

GENDER AND HUMAN RIGHTS IN THE CONTEXT OF COVID-19 PANDEMIC:

FINDINGS FROM FOUR COUNTRIES

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Foreword

Human rights have always taken important steps forward following a deep crisis that has illuminated or aggravated gross violations of the dignity of persons. The COVID-19 pandemic has all the elements for being such a historically defining moment.

The pandemic with its massive impact on women and other persons in vulnerable situations at all continents offers the opportunity to end the long journey leading to a full recognition of all rights, political, economic, social, civil and cultural rights not only in words but also in deeds. Applying human rights in an interconnected and interrelated manner, human rights will contribute to addressing the inequality that has been dramatically accentuated during the pandemic. To roll it back, inequality needs to be addressed in all its complexities embracing economy, status and the inequality of attention. In order to ‘build forward fairer’ these dimensions will be part of what the UN Secretary General calls for in the ‘new social contract.’

This publication contributes substance to what should be integral part of a new social contract in relation to gender aspects. In a unique manner it analysis important elements of gender inequality in six articles covering four different countries – Cambodia, China, Ethiopia and Zimbabwe. The issues range from challenges in accessing sexual reproductive rights, handling of violence against women to child abuse. None of these issues are new but they have been severely aggravated during the Covid-19 crisis and thereby made the challenges so visible that the urgency to addressing them has become inescapable.

The articles also contribute to show ways forward when it comes to respecting, protecting and fulfilling the rights of women by duty bearers. But it does not stop here it also point to issues such as the change in child abuse from being something committed by persons outside the family to moving inside the family during the Covid-19 crisis. Here not only the authorities have to protect the girls but family strategies need to be developed to seriously prevent this gross abuse to become anchored.

As will be obvious to the reader all these elements in various ways have to become integral part of the future social contract that will have to be much stronger on gender equality than where societies came from before the Covid-19 crisis. This historical moment is a window of opportunity that should be seized in order to ensure gender equality for the future generations. However, this will not happen by itself only by concerted efforts by all genders at all continents based on good evidence and analysis as presented in this report.

Morten Kjørsum
Director RWI
August 2021

Chapter 1

Introduction

Şebnem Keniş¹

The COVID-19 pandemic, the most challenging global crisis humanity has faced since the Second World War, is reversing the significant gains made over the last decades towards gender equality. We are experiencing setbacks in girls' education, women's economic participation and empowerment, redistribution of care work, prevention of gender-based violence, and sexual and reproductive health, which are key areas to achieve gender equality. Attributing the damage to the COVID-19 alone would be wrong because countries that have stronger gender equality policies, more resourced social security, public health and care systems, and well-established violence prevention and protection mechanisms have been less affected by both the COVID-19 in general and its setbacks on gender equality. Responsibility for the damage on gender equality therefore mainly lies with the governments that failed at two levels, first, failed to build the resilience of our economies and societies through implementing gender-transformative public policies, and second, failed to take into consideration gender inequalities while designing COVID-19 response and recovery plans.

Better understanding how gender inequalities play role in this crisis and drawing lessons from the failures are imperative for all stakeholders, from public authorities to universities, from law enforcement to civil society organizations, to decide what they should do better and prioritize next, how response and recovery plans should be updated, and how they should allocate the resources. In June 2020, RWI launched the multi-country research initiative in collaboration with partner universities and researchers in six of RWI's programme countries -Belarus, Cambodia, China, Ethiopia, Turkey, and Zimbabwe-. The purpose of this research initiative is

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to contribute to a better understanding of the gendered human rights implications of COVID-19 through producing evidence-based policy-oriented knowledge. Researchers had designed and implemented fourteen independent research projects, covering a wide variety of subjects such as higher education, women's formal and informal employment, child rights, and sexual and reproductive rights. RWI had supported the research teams with grants, mentoring, capacity-building webinars, as well as editorial support. As a result of this initiative, fourteen papers have been produced, six of which are published in this e-publication, 'Gender and Human Rights in The Context of Covid-19 Pandemic: Findings from Four Countries', and the rest are posted as standalone papers on RWI's website. The findings and recommendations will be shared with decision-makers in dialogues to inform the planning and implementation of effective COVID recovery policies as well as the preparations for similar future crises. Six articles presented in this publication provide insights that can help to assess how best adverse effects on gender equality can be avoided and facilitate the planning and implementation of effective strategies and policies to this end.

In *Chapter 1 - Women's Access to Reproductive Health Services During the Covid-19 Pandemic in Zimbabwe*, Mavis Thokozile Macheka and Kundai Nhongo explores the impact of COVID-19 response measures on women's access to sexual and reproductive health and rights (SRHR) in Zimbabwe. The paper documents the problems reported by women and finds that women's access to such services including maternal and post-natal services, contraceptives, safe abortion, treatment of sexually transmitted diseases, and other SRH services and information has been severely impeded during the pandemic. As these SRH services were not included in the list of essential services except emergencies such as advanced labour during the lockdown, women had not been allowed to travel and were not admitted to clinics. The paper points out that travel restrictions, suspension of SRH services, fear of contracting COVID-19, and shortages of medication and other supplies due to the disruptions in the supply chain have led to serious SRH problems such as maternal or neonatal deaths, unwanted pregnancies, infections, adverse effects of changing contraceptives without a proper medical assessment, and deterioration or transmission of diseases. After outlining the challenges faced by women, the authors provide recommendations to incorporate SRHS into COVID-19 response and recovery.

In Zimbabwe where homosexuality is criminalized, and where discrimination, stigmatization, and/or violence against LGBTI+ individuals persist in the medical clinics as well as in the wider society, LGBTI+s have faced differentiated challenges in accessing SRHR during the pandemic. Munatsi Shoko examines these challenges in *Chapter 3 -Restrictions and Constraints in Zimbabwe: LGBTI individuals, access to sexual and reproductive health and rights services and COVID-19*. The study finds that testing, counseling, treatment, and medications for sexually transmitted diseases, cervical screenings, gender confirmation surgeries, hormone treatments, and other SRHR services have been hard to reach as public and

NGO-run service provision had been suspended during the lockdown and continue to be limited even after the measures are eased. Increased poverty, housing and food insecurity, and homelessness have forced households and individuals to adopt severe coping mechanisms in the absence of social security and safety nets. As Shoko points out, resorting to sex work to restore incomes, engaging in sex or marrying in exchange for food and shelter, residing with abusive partners, or returning to hostile family homes in the absence of other housing alternatives are among survival strategies that some Zimbabwean LGBTIs had to adopt without adequate social protection by the government.

Chapter 4 - The Effectiveness of Protection Orders for Addressing Domestic Violence During the COVID-19 Pandemic in China, written by Feng Yuan and Hao Yang, discusses how the protection mechanism underpinning China's anti-Domestic Violence Law has functioned during the pandemic in China. The research finds that domestic violence survivors had faced difficulties in filing complaints due to stay-at-home measures as well as in accessing judicial services, protection and support mechanisms, and legal advice due to the suspension of and delays in legal services, court hearings and protection-order judgments. Whilst some courts had rolled out digital solutions such as online application systems and virtual hearings to maintain their services, such solutions were not equally accessible for all women as the digital skills gap and lack of internet connectivity became serious barriers hindering access to online services especially by rural poor women. It is striking that the number of protection order rulings by the Chinese courts remained nearly the same in comparison to the previous years, while domestic violence cases reported to the local NGOs had increased dramatically (from two to three times compared to the previous years) during the pandemic. Feng and Hao note that pre-existing problems such as judges' lack of knowledge of anti-domestic violence law and inadequate preventive and protection mechanisms, combined with exceptional COVID-19 conditions had led to significant challenges for survivors' access to justice.

In *Chapter 5 - The Impact of COVID-19 on the Rights of Girl-child in Ethiopia: Towards Effective Protection from Sexual Abuse*, Asrat Adugna Jimma investigates whether the existing laws and policies and provisional measures introduced in the context of the pandemic are sufficient to protect girl-children from sexual abuse. The study reveals that the number of sexual abuse cases reported had increased following stay-at-home orders and school closures and that the identity of perpetrators of sexual abuse had significantly shifted from strangers to close family members. Jimma highlights that the pandemic has exposed the gaps in the legal and institutional framework that has long existed in this area and urges the Ethiopian decision-makers to pass a new sexual offenses legislation and introduce effective sexual abuse prevention and response policy to protect children from sexual abuse.

Globally, the burden of unpaid care work borne by women has dramatically risen due to the closure of schools and day-care facilities. This is confirmed by *Chapter 6 - Impacts of COVID-19 on Women's Rights to Work in China* written by Xiaonan Liu and Fan Yang. The authors

draw attention to the fact that many working mothers in China had to endure additional responsibilities of child-caring, cooking more meals, helping children with their courses, etc., and without any private working space for focusing on their own work. COVID-19 has deepened women's 'time poverty'. They indicate that work-life balance is hard to maintain especially for working-class mothers since more of the caring work is falling on them just at a time when the pandemic has reduced their income and livelihoods. They also point out a significant risk that some of the women who lost their jobs in the informal economy or had to quit their job to take care of their children might not return to work and enter the social assistance system. This would have long-term negative consequences for these women and their households and push them towards poverty. It would also jeopardize gender equality efforts in China.

Loss of jobs and livelihood and reduced income are recurring themes for women and LGBTI+s in China, Zimbabwe, and Ethiopia as discussed in Chapters 3, 6, and 7. The situation is dire especially for those working in the informal economy who are usually not entitled to COVID-19 support measures such as furlough schemes, tax reliefs, loan repayment extensions, etc.) that governments across the world have introduced for formal businesses and their employees. Owners of informal businesses – the majority of whom are women in developing countries – have found themselves in liquidation, extreme poverty, and food insecurity as they have not received any adequate financial support from the governments. In *Chapter 7 - The Impact of COVID-19 on Women Street-Vendors in Addis Ababa*, Tirsit Sahledengil examines the impact of the pandemic on women street-vendors in the Ethiopian capital Addis Ababa who lost most of their clientele and income during the pandemic. The article provides insight into the limitations of in-kind transfers (food distribution) and suggests some alternatives.

In *Chapter 8 - Gendered Impacts of COVID-19 on Higher Education in Cambodia: Perspectives of Female Lecturers and Students*, Boravin Tann and Sophorn Tuy discuss how remote learning and university closures had impacted female students' right to education and the teaching of female lecturers in Cambodia. After the closure of higher education institutions in March and November 2020, many Cambodian women students had to return to their family homes and continue their education remotely. The study found that limited digital and technological skills, internet connectivity problems, inability to access libraries, academic resources and teaching materials, and lack of silent spaces suitable for studying and participating in online classes were among the barriers undermined the quality of education. In addition, some women students had to drop out due to financial reasons and reduced household incomes. The authors note that women students coming from rural areas had been disproportionately affected by such problems. Also, not all but some women students and lecturers alike had to devote more time for increased household chores and caring responsibilities that are still traditionally expected from women in several households.

The articles record the negative human rights consequences of failure to address gender inequalities while making policy decisions in times of crisis. Based on the findings, the researchers provide recommendations that could help decision-makers to incorporate intersectional gender analysis in their plans and measures in their respective fields. We hope that the insights shared in this publication would contribute to a more gender-responsive recovery and resilience planning.

Chapter 2

Women's access to reproductive health services during the COVID-19 pandemic in Zimbabwe

Dr. Mavis Thokozile Macheka¹ and Kundai Nhongo²

Abstract

This paper assesses the impact of COVID-19 on women's access to reproductive health-care services in Zimbabwe. We seek to understand the existing COVID-19 response measures and their impact on women's access to reproductive health services in the country. The paper addresses this topic by adopting a qualitative approach in the form of a comparative analysis drawing on the experience of Bindura and Masvingo districts in Zimbabwe. The findings indicate that COVID-19 response measures that do not mainstream gender have devastating consequences on women's rights to access reproductive health-care services. The paper argues that legislative restrictions, the insensitivity of law enforcement agencies, the suspension of reproductive health services and the fear of contracting COVID-19 have all increased maternal mortality rates and led to a rise in unwanted pregnancies and complications due to backstreet abortions, among other consequences. The study recommends the adoption of a gendered and inclusive policy and practices to guarantee women's rights to reproductive health-care services in humanitarian situations.

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1. Introduction

The outbreak of the COVID-19 pandemic caused by the SARS-CoV-2 virus has impacted on the enjoyment of human rights and the realisation of the Sustainable Development Goals in many developing countries. Acknowledging the threat of COVID-19 to global economies, the World Health Organization (WHO) declared the disease a pandemic on 11 March 2020,³ and on 18 March 2020, the President of the Republic of Zimbabwe declared it a national disaster.⁴ While everyone has been affected by COVID-19, it appears that women have suffered the most due to underlying socio-economic and cultural factors, including limited savings, a lack of resources and the low levels of power they have in highly patriarchal societies.⁵ Similarly, during the Ebola outbreak in West Africa, women were less likely than men to have decision-making power regarding the outbreak, and their needs were largely unmet.⁶ As the whole world has been upturned by the COVID-19 pandemic, one fundamental aspect of women's rights that has and remains deeply impacted is their access to reproductive rights as enshrined in international human right instruments,⁷ as well as the Constitution of Zimbabwe (Amendment 20) of 2013.⁸

Ordinarily, during health emergencies, there is a total reversal of priorities, thereby affecting the availability, accessibility and affordability of sexual and reproductive health services (SHRS). This is particularly the case in resource-constrained poor countries. In countries like Zimbabwe, the COVID-19 pandemic has strained an already overburdened health system. While countries are trying to flatten the COVID-19 curve, communities should not be blinded into focusing all their attention on this pandemic while ignoring the risks of new infections and related challenges. It is also important to note that people do not cease to be sexual in the presence of a pandemic. This situation has been aggravated by the lockdown, which placed people in confined shared spaces for long periods of time. As Barot notes, women's needs do

³ World Health Organization (WHO), 'Coronavirus Disease (COVID-19) Outbreak Situation', <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>. Accessed 25 July 2020.

⁴ R. Makurumidze, 'Coronavirus-19 Disease (COVID-19): a case series of early suspects reported and the implications towards the response to the pandemic in Zimbabwe', 53 *Journal of Microbiology Immunology and Infection* (2020) pp. 493-498.

⁵ 'The Novel Coronavirus Pneumonia Emergency Response Epidemiology Team: the epidemiological characteristics of an outbreak of 2019 novel coronavirus disease (COVID-19)', 2 *China CDC Weekly* (2020) pp. 113-122.

⁶ S. Harman, 'Ebola, gender and conspicuously invisible women in global health governance' 37 *Third World Quarterly* (2016) pp. 524-541.

⁷ Article 25 of the Universal Declaration on Human Rights, Article 12 of the International Convention on Economic Social and Cultural Rights.

⁸ Section 76 of the Constitution of Zimbabwe

not suddenly stop or diminish during an emergency—in fact, they may become greater.⁹ In view of the foregoing, therefore, this study assesses the impact of COVID-19 on women's access to reproductive health-care, drawing on the experience of Bindura and Masvingo districts in Zimbabwe. This study asks the following research questions: What opportunities have women had to access reproductive health services (RHS)? What have been the challenges hindering women from accessing RHS? What policy and response options are there for ensuring women's access to quality reproductive health? These are significant questions when it comes to understanding the barriers that have obstructed Zimbabwean women's access to reproductive health services (RHS) during the pandemic.

The argument of this study is pursued through five distinct sections. The first section provides an introduction and contextual background. The subsequent section discusses the methodology that guides our study and the data collection tools we used. The third section discusses the available COVID response measures and explains how they have impacted on women's access to RHS, as well as establishing a context for section 4, which discusses the challenges preventing women from accessing RHS in Bindura and Masvingo District. Lastly we provide a conclusion to the discussion, as well as offering recommendations regarding women's access to reproductive health. Further in the conclusion, we focus on the policy and response options for ensuring women's access to quality reproductive health in Zimbabwe during disease pandemics.

2. Contextual Background

The global issue of reproductive health predates the more recent interventions of the Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs). First popularised by the International Conference on Population and Development (ICPD) held in Cairo in 1994, the issue of reproductive rights has been linked to human rights under international law, the focus being on empowering women and promoting individual choice.¹⁰ Furthermore, in 1995, the Fourth World Conference on Women confirmed the ICPD agreement and defined a number of women's rights, including the right to control and decide freely matters

⁹ S. Barot, 'In a State of Crisis: Meeting the Sexual and Reproductive Health Needs of Women in Humanitarian Situations', 20 *Policy Review* (2017).

¹⁰ A. M. Starrs, et al. 'Accelerate progress—sexual and reproductive health and rights for all: report of the Guttmacher–Lancet Commission'. 391(10140) *The Lancet*, (2018) pp. 2642-2692.

related to their own sexuality.¹¹ Though the issue of sexual and reproductive health rights (SRHR) has matured into a full-blown discourse, the lack of agreement on the language surrounding SRHR has become a challenge.

However, despite the launch of the MDGs in 2000, the framework did not integrate SRHR because of a concern that this could put the adoption of the Millennium Declaration at risk.¹² However, in 2007, a target was added to MDG 5 that called for universal access to reproductive health, with a focus on improving maternal health and meeting the unmet need for family planning.¹³ In keeping with the objective of ensuring access to RHS, the SDGs that the United Nations identified in 2015 included access to reproductive health as one of its targets. The SDGs explicitly mention sexual and reproductive health, including SDG target 3.7: ‘by 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.’¹⁴ Thus, accessing sexual and reproductive health has become a fundamental right in the 21st century, though it also poses a global challenge.¹⁵ As scholars argue, universal access to RHS allows everyone the right to obtain the services they need when and where they need them, including during pandemics and disasters, without facing any challenges.¹⁶

In Africa, the immediate solution was seen to lie in adoption of the Maputo Plan of Action (2007-2010) in 2006 in order to implement the Continental Policy on RHS, which is aligned with the strategic pillars of the African Union’s Agenda 2063.¹⁷ Furthermore, the Plan calls on African Union (AU) member states to enact policies, advocate SRHR, build the capacity of health-care providers and expand access to RHS in partnership with civil-society organisations,

¹¹ United Nations, ‘The Fourth World United Nations Conference on Women: Action for Equality, Development and Peace’, 4-15 September 1995 in Beijing, China, Women’s National Commission (UK).

¹² Starrs, Ekeh, Barker et al. *supra* note 8.

¹³ S. Seims, ‘Improving the impact of sexual and reproductive health development assistance from the like-minded European donors’, 19(38) *Reproductive Health Matters* (2011), pp. 129-140.

¹⁴ United Nations, ‘Transforming our world: the 2030, Agenda for Sustainable Development. A/RES/70/1. United Nations, New York (2015).

¹⁵ W. Mprah, ‘Perceptions about barriers to sexual and reproductive health information and services among deaf people in Ghana’, 2(1), *African Journal of Disability* (2013) pp. 1–7.

¹⁶ V. K. Chattu and S. Yaya, ‘Emerging infectious diseases and outbreaks: implications for women’s reproductive health and rights in resource poor settings’, 17(43) *Reproductive Health* (2020) pp. 1-5.

¹⁷ Commission African Union: Plan of action on sexual and reproductive health rights, 2007-2010 (Maputo Plan of Action). (2006).

the private sector and development partners.¹⁸ In 2016, African nations further adopted a revised Maputo Plan of Action and committed themselves to ‘universal access to comprehensive sexual and RHS in Africa’.¹⁹

In Zimbabwe, some progress has been made to ensure access to RHS through the 2006 National Reproductive Health Policy which offers services such as maternal health, family planning, treatment for sexually transmitted diseases, including HIV and AIDS, and adolescent reproductive health.²⁰ However, the failure to ensure that women have access to RHS during emergencies exposes them to poor reproductive health and the increased risk of physical and sexual violence. Indeed, the realisation of women’s right to access RHS depends on accessible and affordable reproductive health-care. Despite this acknowledgement, women’s experiences in accessing RHS in disaster situations remain undocumented.

Zimbabwe’s responses to the COVID 19 pandemic must also be understood in the context of the place of gender in pandemic studies more generally. Existing such studies have barely concentrated on women’s access to RHS. More often than not, they are more concerned to decipher the gendered nature of the effects of disasters on communities. Existing studies explain how women face a myriad of challenges in pandemic situations, including increased gender-based violence, and limited access to basic needs and services.²¹ During public health emergencies caused by cyclones and disease outbreaks, resources are often diverted from routine health-care in order to contain and respond to the outbreak.²² The shift in focus and limited resource re-allocations can have a huge blow on women’s access to SRHS, including clean and safe delivery, contraceptives, and pre- and post-natal health-care.²³ Those most affected are poor women and those with unique sexual and reproductive needs, including pregnant women, adolescent girls and those living with disabilities (PWDs). For pregnant women, the challenges often result in birth complications that are often fatal to both the mother and the unborn child.²⁴ All pregnant women require good quality and timely health-care,

¹⁸ Ibid.

¹⁹ S. Thijssen, J. et al ‘Sexual and reproductive health and rights: opportunities in EU external action beyond 2020’ 254 *Discussion Paper* (2019).

²⁰ T. Rugoho, and F. Maphosa, ‘Challenges faced by women with disabilities in accessing sexual and reproductive health in Zimbabwe: The case of Chitungwiza town’, 6(0) *African Journal of Disability* (2017) pp. a252.

²¹ J. Smith, ‘Overcoming the “tyranny of the urgent”: integrating gender into disease outbreak preparedness and response’, 27 *Gender Development* (2019) pp. 355–369.

²² Gender in Humanitarian Action (GiHA), “The COVID-19 Outbreak and Gender,” GiHA Working Group, (2020).

²³ UN Population Fund (UNFPA), ‘As COVID-19 Continues to Spread, Pregnant and Breastfeeding Women Advised to Take Precautions,’ <https://www.unfpa.org/news/covid-19-continues-spreadpregnant-and-breastfeeding-women-advised-take-precautions>, 15 October 2020.

²⁴ Smith, *supra* note 19.

without which outcomes can be fatal.²⁵ For example, in three crisis-affected situations in Sub-Saharan Africa, only five of 63 assessed health facilities provided adequate emergency obstetric and new-born care, and only three made any provision for the clinical management of rape.²⁶

Even with this acknowledgement of women's challenges amid pandemics, there are few studies evaluating the implications of pandemics like COVID-19 on women's access to reproductive health.²⁷ Recognising the extent to which outbreaks of disease affect women and men differently is a fundamental step in understanding the primary and secondary effects of a health emergency on different individuals and communities, as well as in creating effective, equitable policies and interventions.²⁸ Without research on women's experiences in accessing RHS, policy and practice remain starved of informed and proactive information positively and appropriately addressing women's access to these fundamental rights and needs. By documenting the impact of COVID-19 from the women's perspective, this study will inform and direct policy-makers in drafting policies and risk-reduction measures that positively and adequately address women's difficulties in accessing RHS during disasters and pandemics like COVID-19.

This study therefore seeks to determine the extent of women's access to RHS in the face of COVID-19 by concentrating more on the gender-responsive nature of COVID-19 response measures and the practices and challenges to women's realisation of their fundamental right to reproductive health-care in times of crisis. This analysis of gender increases the body of knowledge that is critically needed in Zimbabwe at this point in time when the country, and indeed the rest of the world, is battling the deadly coronavirus, which has killed hundreds of thousands of people and has the potential to widen existing gaps in inequality within communities. It is therefore hoped that this research will contribute to a better understanding of women's access to SRHR services, particularly during a pandemic.

3. Methodology

²⁵ WHO, 'Managing complications in pregnancy and childbirth: a guide for midwives and doctors. http://whqlibdoc.who.int/publications/2007/9241545879_eng.pdf?ua=1, 27 September 2020).

²⁶ C. Reis 'Taking stock of reproductive health in humanitarian settings: 2012–2014 Inter-Agency Working group on reproductive health in crises' *Conflict and Health* (2015).

²⁷ S.E. Davies and B. Bennett, 'A Gendered Human Rights Analysis of Ebola and Zika: Locating Gender in Global Health Emergencies', 92, (5) *International Affairs* (2016) pp. 1041-1060.

²⁸ C. Wenham, et al. 'COVID-19: the gendered impacts of the outbreak', 395 *Gender and COVID-19 Working Group*, (2020).

This study was conducted in Bindura and Masvingo Districts, Zimbabwe. It adopted a qualitative approach. Qualitative research uses any methods that rely upon primary source materials, where very often the “data” are not numerical.²⁹ The approach was chosen because it is subjective and holistic and therefore capable of adjustment in response to the data collected. Furthermore, the approach permitted the study of everyday life for different groups of women and communities in their natural setting. Data for the study were gathered through a combination of document review and interviews.

