprived of their liberty: To ensure the health and safety of women who are deprived of their liberty, pregnant women, imprisoned women with children, pre-trial detainees, elderly women, those with underlying health conditions, those detained for low-risk offences, and those with less than 12 months to serve on their sentence should be released on a case by case basis.¹⁷⁹ To avoid trapping women who are released from prison in economic and social distress, such measures should be accompanied by effective economic recovery and social welfare services. National guidelines related to the pandemic's prevention and treatment must be disseminated among women deprived of their liberty, including those under administrative detention. Basic human rights – adequate nutrition, water, and personal hygiene and protective supplies, communication with families must always be guaranteed. Furthermore, separate facilities for women and men and adolescent girls and adolescent boys must at all times be in place and staff dealing with those affected should be of the same sex.¹⁸⁰

Keep the repeal of discriminatory laws on track: Efforts must be made to use appropriate technology and social distancing methods to continue with parliamentary business,¹⁸¹ particularly the repeal of discriminatory laws. Prioritizing those which can worsen already existing precarious situations of women and girls during this period of COVID-19, discriminatory laws or provisions which should be considered for immediate review and repeal include statutory provisions which sanction child marriage, laws which prevent women from passing on their nationality to their spouses and/or children and those which deprive widows and/or children of the right to inherit and to be protected from eviction and abuse. The Commonwealth Parliamentary Association illustrates how parliamentary business can continue during the crisis through guidance provided in a recently published toolkit on practical methodologies of social distancing and use of technology.¹⁸² This challenge should be taken up by all parliaments across the world.

Include women as decision makers: Women judges, police, prosecutors, lawyers and legal aid providers, and associations thereof, play an important role in shaping the justice for all agenda.¹⁸³ In order to ensure that women effectively participate in decisions which impact on structural changes to the justice sector during this COVID crisis and beyond, women's participation in justice delivery should be increased to promote its transformational potential and the essence of equality before the law. Available data demonstrates that women constitute only 15.4 per cent of the police force globally¹⁸⁴ and while 28 countries have no woman justices at all, only 24 per cent of constitutional court justices globally are women.¹⁸⁵

Partner with customary and informal justice systems: Although accounting for over 80 per cent of disputes, customary and informal justice systems have been under-resourced and under-utilized in justice delivery.¹⁸⁶ In view of the long term impacts of the pandemic on the ability of formal courts to fully respond to women's evolving justice needs, more attention should be paid to customary and informal justice systems to ensure alignment of these systems with national COVID-19 guidelines and gender equality norms and standards. IDLO's forthcoming paper on "Navigating Complex Pathways to Justice: Women and Customary and Informal Justice" provides insights into methodologies for strategic engagement with such systems.¹⁸⁷

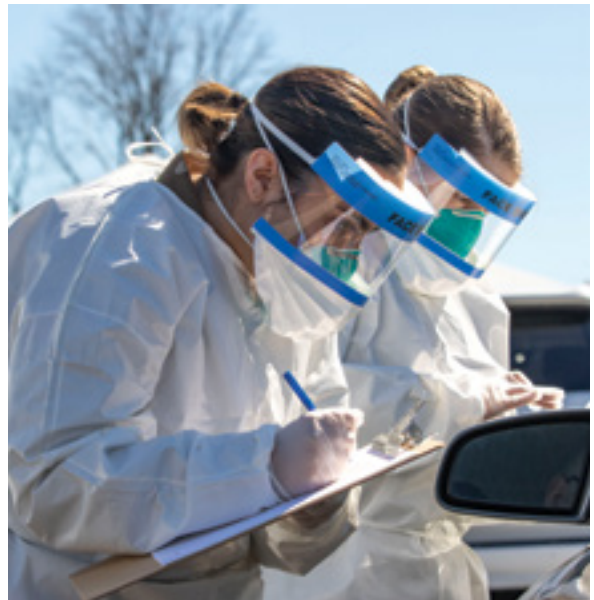
Address the digital divide and explore alternatives: Given the digital gender gap, technology must be made more accessible to poor women, while at the same time ensuring alternative routes to access justice for those who are digitally excluded. Community based paralegal organizations can fill these needs and gaps by providing legal advice, alternative dispute resolution, and disseminating information more broadly in partnership with women in the media and local radio stations.

Sharpen the leave no one behind agenda: Overcoming legal disadvantages for poor and marginalized women requires targeted legal empowerment policies and programs. Accessing legal aid can enable poor people to seek justice that would otherwise be out of reach.¹⁸⁸ Such services should be advertised extensively – in

public but also on TV, social media, public service announcements – so that women and their families know about them. This also suggests a strong role for women’s organizations, which are often part of strategic legal and justice networks in low and middle-income countries.

Invest in data and monitoring and evidence-based policies: It is critical to ensure that relevant data is collected for purposes of informed decision-making. As underlined in the recent The Pathfinders report, this

crisis is moving at lightning speed, and to be effective, justice leaders need timely access to relevant data and evidence on the justice impacts of COVID-19 and responses to it, as well as evidence on the extent to which all population groups are resolving their justice issues. Across the board, it is important to collect sex-disaggregated data to understand the social, economic as well as legal impacts of the pandemic on women and girls, especially at national and sub-national levels.



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Calculate an average per centage of male/female using the data from Global Health 5050.
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The COVID-19 pandemic has created a global emergency of multiple dimensions. In the several weeks since the pandemic has exploded around the world, a multitude of repercussions are emerging – beyond the threats to life and health associated with the virus itself. The urgent need to contain and mitigate COVID-19 has brought unprecedented disruption to the ways that people live and work, with most countries having introduced some form of social distancing, lockdowns, and quarantines.

There is major concern that COVID-19 and its impact will push back fragile progress on gender equality, including slowing progress in reversing discriminatory laws, the enactment of new laws, the implementation of existing legislation and broader progress needed to achieving justice for all.

Using a gender lens, the report documents major threats to women’s lives and livelihoods associated with COVID-19 – namely, curtailed access to justice institutions, rising intimate partner violence, threats to women’s rights to sexual and reproductive health, growing injustice for workers, discriminatory laws and lack of legal identity, as well as repercussions on forcibly displaced women and those deprived of their liberty.

Building on what we know about women’s existing justice needs, the report sheds light on ongoing policy responses and outlines policy recommendations for the period ahead.