This qualitative study commenced with an examination of secondary sources in order to acquaint the researchers with the available literature on women’s access to RHS and the humanitarian crisis. With regard to the document review, the study reviewed journal articles, laws, policies and guidelines concerning the COVID-19 response mechanisms. Published and unpublished literature on this discourse was consulted. Data from the literature review were bolstered with interviews with a total of thirty participants. The study consisted of five purposively sampled key informants and 25 purposively and conveniently selected women in Zimbabwe living in the two towns of Bindura and Masvingo. Among these were disadvantaged women, adolescent girls and females with disabilities.

Five of the key informants were state actors and non-state actors representing the Ministry of Health and Child Care, the Zimbabwe National Family Planning Council (ZNFPC), the National Aids Council Zimbabwe and community health-workers (CHW). They were chosen in order to understand and evaluate the gendered aspects and inclusive nature of their COVID-19-related policies and practices. We engaged the ZNFPC because it is responsible for sexual RHS in the community. The Ministry of Health and Child Care was involved because it is mandated by an Act of Parliament with the responsibility for health issues. The National Aids Council Zimbabwe coordinates the national strategy in response to HIV and AIDS in Zimbabwe.

In-depth interviews were conducted with women of reproductive age from both rural and urban areas of Bindura and Masvingo. Whereas randomised sampling would have been a better method of countering bias, particularly in deciding which participants to include in the study, purposive and convenient sampling was used to ensure that only information-rich informants were recruited. These women were picked in order to understand their experience of accessing health services. They were also included because they had experienced everyday challenges and barriers when they tried to access sexual RHS during the COVID-19 pandemic. Some of the interviews were conducted virtually, for example, by telephone or as Zoom interviews. The selected participants all possessed in-depth knowledge about access to SRHS because all women of reproductive age in these communities have been educated in reproductive health

²⁹ J. S. Yates (ed), *Doing Social Science Research* (Sage Publications in association with the Open University Press, London, 2004).

by ZNFPC through workshops and training sessions. Furthermore, community health workers are employed who educate women on their rights to access SRHS, services these women were already accessing before the pandemic. Participants were allowed to choose their preferred language for the interview.

In conducting this study, ethical guidelines for research were strictly adhered to. Since the study was carried out during the COVID-19 pandemic, data collection followed the WHO and Ministry of Health guidelines to keep a physical distance of one metre. We also provided face masks and sanitisers to the study's participants. A wide range of other ethical issues, including debriefing, informed consent, voluntary participation, confidentiality and respect for culture, were also considered. Debriefing entails explaining to the participants the full nature of the research to be undertaken.³⁰ We debriefed the participants and ensured that they understood the research in all its dimensions. The research participants were given a choice over whether to participate or not and were not coerced into doing so. We drafted an informed consent form for every participant to sign to verify that they were participating in the research voluntarily. Confidentiality and anonymity are also crucial ethical issues to consider when carrying out research. Participants were told that their participation and private information would remain confidential and that the researchers would avoid disseminating sensitive information that could be used to match their personal information with their true identities.

Data were analysed by means of a thematic analysis. This procedure entails the capture, coding and analysis of the collected information into themes. When planning the presentation of qualitative data, the data should be verified as subjective, interpretative, descriptive, holistic and copious.³¹ The data were structured in accordance with the themes that had emerged. As these only became apparent as the study progressed, we prioritised the theme of women's access to RHS during the pandemic. The following themes, namely legislative restrictions and reproductive health rights, the insensitivity of law-enforcement agencies, the suspension of RHS and the fear of contracting COVID-19, were the major recurrent themes identified during data analysis.

4. Women's Opportunities to Access Reproductive Health Services during the COVID-19 Pandemic in Zimbabwe

³⁰ M. N. Makore-Rukuni, (ed), *Introduction to Research Methods*, (ZOU, Harare, 2001)

³¹ D. R. Cooper and P.S. Schindler (eds.), *Business research methods* (8th edn.). (McGraw-Hill, Boston, 2003)

4.1 COVID-19 Regulatory Frameworks and Reproductive Health Rights

The COVID-19 outbreak was declared a public health emergency of international concern on 30 January 2020.³² Recognizing the global threat of the COVID-19 outbreak, the WHO put in place several regulatory frameworks to address the challenge and came up with several blueprints as guidelines for the world's countries to follow in responding to the pandemic.³³ As the pandemic continued to spread and kill more and more people all over the world, the WHO introduced a further document in March 2020³⁴ in which it makes reference to reproductive health rights and asks the world's nations to prioritise essential services to ensure continuity of service delivery. In respect of reproductive health, the document specifically mentions care during pregnancy and childbirth as high priority areas. However, these two documents did not explicitly address the issue of the right to reproductive health in detail, as the focus of the blueprints was too narrow to do so meaningfully. Nor were any gendered responses included in the document.

Between March and May 2020, the effort to contain COVID-19 remained strong, as the pandemic impacted negatively on all communities, including the vulnerable. To address the challenges, the WHO issued a third blueprint in May 2020³⁵ in several sections of which it developed a much broader approach to reproductive health rights. Specifically, it stressed that services for sexual and reproductive health, maternal, newborn, and child and adolescent health, and the health of the elderly will require modifications as access to and the availability of essential services shifts during the COVID-19 outbreak. It acknowledges that user preferences regarding contraceptive methods may change in the circumstances of the COVID-

³² World Health Organization,) <https://creativecommons.org/licenses/by-nc-sa/3.0/igo>, 10 August 2020.

³³ The immediate action from WHO was to develop the 'COVID-19 Strategic Preparedness and Response Plan Operational Planning Guidelines to Support Country Preparedness and Response' on 12 February 2020. The objective of the document was to provide a practical guide for the United Nations country teams and partners to develop a Country Preparedness and Response Plan to immediately support national governments in preparing for and responding to COVID-19.

³⁴ 'COVID-19: Operational guidance for maintaining essential health services during an outbreak, Interim guidance', 25 March 2020. This document builds on the content of the February 2020 document. It provides guidance on a set of targeted immediate actions that countries should consider at the national, regional, and local levels to reorganize and maintain access to essential quality health services for all.

³⁵ 'Community-based health care, including outreach and campaigns, in the context of the COVID-19 pandemic Interim guidance.' This specifically addresses the role of community-based health care in the context of the pandemic and outlines the adaptations needed to keep people safe, maintain continuity of essential services and ensure an effective response to COVID-19.

19 pandemic, based on potential disruptions to supply chains and limitations on access to health-care facilities. The WHO also made several recommendations.³⁶

The WHO can also be applauded for stressing the issue of the provision of sexual reproductive health on 1 June 2020, when it issued yet another blueprint³⁷. This document outlines the adaptations needed to keep people safe and maintain the continuity of essential health services during the response to the COVID-19 pandemic.³⁸ They acknowledged scholarly arguments that even a 10 percent reduction in these services could result globally in an estimated 15 million unwanted pregnancies, 3.3 million unsafe abortions and 29,000 additional maternal deaths during the next twelve months.³⁹ These provisions indicate that the WHO realizes that existing gender and social inequalities are being exacerbated in the context of the pandemic, impacting girls and women in different ways than men and boys. Due to the COVID-19 crisis, affected women and girls face additional barriers in accessing humanitarian services, particularly sexual and RHS and health-care support.⁴⁰ Furthermore, it is argued that the failure to protect vulnerable groups puts them at a greater risk of infection and undermines the broader response to COVID-19.

In Africa, the first case of COVID-19 was recorded in Egypt on 14 February 2020. Subsequently, the African Union (AU) came up with a number of responses and issued a

³⁶ ‘Digital decision support tools to assist the community health workforce to safely provide contraception’. Facility-based maternal and newborn health services, including antenatal care (ANC), childbirth and postnatal care (PNC) and the management of maternal and neonatal complications, should continue to be prioritised throughout the pandemic. ANC, childbirth and PNC services in the community be provided by skilled health personnel, including professional community midwives, who should have access to appropriate personal protective equipment (PPE) and Infection Prevention and Control strategies.

³⁷ ‘Maintaining essential health services: operational guidance for the COVID-19 context Interim guidance’. This document expands on the content of the essential health services and systems pillar of the COVID-19 strategic preparedness and response plan: operational planning guidelines to support country preparedness and response supersede the earlier operational guidance for maintaining essential health services during an outbreak, and complements the recently released community-based health care, including outreach and campaigns, in the context of the COVID-19 pandemic.

³⁸ Countries should ensure universal access to SHRS in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action are key SDG targets (3.7 and 5.6).

³⁹ T. Riley, et al, ‘Estimates of the potential impact of the COVID-19 pandemic on sexual and reproductive health in low- and middle-income countries’, 46 *International Perspectives on Sexual Reproductive Health* (2020) pp. 73–76.

⁴⁰ Interim Guidance: Gender Alert for COVID-19 Outbreak’: <https://interagencystandingcommittee.org/inter-agency-standing-committee/interim-guidance-gender-alert-covid-19-outbreak-developed-iasc>, 16 September 2020.

number of legal frameworks and documents.⁴¹ The region acknowledged that women are suffering a double marginalisation in the face of the pandemic since resources are normally diverted from routine health services. Furthermore, the AU acknowledges that women's health-care needs, such as regular access to contraceptives, might be compromised and that pregnant women might be at a greater risk of not having access to antenatal care when they stay away from health facilities due to quarantine restrictions or fears of contagion and misunderstandings about virus transmission.⁴² Interestingly, the AU gender document did not discuss the SRHR of women further, despite highlighting the anticipated challenges.

With regard to Southern African Development Community (SADC) and Zimbabwe, the response measures against COVID-19 are silent on SRHR, as these guidelines and legal instruments have not been domesticated so as to include gender and SRHR implementation strategies for the national COVID-19 response, thus affecting women's access to reproductive health services during the pandemic. While SADC recognises that in the midst of combating the pandemic countries may overlook the abuses women and girls suffer, it has not provided any guidelines or legal instruments on SRHR during the pandemic, merely producing a statement that governments and law-enforcement establishments should not neglect the issue of increased gender-based violence during the crisis.⁴³ In Zimbabwe, the issue of access to RHS is neglected in various Statutory Instruments passed as a response to the pandemic. These flawed legal instruments, namely SI 77 of 2020, SI 83 of 2020 and SI 99 of 2020, among others, have adversely affected women's rights to RHS. An assessment of Zimbabwe conducted by the UN shows that women's and especially adolescent girls' reproductive rights are likely to remain unmet as the government re-prioritizes its expenditure, including in the health sector, in order to fight the pandemic.⁴⁴

Despite this, women's experiences in accessing RHS in different geographical areas were not considered. WHO documents make reference to the provision of RHS but are silent on the issue of access given the lockdown restrictions in different countries. One example is the issue of digital decision-making support tools, which are not available in many African countries

⁴¹ Africa Taskforce for Coronavirus (AFCOR), Africa Joint Continental Strategy for COVID-19 Outbreak among others. Again, AU member countries agreed on 19 June 2020 to produce the AU guidelines on gender-responsive response to COVID-19.

⁴² African Union (AU), 'Framework Document on the Impact of Covid-19 on Gender Equality: AU Guidelines on Gender-Responsive Responses to Covid-19', AU Headquarters, Ethiopia (2020).

⁴³ Statement by the SADC Executive Secretary, H.E. Dr Stergomena Lawrence Tax on Covid-19 and Gender Based Violence and Domestic Violence April 2020, 19 July 2020.

⁴⁴ Policy Brief 01/2020, A Preliminary Assessment of the Socio-economic Impact of Coronavirus (COVID -19) on Zimbabwe.

because of poverty. Many women cannot afford digital tools for such a facility, further affecting their access to this basic right.

5. Challenges Hindering Women from Accessing Reproductive Health Services in Bindura and Masvingo Districts

While there are sections and provisions in WHO and AU documents adopting a gendered approach during COVID-19, as we have noted, women face challenges in accessing RHS. Interviews held with women of reproductive age and key stakeholders revealed that the most common types of RHS are pregnancy monitoring, access to family-planning services, sexual infection-testing and treatment, pregnancy testing, counselling on gender-based violence and HIV/AIDs, and access to affordable sanitary products. However, in Bindura and Masvingo access to these services was disrupted during the COVID-19 lockdown. Women therefore turned to community midwives for pregnancy-related issues or used traditional herbs for the treatment of STIs, while some bribed health personnel to give them services, though the majority had no option but to suffer the consequences. The following sub-sections discuss the challenges that prevent women obtaining their rights during the lockdown, namely legislative restrictions, the insensitivity of law-enforcement agencies, the suspension of RHS and the fear of contracting COVID-19.

5.1 Legislative Restrictions and Reproductive Health

Women's access to RHS was mainly affected by restrictions on their movements. On 23 March 2020, the GoZ issued Statutory Instrument 77 of 2020 Public Health (COVID-19 Prevention, Containment and Treatment) Regulations, 2020, imposing restrictions on public traffic and the movements of persons by introducing curfews in any local authority.⁴⁵ Furthermore, the regulatory framework stated that any person who disobeys or fails to comply with an order made in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level 12 or imprisonment for a period not exceeding one year or both.⁴⁶ Respondents cited the challenge of accessing health-service centres due to these lockdown restrictions. It was not

⁴⁵ Section 8(a) of Statutory Instrument 77 of 2020. [CAP. 15:17 Public Health (COVID-19 Prevention, Containment and Treatment) Regulations, (2020).

⁴⁶ Section 8 k (2) *ibid*.

permitted to travel anywhere without valid documentation stating that one had an emergency health issue. The following interview excerpt sheds more light on this problem: “It was difficult for women to travel to a health service centre or to access health-service centres. We recorded a low turnout of women seeking services from our district office during the lockdown, which ran for 21 days from March 2020.”⁴⁷

There are also community health workers (CHW) in the districts responsible for assisting women and men in their vicinity with RHS. However, getting help from them was not an option either during the lockdown. The available statutory instruments relating to COVID-19 prohibit all gatherings and visits to CHWs, who were also subject to lockdown and therefore not offering any RHS. As one health-worker stated, “Reaching out to women during lockdown was almost zero as the extension community workers could not move freely around the communities with services and other critical information because of the statutory instrument restrictions”.⁴⁸

This is evidence of the limited access to RHS as a result of the restrictions placed on movement by the government. Movement was basically prohibited to everyone, but for women it meant a denial of rights to RHS. The restrictions not only repudiated women’s rights but were detrimental to their health. In Ward 10, Masvingo District, one woman emphasized that most of the women in her District had failed to renew their family-planning methods. She complained that she was denied access to family-planning pills and as a result was five months pregnant at the time of the interview. This led to conflicts in her marriage: “My husband is denying responsibility for this pregnancy and is blaming me for the unplanned pregnancy. I do not know what I am expected to do, since it was also very difficult to access pharmacies for the pills”.⁴⁹

These experiences are not unique to Zimbabwe. Efforts by governments to contain the coronavirus outbreak cause interruptions to other services and divert other resources, including RHS. Scholars who previously studied women’s access to reproductive services in Colombia have recommended that any plan to address pandemic viruses should go beyond classic health-related actions or vector-control strategies (such as improving living conditions and water sources) to incorporate actions that address sexual and reproductive rights as well.⁵⁰ Scholars argue that if governments need to address the epidemic, they should recognize that pandemic viruses affect women and men differently. As with COVID-19, the Ebola outbreak in 2014

⁴⁷ Interview with National Family Planning Council officer, Bindura, 2020.

⁴⁸ Interview with Ministry of Health official, Masvingo, 2020.

⁴⁹ Interview with Mrs. Tonny, Masvingo, 2020.

⁵⁰ L. J. Forero-Martinez et al, ‘Zika and women's sexual and reproductive health: critical first steps to understand the role of gender in the Colombian epidemic’ 148 (Suppl. 2) *International Journal of Gynecology and Obstetrics* (2020) pp. 15–19.

revealed that gender issues and women's SRHR were conspicuously absent from both the short- and long-term international responses to the outbreak.⁵¹ In order to continue the effective supply of RHS to women during such pandemics, governments should include them as a priority in the national responses to pandemics. As Chattu and Yaya note, the failure to include these issues has exacerbated the health inequalities and social injustices that women were already facing.⁵² It is therefore important for governments to adopt and devise gendered and inclusive policies and practices to enable women to obtain their rights to RHS in humanitarian situations.

5.2 Insensitivity of Law Enforcement Agencies

The insensitivity of law-enforcement agencies in respecting the SRHR of women during the lockdown is another impediment that has affected the movement of women in seeking RHS. The government of Zimbabwe has passed legislation authorizing the police and other security services to enforce the COVID-19 regulations. The police, who were tasked with restricting movement from one place to another, did not prioritise women's reproductive health needs or even consider access to RHS to be essential. Consequently, the process of accessing health facilities and services was difficult for women. The following vignettes shed more light on this problem:

I finished family planning pills on 10 April 2020 but failed to proceed to the clinic to get the pills because of the attitude of the police officers. A police officer who was manning a security roadblock rudely demanded an authorisation letter allowing me to travel. I did not have the letter and was asked to go back home.⁵³

The police officers were not prepared to entertain issues relating to RHS. He rudely told me that getting family-planning pills is not essential. Why are you bothering us with petty issues; you are wasting our time with useless issues?⁵⁴

"I failed to have the routine check-up for my pregnancy because I did not have an authorisation letter from the police officer in charge or a medical doctor. The only way to get the required letter was to go to town, but then I was denied access to town. The officers were not considerate of my plight and just denied me access to town. Further to that, one female officer roughly said, 'You are not even in labour, so go back home'. Unfortunately, two days later, I had

⁵¹ Chattu and Yaya, *supra* note 14.

⁵² *Ibid.*

⁵³ Interview with Ms. Bee, Masvingo, 2020.

⁵⁴ Interview with Gale Masvingo, 2020.

This shows that lack of access to hospitals for pregnancy-monitoring purposes affected women a great deal. The insensitivity of the security personnel went unchecked and led to stillbirths in communities. These are among the sad realities experienced by Zimbabwe women during the pandemic. Furthermore, because of the insensitivity of the security officers, a number of women resorted to traditional medicines to treat any reproductive health ailment. As one woman recalled, “I was infected by gonorrhoea, and I knew that the police and soldiers at the roadblocks would not let me pass to go to hospital. So I visited Granny Marujata from my neighbourhood for herbs to treat the ailment. This helped me for a short while because I was still feeling the itching and some irritation. But antibiotic pills from the clinic would have helped me better.”⁵⁶

These experiences by women exposed them to new infections in the form of sexually transmitted diseases. Some women had to access contraceptives from informal sources, which might not have been their usual method of obtaining them, and they suffered serious adverse health effects as a result. One respondent in Bindura District narrated how she experienced irregularities in her menstrual cycle:

My *jadelle*⁵⁷ was expiring at the end of March and was to be renewed at the local clinic, which is almost five kilometres from my home. However, I did not have any mode of transport to get there, and I was also afraid to go there because of the roadblocks. The soldiers were merciless on the roads. I had to resort to my neighbour to lend me some contraceptive pills as an alternative method: little did I know that it would cause me a lot of bleeding.⁵⁸

A CHW in Ward 15, Masvingo District, stated that she recorded five unwanted pregnancies, two miscarriages and five women giving birth in unsanitary and risky environments. These restrictions also led to increased maternal mortality and morbidity, since there was no postpartum care.

5.3 Suspension of Reproductive Health Services

In spite of the fact that the WHO had issued blueprints mandating the world’s countries to ensure universal access to RHS, country-specific regulations did not prioritise this. The Ministry of Health and Child Care in Zimbabwe scaled down its operations to attend to critical

⁵⁵ Interview with Mrs. Zendi, Masvingo, 2020.

⁵⁶ Interview with Mrs. Zingoni, Bindura, 2020.

⁵⁷ The *jadelle* is a birth-control implant.

⁵⁸ Interview with Rhoda, Masvingo, 2020.

conditions during the lockdown. For women specifically, only those with suffering emergencies, such as giving birth, were allowed into clinics to access services; other women were turned away.

*“Women who were in labour were the only ones accepted for admission. Shortly after giving birth, the women were discharged. The restrictions did not allow post-natal care for women, and that poses a serious threat to their reproductive health. Post-natal care is very critical to ensure that the reproductive system is taken care of properly after a woman gives birth.”*⁵⁹

Women from the Bindura and Masvingo communities who somehow managed to access health facilities found they were not seen to when they got there. The respondent from the Ministry of Health and Child Care stressed that non-maternity issues were suspended during the lockdown. Most RHS were considered non-critical and were therefore neglected. However, evidence from the women in Bindura who were affected revealed that not all maternity cases were attended to at the clinics. One woman lamented that “Not all maternity cases were admitted into the health-care facilities: a lot of cases were turned away. Some women were told to come back when they were in advanced labour. The majority who were turned away failed to make it back to the clinic on time and lost their lives, and some lost their babies because of neglect.”⁶⁰

Similar challenges were experienced in Masvingo District. The health-workers were equally insensitive to the needs of the women during lockdown, as they refused to treat any case they did not consider an emergency. One woman said that she was turned away at a local clinic but saved by a community midwife. She also revealed: “If it was not for Granny Choto, I would have lost my child. I went to the clinic but was told that we are not admitting any person at the clinic because of COVID-19. One nurse further explained that they do not have PPE to use, so they did not want to risk their lives.”⁶¹

In both Bindura and Masvingo, a number of women gave birth at home with the assistance of community midwives. In Bindura, for example, many pregnant women had to pay a bribe in order to be admitted to the local clinics, otherwise they were turned away unless the patient was in labour. One woman explained that “Pregnant women were asked to pay between USD20-50 as bribe to be accepted at local clinics. For those who tried to go to private hospitals the maternity fees ranged between USD300-500 for a normal birth, a fee which was beyond the reach of many people.”⁶²

⁵⁹ Interview with Mrs. Jay, Bindura, 2020.

⁶⁰ Interview with disabled woman Zie, Bindura, 2020.

⁶¹ Interview with Grace, Masvingo, 2020.

⁶² Interview with community health worker Jue, Bindura, 2020.

A nurse at a local clinic confirmed this and emphasized the gravity of the challenges faced by women during the lockdown because most clinics were under-staffed, and the nurses took it in turns to attend to critical emergencies. Moreover, “The clinic was also ill-prepared and had no adequate PPE in case of COVID-19 suspected or related cases, hence the need to attend only to emergency cases. RHS were thus not considered key during the period.”⁶³

Similar challenges were experienced by CHWs. They were not equipped with the necessary PPE to attend to those needing their services, nor were they stocked with basic supplies such as contraceptives. The situation was made worse by the closure of the Zimbabwe National Family Planning Council (ZNFPC) Office and the National Aids Council Zimbabwe in the country because of the lockdown. The National Aids Council Zimbabwe announced that it had suspended HIV testing because of the danger of new infections and reinfections among women of reproductive age. An official from ZNFPC also pointed out that “Activity was very low during the COVID-19 lockdown such that the family planning office was [only] partially functional. Lockdown poses serious challenges since it was not permitted to gather women to conduct RHS sessions as on any normal day.”⁶⁴

A girl from Masvingo District confirmed this by revealing that a number of women and girls had had unplanned and unwanted pregnancies due to their lack of access to family-planning services. She lamented further that

*I had unprotected sex with the hope that I will use the ‘morning-after pill’ the following day. Unfortunately, I failed to get the pills because there was no service at family planning or at the local clinic. I was even told that my case was not an emergency. I am now three months pregnant. My friend from the neighbourhood is also two months pregnant.*⁶⁵

Similarly, a recent analysis of the COVID-19 pandemic in China and India highlights possible shortages of medication and other supplies, such as contraceptives, antiretroviral drugs for HIV/AIDS and antibiotics to treat STIs due to disruptions to their supply chains (e.g. the shutting down of several drug-manufacturing plants in China due to COVID-19, causing delays to the production of generic medicines in India).⁶⁶ Thus researchers recommend that policy-makers, care-providers and advocates should be aware of the broad links between the global

⁶³ Interview with Nurse Far, Masvingo, 2020.

⁶⁴ Interview with ZNFP official, Bindura, 2020.

⁶⁵ Interview with Gladie, Masvingo, 2020.

⁶⁶ Z. Ahmed and A. Sonfield, ‘The Covid-19 outbreak: potential fallout for sexual and reproductive health and rights. Guttmacher Institute’, (2020). <https://www.guttmacher.org/article/2020/03/covid-19-outbreak-potentialfallout-sexual-and-reproductive-health-and-rights>, 16 March 2020.

response to the outbreak and SRHR in order to prepare mitigation strategies.⁶⁷ Action Canada for Sexual Health and Rights has also emphasised the concerns regarding the increased waiting times to access SRHR services, the difficulties in accessing SRHR medication (including contraceptives, hormone therapy, HIV treatment and increased health risks), and the increased health risks experienced by pregnant and immune-compromised people.⁶⁸

These experiences reflect the fact that African and other global governments' responses to pandemics often do not consider their gender impacts and do not seriously consider their disastrous impacts on women's rights to RHS. Though efforts are being made by the WHO to make governments aware of the need to ensure women can access RHS, only limited efforts are being made by some countries' governments, including Zimbabwe, which are not prioritising SRHR.

5.4 The Fear of Contracting COVID-19

The challenges mentioned above, coupled with the fear of contracting COVID-19 among health-workers and women, thus impact heavily on women's access to RHS. Health personnel and the general public are afraid of the pandemic to such an extent that they prefer to self-isolate. Since the virus is primarily transmitted through person-to-person contact, health personnel are also afraid, and most health facilities closed. As one health official stated, "Local clinics were opened specifically for emergencies. As for the National Aids Council Zimbabwe, they also announced that they have shelved HIV testing, among other activities."⁶⁹ Similar sentiments were shared by other women regarding access to reproductive services during the pandemic:

*It is better to be pregnant than to contract coronavirus. I failed to go and collect the family-planning pills from the clinic because I was afraid of contracting COVID-19. Who cares about family-planning when there is a deadly disease?*⁷⁰

There was no need for me to go for sexually transmitted infection treatment during the lockdown. I preferred to use traditional herbs than to go there and

⁶⁷ Ibid.

⁶⁸ Chattu and Yaya, *supra* note 14.

⁶⁹ Interview with health official Jean, Masvingo, 2020.

⁷⁰ Interview with Ms. Betty, Masvingo, 2020.

*get coronavirus. COVID-19 is dangerous, and you cannot risk getting it. Everything else is secondary when it comes to COVID-19.*⁷¹

Health officials in local clinics were also afraid. As most participants in Bindura and Masvingo Districts pointed out, local clinics and private hospitals were closed except for general hospitals. One woman said, “I have been to Makurira Memorial Clinic several times, but the clinic was closed. I was due for an STI review but could not get help. Rather, the hospital management sent messages to regular patients that they should consult doctors online. I think the hospital management was afraid of the virus and decided to close.”⁷²

In view of the foregoing, there is a danger of women catching new infections and reinfections, as confirmed by another young lady who could not be reviewed for STI. She stated: “I went back home unattended for my second STI review from the clinic. My husband and I engaged in unprotected sex because we thought it was safe. Unfortunately, the STI resurfaced, and my husband is also affected.”⁷³

Similar situations arose during the Ebola outbreak in Guinea. Normally RHS require direct contact with patients and the handling of their blood or other body fluids, but health staff withdrew from these activities due to the fear of contracting Ebola.⁷⁴ Moreover, this was exacerbated by the fact that health-worker protection measures in the Ebola outbreak were inadequate.⁷⁵ Access to and the utilisation of RHS were affected by community quarantine measures, distrust, the fear of contracting Ebola at health facilities and the repurposing of all existing resources to fight Ebola.⁷⁶

⁷¹ Interview with Blesie, Masvingo, 2020.

⁷² Interview with Mrs. Joel, Masvingo, 2020.

⁷³ Interview with Mrs. Moyo, Bindura, 2020.

⁷⁴ R. Zachariah, et al. ‘Ebola, fragile health systems and tuberculosis care: a call for pre-emptive action and operational research’, 19 *International Journal of Tuberculosis and Lung Disease* (2015) pp. 1271–1275.

⁷⁵ A. Delamou, et al. ‘Ebola: better protection needed for Guinean health-care workers’, 385 *Lancet* (2015) pp. 503–504.

⁷⁶ S. Thiam, et al. Challenges in controlling the Ebola outbreak in two prefectures in Guinea: why did communities continue to resist? *Pan African Medical Journal* (2015) p. 22.

6. Conclusion and Policy Options

This paper has set out to understand the impact of COVID-19 on women's access to reproductive health-care services in Zimbabwe. Our aim was to assess the available options for women's access to RHS, as well as the challenges encountered by women in acquiring this access during the pandemic in Bindura and Masvingo Districts, Zimbabwe. Although there are well-defined instruments dealing with the issues of reproductive health rights and gender, there are challenges in implementing them, especially during pandemics such as COVID-19. In both districts, women face the challenges of limited access to reproductive services, the insensitivity of security personnel, the suspension of RHS and the fear of contracting COVID-19. These challenges have led to unplanned pregnancies, the adverse effects of changing contraceptives without proper medical assessment, abortions, domestic violence, emotional torture, sexually transmitted diseases, new infections and reinfections, among others. Again, although the WHO's and AU's COVID-19 regulations make provision for women's access to RHS, there have been few attempts by governments such as Zimbabwe's to ensure women can access RHS during the pandemic. Besides the blueprint on community-based health-care, including outreach and campaigns, issued by the WHO in May in the context of the COVID-19 pandemic, interim guidance and the AU's guidelines on gender-responsive responses to COVID-19, as well as the regional COVID-19 laws of SADC and Zimbabwe, are deficient when it comes to women's reproductive health rights. Similarly, law-enforcement agencies mandated to monitor people's movements during the pandemic were insensitive to women's needs. Unless addressed through deliberate state intervention and legislation, these shortcomings are likely to continue to compromise women's access to RHS during pandemics.

Women's access to RHS can nonetheless be achieved if:

Policy

- The government of Zimbabwe implements pandemic-specific policies that prioritise women's reproductive health needs.
- The Ministry of Health and Child Care should come up with a National Strategy for RHS and launch a review to strengthen the National Reproductive Health Policy and make it inclusive and comprehensive.

Practice

- Strengthen and capacitate CHWs and co-opt indigenous or community-based midwives so they are better equipped and prepared to assist in cases of emergency.
- Include all SRH services and supplies on the list of essential services and essential medicines during pandemics.

- Consider tele-health as a way of reaching out to women and girls and ensure they receive information and counselling on SRHR issues during pandemics.
- Train law-enforcement agencies to make them aware of the importance of SRHS.

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Chapter 3

Restrictions and Constraints in Zimbabwe: LGBTI individuals, Access to Sexual and Reproductive Health and Rights Services and COVID-19

Munatsi Shoko¹

Abstract

This study seeks to show how the COVID-19 restrictions in Zimbabwe have affected LGBTI individuals' access to sexual and reproductive health and rights (SRHR) services in Masvingo and Chivi districts in Zimbabwe. The findings show that discrimination against LGBTI people in Zimbabwe has heightened their vulnerability to the effects of COVID-19. Blackmail, discrimination, neglect and gender-based and intimate partner violence all intensified. In addition, the restrictions reduced the reach of service providers and the range of SRHR services they provide. LGBTI individuals' strategies for coping with the COVID-19 pandemic make them more vulnerable to other SRHR challenges that they were not facing before. Among the recommendations of this paper are that public health-care providers and NGOs should collaborate in improving the reach of their services and protecting the rights of LGBTI individuals in Masvingo during times of crisis. Also, the government should employ a human rights-based approach to inform its decision-making, as well as ensure that all stakeholders are consulted in times of crisis.

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1. Introduction

As the COVID-19 pandemic spread globally after January 2020, governments around the world were forced to close their international borders, halt local travel and close businesses in order to control, contain and combat the spread of the disease. The Zimbabwean government first declared COVID-19 a national disaster on 17 March 2020 and on 30 March 2020 placed the country into lockdown by means of a statutory instrument after two deaths had been recorded.² By 12 October 2020, Zimbabwe was under an easier version of the same lockdown, but international travel was still banned, and roadblocks were still in place to control the movement of people, especially into the towns and cities. While the statutory instrument was amended to ease some of the restrictions, especially allowing formal businesses to operate a few hours per day, there continued to be several restrictions on the rights and freedoms of the people of Zimbabwe, as shown in analyses and the statutory instruments obtained by Veritas.³

Among several restrictions to fundamental rights and freedoms, the restrictions of movement because of containment regulations to counter the COVID-19 pandemic have affected people's access to SRHR services across the world.⁴ This is especially the case for marginalised groups whose experience of vulnerability has been worsened because many organisations that had worked for their protection ceased operations during the early days of the outbreak, while the few that remained open changed their mode of operating.⁵ As the restrictions included the need to maintain social distancing and to protect service providers from infection, not all those who needed SRHR services were now able to access them.⁶ This study sets out to answer the following question: What are the implications of Zimbabwe's COVID-19-related national restrictions on access to SRHR services by LGBTI⁷ individuals? The following section

² SI 2020-083 Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) Order, (2020) <<https://www.veritaszim.net/node/4046>>, accessed on 18 October 2020.

³ List – 2020 statutory instruments to 19 April 2020. Veritas. Accessed on 01 October 2020, from <<https://www.veritaszim.net/taxonomy/term/8>>, accessed on 18 October 2020.

⁴ K. Church, J. Gasner and M. Eliot, 'Reproductive health under COVID-19: Challenges of responding in global crisis.' (2020) *Sexual and Reproductive Health Matters*. <<https://10.1080/26410397.2020.1773163>>, accessed on 15 October 2020.

⁵ M. Lokot and Y. Avakyan, 'Intersectionality as a lens for COVID-19 pandemic: implications for sexual and reproductive health in development and humanitarian contexts.' (2020) *Sexual and Reproductive Health Matters*. <<https://10.1080/26410397.2020.1764748>>, accessed on 15 October 2020.

⁶ Ibid.

⁷ LGBTI is the acronym for lesbian, gay, bisexual, transgender and intersex. Brief definitions of how the terms are used in this paper are as follows:

Lesbian. A woman who experiences a consistent pattern of sexual, emotional and romantic attraction to other women.

Gay. A man who experiences a consistent pattern of sexual, emotional and romantic attraction to other men.

provides some background information in order to contextualize the problems that face LGBTI persons in need of SRHR services in Zimbabwe. Next comes a methodology section, followed by presentation of the findings. Finally, the conclusions drawn from this study are presented and recommendations made for the attention of state and non-state actors.

2. Background

SRHR services are essential for the well-being of every human being the world over. To understand the importance of SRHR services properly, a definition of SRHR is necessary.

2.1 Definition of SRHR

The Guttmacher-Lancet commission defines the term SRHR as follows:

A state of physical, emotional, mental and social well-being in respect to all aspects of sexuality and reproduction, not merely the absence of disease, dysfunction, or infirmity. Therefore, a positive approach to sexuality and reproduction should recognise the part played by pleasurable relationships, trust and communication in the promotion of self-esteem and overall wellbeing. All individuals have a right to make decisions governing their bodies and to access services that support that right. Achievement of sexual and reproductive health relies on the realisation of sexual and reproductive rights, which are based on [the] human rights of all individuals.”⁸

This is the definition that is adopted in this paper. In particular, the Guttmacher-Lancet definition shows that the only way to achieve universal access to sexual and reproductive health is by cultivating tolerance for all people. It also brings out the importance of other aspects of

Bisexual. An individual who is attracted to both men and women, though the attraction does not necessarily have to be equal for both sexes.

Transgender. A person whose gender identity is different from the sex they were assigned at birth. A transgender person who was assigned the male sex at birth identifies as a transgender woman, while one who was assigned the female sex identifies as a transgender man.

Intersex. A person born with reproductive or sexual anatomy and/or a chromosome pattern that can't be classified as typically male or female.

⁸ A.M. Starrs, A.C. Ezech, G. Baker, A. Basu, J.T. Bertrand, R. Blum, A.M. Coll-Seck, A. Grover, L. Laski, M. Roa, Z.A. Sathar, L. Say, G.I. Serour, S. Singh, K. Steberg, M. Temmerman, A. Biddlecom, A. Popinchalk, C. Summers, L.S. Ashford, 'Accelerate progress—sexual and reproductive health and rights for all: report of the Guttmacher–Lancet Commission.' 391 *Lancet* (2018) p. 2646 <[http://dx.doi.org/10.1016/S0140-6736\(18\)30293-9](http://dx.doi.org/10.1016/S0140-6736(18)30293-9)>, accessed on 24 October 2020.

health and welfare for SRHR. This includes being safe from harm emanating from external forces and one's body experiencing wellness in relation to one's sexuality and reproduction. The definition therefore recognises the centrality of SRHR in allowing all people to enjoy their choice of partners and not to be threatened by those choices. In addition, the definition encourages the provision of services that protect the physical, emotional, mental and social well-being of everyone, including sexual and gender minorities. The Guttmacher-Lancet definition therefore recognises the right of LGBTI people to access SRHR services. This paper also acknowledges that, when the rights of some individuals are not recognised, that threatens the realisation of SRHR for everyone. This paper therefore uses this definition to determine to what extent LGBTI people have been accessing services to ensure their physical, emotional, mental and social well-being during the COVID-19-related national restrictions in Zimbabwe. The following section provides more detail on the rights of LGBTI people in Zimbabwe

2.2 Rights of LGBTI people in Zimbabwe

Zimbabwe's constitutional and legislative framework provides an opportunity for the recognition of fundamental rights and freedoms, as well as their limitations. Importantly, apart from specific rights and freedoms granted to citizens in the Declaration of Rights, the Zimbabwean Constitution recognizes other human rights afforded by international law, but that are not necessarily expressed in the Constitution. For example, section 46 of the Constitution increases the recognised sources of human rights. What this means is that citizens can adopt other rights and freedoms from international treaties, on the condition that Zimbabwe has ratified the international instrument where such rights are outlined.

The Constitution of Zimbabwe (2013) sets out several rights and freedoms, the most relevant ones including the rights to equality, non-discrimination, personal security, privacy, health, conscience and dignity. However, despite recognising the right of everyone above the age of eighteen to found a family, the same Constitution denies persons of the same sex the right to enter into a marriage.⁹ In addition to this clear constitutional denial of rights, the Criminal Law (Codification and Reform) Act of Zimbabwe (known as the Criminal Law Code) penalizes sodomy,¹⁰ which is treated as a criminal offence opposing consensual anal sexual intercourse. Phillips calls Zimbabwe's laws low-hanging fruit for those who desire to blackmail LGBTI identifying persons.¹¹ According to Mandipa, there is no political will to accommodate LGBTI

⁹ Constitution of Zimbabwe 2013 sec 56(3).

¹⁰ Criminal Law (Codification and Reform) Act, Cap 9:23, sec 73.

¹¹ O. Phillips, 'Blackmail in Zimbabwe: troubling narratives of sexuality and human rights', 13(2), *International journal of human rights*, (2009) pp. 345-364.

people in the law, there is a belief that the judiciary is controlled by the ruling ZANU-PF government, which is known for being homophobic, the media is hostile, and religious conservatism is very strong, all of which act against the protection of LGBTI people's rights.¹² Moreover, Muparamoto claims that former President Robert Mugabe's homophobic stance against all LGBTI people's rights since the 1990s is being perpetuated in President Mnangagwa's Zimbabwe.¹³

In an interview with Richard Quest of CNN at the January 2018 international summit in DAVOS, President Mnangagwa stressed that it is not his role to fight for LGBTI people's rights in Zimbabwe, but is their own business to do so.¹⁴ That same year, Hovelmeir, the former deputy headmaster of St John's College, was forced to resign after facing threats and demonstrations from parents because he had come out about his sexual orientation as a gay man.¹⁵ The lack of protection for Hovelmeir from the police eventually forced him to leave Zimbabwe for the UK.¹⁶ In order to obtain their rights, several LGBTI people with the opportunity to do so opt to leave Zimbabwe for Europe, the USA and mostly South Africa.¹⁷ There is therefore no evidence that recognition of the rights of LGBTI people has improved under President Mnangagwa's regime.

2.3 SRHR Services for LGBTI people in Zimbabwe

The SRHR services that are available to the LGBTI community in Zimbabwe are provided by sensitised or trained public health facilities and NGO-run facilities. Sensitised public health facilities are run by both the national and local governments to provide services at affordable prices to the general public. The biggest government-run hospital to be sensitised in providing

¹² E. Mandipa, 'The suppression of sexual minority rights: a case study of Zimbabwe' In, S. Namwase, and A. Jjuuko (eds.), *Protecting the human rights of sexual minorities in contemporary Africa* (Pretoria University Law Press, Pretoria, 2017) p. 151.

¹³ N. Muparamoto, 'LGBT individuals and the struggle against Robert Mugabe's extirpation in Zimbabwe', *Africa Review*. (2020) <<https://doi.org/10.1080/09744053.2020.1812042>>, accessed on 15 September 2020.

¹⁴ R. Quest, and M. Sheena, 'President Mnangagwa: Zimbabwe is open for business. Davos: Switzerland' *CNN*, 22 January 2018, <<https://edition.cnn.com/2018/01/24/africa/zimbabwe-president-emmererson-mnangagwa-davos-intl/index.html>>, visited on 2 September 2020.

¹⁵ Muparamoto, *supra* note 21 p. 2.

¹⁶ Nyoka, S. 'Gay teacher resigns after death threats'. *BBC*, 27 September 2018, <<https://www.bbc.co.uk/news/amp/world-africa-45665906>>, visited on 15 September 2020.

¹⁷ M. Young-Jahangeer, and P. Sibanda, "This flag is mine too": Negotiating space for transwomen in Zimbabwe through multimedia approaches', 32: 2, *Agenda*, (2018) pp. 39-52. <<https://doi.org/10.1080/10130950.2018.1492199>>, accessed on 15 September 2020.

SRHR services to LGBTI people is the Wilkins Infectious Disease Hospital in Harare.¹⁸ Some other public clinics also exist that have been sensitised to provide similar services across the country, and these are run by local governments. The most prominent NGOs to provide SRHR services to LGBTI individuals are GALZ – an association of LGBTI people (formerly Gays and Lesbians of Zimbabwe) – Population Services International (PSI), the Centre for Sexual Health and HIV AIDS Research (CeSSHAR), the Sexual Rights Centre (SRC) and Hands of Hope.¹⁹ It is important to stress that services provided specifically to LGBTI individuals in Zimbabwe are found in urban areas, being mostly absent from rural areas because most NGOs do not have government authorisation to work there.

The medical services that are available in Zimbabwe owe their existence primarily to the response to the spread of the HIV pandemic because the Zimbabwe government only agreed to allow activities targeting LGBTI individuals to be conducted as part of the fight against HIV.²⁰ As a result, the priority is given to providing HIV testing and counselling (HTC), post-exposure prophylaxis (PEP) and pre-exposure prophylaxis (PrEP) to individuals who are deemed to be so-called ‘key populations’²¹ (KPs) in the fight against HIV and AIDS, particularly ‘men who have sex with men’ (MSM).²² However, even then the Ministry of Health and Child Care (MoHCC) and the National AIDS Council (NAC) acknowledge the difficulties in providing such services because LGBTI sexualities are criminalised under Zimbabwean law.²³ As a result, LGBTI people’s other SRHR needs, namely those that protect their physical, emotional, mental and social wellness, are not catered for if they are not deemed to be related to the current national response to HIV and AIDS.

NGOs provide some of the services required by all the LGBTI communities, but they still fall short. GALZ, SRC, CeSSHAR and Hands of Hope primarily provide psychosocial support, counselling services, safe spaces for interacting, condoms and lubricants, together with limited medical services.²⁴ PSI provides HIV testing and counselling (HTC), anti-retroviral therapy, post-exposure prophylaxis (PEP), pre-exposure prophylaxis (PrEP) and cervical cancer

¹⁸ GALZ, ‘COVID-19 Socio-economic impact: LGBTIQ on lockdown in Zimbabwe’ (GALZ-An association of LGBTI people in Zimbabwe, Harare, 2020) p. 2.

¹⁹ NAC, ‘Zimbabwe’s National Key Populations HIV and AIDS implementation plan, 2019-2020’ (National AIDS Council, Harare, 2019) pp. 58-61.

²⁰ MOHCC, ‘Key Populations Manual for Health-care Providers’ AVAC, Global Advocacy for HIV prevention (2018) <<https://www.avac.org>>, retrieved on 28 September 2020, p. 8.

²¹ Key populations (KPs) are individuals who have a higher risk of being infected with HIV. KPs are men who have sex with men (MSM), sex-workers, people who inject drugs, people in prisons and other closed settings and transgender individuals; World Health Organization, *Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations*, (Geneva, WHO Press, 2016) p. 2.

²² NAC, *supra* note 27 pp. 58-61.

²³ *Ibid.*

²⁴ NAC *supra* note 27 pp. 58-61.

screening.²⁵ The NGOs work together through a referral system which also ropes in public health providers, and to make this system work, they employ LGBTI individuals whose role is to encourage their peers to access these services. In addition to this, NGOs, particularly GALZ, provide LGBTI individuals with legal aid to tackle cases such as blackmail, which they often face from their intimate partners and other people. As already noted, NGOs have to apply for clearance from the government to operate in rural parts of Zimbabwe, and those NGOs that are known for working with the LGBTI population such as GALZ generally do not get such clearance.

There is also evidence from the literature that some SRHR services are not provided by some NGOs, nor by health facilities run by the government. This is reflected in the growing black market for hormones, testosterone and female contraceptive pills, especially by transgender individuals who are seeking to transition.²⁶ In addition, other LGBTI persons visit other countries, especially South Africa, to access sex-change surgery, testosterone and hormones.²⁷ This reflects the shortcomings of Zimbabwe's legislative and policy framework for the provision of SRHR services to LGBTI communities. Though the challenge of accessing SRHR services is worse for the LGBTI community, Zimbabwe's health-care system is currently experiencing challenges more generally. Between 2019 and the end of 2020, nurses and doctors working in public health facilities went on strike several times complaining about shortages of the most basic resources, including surgical gloves and pain medicine, because of rampant corruption and the economic crisis.²⁸ This is making the health-care needs of LGBTI people even more difficult to fulfil in Zimbabwe.

3. Methodology

This study uses a qualitative method and benefits from a phenomenological design that allows respondents to describe their experiences of Zimbabwe's national restrictions to combat COVID-19. The SRHR definition of the Guttmacher-Lancet Commission was used to frame the data-collection tools, primarily with the aim of determining whether LGBTI individuals were able to access SRHR services related to their physical, emotional, mental and social well-

²⁵ Ibid.

²⁶ GALZ *supra* note 26 p. 8.

²⁷ GALZ *supra* note 26 p. 8; N. Husakouskaya, 'Becoming a Transgender/ Intersex internal migrant in urban Gauteng: challenges and experiences of transition while seeking access to medical services', 1, *Forsch*, (2015) 61-25.

²⁸ N. Chingono, 'Zimbabwe billionaire pays striking doctors to return to work', CNN, 23 January 2020, <<https://www.cnn.com/2020/01/23/africa/zimbabwe-billionaire-doctors-strike/index.html>>, visited on 28 September 2020.

being. The respondents were chosen by purposively identifying those who needed to access SRHR services during the restrictions. The researcher, who collected the data for his PhD thesis, entitled ‘LGBTI people’s access to sexual health services in Zimbabwe’, at the beginning of 2020, used his connections in GALZ, CeSSHAR and PSI to purposively identify the first twelve respondents. The remaining eighteen respondents were identified by snowballing, coupled with re-visits to respondents who had participated in the researcher’s PhD data collection.

Of the 26 respondents, five from Masvingo self-identified as lesbian women; nine were gay men; five were bisexual (including two bisexual men from Masvingo and from Chivi, one bisexual man and two bisexual women); seven transgender individuals (three transgender men and one transgender woman from Masvingo and one transgender woman and two transgender men from Chivi). It is important to note that one of the respondents who identified as gay from Masvingo was born intersex. Further details on each respondent are provided in a table in the appendix.

All the respondents were given an explanation for the purpose of the study and signed their consent to being interviewed. The researcher used his status as an ‘ally’²⁹ of the LGBTI community in Zimbabwe because the LGBTI community voted for him to represent them on the Board of GALZ. However, three potential respondents refused to participate in the study because they feared being ‘outed’³⁰ through the process. In order to protect the respondents’ privacy, the researcher allocated a pseudonym to each respondent with their consent so that their names would not be used. In addition, respondents were informed that they were free to withdraw from the interview at any point, or even to withdraw their consent afterwards.

As a result of the limited timeframe during which the study had to be carried out and due to the COVID-19 restrictions, seven of the respondents who reside in Chivi district and six who live in Masvingo were interviewed over the telephone. Then the thirteen respondents (three in Chivi and ten in Masvingo), including five key informants (three in Masvingo and two in Chivi) were interviewed using face-to-face interviews. In total, 26 respondents were interviewed, the respondents being listed in the annexes. During the face-to-face interviews, the researcher followed the Ministry of Health and Child Care’s (MoHCC) guidelines and precautionary measures on social distancing, sanitization and wearing face masks at all times.³¹

²⁹ An ally of the LGBTI community is someone who identifies as heterosexual, but supports the cause of LGBTI people.

³⁰ Being outed is when another person divulges someone’s secret sexual orientation or gender identity to other people. The term derives from the phrase ‘coming out of the closet’, or voluntarily telling someone about your own sexual orientation or gender identity.

³¹ SI 2020-083 *supra* note 1.

The data were transcribed, the transcripts were loaded on to NVIVO version 11, and coding was done during the analysis. The process of coding during analysis when using NVIVO is loosely referred to as ‘coding NVIVO’, and it allows the researcher to pick the most relevant issues as they emerged during the process of analysis. The present researcher adopted this approach to ensure that no one else would be allowed to view the sensitive transcripts. The findings presented in the next section are grouped into the themes that emerged from the interviews.

4. Findings

The COVID-19 restrictions in Zimbabwe were introduced by means of Statutory Instrument (SI) 83 of 2020.³² Under Part II, subsection 3, the order emphasizes that “[e]very individual found outside his or her home shall have the burden of proving, to the satisfaction of an enforcement officer, that he or she is covered by any of the exceptions listed in subsection (1) or is acting under demonstrably exceptional circumstances”.³³ Several findings were made in relation to the LGBTI community’s ability to access SHRR in Masvingo during the COVID 19 lockdown. In Zimbabwe in general, as in Masvingo in particular, LGBTI individuals are treated as criminals.³⁴ For this reason, their rights of access to SHRR services provided by non-state institutions and service providers have been difficult for them to exercise. In addition, the order provided that anyone found in contravention will be liable for a level-twelve fine or imprisonment for a year or both.³⁵ This section outlines how Zimbabwe’s COVID-19 restrictions changed since their inception on 30 March 2020, and how the changes that happened after March 2020 affected LGBTI people’s access to SRHR services in Masvingo and Chivi districts.

In this context, the key findings of this study are as follows:

4.1 Progression of the lockdown

Examination of the effects of COVID 19-related restrictions in respect of the rights of LGBTI communities in Masvingo shows that the restrictions imposed by the government in response

³² Ibid.

³³ Ibid.

³⁴ UNDP and NAC, ‘Zimbabwe: Legal Environment Assessment for HIV, TB, Sexual Reproductive Health and Rights’, (United Nations Development Program and National AIDS Council, Harare, 2019), p. 68.

³⁵ SI 2020-083, *supra* note 1.

to COVID-19 had different effects depending on the stage of the lockdown. When the initial lockdown was declared on 30 March 2020, all service providers, including shops, were closed down, and travel was nearly impossible for nearly three weeks. On 19 April 2020, President Emerson Mnangagwa announced SI 93 of 2020, which extended similar conditions for another fourteen days.³⁶ However, this time there was easing for manufacturers, including small-scale manufacturers. This left the larger informal sector, from which the majority of Zimbabweans earn their livelihood, closed. On 3 May, a further two-week extension was added³⁷, and on 17 May the lockdown was extended indefinitely, but with reviews occurring every two weeks.³⁸ Our respondents did not have any knowledge of the statutory instruments, but had noticed the changes whenever they were announced by the President.

The following quotations show at every stage the restrictions that changed the lives of the respondents:

At first the lockdown was important for all of us, we didn't want to get infected (with COVID-19). We all stayed in the house, but it kept on being extended. Our members would call when medication got finished, when they experienced violence and when some relapsed into drugs, suicidal ideation and so on, but we could not go to help. (Paida, lesbian, GALZ officer, Masvingo urban)

When the lockdown was extended for the third time, I think it was towards the end of May, I could not stay in the house anymore because I had gone to my parents' home without enough supply of the hormones I was taking and my PrEP pills were getting finished. (Terry, transgender woman, Chivi)

Staying at my mother's home in Chivi is really hard. I usually spend most of my time in Masvingo town, trying to stay away from my husband who comes whenever I go to my mother's house because I cannot stand being a wife. I told him I need a divorce, he keeps coming back, and we always fight, especially in the days of the lockdown, mmmm, it was hard. (Chibaba, transgender man, Chivi)

The accounts of Paida, Terry and Chibaba show the kinds of challenges that the respondents faced as a result of the restrictions that started on 30 March. When the restrictions kept on being renewed, LGBTI persons were forced to continue staying with individuals who had abused

³⁶ SI 93 of 2020. Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) (Amendment) Order, 2020 (No. 3), <<https://veritaszim.net/node/>>, visited on 5 October 2020.

³⁷ SI 99 of 2020. Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) (Amendment) Order, 2020 (No. 5), <<https://veritaszim.net/node/>>, visited on 5 October 2020.

³⁸ SI 9 of 2020. Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) (Amendment) Order, 2020, <<https://veritaszim.net/node/>>, visited on 5 October 2020.

them. Also, they were not able to leave homes to seek assistance from NGOs that could provide them with much needed services. The lockdown initially stopped all interventions that were used to provide services to clients from 30 March until the end of May. GALZ, CeSHHAR, Hands of Hope and PSI all shut down for the first few weeks. One social worker explained the challenges that existed in opening their doors:

The shutdown was for everyone, even supermarkets closed at first. So PSI, CeSHHAR etc., we all stayed at home, and clients suffered being unable to get PrEP, PEP, ART refills, counselling, and facing violence from intimate partners with no help. (Rick, bisexual, Masvingo, PSI EPM)

LGBTI individuals could not access SRHR services primarily because the government's response of locking everything down left those in need of emergency services other than COVID-19 cases with no options. In particular services provided by public health facilities were closed down. Carol, a lesbian peer mobilizer at Hands of Hope, stressed that the Rujeko clinic is the most KP-friendly public health facility in Masvingo, but it was changed into a COVID-19 isolation and treatment facility, and no alternative was provided for LGBTI persons. Carol also emphasized that sensitized public health facilities provide affordable and more comfortable alternatives for LGBTI individuals who are not willing to visit the NGO-run facilities that are known for being KP service providers. For this reason, these public health facilities help closeted individuals access services without having to out themselves.

The NGOs resumed operations in the last week of May, but they now operated differently. Rick stated that, when they re-opened in May, PSI only provided services by appointment to those who had been started on ART before the lockdown and needed a refill. LGBTI sex-worker clients also stated that CeSSHAR only provided services to those who would have sold sex within the previous ninety days. Paidia highlighted the fact that the GALZ safe space had been closed and that only members in need of counselling services could visit it by appointment, and even then for not more than an hour. Unfortunately, in order to get to the NGO-run facilities, LGBTI persons had to obtain letters of clearance from their chiefs and local police posts. Up until the end of September, travelling five kilometres beyond one's place of residence or into town required the individual to have such a clearance letter. Some respondents had this to say:

I am shunned in my area, people gossip about my sexuality. I can't go to the chief, nor to the local police to ask for a letter to travel, because they know about my sexual identity. (Tau, gay, Chivi)

I would not risk going into town. It is very near, but if I get caught by the police or military that is trouble. I hear some KPs had their health cards torn up at a roadblock in September as they returned from a meeting that was held in Mashava. (Kombo, transgender man, Masvingo).

Evidently, although the lockdowns eased, LGBTI individuals' sexual identities made it harder for them to access the urban centres where NGOs are based because of roadblocks.

Although the restrictions were eventually eased further, a heavy police and military presence was maintained at the roadblocks, and clearance letters giving permission to travel continued to be required. This continued up to the end of September 2020, and respondents showed that, while the situation improved for some well-connected individuals, it was still very difficult for ordinary LGBTI individuals to obtain clearance letters for travel to town so they could access NGOs that could provide them with SRHR services. This is what Tau was referring to above because clearance letters were mostly provided by the police and chiefs. Paida, however, who works at GALZ, stated that their organization was now visiting those of their members who were living in areas close to Masvingo, sometimes bringing them back to town to access services from PSI or other health-service providers. This was possible because the NGO's vehicles have been given clearance to travel ever since the complete lockdown was eased. However, they could not afford to visit many clients, particularly those in most of Chivi District, because of the fuel costs.

At the beginning of October, the government eased the lockdown even further and started permitting travel from town to town, but international travel for Zimbabweans leaving the country remains restricted. The easing has allowed LGBTI persons to start visiting service providers for SRHR services. Unfortunately, the sensitised and city council-run Rujeko clinic continues to be a COVID-19 quarantine facility and so remains inaccessible to LGBTI individuals. This means that those individuals who used to rely on it as a means of protecting their identity are now finding it hard to do so.

4.2 LGBTI people's experiences during the restrictions

LGBTI individuals responded in various ways to the restrictions imposed during all the phases of the lockdown. As Paida showed earlier, there was a feeling that the lockdown was necessary at the beginning, but this started changing as time went by. The following respondents explained their experiences:

I used to have a vending stall at Chitima market, but the stalls were destroyed by government during the lockdown. I thought this will be temporary, but now I can't feed myself, I can't pay rent, I can't go back to my parents, and if I get sick I can't afford to pay for treatment. (Denis, gay, Masvingo).

My clients had to resort to calling me and we hook up at night, but some take advantage (do not pay), and many are violent. I can't protect myself in such situations, but I need the money. (Welly, intersex, Masvingo).

Denis's and Welly's experiences show that their vulnerability increased as a result of the lockdown. While Denis lost his source of income, Welly lost the protection that bouncers and friends provide when meeting clients within a normal environment. Paidia and Rick stated that similar challenges are being faced by other LGBTI individuals because the majority are in either informal or part-time employment. Rick stated that over half the LGBTI individuals he knows have lost their sources of income, and almost all were forced to start engaging in sex work. Paidia lamented that all the lesbians she knows are now living in more squalid conditions than before COVID-19 and having to co-habit with at least one other friend in order to pay the rent.

The experience of gender based violence (GBV) targeted at LGBTI individuals intensified during the COVID-19 lockdown. As Kombo reported, some KPs (LGBTI sex-workers included) had their health cards torn to pieces at a police roadblock on their way from Mashava. As a result, two of them missed the deadline for their monthly supply of antiretrovirals (ARVs) and had to go for four days without taking the medication. This is effectively a denial of the right to health and has implications for their right to life. In addition, the testimony about some of Welly's clients soliciting sex and resorting to violence shows that, without the necessary legal protections, LGBTI persons are at risk. Another respondent who has turned to sex work for survival commented:

I decided to start selling sex because of the lockdown. But I have slowed down now because last month one guy drove me to a secluded place, beat me up with his friends and dumped me. (Taona, gay, Chivi).

Taona says he could not report this attack for a number of reasons. First, he had sneaked out of his hut, which is in his mother's compound; secondly, he knew that if he reported it, then he would also be arrested; and lastly, he was too ashamed that his life had become that bad. Evidently, this presented Taona with multiple SRHR challenges, including mental and emotional problems, as well as an unstable social life.

4.3 Effects of the restrictions on access to SRHR services

The lockdown restrictions impacted on LGBTI individuals' access to SRHR services in many different ways. First, service providers became unreachable during the first days of the lockdown, and even now, after the lockdown has eased significantly, the services are no longer the same. Secondly, because of the need to travel across international borders to obtain some SRHR services, they have become permanently unavailable to LGBTI individuals. Thirdly, many respondents showed that they now have new SRHR needs that they did not have before the COVID-19 pandemic. Lastly, the COVID-19 pandemic made LGBTI individuals even more aware of the importance of the right to services and changes to their legal status in Zimbabwe.

As shown earlier, both NGOs and public health-service providers changed the way they work because of COVID-19. In the first days of the pandemic, there was significant confusion because no one was prepared for the lockdown. At the end of April, NGOs started to get in touch with LGBTI clients to check on them and to advise them of new arrangements if they needed any help. Unfortunately, there was still no way of providing them with SRHR services because of the travel restrictions. One social worker explained the challenges as follows:

It seems as if government did not realise the importance of NGOs in the first five or so weeks. The police did not allow us to go to work until towards the end of May, and GBV cases were already rampant at that stage. (Green, bisexual, Chivi Peer Mobilizer).

Even after they returned to work, Green explained that they could not work with communities in the same way anymore: they can now only work over the phone and refer clients to the town office. Green laments that this has made it difficult for many clients who could not be reached by the outreach vehicle picking them up and taking them to town for services.

Some SRHR services, such as transitioning services and sex-change procedures that are only provided outside Zimbabwe, have become permanently unavailable for LGBTI individuals. One of the strategies that most individuals had adopted in order to access transition and sex-change SRHR services was to travel to neighbouring countries. Unfortunately, the closing of the international borders from 30 March to 30 November 2020 effectively blocked them from their service providers. The re-opening of borders now allows people to leave Zimbabwe and

to enter the country, but a negative COVID-19 test result is required for exit and entry.³⁹ For some individuals, this has impacted severely on their health:

I was getting a testosterone injection as a first step for transitioning so that I can be comfortable with myself. But since 26 March, it has been six months. I had severe withdrawal symptoms, now I fear body deformation. (Theresa, transgender man, Masvingo)

Theresa's experience is worrying, and he has opted to stay indoors to try and cope with the rapid changes that are happening in his body.

Like Theresa, multiple LGBTI individuals now have SRHR needs that they did not have prior to COVID-19. One respondent from Chivi explained:

I study psychology. I now see evidence of drug and alcohol addiction, anxiety and some depression in my friends." (Ralph, gay, Chivi).

While mental health challenges have become common as a result of lockdowns the world over, Ralph's testimony suggested that it is more common among LGBTI individuals. This is because many do not have safe places to stay, they are seriously discriminated against by their families, and they have to endure daily humiliation because of their sexual and gender identities. In addition, those who have ventured into sex work complained of multiple sexually transmitted illnesses (STIs), including warts. Unfortunately, unsensitised health-care providers criticize men who present with anal STIs, which is why many opt to visit sensitised facilities. Other SRHR needs that were expressed included intimate partner violence and being forced to engage in unwanted sex. It was possible to avoid all these before the coming of COVID-19 with the help of NGOs.

Rights services that include the provision of safe spaces and legal aid are essential for LGBTI individuals. During the COVID-19 lockdown, LGBTI individuals could not avoid individuals who had perpetrated different forms of abuse against them. One of the key informants explained:

I have two clients who are facing blackmail right now; they used to change residence to avoid the perpetrators, but due to COVID-19, they are now forced to stay in one place because of COVID-19. (Paida, lesbian, Masvingo)

³⁹ US Embassy in Zimbabwe, 'COVID-19 Information', *Entry and exit requirements*, 10 December 2020, <<https://zw.usembassy.gov/covid-19-information-2/>>, visited on 13 December 2020.

Blackmail related to one's sexuality is a common occurrence that was reported by LGBTI individuals in this study. If one reports a case of, for example, sodomy, the accused person can be arrested with little evidence. Respondents said that this is because Zimbabweans believe that homosexuality is evil and prompted by greed. Paida pointed out that Zimbabweans know that LGBTI sexualities are criminalized, hence they take advantage of this whenever they have the chance. In addition, respondents pointed out that violence and other forms of abuse that are targeted at LGBTI individuals are common, but the police normally do not act against perpetrators if they know that the victim is an LGBTI person. For example, Welly explained that a former client who had tried to blackmail him beat him up and took him to the police demanding that he be arrested because he has sex with men. The police only let Welly go after cross-examining him and establishing from his explanations that he has both male and female reproductive organs, but still did not charge his abuser for beating him. This shows that, while the police understood Welly's predicament because he has both sexual organs, they would still not act to protect his rights.

4.4 Coping mechanisms adopted by LGBTI individuals

Respondents showed that they are adopting various strategies to try and adapt to the changes that have been brought about by the coming of COVID-19. Some of these coping strategies do not always work, and sometimes they cause new problems. Some showed that they are trying to make their friends and family think they have reformed and left their LGBTI identities behind. Others have resorted to sex work as a strategy to restore the incomes they have lost. Those who have been infected by STIs decided to be brave and just visit a nearby clinic for treatment, as well as identify a health worker who can assist them. In order to fill the gap in SRHR service providers that they can no longer access, some are resorting to purchasing medicines on the black market and herbal concoctions from traditional healers. To cope with violence, some have resorted to seeking care at the hands of abusers because they do not have a better option.

The most common strategy shared by respondents was that they always tried to get back home. This can be difficult because, as most of the respondents pointed out, they had left their families' homes as a way of escaping from verbal, physical, emotional and other forms of abuse perpetrated by family and friends. However, facing the reality of becoming destitute and starving, most respondents tried to go back home.

I am now back home. When my mother died, I could not come because I was ashamed and angry. When I walked in, my father just gave me a disappointed look, but what can I do. (Chenge, transgender man, Chivi)

I tried to go back. My father is not even at home, but he phoned and told my mother that he does not have a son who is called by my name. So I am now staying with my aunt who is a widow. (Trinity, gay, , Chivi)

I failed to go back home because everyone told me that if I bring my satanic face to their house they would kill me. Even my little sister said that, I was shocked. (Tari, lesbian, Masvingo).

Chenge's, Trinity's and Tari's evidence shows that the families of LGBTI individuals can be their foremost abusers. Some who succeeded in going back home only did so after lying that they had reformed. Taona is one example: he returned home after telling his mother that he had gone to an Apostolic Church, where they removed the spirit that was making him practice homosexuality. As a result, he says he tries to speak and walk differently so that his mother does not suspect that he lied to her. However, because of the poverty of their homestead, he has resorted to sex work under cover of darkness because he sleeps in a hut that is detached from his mother's hut.

LGBTI individuals who became infected with STIs during the lockdown tried to visit local clinics or sought alternative treatments. Knowing the homophobia that exists in clinics that had not been sensitized, some stated that they would never have gone there for treatment at all, let alone to seek treatment for an STI such as anal warts. However, Terry, who identifies as a transgender woman, explained that she had to go and seek treatment for an STI at a local clinic in Chivi, despite knowing that it could spell disaster for her. She says that she was fortunate to find a good nurse who attended to her and, up to now, that nurse continues to be helpful. Similarly, Takoo, a gay, stated that he has a friend who works as a nurse at a private clinic and that during the lockdown he went to his home for examination and medication. Takoo also said that he had the mobile number of a counsellor who works at GALZ, whom he called twice during the lockdown to find someone to talk to and help relieve his stress and anxiety. Evidently, some LGBTI individuals utilise various forms of agency to access sexual health services in a safe way.

However, some individuals like Chibaba, a transgender man, stated that he would not even attempt to go back to a clinic or hospital but relies instead on traditional medicines. He says that the last time he tried it, some years back, he was humiliated in a way he would never forget. Chibaba says that he knows an old man who supplies him with traditional medicines for

different ailments, including all sorts of STIs. The use of traditional, often self-prescribed medicines for various ailments is common in Zimbabwe, such that it barely attracts any stigma. Chibaba also mentioned knowing of some black-market dealers who sell family-planning tablets, hormones imported from South Africa and various antibiotics for STIs to LGBTI individuals. Chibaba's statement is evidence of the risks that some individuals take with their health in order to access sexual health services. This is because things like hormones are administered through injections, and acquiring them in the streets increases the risk of contracting HIV through shared needles.

Some LGBTI individuals who have experienced abuse have resorted to putting themselves in the care of their abusers. This seemingly impossible arrangement was explained as follows by one respondent:

I don't have a choice. He buys food, he clothes me, he has a nice house for me to stay. Yes, he also forces himself on me every now and again, but where else would I go when informal employment is closed down? (Shamiso, lesbian, Masvingo).

Shamiso explains that she allowed herself to go and stay with the man because her vending stall had been destroyed. She made that decision even though the man had abused her before. She also says that she cannot report him because she agreed to marry him as a way of receiving shelter from him. Evidently, the pandemic presented challenges for LGBTI individuals to stay safe from physical, emotional and mental harm by forcing them to relocate to abusive homes and to access services from unaccredited sources. However, some were able to benefit from their social networks, which helped them access some of the services that they needed.

4.5 Opportunities to improve SRHR service provision from respondents' perspectives

Respondents believed that public health facilities and NGOs have multiple options whereby they can improve SRHR service provision for them. However, they also acknowledged that homophobia, national laws and religious dogma stand in the way. The respondents stated that the measures available to public health-service providers to improve SRHR service provision include:

- Utilising the national reach of public health facilities to benefit everyone
- Utilising NGOs and other sensitized facilities to train those who have not been sensitized to the needs of LGBTI clients

- Providing SRHR services to LGBTI individuals as a way of tackling the scourge of HIV
- Putting pressure on lawmakers to realise the importance of providing SRHR services to LGBTI individuals.

The following quotations show how some respondents saw these opportunities:

Public hospitals and clinics are all over the country; if they wanted, they could provide equal treatment for all people everywhere. (Kasi, bisexual man, Chivi).

The ministry of health should just get trained by NGOs; they have lots of resources, but unfortunately they are not allowed to operate in some rural parts of the country. (Tindo, bisexual woman, Chivi)

What government doesn't know is that, if they provide health services to LGBTI people, then they also benefit everyone because most of our partners are straight-acting people. (Charlie, transgender man, Masvingo)

Public hospitals and clinics have the power to put pressure on government to change their policy of denying us health-care services: they should use that power. (Justice, gay, Masvingo)

The respondents indicated that NGOs have the following opportunities to improve SRHR during periods like those during the COVID-19 lockdown:

- Providing a wider reach of services as a way of mobilizing resources for their programmes
- Putting their names on the global map for innovative programming
- Increasing links with public health facilities where they are not able to reach LGBTI clients
- Holding the government to account for the human rights abuse of denying LGBTI people their right to health.

The following statements were made about this by some of the respondents:

Everyone knew that COVID was coming. NGOs should have viewed it as a chance to get money from donors for them to provide us with SRHR services. (Fanuel, transgender woman, Masvingo)

Some NGOs just want to work alone, but if they work with government hospitals they would reach us here in rural areas. (Kasi, bisexual male, Chivi)

NGOs want to have visibility, they should be monitoring government and publicizing the human rights abuses of denying us access to SRHR services. (Green, bisexual woman, Chivi)

Evidently, respondents feel that more can be done by both NGOs and government. In particular, Kasi's statement shows that, if NGOs could collaborate with public-sector hospitals, they would be likely to have a greater impact and reach more people.

5. Discussion

The restrictions in accessing SRHR for LGBTI individuals in Masvingo and Chivi presented in the findings in this paper show that more could have been done to improve LGBTI people's access to SRHR services if a human rights-based approach had been adopted. When the lockdown was introduced to respond to COVID-19, there is evidence that NGOs and public health providers forgot about the communities they serve. Similar events had happened globally before the first cases were reported in Zimbabwe in March,⁴⁰ and both the government and NGOs should have learnt from other countries. Putting human rights first is something the Zimbabwe government needs to learn from this experience, and this is only possible if "all rights and freedoms are given effect in national laws and policies."⁴¹ It is evident that, when governments do not respond to the rights of all citizens, then it is the most marginalised who suffer the most.

There is evidence that there is now a crisis in accessing SRHR and other health care services as a result of the changes that have occurred since the COVID-19-related restrictions were introduced. GALZ stressed that the SRHR challenges that face LGBTI individuals have now been relegated to the back of the queue because of COVID-19.⁴² The deepening poverty, increased susceptibility to GBV, including blackmail, and the over-stretching of public and private health-care systems that impacts on marginalised LGBTI persons were already well documented.⁴³ The predictable effects of the restrictions could have been avoided by adopting an inclusive, multi-stakeholder approach to decision-making and domesticating the World Health Organisation's COVID-19 Strategic Preparedness and Response Plans and Guidelines.

⁴⁰ K. Church, J. Gasner, M. Eliot, *supra* note 3 p. 6.

⁴¹ R. Smith, and L. McConnell, (2018) 'Introduction to human rights research methods', in L. McConnell and R. Smith, *Research methods in human rights*, (Routledge, New York, 2018) p. 2.

⁴² GALZ (2020) *supra* note 26 pp. 2-3.

⁴³ K. Church, J. Gasner, M. Eliot *supra* note 3 p. 6.

The restriction of the services that were available to LGBTI communities due to COVID-19 forced them into risky coping mechanisms. Again GALZ provides evidence that because of the existing criminalisation of LGBTI people in Zimbabwe, it was always going to be difficult to provide them with SRHR services during a lockdown of this magnitude.⁴⁴ The impacts of the government restrictions that continued beyond September 2020 on LGBTI communities have increased the risks to mental health and are likely to worsen the burden on health-care providers when the epidemic passes. It would have been valuable to have learned from the history of the HIV pandemic and the effects it had on health-care provision.⁴⁵ A failure to take note of the lessons of HIV points to the neglect of Zimbabweans' right to health.

The strategies that LGBTI individuals used to cope with the lack of access to SRHR services magnify the implications of denying basic human rights to people. Resorting to the black market and seeking unverified medication from traditional healers, though common, are further evidence of the neglect of the right to health. While self-medication and alternative medicines may be common worldwide, the fact that the respondents mentioned that they opt for them because of the COVID-19 restrictions, coupled with homophobia in hospitals and a lack of medication, shows the effects of criminalization. Even Zimbabwe's Ministry of Health stresses that ending HIV in the country will not be possible if LGBTI people continue to be treated as criminals.⁴⁶ Similar sentiments were highlighted in a UNDP and National AIDS Council report.⁴⁷ However, a few LGBTI individuals managed to secure relationships with health-care providers in order to obtain access to treatment for SRHR needs. Others who have access to counsellors who work in an NGO were also able to receive some psychosocial support over the phone during the lockdown.

The opportunities for improving SRHR services that were mentioned by the respondents highlight the need to bridge the gaps in service provision for LGBTI individuals in order to ensure that their rights are met. Collaborative working between government and NGOs, where it has been done, has led to some improvements in accessing services, reductions in abuses of rights, and the upholding of other human rights beyond those targeted by the programmes.⁴⁸ These opportunities also require the country's laws to be revisited in order to increase the possibility of having a workable relationship in all parts of the country.

⁴⁴ GALZ *supra* note 26 p. 2.

⁴⁵ A. Whiteside, W. Parker, and M. Schramm, 'Editorial: managing the march of COVID-19: lessons from the HIV and AIDS epidemic', *African Journal of AIDS Research* (2020) DOI: 10.2989/16085906.2020.1749792

⁴⁶ MoHCC *supra* note 28 p 8.

⁴⁷ UNDP and NAC *supra* note 41 p 68.

⁴⁸ *Ibid.*

6. Conclusions

The restrictions imposed by the government of Zimbabwe in order to fight COVID-19 clearly caused suffering to LGBTI individuals. While GBV, the challenges of accessing SRHR services and the criminalisation of same-sex relationships already existed prior to the coming of COVID-19, the pandemic worsened the situation. This seems to have been made possible by a lack of consultation on the part of government when it framed the laws that enforced the restrictions. On the other hand, the response of NGOs at the beginning of the pandemic showed a lack of preparedness for the disaster, which worsened the effects of COVID-19 and continued to do so beyond September 2020.

As a result, we make the following policy recommendations to government, NGOs and LGBTI individuals alike:

- NGOs should put pressure on the government to prioritise adding sexual orientation and gender identity as prohibited grounds for discrimination in the constitution, as well as to repeal the section that penalises sodomy in the Criminal Law (Codification and Reform) Act of Zimbabwe
- The government of Zimbabwe should ensure that all public health facilities are made available, through sensitisation and training, for the provision of SRHR services to LGBTI people
- The government and NGOs should increase their synergies in order to expand the available SRHR services so that they meet all the needs of LGBTI individuals in hospitals and clinics
- The government should domesticate the World Health Organisation's recommendations to improve its preparedness during future outbreaks of disease so that all citizens are protected
- It is important for LGBTI individuals to strengthen their links with other members of their community and with organisations that protect their rights and provide SRHR services to them.

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Chapter 4

The Effectiveness of Protection for Addressing Domestic Violence During the COVID-19 Pandemic in China

Feng Yuan¹ and Hao Yang²

Abstract

This study examines 283 rulings on protection orders made by Chinese courts between 1 January and 31 May 2020, using judgement documents accessible on the *China Judgments Online* website. These were the five months when the COVID-19 epidemic first broke out in China, with the strictest lockdown measures in history being imposed in late January, a restrictive policy that was gradually lifted afterwards. By analysing protection-order judgment documents during this period and using protection orders as an example, the study explores how the support mechanism underpinning China's anti-Domestic Violence (DV) Law has functioned in the context of COVID-19. It also assesses the effectiveness of protection orders, as well as gaps in addressing DV and protecting DV survivors during the pandemic.

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1. Study Background

1.1 Domestic Violence during COVID-19

Past epidemics such as Ebola³ and Zika⁴ have been accompanied by the increased risk of various forms of gender-based violence, including domestic violence. COVID-19 is no exception to this trend. An estimated 162 countries have applied lockdown rules, and a large proportion of women around the globe (approximately 2.73 billion) live in countries where stay-at-home orders have been introduced since the World Health Organization declared that the spread of the COVID-19 virus had reached pandemic proportions.⁵

There has been a global spike in DV in parallel to the pandemic due to the extended quarantine and other social-distancing measures, which come on top of pre-existing gender inequalities and harmful gender-based norms.⁶ For instance, during the lockdown countries such as Mongolia,⁷ Brazil, France, Singapore and the UK have witnessed a surge in reporting DV cases to hotlines.⁸ In Italy, while reports of abuse and calls to helplines have dropped sharply, text messages and emails have increased, as women have been unable to make phone calls with their persecutors around.⁹ On the other hand, other countries, such as the Philippines,¹⁰ have seen a drop in DV reports, as DV may be regarded as a trivial matter during public health crises, and some women faced barriers to reporting DV or seeking help.¹¹

³ UNDP, *Ebola Recovery in Sierra Leone: Tackling the Rise in Sexual and Gender-Based Violence and Teenage Pregnancy during the Ebola Crisis* (2015).

⁴ Oxfam International, *Gender Analysis: Study of the Impact of the Zika Virus on Women, Girls, Boys and Men* (2017).

⁵ UN Women et al., *Justice for Women Amidst COVID-19* (2020), <www.unwomen.org/en/digital-library/publications/2020/05/justice-for-women-amidst-covid-19>, visited 9 October 2020.

⁶ UN Women, *From Insight to Action* (2020), <www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/gender-equality-in-the-wake-of-covid-19-en.pdf?la=en&vs=5142>, visited 15 October 2020.

⁷ Asia Development Bank, *ADB to Help Address and Prevent Domestic Violence in Mongolia Amid COVID-19*, <www.adb.org/news/adb-help-address-and-prevent-domestic-violence-mongolia-amid-covid-19>, visited 15 October 2020

⁸ UN Women, *supra* note 4.

⁹ The Guardian, 'Lockdowns around the World Bring Rise in Domestic Violence', *The Guardian*, 28 March 2020, <www.theguardian.com/society/2020/mar/28/lockdowns-world-rise-domestic-violence>, visited 15 October 2020.

¹⁰ M. Muriithi, *Government responses to COVID-19 are exacerbating gender-based violence*, <www.openglobalrights.org/government-responses-to-covid-19-exacerbating-gender-based-violence/>, visited 15 October 2020

¹¹ UN Women, *COVID-19 and Violence Against Women and Girls: Addressing the Shadow Pandemic* (2020).

However, fewer than 40 per cent of survivors of gender-based violence (GBV) seek help in ‘normal times’,¹² and fewer than one in ten GBV cases are reported in developing countries,¹³ a further indication that the current data on DV reports during the pandemic are only the tip of the iceberg. UNFPA predicts that for every three months of lockdown there will be an additional fifteen million cases of GBV globally.¹⁴

1.2 Domestic violence in China during the pandemic

Official statistics from the *Third Wave Survey on the Social Status of Women* of 2011 show that 24.7 per cent of all married women in China have suffered at least one form of DV from their husbands.¹⁵ In a regionally sampled study conducted by UNFPA,¹⁶ 39 per cent of Chinese women reported experiencing violence from their current or former intimate partners.

According to an online survey, around 30 per cent of respondents reported experiencing verbal, physical, financial, sexual or other types of violence from their family members during the pandemic.¹⁷ Observation showed that the lockdown and extended quarantine had created additional violence from intimate partners as a result of increased financial and health-related stress and forced coexistence in narrow living spaces, combined with breakdowns in community support mechanisms such as social workers’ visits.¹⁸ NGOs in Hubei and Beijing

¹² UNSD, *The World’s Women 2015: Trends and Statistics* (2015).

¹³ K. Jeni et al., *Voice and Agency: Empowering Women and Girls for Shared Prosperity* (World Bank Group, Washington, D.C, 2014).

¹⁴ UNFPA, *Impact of the COVID-19 Pandemic on Family Planning and Ending Gender-based Violence, Female Genital Mutilation and Child Marriage* (2020), <www.unfpa.org/resources/impact-covid-19-pandemic-family-planning-and-ending-gender-based-violence-female-genital>, visited 8 October, 2020.

¹⁵ All China Women’s Federation and National Bureau of Statistics of China, *Report on Major Results of the Third Wave Survey on the Social Status of Women in China* (2011), <blogs.lse.ac.uk/gender/2011/11/03/findings-from-the-third-survey-on-chinese-womens-social-status/>, visited 8 October, 2020.

¹⁶ X. Wang et al., *Hard Struggles in Times of Change: A Quantitative Study on Masculinities and Gender-based Violence in Contemporary China*, (Partners for Prevention and Beijing Normal University, 2013), <www.partners4prevention.org/sites/default/files/resources/china_qualitative_full_report.pdf>, visited 8 October 2020.

¹⁷ An online survey conducted in October 2020 by Beijing Equality with over 17,000 respondents from all provinces of China.

¹⁸ UKAid, *Impact of COVID-19 Pandemic on Violence against Women and Girls: VAWG Helpdesk Research Report* (2020).

received three times as many inquiries and reports from DV victims as usual.¹⁹ The hashtag #AntiDomesticViolenceDuringEpidemic has been discussed more than three thousand times on the Chinese social media platform Sina Weibo.

However, the existing anti-DV services in China, which were already inadequate in normal times, became even more difficult for women to access during the lockdown. The UN reported that “judicial, police and health services that are the first responders for women are overwhelmed, have shifted priorities, or are otherwise unable to help”.²⁰ This limited access to support services during the pandemic has made DV survivors even more vulnerable. There have been reports that the police in China were reluctant to intervene and detain suspects, as they were busy with the epidemic.²¹ Health-care and shelters may be diverted away from GBV services to respond to COVID-19 outbreak. Some DV shelters were temporarily converted into other functions by the authorities.²²

In light of the special circumstances of epidemic prevention and control, the Guangzhou Women’s Federation et al. launched *Guidelines for Protecting the Rights of Victims of Domestic Violence During the Epidemic*.²³ However, guidelines or information on how to contact the police and access medical treatment, psychological support or shelters during the COVID-19 pandemic are in general quite limited in China.

1.3 Situation of DC in China prior to the COVID-19 pandemic: China’s DV law and the enforcement of protection orders

China’s national Anti-Domestic Violence Law (anti-DV Law) came into effect in March 2016. The law defines DV²⁴ as the “infringing of physical, psychological or other harm by a family

¹⁹ W. Zhang, *Domestic Violence Cases Surge During COVID-19 Epidemic*, <www.sixthtone.com/news/1005253/domestic-violence-cases-surge-during-covid-19-epidemic>, visited 8 October 2020

²⁰ United Nations, *Policy Brief: The Impact of COVID-19 on Women* (2020), <www.unwomen.org/en/digital-library/publications/2020/04/policy-brief-the-impact-of-covid-19-on-women>, visited 9 October 2020

²¹ W. Zhang, *supra* note 16.

²² *Ibid.*

²³ Sohu News, ‘What should do if encountering domestic violence during the epidemic? Municipal Women’s Federation issued guidelines for rights’ protection’, *Sohu News*, 1 March 2020, <www.sohu.com/a/376959674_120152148>, visited 9 October 2020.

²⁴ [Anti-Domestic Violence Law of the People’s Republic of China] (promulgated by the Standing Committee of the National People’s Congress, 27 December 2015, effective 1 March 2016),

member on another by beating, tying, injury, restraint and forcible limits on personal freedom, recurring verbal abuse, threats and other means.” The definition covers not only relations within marriage, but also cohabitating partners and family members.

A personal safety protection order is one of the most important measures under this law. According to Articles 23, 27-30 and 34 of the anti-DV Law, anyone who is suffering from DV or is facing a real danger of DV can seek personal safety protection orders from the people’s court.²⁵ By December 2019, the courts in China had issued a total of 5,749 protection orders.²⁶

However, overall these protection orders are under-utilized for various reasons, such as a lack of understanding on the part of the judges, a lack of meaningful coordinating mechanism for implementation, and difficulties for survivors in submitting sufficient evidence to verify DV has taken place.²⁷ The approval rate of protection orders was seventy-one per cent by February 2020.²⁸ According to an analysis of 560 written judgements, the withdrawal rate in 2018 was 21.5 per cent.²⁹ It is unclear what the specific reasons are due to limited information, but based on media reports, applicants in Shanghai and other places have been persuaded to withdraw their protection order applications and turn to mediation as a solution.³⁰

There is also a lack of balance in the distribution of protection orders in different localities. For instance, the local court in Ba’nan district, Chongqing municipality, southwest China issued 132 protection orders with an approval rate of 83 per cent in 2019, while only around forty protection orders were issued in the same year in Shanghai, one-third of the applications being rejected and the remaining third being withdrawn by applicants.³¹

<www.lawinfochina.com/display.aspx?id=20841&lib=law&EncodingName=big5> (China), visited 9 October 2020.

²⁵ Article 23 of the anti-DV Law stipulates that if a party has suffered domestic violence or is facing the real danger of domestic violence and applies to the People’s Court for a personal safety protection order, the People’s Court shall accept it.

²⁶ China Women’s News, *Interview with Responsible People at All China Women’s Federation, Supreme Court and Ministry of Public Security on Four Years Implementation of Anti Domestic Violence Law*, <www.nwccw.gov.cn/2020-03/02/content_280430.htm>, visited 8 October 2020.

²⁷ J. Wang et al., ‘The Anti-Domestic Violence Law has been implemented for four years: Are these provisions still silent?’, *Beijing News*, 24 November 2020, <m.bjnews.com.cn/detail/160614210815657.html>, visited 25 November 2020.

²⁸ Wumei Law Firm, *The Fourth Anniversary of the Anti-Domestic Violence Law: Has the Personal Safety Protection Order Won?*, <mp.weixin.qq.com/s/gWatqAVkFvx3nGOkIJ-u_g>, visited 30 November 2020.

²⁹ Q. Zhang and Y. Feng, *The Role of Protection Orders Needs to Be Fully Utilized: An analysis of 560 Written Judgement -- A Three-Year Monitoring Report on the Implementation of the Anti-Domestic Violence Law of the People’s Republic of China*, (Beijing Equality, 2019), <www.equality-beijing.org/newinfo.aspx?id=73>, visited 9 October 2020.

³⁰ Ibid.

³¹ Based on the author’s data analysis through *China Judgments Online* <wenshu.court.gov.cn>.

2. Study Objectives, Scope, and Methodologies

2.1 Domestic violence in China during the pandemic

Currently, there is a lack of information globally on whether the protection orders are sufficiently accessible for DV survivors or on how they are being enforced during the pandemic.³² This research aims to fill this gap and provide information and analysis with regard to the effectiveness of the protection-order mechanism in addressing DV during the pandemic in China.

The objective of the research is to explore how the support mechanism under China's anti-DV Law functions in the context of COVID-19 by using protection orders as an example. More specifically, the research will examine:

- How the protection order mechanism has functioned during the pandemic, e.g. has the number of applications for protection orders increased during COVID-19? How have the courts responded to these applications?
- What are the features of the DV cases and protection orders issued during the pandemic?
- What gaps are there in protecting DV survivors during the pandemic?
- What are the lessons learnt and recommendations for improving future policy-making and planning?

2.2 Scope

The study mainly draws on a literature review and content analysis of protection-order judgement documents accessible through *China Judgments Online* (<https://wenshu.court.gov.cn>), an official website hosted by the Supreme Court as a judgement document database.

The study selected protection-order rulings made between 1 January and 31 May 2020 for analysis. These were the five months when the COVID-19 epidemic first broke out in China, with the most stringent lockdown measures in history being imposed in late January, this restrictive policy being gradually lifted afterwards. According to the report *China Action to*

³² UN Women et al., *supra* note 3.

Fight the COVID-19 Epidemic,³³ issued by the Chinese government in June 2020, the prevention of and response to COVID-19 in China has become a normal situation since the end of April. Based on the national epidemic prevention and control policy, the study further divided this timeframe into five phases for purposes of data analysis:

- Before the epidemic was revealed: 1 January – 22 January 2020
- Stay at home orders strictly in place: 23 January – 21 February 2020
- Travel restrictions gradually removed, operations of all agencies gradually resumed: 22 February – 24 March 2020
- Health code introduced to “vigorously and orderly promote the resumption of work and production, speeding up and expansion”: 25 March – 29 April 2020
- Further easing of restrictions in the “normalized epidemic prevention and control stage”: 30 April – 31 May 2020.

As of 7 October 2020, a total of 283 protection-order documents dated from 1 January to 31 May 2020 were uploaded onto the website of *China Judgments Online*. The study has used these as samples for analysis.

2.3 Methodologies

The study has specifically adopted the methodologies outlined below:

- Comparative analysis of rulings on protection orders between 1 January and 31 May 2020 with the same period in previous years, i.e. prior to COVID-19. The study also analyzed applications for and approvals of protection orders at different stages of the epidemic, including a specific comparison of protection orders made at the peak of the epidemic with other periods.
- Content analysis of selected protection-order judgement documents during the period of the epidemic, including those from ethnic-minority autonomous regions, from perspectives such as the demographic features of applicants, the validity of protection orders issued, approval rates, rejections of protection orders and their underlying reasons, the timeliness of protection-order rulings during the COVID-19 etc. In addition, the study conducted an in-depth analysis of thirteen protection-order rulings made at the peak of the epidemic between 23 January and 21 February 2020.

³³ State Council Information Office, *China Action to Fight the COVID-19 Epidemic*, <www.gov.cn/zhengce/2020-06/07/content_5517737.htm>, visited 8 October 2020.

- A literature review of anti-DV information during the epidemic from other sources, such as news reports, to enrich and triangulate data with these sources. For instance, the study examined interim measures imposed by the judicial system to respond to the COVID-19 epidemic, mainly by using information from news coverage.

2.4 Limitations

The study was primarily based on a literature review and the analysis of available and accessible documents on protection-order judgements. *All the numbers and texts of protection orders analyzed in this research were based on and limited to those protection-order judgement documents that have been uploaded onto the website China Judgments Online and made accessible to the public, hereinafter referred to as ‘accessible protection orders’.* As a result, this study was not intended to arrive at a representative conclusion of the situation regarding protection orders in the context of the pandemic in China.

The above website has been continuously updated, with new judgement documents being uploaded and old ones removed. This has posed a challenge to the study in showcasing the most recent updates and assessing the overall status of protection-order applications and rulings.

Moreover, the study was mainly focused on ruling documents in Mandarin, given the limited legal documents available in ethnic minority languages. Inaccessibility of information and difficulties in locating qualified bilingual research partners with the necessary technical skills also posed a challenge in analysing non-Mandarin documents.

3. Key Findings and Analysis

3.1 Quantity of protection-order rulings made during the epidemic

In general, the number of accessible protection-order documents from January to May 2020 (283 in total) has not changed much compared with the same period in previous years, though it was one of the years with the most rulings. However, there was a decrease in the number of courts making rulings on protection orders in the first five months of 2020 compared with previous years (147 courts, fewer than in the same period since 2017). See details in Table 1.

Table 1. Number of accessible protection orders during the first five months of 2016-2020

Period	Number of protection orders accessible on <i>China Judgments Online</i>
2016.3.1-2016.5.31 ³⁴	157 from 113 courts in 23 provinces
2017.1.1-2017.5.31	231 from 149 courts in 26 provinces
2018.1.1-2018.5.31	251 from 149 courts in 26 provinces
2019.1.1-2019.5.31	284 from 168 court in 26 provinces
2020.1.1-2020.5.31	283 from 147 courts in 25 provinces

These protection orders were unevenly distributed across localities. Of the 147 courts that made judgements on protection orders, some accepted a large number of applications, while some others reduced their rulings on protection orders significantly (see details in Table 2). The People's Court of Ba'nán District³⁵ in Chongqing Municipality (hereinafter referred to as the Ba'nán Court) is an exception, as it accepted about ninety applications for protection orders from January to May in 2020,³⁶ including thirty in January 2020 and seven in February (between 18-29 February). In 2019, the Ba'nán Court accepted fifteen protection-order applications in the first five months and 160 throughout the year (with an approval rate of 82.5 per cent).³⁷

The People's Court of Pengshui Miao and Tujia Autonomous County of Chongqing City³⁸ accepted about thirty applications from January to May 2020. In 2019, this local court had accepted at least 89 such applications.³⁹ The People's Court of Wucheng County⁴⁰ in Shandong Province made the third largest number of rulings (19)⁴¹, and courts in three localities including

³⁴ Data available from 1 March 2016 when anti-DV Law became effective.

³⁵ Ba'nán district is in Chongqing municipality, southwest of China. Its terrain is dominated by hills, with a resident population of about 1.07 million, and 36% of the registered population is agricultural.

³⁶ A ruling made on 26 May is No. 89, and a ruling made on 4 June is No. 92.

³⁷ People's Court of Ba'nán District of Chongqing Municipality, *New Measures Against Domestic Violence: Banan Court Realizes Online Human Protection Order Cases*, <mp.weixin.qq.com>, visited 5 December, 2020.

³⁸ There is a registered population of more than 700,000 in Pengshui county, the majority being agricultural; the Miao ethnic group accounts for more than 300,000, and the Tujia for about 90,000.

³⁹ (2019) Yu 0243 Minbao Order No. 89 made on 10 December 2019 can be retrieved on website *China Judgments Online*.

⁴⁰ Wucheng county is in Shandong province in eastern China, with a permanent population of about 390,000, the majority being agricultural.

⁴¹ (2020) Lu1428 Minbao Order No. 20 was issued on 9 June 2020; the documents are accessible on *China Judgments Online*.

Chaoyang District in Beijing, Leqing City and Rui'an City in Zhejiang Province⁴² also accepted at least nine protection order applications respectively from January to May 2020.

Several localities that accepted more protection-order applications in the past few years, such as Beijing Xicheng, Shanghai Pudong, Nanjing Qixia and Jiangsu Jurong,⁴³ experienced a drop from January to May this year during the pandemic. For example, Beijing Xicheng accepted a maximum of six applications in the first five months of 2020, compared with at least 34 rulings in 2019. Jiangsu Jurong accepted at least nineteen applications in 2019 but did not issue its third protection order for 2020 until June.

Table 2. Number of protection-order applications accepted by selected courts, 2016-2020

Number of applications accepted	2016	2017	2018	2019	2020 (first five months)
Chongqing Ba'nian				160	89-90
Chongqing Pengshui				at least 89	29 by May
Ningxiang, Hunan				at least 11 by October	at most 3
Beijing Chaoyang	at least 21	at least 14 by August	at least 18 by November	at least 16 by September	9
Beijing Haidian		at least 30 by August		at least 21 by July	
Beijing West City		6 by April 15 by September	at least 37 by December 19	at least 34 by November 29	6 by April
Shanghai Pudong	at least 41	at least 26	at least 31	at least 18	4
Nanjing Qixia, Jiangsu		at least 10	at least 8 by September	at least 12	5 by May
Jurong, Jiangsu				at least 15	at most 2
Rui'an, Zhejiang	at least 7	at least 11 by September	at least 12	at least 19	9
Leqing, Zhejiang			at least 7		8-9
Liujiang, Guangxi				at least 11	about 4

⁴² Urban areas in eastern China.

⁴³ Urban areas in eastern China.

Secondly, although the total number of accessible protection-order rulings in the first five months of 2020 has not changed much compared with previous years, further analysis showed that the number of such rulings fluctuated greatly at different stages of the epidemic and that the number of rulings made on protection orders during the peak period of the epidemic was the lowest.

Based on accessible information from *China Judgments Online*, there were only thirteen protection-order judgements at the peak of the epidemic between 23 January and 21 February 2020. Nearly half of them, or six, were made by one court located in a rural area of southwest China, the Ba’nan Court mentioned previously (see section 3.2.3 for a content analysis of these thirteen cases). No protection orders were issued between 24 January and 6 February, when the COVID-19 outbreak and the strictest lockdown period coincided with the Spring Festival in 2020, the most important holiday in China.

Once the virus had gradually been controlled and the restrictions had been eased or lifted, the number of protection-order rulings gradually bounced back and finally exceeded what it had been before the epidemic (see Table 3).

Table 3. The number of accessible protection orders at different stages of the COVID-19 pandemic

	All over the country	Ba’nan District in Chongqing	Chongqing	Hubei	Beijing
Before the epidemic broke out: Jan 1 - Jan 22, 2020	63	13	18	0	3
Stay at Home order strictly in place: 23 January – 21 February 2020	13	6	6)	1	1
Travel restrictions gradually removed, and operations of all agencies gradually resumed: 22 February – 24 March 2020	48	5	8	1	2
Health code introduced and the stage of “vigorously and orderly promoting the resumption of work and production, speeding up and expansion”: 25 March- 29 April 2020	84	17	25	1	8

	All over the country	Ba'nan District in Chongqing	Chongqing	Hubei	Beijing
Restrictions eased further, country entering the “normalized epidemic prevention and control stage” 30 April – 31 May 2020	75	4	21	1	5
Total	283	45 (16%)	67 (24%)	4 (1.4%)	19 (6.8%)

The very small number of protection orders accepted at the peak of the epidemic suggests there were difficulties in DV victims applying protection orders and being supported, despite frequent cases of DV and a high potential demand for protection orders during the epidemic. DV victims, mostly women, have faced reduced access to judicial institutions, and police attention and judicial responses have been inadequate due to court closures and postponed hearings. The court was not open as usual, creating obstacles for DV survivors to seek legal redress against their perpetrators and submit applications for protection orders. This is partly because resources were diverted away from the criminal justice system towards more immediate public-health measures as a response COVID-19. After the Spring Festival holiday, all public officials, including the judiciary, were overwhelmed by responding to the epidemic or were transferred to take part joint anti-epidemic actions, the acceptance and judgment of cases therefore being suspended or delayed. This prevented DV survivors from submitting applications and moving forward with their cases.

3.2 Content of protection-order judgement documents

Those applying for protection orders were a diverse group, with women accounting for the vast majority, reflecting the prevalence of DV and the increased awareness among DV victims of their rights. Among the five groups specifically protected by the anti-DV Law (minors, the elderly, the disabled, pregnant and lactating women, and seriously ill patients),⁴⁴ women over sixty years old made up a considerable proportion of protection-order applicants, though there were some cases from minors, members of ethnic minorities, and one case from a disabled man. There were few applications from severely ill patients.

⁴⁴ Article 5: Minors, the elderly, the disabled, pregnant and lactating women, and seriously ill patients who suffer from domestic violence shall be given special protection.

- Ethnic minorities accounted for about seven per cent of protection-order applicants, with at least twenty cases.⁴⁵ Almost all the applicants were adult women, and only one case was rejected.
- There were also many applications from migrants, whose place of residence therefore differed from their place of household registration. Most of them applied at their place of residence.
- An online survey⁴⁶ indicated that around 22 per cent of women with disabilities (N=1057) had experienced verbal assaults and three per cent had been beaten during the epidemic, most of the violence coming from their family members. Of the 283 protection-order rulings in this study, there was only one case of a person with disabilities, who was male, further suggesting that DV is a hidden phenomenon for women with disabilities due to the challenges they face in accessing information and protection services, their dependence on family members for intensive daily support etc. The situation during COVID-19 remained the same compared with that prior to the pandemic. According to a study of 560 court judgements between 2016 and 2018, there were only four protection-order applicants from disabled persons.⁴⁷ However, the COVID-19 lockdown, delays in judicial responses and the digitization of legal services might exacerbate the situation for women with disabilities who do not have the means to report the violence or access support systems, although the latter often cannot offer them suitable accommodation.
- Older women may be at a heightened risk of DV from their partners, adult children, other family members or caregivers. Of the thirteen protection orders on which rulings were made at the peak of the epidemic, five applicants were elderly women over sixty years of age.
- No public-security organs, women's federations, residents' committees, villagers' committees, or rescue management agencies applied for protection orders on behalf of DV victims with no or limited capacity for civil action or who were unable to apply for a personal safety protection order due to coercion or intimidation.⁴⁸ This situation did not change from the pre-pandemic period. According to an analysis of 1172 protection-order judgements between March 2018 and February 2020, only around two per cent of applications were submitted by third parties.⁴⁹

⁴⁵ Five cases from the Zhuang, four from the Miao, three respectively from the Hui and Tujia, two from the Buyi, and one case each from the Mongolian, Qiang, Uygur, Manchu, Yi and She ethnic groups.

⁴⁶ An online survey conducted by Beijing Equality to be released in late December 2020.

⁴⁷ Zhang and Feng, *supra* note 27.

⁴⁸ According to anti-DV Law, for persons with no or limited capacity for civil conduct, or who are unable to apply for personal safety protection order due to coercion, intimidation, etc., the victims' close relatives, public security organs, women's federations, residents committees, village committees, and rescue management agencies can apply for protection orders on their behalf.

⁴⁹ Wumei Law Firm, *supra* note 26.

- At least twenty rulings mentioned DV warning letters,⁵⁰ while thirteen judgment documents clearly mentioned that the applicants had submitted warning letters issued by the public security organ as evidence.

3.2.1 Protection-order approval status

Most applications for protection orders uploaded onto the *China Judgments Online* have been approved or partially approved, most with a validity of six months.⁵¹ Like the situation before the epidemic, 82 per cent of the accessible applications between 23 January and 31 May 2020 made during the epidemic were approved. The vast majority (90 per cent) of the approvals were valid for six months, extendable by three months (about seven per cent). Of the 45 protection-order rulings made by the Ba'nán Court, only one case was rejected (No. 22, dated 16 January 2020), and the approval rate reached 98 per cent. Seven protection-order applications accepted by Chongqing Pengshui Miao and Tujia Autonomous County were all approved. There were also several protection orders issued as a compromise with only partial approval: for example, some applications for moving-out orders against abusers were not approved (see section 3.3 for further analysis).

Table 4. Protection orders: approval status

	6-month validity	5-month validity	4-month validity	3-month validity	Others	Approved in total (including partially approved)	Rejected	withdrawn	Total
1.1-1.22	48			3	1	52, approval rate 84%	11		63
1.23-2.21	11			1		12, approval rate 92%	1		13

⁵⁰ Under Article 15 of anti-DV Law, public security organs shall promptly dispatch the police after receiving a domestic violence report to stop domestic violence, investigate and collect evidence in accordance with the relevant regulations, and assist victims in seeking medical treatment and appraising injuries. The warning letter is a written warning issued by the police to the perpetrator when the circumstances of domestic violence are minor and the perpetrator is not given a public security management penalty to educate and deter the perpetrator, which can also be used as evidence to help determine the facts of domestic violence.

⁵¹ According to the anti-DV Law, the validity period of the personal safety protection order shall not exceed six months, and it shall take effect from the date the court issues it.

	6-month validity	5-month validity	4-month validity	3-month validity	Others	Approved in total (including partially approved)	Rejected	withdrawn	Total
2.22-3.24	35	2		2	1 (2-month validity)	40, approval rate 83%	8		48
3.25-4.29	59		1	7	1 (10-month validity)	68, approval rate 81%	16		84
4.30-5.31	55			3	2 (withdrawn)	60, approval rate 80%	14	1	75
Total	209	2	1	16	5	232, approval rate 82%	50	1	283

3.2.2 Delays in ruling on protection orders

Most protection-order judgement documents do not indicate the date of application but only the dates of filing and ruling, making it difficult to analyze whether the ruling was made in a timely fashion. However, further analysis showed that some protection-order cases encountered delays: violence occurred or protection-order applications were submitted at the end of January or beginning of February, but the case was not filed, nor was a judgement made by the court, until mid-March. For example, according to protection-order document (2020) *Yu 0102 Minbao*⁵² *Order No.1*,⁵³ an application for a protection order was not filed until 18 March for a DV incident on 28 January, the order finally being issued on 19 March. Another case, *Beijing (2020) Jing 0102 Minbao Order No. 5*,⁵⁴ showed that the most recent DV occurred between 1 and 5 February, when the abuser beat and harassed the survivor and her parents several times and the police became involved, though the case was not registered until 10 March.

⁵² *Minbao: Civil Protection.*

⁵³ The judgment document can be accessed by

<wenshu.court.gov.cn/website/wenshu/181107ANFZ0BXSK4/index.html?docId=d71c20c9946c43bca8f7abd500a87b1a>

⁵⁴ The judgment document can be accessed by

<wenshu.court.gov.cn/website/wenshu/181107ANFZ0BXSK4/index.html?docId=b4a331b9cd9c4f55838aab84000cc497>

3.2.3 An analysis of thirteen protection orders at the peak of the epidemic between 23 January and 21 February 2020

Most applicants were women requesting the prohibition of DV committed by their husbands. Five applicants were elderly women over sixty years of age who had suffered DV committed by their husbands (three cases) and adult children (two cases). Six of the thirteen protection-order rulings were made by the Ba'nán Court.⁵⁵

The approval rate of accessible protection orders at the peak of the epidemic was at its highest in the first five months of 2020. Of the thirteen protection orders issued from 23 January to 21 February, twelve were approved, an approval rate of 92 per cent. This was also much higher than the normal approval rate. Eleven of these rulings were valid for six months and one for three months.

Under the anti-DV Law, after the court accepts the application, it should make a ruling within three days (72 hours) and, in an emergency, within one day (24 hours). These protection orders were quickly decided once the cases had been filed. However, most court rulings did not reflect the date of application, only the date of filing, and the rulings basically made on the same day. Therefore, it was difficult to tell whether the rulings of the protection order were made in a timely fashion.

Other studies⁵⁶ show that in other countries the courts adopted different approaches to coping with the stay-at-home order to combat the COVID-19 epidemic and limited court appearances by classifying and prioritising “exceptional” or “urgent” cases. There are concerns that law enforcement and justice systems in many countries may downgrade GBV during the pandemic. In China, the Supreme People's Procuratorate issued *Guiding Opinions on Handling Related Issues in Criminal Cases During the Prevention and Control of the COVID-19 Epidemic*⁵⁷ in January 2020, and the Supreme People's Court issued a *Notice on Strengthening and Standardizing Online Litigation Work during the Prevention and Control of the COVID-19*

⁵⁵ The remaining protection order rulings were made by Beijing (partially rejected), Zhejiang, Jiangsu and Shanghai in East China, Sichuan (two, one of which was rejected) in southwest China, and Hubei in central China where COVID-19 first broke out.

⁵⁶ UN Women et al., *supra* note 3.

⁵⁷ The State Council Information Office, *The Supreme People's Procuratorate Answers Questions on Typical Cases of Judicial Handling Assisted by Information and Technology During the Period of Epidemic Prevention and Control*, <www.scio.gov.cn/m/xwfbh/qyxfbh/Document/1683256/1683256.htm>, visited 5 December 2020.

*Epidemic*⁵⁸ in February 2020. Due to a lack of information, however, the present study was unable to assess whether gender-related cases such as DV were prioritized or considered sufficiently urgent by all judicial administrators in China. Nevertheless, an analysis of the protection-order judgement documents issued by the Ba'nán Court, which had the most specific and accurate information about application and judgement dates, revealed that DV-related cases and hearings might have been considered non-urgent or unexceptional once the epidemic broke out.

Five of the six cases gave the dates of application (between 23 and 28 January during the Spring Festival) and filing (between 18 and 19 February), indicating that court application channels remained open during the Spring Festival holiday, but filing cases, court hearings and making protection order rulings were temporarily suspended or delayed for approximately twenty days after the one-week long holiday of the Spring Festival due to the impact of the epidemic. This made it even more difficult for women to leave abusive relationships and exacerbated their suffering violence during the lockdown.

The positive experience of the People's Court in Ba'nán District, Chongqing Municipality, in implementing protection orders under the anti-DV Law prior to the epidemic

Since June 2019, an anti-DV "3+N" collaborative platform was created in Ba'nán by the Ba'nán District Court, District Public Security Bureau, District Women's Federation, District Procuratorate, Judicial Bureau and other departments. In addition, ten departments, including the District Party Committee Political and Legal Committee, Ba'nán District Court, District Public Security Bureau, and District Women's Federation, jointly issued *Implementation Rules for the Anti-Domestic Violence Multi-Sectoral Collaboration Mechanism in Ba'nán District, Chongqing*, thereby establishing a Ba'nán District anti-DV multi-sectoral coordination working group to enhance the enforcement of protection orders.⁵⁹

It should be made clear that the anti-DV working group consists of the court, the Women's Federation and the police station in the jurisdiction. After receiving DV reports, the police station or the women's federation can assist DV survivors in applying to the court for a protection order upon receiving the survivors' consent. After the court issues a protection order, the local police station or the Women's Federation will assist the court in distributing the

⁵⁸ China News, 'The Supreme Court Issued a Notice to Strengthen and Standardize Online Litigation During the Epidemic', *China News*, 18 February 2020, <www.chinanews.com/gn/2020/02-18/9095372.shtml>, visited 2 December 2020.

⁵⁹ Y. Liu *et al.*, 'Chongqing Ba'nán: Personal Safety Protection Order Casts a Shield Against Domestic Violence', *People's Court News*, 23 March 2020, <www.chinacourt.org/article/detail/2020/03/id/4862388.shtml>, visited 15 November 2020.

protection order to the survivor and perpetrator and conducting follow-up visits afterwards. The court will take compulsory measures to enforce the protection order in cases of violation.

The Ba'nán Court has also issued *Regulations on Handling Personal Safety Protection Order Cases*⁶⁰ setting out the specific procedures and standards for processing personal safety protection-order applications.

Ba'nán's one-stop personal safety protection-order application mechanism has made the application process accessible to DV survivors through community police stations and women's federations, which are often at the forefront of detecting DV and receiving DV reports. Not only can this effectively enforce the protection order and stop DV, it also saves applicants time and costs.⁶¹

By November 2020, Ba'nán District had accepted a total of 337 applications for protection orders and granted 285, an approval rate of 85 per cent.⁶²

3.3 Analysis of rejected protection-order application

Of the 283 accessible applications for a protection order, 51 (18 per cent) were rejected.⁶³ The usual reason given by the courts for rejecting these applications was simply "not meeting the application conditions" without giving any other reason; this appeared in at least 38 (75 per cent) judgement documents.⁶⁴ In many of these rulings, after briefly describing the applicant's requests, the judge ended the trial with just such a simple conclusion, without specifying any basis or making any inference.

"The applicant could not tolerate domestic violence committed by the respondent and was unable to reach an agreement on divorce with the respondent, and she has filed a lawsuit in the People's Court ((2020) Yun 2801 Min Chu 4612). Recently, after receiving the court notice, the respondent went to the applicant's residence and office and handled, threatened and beat the applicant many times, leaving the applicant in panic every day and unable to live and work

⁶⁰ Ibid.

⁶¹ People's Court of Ba'nán District of Chongqing Municipality, *This Innovative Mechanism Pioneered by Ba'nán Will Soon Be Promoted to Form the "Chongqing Experience"*, <mp.weixin.qq.com>, visited 2 December 2020.

⁶² People's Court of Ba'nán District of Chongqing Municipality, *285 Personal Safety Protection Orders Were Issued! Ba'nán District's Anti-Domestic Violence Multi-Sectoral Mechanism Supports Domestic Violence Victims*, <mp.weixin.qq.com>, visited 2 December 2020.

⁶³ Which come from Sichuan (eight), Shanghai (seven), Beijing, Jiangsu, Zhejiang, Anhui (five respectively), and Gansu, Guangxi, Fujian, Chongqing, Yunnan, Hebei, Shanxi, Hunan, Guangdong (one to three respectively).

⁶⁴ Such as Jinghong City Court, Yunnan Province (2020) Yun 2801 Minbao Order No. 1.

normally. In the middle of the night on 3 March 2020, the respondent came to the applicant's residence and beat the applicant again, and the applicant did not even dare to return home during the epidemic. Therefore, the applicant filed an application in accordance with the law.

Upon review, this court found that the application did not meet the conditions for issuing a personal safety protection order.

In accordance with the provisions of Articles 26, 27, and 28 of the Anti-Domestic Violence Law of the People's Republic of China, the ruling is as follows:

The application was rejected.

If you disagree with this ruling, you can apply to this court for reconsideration within five days from the effective date of this ruling.”

Civil Ruling of People's Court of Jinghong City, Yunnan Province (2020) Yun 2801 Minbao Order No. 1

The anti-DV Law states that a “situation of suffering from DV or facing the actual danger of DV” is the one and only condition for issuing a protection order, though in fact many courts did not fully consider the actual danger that the applicant may face, and rejected the protection-order application on the grounds that the applicant did not provide sufficient evidence to prove ongoing DV behavior or an actual danger of encountering DV in the future. In addition, because of the judges' conservative understanding of DV, the court may not consider granting protection orders to former partners or divorced couples who do not cohabit but are still involved in DV incidents.

The aim of the personal safety protection orders established under the anti-DV Law was meant to stop and prevent DV that may occur or continue to occur. However, judges' limited understandings of the definition of DV and the anti-DV Law are the main obstacles in approving applications in many cases. For example,⁶⁵ when it comes to what constitutes DV, judges are inconsistent in their understandings of what the law defines, considering “verbal conflict or physical conflict that did not cause any more serious consequences” sufficient reason to reject protection-order applications. In some ruling documents, even when the injuries had been verified by the public security organs, DV was simply described as a “family dispute”. Applications for protection orders against DV arising out of financial and property

⁶⁵ Such as Anhui 0825 Minbao Order No. 1, Shanghai 0112 Minbao Order No. 2.

disputes were not uncommon, but they were more difficult to obtain approval of because of judges' conservative understandings of DV.⁶⁶

In some other cases, the application was rejected because the two parties reached a mediation agreement under the auspices of the public security organ or because the judge rejected the application for a protection order even when there was a warning letter from the public security agency.

“After review, the court found that, based on the evidence provided by the plaintiff and the statements of both parties, the two parties had disputes over trivial matters and reported to the police during their co-habitation, and the applicant also suffered minor injuries due to the dispute on 15 October 2017. However, the two sides mainly had verbal conflicts or slight physical contact, and there was no serious physical conflict, nor did they cause more serious consequences. At present, the applicant has filed a separate divorce suit with this court, and the two parties are in fact separated. There is no evidence that the respondent continues to commit domestic violence against the applicant or is using verbal threats to intimidate the applicant. At the same time, the respondent also promised that during the litigation period he would not go to the applicant's residence without the applicant's consent, nor would he cause any harm or harassment to the applicant, including going to the applicant's workplace. Therefore, this court believes that the applicant is not suffering from domestic violence or facing a real danger of domestic violence at the moment.”

Civil Ruling of the People's Court of Minhang District, Shanghai (2020) Hu 0112 Minbao Order No. 2

“The court has reviewed the documents submitted by the applicant, such as copies of the ID card, marriage certificate, Forensic Physical Injury Degree Appraisal issued by Taihu County Public Security Bureau Criminal Science and Technology Office, Public Security Mediation Agreement issued by Taihu County Public Security Bureau, and the receipt accepting the case issued by the Jinxi Police Station of Taihu County Public Security Bureau, etc. The court believes that the party applying for a personal safety protection order must provide sufficient evidence to prove that she is suffering from domestic violence or is facing a real danger of domestic violence.

In this case, the evidence provided by the applicant showed that the applicant and the respondent had engaged in violent acts such as grappling with each other. After mediation by the public security organ, the two parties reached a public security mediation agreement and agreed that there would no longer be any conflicts. This dispute has been resolved. However, the applicant has not provided corresponding evidence regarding whether the respondent and his relatives will commit domestic violence against the applicant or whether

⁶⁶ (2020) Ji 0430 Minbao Order No. 1 (Ruling by Qiu County Court of Hebei Province on 22 May 2020).

there is an actual danger of domestic violence in the future. Therefore, the court does not support issuing a personal safety protection order in favour of the applicant.

In accordance with the provisions of Articles 2, 27, 28, and 31 of the Anti-Domestic Violence Law of the People's Republic of China, the ruling is as follows:

The application was rejected.”

Civil Ruling of the People's Court of Taihu County Anhui 0825 Minbao Order No. 1

In the applications for protection orders, most applicants have very specific requests, such as prohibiting the respondent from beating, threatening, harassing or stalking the applicant and the latter's relatives and friends, among which "ordering the respondent to move out of the applicant's residence" was perhaps the most difficult one to get approval for.

One of the protections stipulated in the anti-DV Law is “ordering the respondent to move out of the applicant's residence”, but nearly two-thirds of the applications made in this regard were rejected according to a study of 560 protection-order judgement documents.⁶⁷ The main reasons given by the courts were that "the respondent has lived in this house for a long time without [having] other residences" or that "the house belongs to the respondent", leaving the applicants' safety and needs unconsidered, and therefore diverting from the original intention of the protection order.

Difficulties arose in getting “move out orders” continued during the epidemic. Between 23 January and 31 May, after COVID-19 broke out, thirteen accessible protection-order applications were made containing a request to order the respondent to move out, but only four were fully approved, with another three being partially approved except for the moving out orders; the remaining six applications were rejected.

A previous study of protection orders⁶⁸ pointed to the urgency of enhancing judges' understandings of the definition of DV and the protection-order mechanism laid down by the anti-DV Law, as well as of incorporating regular anti-DV training into the judiciary's day-to-day work. Compared with the normal times before the epidemic, the challenges of having protection orders implemented posed by judges' low levels of awareness of the anti-DV law and their limited capacity apparently did not change during the epidemic. However, given the increased trend in DV incidents during the epidemic and problems in DV survivors accessing support services because of restrictions due to the lockdown – including first responders and

⁶⁷ Zhang and Feng, *supra* note 27.

⁶⁸ *Ibid.*

crisis hotlines, which often provide access to legal channels – , granting protection orders effectively would be even more crucial to saving the lives of women and other vulnerable groups when stay-at-home orders are imposed on homes that are dangerous.

3.4 Analysis of rejected protection-order application

COVID-19 has changed how judicial institutions like the courts, the police, prosecutors, lawyers and prisons work, many of which have had to make adjustments and provide judicial services virtually, including legal advice and hearings based on the digitisation of case-management systems. Courts in places such as Beijing in China have instituted phone, teleconference and online hearings over the pandemic.⁶⁹

According to the media,⁷⁰ the Ba’nan Court has fully rolled out its online application procedure for personal safety protection orders since March 2020 as a response to COVID-19. It provides three channels for DV survivors to apply online: the "easy lawsuit" platform under the Chongqing Court’s public service website; assistance from the police to apply online after reporting the DV case to a police station; and the WeChat application platform mini-programme.⁷¹

“After the court accepts the application, the judge will complete the review of evidence submitted by the applicant within one working day and conduct investigations remotely with the police station where the incident occurred, the parties involved, the Women’s Federation etc. through phone calls and online platforms such as WeChat. The court can make a judgement within 24 hours.” By using information and communications technology (ICT) to strengthen judicial services during the epidemic, the Ba’nan Court has accepted eleven online applications of protection orders and made a ruling in support of nine applications since the COVID-19 outbreak.⁷²

The media coverage showed that a number of local courts, such as Ningbo Zhenhai⁷³ and

⁶⁹ UNDP, *Gender-based Violence and COVID-19* (2020), <www.undp.org/content/undp/en/home/librarypage/womens-empowerment/gender-based-violence-and-covid-19.html>, visited 8 October 2020.

⁷⁰ Y. Liu *et al.*, *supra* note 58.

⁷¹ Wechat is a smart phone-based social media platform

⁷² Y. Liu *et al.*, *supra* note 58.

⁷³ J. Yu *et al.*, ‘Writing the “Electronic” Answer Sheet for the War against the Epidemic’, *People’s Court Newspaper*, 6 May 2020, <www.rmfb.chinacourt.org/paper/html/2020-05/06/content_167750.htm?div=-1>, visited 2 December 2020.

Sichuan Meishan,⁷⁴ were able to keep running by using ICT to provide remote access, including video or telephone hearings, and to provide virtual access to various services, including online applications for protection orders from DV survivors.

The judge in the Bao'an district court in Shenzhen⁷⁵ uses the 'Cloud Court' to conduct online inquiries and make transcripts, and the entire process is recorded. The parties use electronic signatures on the transcripts and return them.⁷⁶ After reviewing the relevant evidence, the court delivers a personal safety protection ruling on the same day through the 'micro-court'. The entire process of the 'early warning application hearing and judgement' of the protection order is completed online.

However, due to the limitations of this study, it is not yet clear to what extent China's judicial systems have acquired the digital capacity and readiness to use telecommunication tools effectively and operate remotely. One concern is handling the filing, which is done remotely in systems despite their sometimes not having a robust electronic case-management system in place, and in some instances, the integrity of such hearings can be perceived to be compromised.⁷⁷

Another emerging concern is the significant gender digital-divide globally, which the COVID-19 pandemic has further exposed. The gender gap in the use of digital technologies in China appears relatively less visible there due to comparatively high mobile internet connectivity and strong growth in digital payment services.⁷⁸ However, barriers that can impede internet use include educational level, skills in internet surfing and the cost of internet access,⁷⁹ all of which have been undermined by the pandemic. The elderly and poor and those who are less educated – including many women from marginalized communities, such as some ethnic minorities and people with disabilities – bear the brunt of the digital divide and face disproportionate exclusion

⁷⁴ People's Court in Meishan, *Special Care: Personal Safety Protection Order During the Epidemic*, <www.msfy.gov.cn/Showarticles.asp?ID=10080>, visited 2 December 2020.

⁷⁵ Urban area in southeast China.

⁷⁶ J. Zhang and J. Lv, 'Personal Safety Protection Can Also Be Applied During the Epidemic: Bao'an Court Immediately Built a Personal Safety Firewall', *Bao'an Daily*, 6 March 2020, <www.szszyfw.gov.cn/pasz/whwd/202003/t20200306_19042969.htm>, visited 2 December 2020.

⁷⁷ UN Women *et al.*, *supra* note 3.

⁷⁸ OECD, *Bridging the Digital Gender Divide: Include, Upskill and Innovate* (2018).

⁷⁹ Y. Wang, 'How China is Closing the Digital Divide', *CGTN News*, 31 May 2020, <news.cgtn.com/news/2020-05-31/How-China-is-closing-the-digital-divide-QWr6BUNBJK/index.html>, visited 5 December 2020.

from digital media, such as limited access to the internet and low levels of digital literacy.⁸⁰ The COVID-19 crisis has exacerbated these persistent inequalities, making it even more difficult for disadvantaged women to access information and services when support is provided remotely, GBV/DV resources go digital, and the temporary alternatives provided by the judicial system because of the public health crisis are exclusively virtual.

4. Conclusion

The admittedly fragmented information on this issue shows that local NGOs have received a substantial number of DV-related reports and inquiries, nearly double or triple the usual number, since China was locked down after the COVID-19 broke out right before the Spring Festival, the Chinese New Year, in late January 2020.

283 rulings on protection orders were made by courts between 1 January and 31 May 2020, the judgement documents becoming accessible on the *China Judgments Online* website by early October 2020. The total number of protection orders did not change much compared with the same period in the previous year. However, there was a decrease in the number of courts making rulings on protection orders in the first five months of 2020 compared with previous years (147 courts, fewer than the same period in every year since 2017). The number of courts issuing protection orders at the peak of the epidemic was usually three to five times less than in the same period in previous years.

The distribution of protection orders in different localities was also uneven. Of the 147 courts that made judgements, some accepted a large number of protection-order applications, such as the People's Court of Ba'nán District, which accepted ninety applications, and the People's Court of Pengshui Miao and Tujia Autonomous County of Chongqing Municipality, which accepted 29 applications, while some other courts made significantly fewer rulings.

In addition, analysis of accessible protection-order judgement documents shows a drop in protection-order rulings (only thirteen) made by courts in China at the peak of the epidemic between 23 January and 21 February 2020, when the country was under the strictest travel restrictions and lockdown. Nearly half these thirteen judgements were made by one court, the

⁸⁰ J. Cai, 'China's Coronavirus Status App Shuts Many Citizens out of Society, But There Are Ways to Bridge Digital Divide', *South China Morning Post*, 2 July 2020, <www.scmp.com/news/china/society/article/3091418/chinas-coronavirus-status-app-shuts-many-citizens-out-society>, visited 2 December 2020.

People's Court of Ba'nán District, Chongqing Municipality, located in a rural area in southwest China. No protection orders were issued from 24 January to 6 February, when the COVID-19 outbreak coincided with the Spring Festival. This suggests that women and other vulnerable groups encountered difficulties in going to police stations to file complaints, request support measures or make applications for protection orders due to the suspension of or delays in legal services.

Analysis of protection-order judgement documents which have specific and accurate information on application and judgement dates suggests that DV-related cases and hearings were far from being a priority for the judiciary and were generally considered non-urgent or unexceptional once the epidemic broke out. Courts were not open as normal, some DV-related cases were not handled in a timely fashion, and court hearings and protection-order judgements were suspended or delayed for approximately twenty days from late January to March.

The challenges of using the protection-order mechanism, such as judges' lack of understanding of the anti-DV law and limited capacity, seem not to have changed during the epidemic, exacerbating the current situation of the increased number of DV incidents during the epidemic and the reduced access to remedial services faced by women and marginalized communities.

Digital technology, which some courts used, worked to some degree. In the later stages of the pandemic, more local courts adopted such measures by providing alternatives in the form of a virtual platform for survivors to apply for protection orders. Meanwhile, due to the limitations of the study, more information is needed to analyze the readiness of local courts to provide remote services to apply for protection orders and the problems this may cause, including reinforcing the gender divide in the use of digital media, and how women and other disadvantaged groups coped with digitalized court services during the pandemic.

5. Reflections and Recommendations

- The lack of gender sensitivity regarding anti-epidemic policies has weakened women's support networks. The government's "one size fits all" approach to the lockdown made it very difficult for civil-society groups, including volunteers, to play a role and provide services to DV survivors. The emergency response policy should consider protecting women from violence as an uncompromising agenda during this public health crisis. It is important to ensure that women's organizations are classified as essential service-providers and are adequately resourced during public-health emergencies such as the COVID-19 pandemic to deal with the increased demand from vulnerable women and

girls. The needs of the most marginalized groups, such as women with disabilities, should be considered.

- It is crucial to guarantee virtual access to services for DV survivors, including legal advice, police, judicial services and court hearings. For example, capacity-building should be provided for stakeholders, including the judiciary, at normal times and technical guidance in enforcing the anti-DV Law and the protection-order mechanism during emergencies should be developed. Support should be provided to anti-DV service-providers to establish online or remote services for GBV/DV survivors, and the provision of virtual services should be included in their future emergency and contingency planning.
- Meanwhile, when facing challenges such as digital capacity and readiness, or the gendered digital divide etc., outreach is needed to ensure disadvantaged women are informed, assisted to access virtual services, and given capacity-building so that those in this most marginalized group can increase their digital literacy.
- The awareness and capacity of the judiciary, especially the judges, regarding the definition of DV and the protection-order mechanism should be increased. Anti-DV training should be integrated into their day-to-day work. There is a need to increase the application and approval rate of protection orders, to take fully into account the actual danger faced by applicants, and to avoid the excessively high standards for evidence required from DV survivors. In addition, the court should be more responsive to the specific needs of “moving-out orders” by considering the possibly dangerous situations faced by DV survivors, especially when a stay-at-home policy is in place because of the pandemic.
- During the epidemic, especially over the peak period, it is crucial for the courts to process protection-order applications quickly and protect DV survivors in emergencies. Analysis of the accessible judgement documents showed that there was a gap between the application being submitted and the case being filed, as well as the ruling being made in some cases. Moreover, most judgments did not document the time of application, making it difficult to assess whether the filing and ruling were done in a timely fashion. The courts are recommended to take note of the urgency of protection-order applications and shorten the time from application submission to making rulings, thus processing protection-order applications in a more timely fashion. The judgement documents should also be more standardized, with the application submission date being specified in the future.
- Data collection should be strengthened and case studies compiled of local courts like the Ba’nan Court regarding their good practice, such as their multi-sectoral collaboration mechanism, one-stop protection-order application platform, and provision of virtual access to protection-order applications for DV survivors during the pandemic.

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Chapter 5

The Impact of COVID-19 on the Rights of Girl-child in Ethiopia: Towards Effective Protection from Sexual Abuse

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Abstract

This study examines gendered impacts of COVID-19 response measures on the rights of the girl-child in Ethiopia. It specifically asks whether the existing laws and policies of the country and the additional (provisional) measures introduced in response to the pandemic are sufficient to protect girl-children from sexual abuse. It further appraises some of the challenges and vulnerabilities of girl-children to sexual abuse as a result of the COVID-19 response measures, given the reported rise in sexual abuse following stay-at-home orders and school closures. In as much as the law is instrumental in driving social change and preventing and rectifying violation of the rights of vulnerable groups, particularly the girl-child in this case, the paper assesses the adequacy of the legal regime to respond to the unfolding realities of sexual abuse in the COVID-19 era. The study contributes to this theme by examining the legal and policy frameworks and assessing the gaps in laws and policies designed to protect the girl-child from sexual abuse in Ethiopia.

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1. Introduction

Around the world, as the multidimensional impact of COVID-19 materialises, the gendered aspect of the pandemic is only now beginning to become apparent and be assessed. There is a consensus, however, that it has impacted on women and girls far more than on men and boys, thus increasing the existing gender-equality gap.²

In Ethiopia, it has also been noted that, of all the impacted groups, girl-children are among those who have been most disproportionately affected as a result of their age and sex and the gender norms in society.³ They are especially vulnerable to sexual abuse. As girl-children now tend to stay at home following the closure of schools, one of the measures taken by the government to control the spread of the virus, they face new challenges at home from their supposed protectors.

Although no wide-ranging studies have been conducted of sexual abuse since the beginning of the crisis, an official report recently released by the media shows a sharp rise in sexual abuse during the pandemic, including the raping of girl-children by close family members. According to a statement by the former head of the Addis Ababa Women, Children and Youth Bureau, more than a hundred girls and women have been sexually abused.⁴ This figure, revealed by the former bureau head, though questioned by many, cannot be rejected without further comprehensive study. After this shocking report was made public, the FDRE Attorney General's Office also released a report on 27th June 2020 indicating that 94 cases of sexual abuse were under investigation, 23 at trial and only four decided since the pandemic started. This is just the tip of the iceberg regarding the impact of COVID-19 on the girl-children in Ethiopia. Even more pressing is the fact that among the perpetrators are people upon whom the law bestows the responsibility for protecting girls, it having been reported that some girl-

² UN WOMEN, 'COVID-19 will widen poverty gap between women and men', 2 September 2020, <www.unwomen.org/en/news/stories/2020/8/press-release-covid-19-will-widen-poverty-gap-between-women-and-men>, visited on 10 September 2020.

³ UNICEF Ethiopia, 'Socio-economic impacts of COVID-19', 14 May 2020, <www.unicef.org/ethiopia/media/3056/file/Socio-economic%20impacts%20of%20COVID-19.pdf>, visited on 21 September 2020.

⁴ According to the Addis Ababa Women, Children and Youth Bureau Head, Mrs Almaz Abreha, based on the reports the Bureau collected from hospitals, more than 101 children were sexually abused and raped within just the first two months since the COVID-19 pandemic started in the capital, Addis Ababa, alone. See <www.youtube.com/watch?v=o9qmnHNDzzo&feature=share&fbclid=IwAR1FvMWP7zqcNKe4hXaJ4MKAnMcp4vNNBTelbb1zJwpPOYedgZiv-Jnhs_s>, visited on 29 September 2020.

children have been abused by their own fathers.⁵ This is an alarming example of a protector turned predator.

The Ethiopian government has made some efforts to adjust its lockdown measures to these problems. The Chief Justice, for example, ordered that the courts hearing such cases should be reopened and should not be affected by the closure of most other courts.⁶

As a result, the suggestion is that COVID-19 preparedness and response measures must be reassessed from gender and human rights perspectives in light of the pandemic. From a legal standpoint, and given the vulnerability of girls during this pandemic, questions must be asked on whether the existing and post-COVID-19 laws and policies are adequate and effective enough to protect them from sexual abuse. The enforcement measures also need to be evaluated in a similar manner in line with the government's inherent duty- the duty to protect.

This study is based on the broader hypothesis that 'the existing laws and policies that are in effect and the post COVID-19 preparedness and response measures are not sufficient to give wider protection to the girl-child' right to be free from sexual abuse'. In order to test this hypothesis, a doctrinal method⁷ using descriptive and evaluative approaches to the research is employed. The analysis of laws and the interpretation of certain patterns observed in practice, together with in-depth interviews with different stakeholders such as prosecutors, one-stop clinic heads, and gender experts, has therefore been carried out for this study.

The study also assesses how much the laws and policies embrace effective safeguarding elements in the context of emergencies. Further, it examines the consistency of the new additional preparedness and response measures⁸ with the guidelines issued by different international bodies such as the UN High Commissioner for Human Rights.

⁵ As per Article 7 (1) of the Convention on the Rights of the Child (CRC), Article 19 of the African Charter on the Rights and Welfare of the Child (ACRWC), Article 36 (1(c)) of the FDRE Constitution, Article 219 of the Revised Federal Family Code, and Article 658 of the FDRE Criminal Code, girls are entitled to the right to know and be cared for by their parents. This includes the enjoyment of parental care and protection and the right to reside with her parents. The justification for recognizing this right is that girls are exceptionally prone to danger when they are far from their parents. Now, however, with the ongoing pandemic and its crises, this has created a new dilemma, as those who are supposed to be providing protection are turning into predators.

⁶ In response to the alarming increase in sexual violence, the Chief Justice, Mrs. Meaza Ashenafi, and the FDRE Supreme Court President have announced that the courts will remain open and will hear cases relating to sexual abuse during the COVID-19 lockdown.

⁷ This method of research is the core method in legal studies. See C. Paul, 'Legal Research', in K. Andrew and R. Les (eds.), *Advanced Research Methods in the Built Environment* (Hoboken, Wiley-Blackwell, 2008) p.29.

⁸ The FDRE government proclaimed a State of Emergency (Proclamation No. 3/ 2020) and issued a number of Regulations and Directives to counter and control the spread of COVID-19 and mitigate its impacts.

2. The Right to be Protected from Sexual Abuse: An Overview

The rights to protection, including the right to be free from sexual abuse, are vital to a girl-child's general well-being.⁹ As a result of her intersectional identity (i.e. being both a child and a girl), she is frequently under a constant threat of violence in almost all places and circumstances. And now, in addition to the existing dynamics that place girl-children at a heightened risk of vulnerability, the COVID-19 pandemic has added new challenges, including sexual abuse.

The major international and regional human rights treaties recognise the girl-child's right to be protected from sexual abuse, a fundamental right, although it has not been defined comprehensively.¹⁰ The notion of sexual abuse generally extends to any sexual act against a person such as the inducement or coercion to engage in any unlawful or psychologically harmful sexual activity, rape, sexual assault, sexual molestation, incest, or forced marriage. The term "sexual abuse" has not always been defined as clearly and comprehensively as it could be in incorporating all these aspects. However, the point to be made here is that it differs from and is broader than "sexual exploitation", though it is also an inherent component of sexual exploitation in commercial situations.¹¹ Such acts can also be considered an abuse if committed by an older child than the girl-child or if threats or other means of pressure are used.¹²

The right to be free from sexual abuse has long been guaranteed by many of the international, regional and national laws that Ethiopia has adopted. For instance, the Convention on the Rights of the Child (CRC), the African Charter on the Rights and Welfare of the Child (ACRWC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in nearly similar ways, mandate states, with the duty to protect and provide more protection to the girl-children who are vulnerable to sexual abuse. Similarly, as discussed below, the FDRE Constitution, the FDRE Criminal Code and other national laws also protect the same right.

⁹ M. Vitit, 'Article 34: Sexual Exploitation and Sexual Abuse of Children', in A. Alen, et al. (eds.), *A commentary on the united Nations Convention on the rights of the child* (Martinus Nijhoff Publishers, Leiden, 2007) p. 2.

¹⁰ T. John (ed.), *The UN Convention on the Rights of the Child: A Commentary* (OUP Oxford, 2019) p. 1316.

¹¹ Supra note 8.

¹² See UN Committee on the Rights of the Child (CRC), *General comment No. 13/2011: The right of the child to freedom from all forms of violence*, CRC/C/GC/13, 18 April 2011, <www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf> visited on 9 October 2020.

The CRC guarantees the right to be protected from all forms of sexual abuse under Articles 19 and 34. It also obliges states “to take all appropriate national, bilateral and multilateral measures to prevent: the inducement or coercion of a girl-child to engage in any unlawful sexual activity, the exploitative use in prostitution or other unlawful sexual practices and the exploitative use in pornographic performances and materials”.¹³ At the regional level, under Articles 16 and 21 the ACRWC guarantees the same right, advising states to take specific legislative, administrative, social and educational measures to protect the girl-child from all forms of sexual abuse. By the same token, stressing the importance of additional measures, CEDAW mandates states to take all appropriate measures, including legislation, to suppress all forms of trafficking in girls and exploitation of the prostitution of girls.¹⁴ In line with the importance of legislative measures, the Committee on the Rights of the Child (CRC Committee) provides that legislative measures shall comprise national, provincial and municipal laws and all relevant regulations which define frameworks, systems, mechanisms and the roles and responsibilities of the concerned agencies and competent officers.¹⁵ The FDRE Constitution, Article 18, provides that everyone has the right to protection from cruel, inhuman or degrading treatment or punishment. Moreover, Article 36 provides that children shall not be subject to practices which may be hazardous or harmful to their health or well-being.¹⁶

In addition, the FDRE Criminal Code has provisions protecting girl-children against various forms of outrage and exploitation. The core provisions in the Code that combat sexual outrage are against rape, incest, and sexual outrage committed on minors and infants.

Article 626 of the Code provides that “whoever performs sexual intercourse with a minor of the opposite sex, who is between the ages of thirteen and eighteen years, or causes her to perform such an act with her, is punishable with rigorous imprisonment of from three years to fifteen years”. In a similar manner, it also stipulates, under Article 627, that the performance of such an act on a minor of the opposite sex who is under the age of thirteen years is punishable more severely. Moreover, whenever the perpetrator performs such an act on the victim using his authority in a case where the victim is the pupil, apprentice, domestic servant or ward of the criminal, or a child entrusted to his custody or care or in any other way directly dependent upon or subordinate to him, the punishment is more stringent. The Code as well criminalizes the act of rape, extending the punishment to rigorous imprisonment from five years to twenty

¹³ See Convention on the Rights of the Child (CRC), 20 November 1989, Articles 19 and 34.

¹⁴ See Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), 18 December 1979, Article 6.

¹⁵ UN Committee on the Rights of the Child, *supra* note 11.

¹⁶ The Federal Democratic Republic of Ethiopia (FDRE) Constitution, 21 August 1995, Proc. No 1, Neg. Gaz. Year 1, no. 1. Article 18 (d) and 36 (1 (e)).

years.¹⁷ The 2017 National Children’s Policy likewise identified the problem of sexual abuse as its main focus area of child protection.¹⁸

3. The COVID-19 pandemic: “the new normal?”

The COVID-19 pandemic has now become the most pressing public-health concern globally, requiring the world to adopt a “new normal” way of life. In particular, it has changed almost every aspect of life, from school closures to city or countrywide partial or full lockdowns. Under this new way of life, the world is faced with great uncertainties that have required governments to adopt new measures to mitigate their impacts.¹⁹ However, the mitigating measures, including stay-at-home restrictions and other measures, are contributing to an increase in gender-based violence, including sexual abuse, worldwide.²⁰ Many countries in the world, including the FDRE, have now accepted this fact and are taking into consideration the manifold impacts of the pandemic on the rights of the girl-child.

In Ethiopia, as COVID-19 spread throughout the nation, altering almost all aspects of life, “the new normal” way of life increased the vulnerability of the girl-child to sexual abuse, adding another layer of vulnerability to an already existing dire web of vulnerabilities, predominantly of girl-children living in close proximity with potential perpetrators in circumstances of limited public scrutiny.²¹ The sexual abuse of women and children has long been an issue in Ethiopia,²² but there is no doubt that since COVID-19 was declared a pandemic, schools were closed and stay-at-home restrictions put in place, the degree of vulnerability to sexual abuse, in particular in the private sphere, has increased.

The arrival of the COVID-19 pandemic and the new ways of life it has engendered have also increased girl-children’s vulnerability, making extra care and protection of them an

¹⁷ The Federal Democratic Republic of Ethiopia (FDRE) Criminal Code, 9 May 2005, Proc. No. 414, Neg. Gaz. Article 620.

¹⁸ The Federal Democratic Republic of Ethiopia (FDRE), National Children’s Policy, April 2017, pp. 15 and 21.

¹⁹ B. Gates, ‘Responding to COVID-19: A Once-in-a-Century Pandemic?’, *New England Journal of Medicine*, 30 April 2020, <www.nejm.org/doi/full/10.1056/nejmp2003762>, visited on 5 October 2020.

²⁰ E. Graham-Harrison, et al., ‘Lockdowns around the world bring rise in domestic violence’, *The Guardian*, 28 March 2020, <www.theguardian.com/society/2020/mar/28/lockdowns-world-rise-domestic-violence>, visited on 20 October 2020.

²¹ United Nations Development Programme (UNDP), ‘Gender-based violence and COVID-19’, 11 May 2020, <www.undp.org/content/undp/en/home/librarypage/womens-empowerment/gender-based-violence-and-covid-19.html> visited on 19 September 2020.

²² See UN Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding Observations on the combined sixth to seventh Periodic Report of Ethiopia*, CEDAW/C/ETH/6-7 27 July 2011, <www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ETH-CO-7.pdf> visited on 9 October 2020.

insurmountable burden to the government if it is to fulfil its duty to protect girl-children from sexual abuse. Thus the COVID-19 pandemic has become not only a health concern, but equally a human rights concern.²³ Yet, the sensitivity of the notion that COVID-19 is itself a human rights issue has not yet made itself felt, and none of the response measures has had girl-children's rights at their heart.

Women and girls who were already in abusive situations are more exposed than ever to increased control and restrictions by their abusers, with little or no recourse to seeking support.²⁴ The prospective measures that have been taken by the government to bring more girls into schools and the protection this gives them from sexual abuse has been interrupted as a result of the closure of the schools.²⁵ The gains made over the years have therefore been placed in jeopardy because of COVID-19.

In accordance with a newly released UNICEF report, nearly 26 million²⁶ children are now out of school as a result of COVID-19 lockdowns globally, half of them girl-children, who are now forced to stay at home, despite their extreme vulnerability to sexual abuse in this novel new situation. This is making girl-children extremely vulnerable to sexual abuse in the private sphere. Also, the shrinking of peer-support networks is increasing social isolation and vulnerability for girl-children, exposing them to a greater risk of sexual abuse.

Generally, in many parts of the world, violence against children is under-reported, making it difficult to determine its magnitude.²⁷ As the reports below, obtained from the one-stop service centres at Gandhi Memorial Hospital and Menelik-II Hospital, show, there was no significant increase in the number of cases of sexual abuse reported in the first six months of the pandemic. However, the number is believed to be more than the reported cases, as only a few reports were

²³UN Women, 'In Focus: Gender equality matters in COVID-19 response', 23 March 2020, <www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response>, visited on 10 September 2020.

²⁴ The usual means whereby girls seek help after experiencing sexual abuse is to talk to their schoolmates and teachers. The COVID-19 pandemic has obviously disrupted this support structure as a result of school closures, making it more difficult for girls to report the abuse and seek help.

²⁵ E. Abera and B. Jelan, 'Gender-based Violence: A National Challenge Unaddressed', *Addisstandard*, 6 October 2020, <www.addisstandard.com/gender-based-violence-a-national-challenge-unaddressed/>, visited on 3 October 2020.

²⁶Ethiopian National Emergency Coordination Centre for COVID-19 response and OCHA (2020), Ethiopia: COVID-19 Humanitarian impact Situation Report Update No. 7, 25 April–1 May 2020, 5 May 2020, <www.reliefweb.int/report/ethiopia/ethiopia-covid-19-situation-report-no-7-25-april-1-may-2020>, visited on 26 September 2020.

²⁷ D. Kassan, 'The Protection of Children against All forms of Violence', in J. Sloth Nilsen (ed.) *Children's Rights in Africa: A Legal Perspective* (Ashgate Publishing Ltd, UK, 2008), p. 173.

made because of the restrictions on movement in the country and the public not being aware that services had been available in the previous six months.²⁸

No.	Month (Dec. 2019-Sept., 2020)	Number of cases of sexual abuse admitted to hospitals	
		Gandhi Memorial Hospital one-stop service centre	Menelik-II Hospital, one-stop service clinic
1	December	98	31
2	January	91	23
3	February	104	41
4	March	72	29
5	April	53	28
6	May	67	29
7	June	66	46
8	July	78	31
9	August	57	25
10	September	105	26

Source: Addis Ababa City Administration Health Bureau, Gandhi Memorial Hospital and Menelik-II Hospital, one-stop service centres.

What is more worrying is that, after the arrival of COVID-19, estimates indicate that there has been a considerable increase in cases of sexual abuse committed against girl-children at home by their family members, including their fathers.²⁹ This was also confirmed by the Menelik-II Hospital one-stop service centre head, namely that the identity of the perpetrators has changed significantly from outsiders to family members. And with regard to the place of the offence, there has also been a shift into unlikely places, including private settings, as well as in girl-children's own homes.³⁰

Furthermore, since the pandemic started and schools were closed (from March to May) 243 early marriages and 1279 betrothals or engagements have taken place, and 534 marriages were stopped in the Amhara Regional State, as officially reported by the regional Women, Children

²⁸ In-person interview with Sister Manguday Seifu, Coordinator of Gandhi Memorial Hospital one-stop service centre, (9 October 2020).

²⁹ Ibid.

³⁰ In-person interview with Sister Meseret Dibaba, Head of Menelik-II Hospital one-stop service clinic, (30 October 2020).

and Youth Bureau. Similarly, the Ethiopian Women Lawyers' Association (EWLA) has released a report indicating that about 249 girls have been forced into child marriages in the Amhara Regional State.³¹

In line with the international, regional and national laws Ethiopia has adopted, the FDRE government is obliged to provide girl-children with legal and institutional protection from sexual abuse. In reality, however, the government's responsibility to girl-children is usually perceived to be confined to areas outside home, leaving the girl-children's protection in the private sphere to the parents and other family members. In fact, the home environment has become equally threatening, if not more so, as a result of the COVID-19 crisis. In this regard, the UN Special Rapporteur on Violence against Women has also stated that home is also a place of fear and abuse for women and children.³²

4. The Impact of COVID-19 on the Rights of the Girl-child: Double Victimization

4.1 Intersectional Identity: Girl and Child

Although age and gender are separate categories, vulnerability to violations of rights against these categories should not be seen as exclusive. Girl-children are most vulnerable owing to their age and gender. The combination of these identities subjects them to violations of increased intensity or extent. This is not to say the sexual abuse of girl-children is defined by their gender and age alone, as other factors are also important. Social norms that regulate gender relations, culture and perceptions of the sexualisation of women in their youth could also be significant, but steps to protect girl-children from sexual abuse should begin by recognising this intersection of identities and the impacts thereof.

The general perception with respect to the identity of the girl-child as a legal identity, is that she is either a child or a woman.³³ However, taking in to account her intersectional identity as

³¹ H. Abebe, 'COVID-19 induces domestic violence, sexual abuses', *The Reporter*, 20 June 2020, <www.thereportermagazines.com/1669/>, visited on 10 October 2020.

³² UN Human Rights Office of the High Commissioner, 'States must combat domestic violence in the context of COVID-19 lockdowns – UN rights expert', 27 March 2020, <www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25749>, visited on 10 October 2020.

³³ The CRC, Article 1, uses the following definition: "[a] child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier". The ACRWC, Article 2, uses this definition: "[a] child means every human being below the age of 18 years." The RFC, Article 215,

both a child and female, a girl-child has one unique identity that can be defined as “*a person of female gender below eighteen (18) years of age.*”

How to conform to this identity before any government organ is, however, open to ambiguity and different interpretations, although both identities can be used alternatively in enforcing one’s rights. Mostly for the sake of convenience, law enforcement organs prefer to identify girl-children as children rather than women. For instance, for all practical purposes matters to do with girl-children are the responsibility of the children’s rights wing of the Ministry of Woman, Children and Youth.³⁴ The major flaw in this mode of identification is that it disregards the importance of the gender aspect of her identity and the need to take it into account. The foregoing logic is that the very essence of the notion “girl-child” as both a child and female should unfailingly be perceived as one unique and separate identity in getting human rights jurisprudence to recognize her intersectional identity.

Thus, recognition of a girl-children’s intersectional identity in law and practice as one “unified identity” should be the first step towards providing her with effective protection from sexual abuse. The shift in the approach to recognizing a girl-child’s single and unique identity will certainly be a giant step forward in the greater protection of her rights. Otherwise, this unique identity of hers will expose her to greater vulnerability at all places and circumstances, even at home, resulting in double victimisation.

4.2 Increased Vulnerability at Home: A Case of the Protector Turned Perpetrator

A girl-child is better protected from sexual abuse when she lives with her parents. Taking into account the immaturity and lack of experience of life, and respecting a girl-child’s evolving capacities and progressive autonomy, she should be “in the care of” an adult guardian.³⁵ In that regard, international, regional and national legal instruments place a duty on parents to take the primary responsibility for the girl-children’s upbringing and development in a family environment. Similarly, the instruments guarantee girl-children the right to know and be cared

defines a minor as: “[a] person of either sex who has not attained the full age of eighteen years.” The African women’s protocol, Article 1 (k), defines women as persons of female gender, including girls.

³⁴ In-person Interview with Mr. Kibri Hailu, Director for Child Rights Directorate, Ministry of Women, Children and Youth, (4 October 2020).

³⁵ N. Cantwell and A. Holzscheiter, ‘Article 20: Children Deprived of Their Family Environment’, in A. Alen, et al. (eds.), *A commentary on the United Nations Convention on the rights of the child* (Martinus Nijhoff Publishers, Leiden, 2008) p. 9.

for by their parents, including the right not to be separated from them.³⁶ As a girl-child will be better protected and feel safer whenever she is living with her own parents, protecting this right is vitally important in safeguarding her from sexual abuse. States are also required to use their best efforts to ensure recognition of the principle that both parents have joint responsibilities for the upbringing and development of their children.³⁷ On the whole, the assumption is that girl-children are most protected in the home environment.³⁸ However, the COVID-19 pandemic and the impact it has had on the rights of girl-children prove that this assumption is not always valid.

As indicated above, even though there has been no significant increase in the total number of sexual abuse cases reported monthly to the hospitals, the identity of the perpetrators has significantly shifted from outsiders to family members.³⁹ Likewise, according to the Addis Ababa Women, Children and Youth Bureau, more than 101 girl-children have been the victims of sexual abuse, the majority of them abused by their family members at home in Addis Ababa during the COVID-19 lockdown. Other perpetrators committing sexual abuse include neighbours, tutors and close relatives. Given suspicions of the under-reporting of cases of sexual abuse, the magnitude of the problem should not be judged on the basis of reported cases alone. This increase in vulnerability during the COVID-19 pandemic calls for an examination of the protection of girl-children at home and in the private sphere more generally. The lessons of the additional vulnerability COVID-19 has brought with it are obviously important in order to provide better protection in the private sphere, both in normal times and in times of emergencies.

5. The Frameworks in Protecting the Girl-child from Sexual abuse

The FDRE government's efforts to put in place prompt, adequate and effective protective measures against cases of sexual abuse are of key importance, especially the enactment of laws and policies, and the putting into place of appropriate institutions to implement them. However, previous experiences in this area have shown that existing laws and policies and their implementation, as well as coordination among the responsible institutions, typically face a multitude of teething problems. The COVID-19 pandemic has increased the complexity faced

³⁶ See CRC Article 7 (1), ACRWC Articles 19 and 20, FDRE Constitution Article 36 (1(c)), FDRE Criminal Code Articles 658 and 659, and RFC Articles 123-179.

³⁷ CRC, *supra* note 12, Article 18 (1).

³⁸ Cantwell and Holzscheiter, *supra* note 34.

³⁹ In-person Interview with Mr. Getamesay Kinefu, Case Manager at Gandhi Memorial Hospital one-stop service centre, (9 October 2020).

by the already troubled framework of the country's struggle to protect girl-children from sexual abuse. Below I present a critical examination of existing laws and policies and of the institutions that are supposed to implement them.

5.1 The legal framework

The FDRE has a good reputation in adopting major international and regional human rights instruments.⁴⁰ As discussed below in detail, the human rights instruments to which the country is a party contain specific provisions which deal with the protection of girl-child's rights as either as a child or a woman, but is not specific about a girl-child's intersectional identity as a single unique identity. In this regard, these instruments and the international jurisprudence regarding human rights have generally failed to acknowledge the situation for girl-children suffering sexual abuse.

At this juncture, a remark should be made about the status of the human rights treaties that have been ratified by the FDRE. In accordance with Article 9 (4) of the FDRE constitution, all international agreements ratified by Ethiopia are an integral part of the law of the land. That is, they have equal status with the laws of the land and have full force in the country.⁴¹

The national legal frameworks, however, are rather scanty in the sense that there is neither specific legislation, like a law against sexual offences, nor enough persuasive jurisprudence in the national context ensuring girl-children's rights to protection. This includes the FDRE

⁴⁰ It has, for example, ratified the following international treaties on the rights of girls, including the International Covenant on Civil and Political Rights (ICCPR) of 1966 (acceded on 11 June, 1993); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979 (ratified on 10 September, 1981); the Convention on the Rights of the Child (CRC) of 1989 (acceded on 14 May 1991) and the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (CRC-OP-SC) of 2002 (acceded on 25 March 2014). Similarly, it has also adopted the following regional treaties: the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol) of 2003 (ratified on 30 March 2018), the African Charter on Human and Peoples' Rights (ACHPR) of 1981 (ratified on 20 June 1989), and the African Charter on the Rights and Welfare of the Child (ACRWC) of 1999 (acceded on 2 October 2002).

⁴¹ However, technically speaking the ratified human rights instruments face challenges to their implementation since the incorporation mechanism has shadowed its manifestation. First, there is no official translation of the original documents into Ethiopia's working languages. Second, the mandatory requirement of promulgation in the official *Negarit Gazzeta* (as per article 2 of proclamation No. 3/1995) negatively affects its enforcement, as more often than not it has not been published. Further, the inaccessibility of the documents for the judicial and law-enforcement organs has a negative impact on the implementation. The only milestone decision to break this deadlock was made by the Federal Supreme Court's Cassation Bench Division in the cases of *Tsedale Demesa v Kefla Demesa and Etsegenet Eshetu v Selamawit Neguse*, when the court directly cited CRC Article 3 even though the CRC has not been promulgated or officially translated into the local or working languages.

Constitution, which is “the mother of all laws” in the nation, the FDRE Criminal Code, and the FDRE Revised Family Law. There are now also proclamations, regulations, directives and rules that have been enacted post-COVID-19 to control the spread of the virus and mitigate its impacts. In this study, reference is made to these particular laws in examining the effectiveness of the law generally in protecting girls during the pandemic.

5.1.1 The international legal framework

As just mentioned, the FDRE has ratified or acceded to a number of international and regional human rights treaties of direct relevance to the rights of girl-children to be protected from sexual abuse. These treaties, which have equal force in Ethiopia, contain provisions protecting this right, which places an obligation on the government as a state party to ensure girl-children’s well-being. International human rights norms and standards also need to be taken into consideration when implementing the specific provisions on sexual abuse, as they should be implemented in line with the international human rights norms so as to effectively enforce this right.

A girl-children’s right to be protected from sexual abuse in the family, that is, by those with the duty of care, is stated in the CRC.⁴² Furthermore, the CRC provides wider protection by obliging States Parties to undertake to protect girl-children’s from all forms of sexual abuse.⁴³ The UN Committee on the Rights of the Child has recognized that legislative measures should comprise national, provincial and municipal laws and all relevant regulations defining the frameworks, systems, mechanisms and roles and responsibilities of the concerned agencies and competent officers.⁴⁴ Similarly, the CEDAW urges States Parties to take all appropriate measures, including legislation, to suppress all forms of trafficking in girls and exploitation of the prostitution of girls.⁴⁵ The UN High Commissioner for Human Rights also adopted international guidelines on the mitigation of the impact of COVID-19, focusing on the protection of vulnerable groups from an additional layer of vulnerability.⁴⁶

⁴² CRC, supra note 12, Article 19.

⁴³ Ibid., Article 34.

⁴⁴ UN Committee on the Rights of the Child, supra note 11.

⁴⁵ CEDAW, supra note 13, Article 6.

⁴⁶ UN Human Rights Office of the High Commissioner, ‘COVID-19 and Women’s Human Rights: Guidance’ 15 April 2020, <www.ohchr.org/Documents/Issues/Women/COVID-19_and_Womens_Human_Rights.pdf>, visited on 10 October 2020.

5.1.2 The Regional Legal Frameworks

The ACRWC is the main regional human rights treaty guaranteeing the right of girl-children to be free from sexual abuse. The Children's Charter, similar to the CRC, also urges States Parties to take specific legislative, administrative, social and educational measures to protect girl-children from all forms of sexual abuse.⁴⁷ Moreover, in obliging States to take measures to protect girl-children from all forms of sexual exploitation and sexual abuse, the State shall take measures in particular to prevent engagement in any sexual activity, prostitution or other sexual practices, pornographic activities, performances and materials.⁴⁸ In addition to the Children's Charter, the African Women's Protocol also has relevant provisions to protect girl-children from sexual abuse. In that regard, it obliges States Parties to adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and the protection of women from all forms of sexual violence.⁴⁹

5.1.3 The National Legal Framework

It is essential to briefly examine the FDRE legal system in order to understand how anti-sexual abuse laws may be perceived in relation to the nation's international commitment. In Ethiopia, the national legal framework governing sexual abuse is very much dependent on the corresponding international and regional frameworks. It is relatively weak when it comes to protecting the right of girl-children not to be sexually abused. The major national legal instruments governing the issue of sexual abuse are the FDRE constitution, the FDRE Criminal Code and the family laws, as well as various other supporting legal documents that have been enacted to establish the institutional framework.

5.1.3.1 The FDRE Constitution

The FDRE constitution has a commendable mechanism incorporating the fundamental rights and freedoms spelt out in the CRC, the ACRWC and all duly ratified international and regional treaties.⁵⁰ While there may be doubts and differences of view as to the status and hierarchy of

⁴⁷ ACRWC Article 16.

⁴⁸ Ibid., Article 27.

⁴⁹ African Women's Protocol Article 3.

⁵⁰ FDRE constitution, *supra* note 15, Article 9 (4).

the various international human rights treaties in Ethiopia, especially in comparison with Chapter three of the constitution, a cumulative reading of Articles 9 (4) and 13 (2) of the constitution unequivocally rejects this debate. These articles provide that all international agreements ratified by Ethiopia are an integral part of the law of the land and that the fundamental rights and freedoms specified in the constitution shall be interpreted in a manner conforming to the principles of the UDHR, ICCPR, ICESCR and international instruments adopted by Ethiopia.

The obvious implication is that these international instruments are no less a part of, or a provision in, the constitution; the fundamental rights expressly or implicitly referred to in the international instruments have the same status and effect as individual provisions in the body of the constitution.

In addition, the Constitution has acquired a reputation for incorporating fundamental rights under a separate chapter with relevant headings reaffirming the country's commitment to the relevant human rights instruments, and it specifically mentions some, such as the rights of women and children.⁵¹ Though the constitutional provision guaranteeing the rights of women and children lacks certain jurisprudential improvements, the recognition of the rights is itself a commendable measure.

Nonetheless, it makes no specific mention of the rights of girl-children within the constitutional provisions that contain and guarantee the basic rights of women and children. Under Article 35, for instance, it failed to recognize girl-children as females with additional vulnerability as a result of their age and their being immature and inexperienced. Similarly Article 36, while it gives special emphasis to orphans, children born out of wedlock and children in conflict with the law (i.e. juvenile offenders),⁵² fails to extend similar protection to the special vulnerability of girl-children, *inter alia*, to sexual abuse.

5.1.3.2 The Criminal Code

The FDRE criminal code under Articles 626 and 627 provides that whoever performs sexual intercourse with a minor of the opposite sex, who is between the ages of thirteen and eighteen years, or causes her to perform such an act is liable to rigorous imprisonment of from three years to fifteen years. In similar manner, it also stipulates that the performance of such an act on a minor of the opposite sex who is under the age of thirteen years is punishable with a more

⁵¹ Ibid., Articles 35 and 36.

⁵² Ibid.

severe punishment.⁵³ Moreover, if the perpetrator performs such an act on the victim using his authority, as when the victim is the pupil, apprentice, domestic servant or ward of the perpetrator, or a child entrusted to his custody or care or in any other way directly dependent upon or subordinate to him, the punishment is also more severe. The code also punishes the crimes of incest and indecent behaviour between relatives under Articles 654 and 655 respectively. Furthermore, the code criminalizes the act of rape, extending the punishment to rigorous imprisonment of from five years to twenty years.⁵⁴

However, the major flaw in the criminal code is that it only punishes acts of “sexual intercourse” and leaves a legal loophole by not incorporating all the acts of sexual abuse as defined above. For instance, it leaves out other sexual acts and acts of indecency. Thus, the code fails to address the offence of sexual abuse against girl-children directly by incorporating the offence in clear terms. In the absence of such specific anti-sexual abuse provision in the code, the fight against it and to preventing it will become complicated. Moreover, in the absence of specific legislation such as the proclamation of a sexual offence, protecting girl-children from sexual abuse during the COVID-19 pandemic by means of the existing law and policies may not generally be effective.

In addition to these major legal documents, the FDRE government has also introduced various legal instruments as response measures to prevent, control and mitigate the COVID-19 pandemic. Thus, it has proclaimed a State of Emergency, Proclamation No. 3/2020, to prevent, control and minimize the spread of COVID-19. In order to enforce the state of emergency, a regulation for the establishment of Various Committees/Technical Committees/Taskforces, regulation no. 2/2012, and several Directives were also introduced, including the Transport Affairs Directive No. 1, the Market Places Affairs directive No. 3 and the Funeral Ceremonies Directive NO. 6/2012.

5.2 The Institutional Framework

The FDRE has put in place an institutional framework with a clear mandate and responsibilities for the effective implementation of the rights of both children and women. The main responsibility governing the right to be free from sexual abuse in Ethiopia is broadly divided between two governmental bodies comprising structures operating at the federal and regional levels. At the core of the institutional framework lies the Ministry of Women, Children and

⁵³ FDRE Criminal Code, *supra* note 16, Articles 626 and 627.

⁵⁴ *Ibid*, Article 620.

Youth (MoWCY), which is supplemented by regional and city-government bureaus. This institutional framework is part and parcel of the national monitoring and enforcement mechanisms of the rights of women and children.

In line with the scope of this study, a glimpse at the federal institutional framework reveals that the MoWCY is the highest national-level policy-making body promoting and protecting the rights of women and children. Within the Ministry, there are separate directorates with the mandate to regulate implementation of the rights of women and children respectively. The Children's Affairs Directorate is headed by the director and an executive secretary. It ensures the co-ordination, monitoring and implementation of the rights of children and other activities in other sectors.⁵⁵ The Ministry recently adopted the ten-year Prospective Development Plan with a focus on rights, representation and resources. With this plan, the Ministry also aspires to take proactive steps and adopt policy responses at the federal and regional levels enabling women and girls to live their lives free from fear, rape, gender-based violence and discrimination.⁵⁶ It also aims to introduce an Anti-Violence Police Task Force and establish a national sex-offender's registry involving collaboration with the Police Commissioner, the Attorney General and the courts.⁵⁷

The national justice system in the FDRE, both generally and in prosecuting crimes of sexual abuse, has been decentralised in line with the country's federal system, with both federal and regional levels. Under the Federal Attorney General is a directorate for the prosecution of crimes against the rights of women and children. For purposes of outreach, there is a task force that is in charge of following up responses with a direct focus on sexual crimes. At the Dire Dawa branch office, as well as in all ten sub-cities of the capital and the three one-stop service centres at the Gandhi Memorial Hospital, Menelik-II Hospital and Tirunesh Bejing Hospital, there are also other branch offices specifically mandated to deal with crimes against children and women.⁵⁸

Following the COVID-19 pandemic, the government has established a framework to control the spread and mitigate the impact of the pandemic, consisting *inter alia* of a Ministerial

⁵⁵ Interview with Mr. Kibri Hailu, *supra* note 33.

⁵⁶ FDRE Ministry of Women, Children and Youth (MOWCY), *10 year Prospective Development Plan: New Initiatives*, 3 July 2020.

⁵⁷ *Ibid.*

⁵⁸ In-person Interview with Mrs. Enku Asnake Besha, Director of Women and Children Affairs Directorate, FDRE Attorney General, (5 October 2020).

Committee,⁵⁹ a Transport Affairs Taskforce and technical committees thereof,⁶⁰ a Market Places Affairs Taskforce and technical committees.⁶¹

6. Preparedness and Response Measures: Reflections from Gender and Human Rights Perspectives

Governments cannot realise their international obligations and inherent duty, “the duty to protect”, unless they are reinforced thorough legislative, executive/administrative and judicial measures. Amidst COVID-19, among the government’s preparedness and response measures must be an examination of the effectiveness and adequacy of existing legal frameworks. Moreover, in order to mitigate the impact of COVID-19 on the rights of girl-children, the government must take the lead in changing and reforming the existing justice system so as to align it with gender and human rights perspectives. Otherwise, the impact of COVID-19 will be more overwhelming, and the mitigation effort more unsuccessful.

6.1 The Duty to Protect: Critical Thoughts on Legislative, Executive/Administrative and Judicial Measures

The first duty of any government is the duty to protect its citizens from violence both in normal times and during emergencies.⁶² This minimalist view of government is clearly evident in respect of international human rights norms, where the government as a protector is expected to give protection to individuals who cannot provide it for themselves, especially vulnerable groups like girl-children. In that regard, the duty to protect is well reflected in international human rights jurisprudence. Taking into account this fact, international and regional human rights instruments oblige states to provide children and women with adequate protection from sexual abuse.⁶³ The government’s failure to provide such protection violates this basic duty.

⁵⁹ A Proclamation to Approve the State of Emergency Proclamation Enacted to Counter and Control the Spread of COVID-19 and Mitigate Its Impact, 8 April 2020, Proc. No. 3/2020. Article 9(1) (2) and Regulation No 2/2020 Article 5(1).

⁶⁰ See FDRE Transport Affairs Directive No. 1/2020, Article 15(2).

⁶¹ See FDRE Market Places Affairs Directive, No. 3/2020.

⁶² S. Heyman, ‘The First Duty of Government: Protection, Liberty and the fourteenth Amendment’, Vol. 41:507, *Duke Law Journal*, (1991).

⁶³ See CRC, *supra* note 12, Article 34, ACRWC Article 16, CEDAW Article 6.

In line with its duty to protect through legislation, the FDRE government has enacted laws as response measures to the pandemic, including the proclamation of a state of emergency, regulations and directives, but not specific legislation to safeguard and protect the rights of girl-children in general and sexual abuse in particular.

The judicial measures enacted during the pandemic, such as the opening of some courts, has the potential to protect the rights of girl-children to be free from sexual abuse. These and other measures are commendable, but there are still major gaps that need to be filled. All law enforcement organs should be encouraged to facilitate prosecution and bring speedy justice⁶⁴ to victims by enforcing the laws to give effect to these rights. In this regard, the court's main role is not to adjudicate cases of sexual abuse, but rather to deter other potential perpetrators from committing similar crimes. For instance, according to the official report of the President of the Federal Supreme Court, of the 302 cases of sexual abuse that the federal courts resolved in 2019/20, till September 15, 44 were decided during the COVID-19 pandemic.

The main advantage of the decision to open the courts during the pandemic is that it prevents girl-children victims from having to face perpetrators who are confined with them, and it will also encourage other victims to come forward, having seen justice done.⁶⁵ Nevertheless, the number of prosecutions of offenders remains inadequate as a result of a lack of evidence following the COVID-19 lockdown restrictions regarding what is a fundamental failure of the duty to protect in the context of the various human rights treaties.

The mechanism of meaningful engagement as a preparedness and response measure has thus far been taken to mitigate the impact of COVID-19 on the rights of girl-children on the part of the FDRE government, primarily by taking emergency measures. However, as the above analysis of the measures (legislative, executive and judiciary) suggests, there is still much work to be done by the government. In sum, its failing in this duty, as reported above, by enacting legislative, executive/administrative and judicial measures is a violation of the rights of girl-children to be free from sexual abuse.

⁶⁴ However, in one of the rape cases, for instance, *Federal Attorney General v Muhedin Aderus*, which was judged during the pandemic, the case took nearly five months. The perpetrator, by the name of Muhedin Aderus, a resident of Addis Ababa, was accused of raping a nine-year-old girl on 11 June 2020 and was sentenced to ten years of rigorous imprisonment by the Federal Court of First Instance, akaki/kality bench, as per Article 627 (1) of the criminal code. Sentence was passed on 16 October 2020, nearly five months since the incident.

⁶⁵ In-person Interview with Mr. Tatek Asmare, Federal Supreme Court Child Justice Project, (5 October 2020).

6.2 Feasible Mechanisms of Protection: Major Challenges Within the Existing Justice System

A look at the existing protection mechanisms and the response measures of the past seven months or so indicates that the national effort in the fight against sexual abuse within the existing justice system is faced with the following challenges:

6.2.1 Sexual offences legislation

The enactment of the FDRE Criminal Code in 2004, amending the existing 1957 penal code, was a very significant development in the effort to enforce the right of girl-children to be free from sexual abuse. It is this code that still stands as the first law in prosecuting cases of sexual abuse. However, one of the major flaws in the code's provisions, that is, in Articles 626 and 627, is that it does not cover all acts of sexual abuse. Rather, the provision takes into account actual sexual intercourse as an offence of sexual abuse even as it attempts to outline in vague description other types of acts also deemed abusive.

The fact of the matter, in most instances, is that the criminal code's provisions only come into effect in such cases very late after the actual act of "sexual intercourse" and after the victim has suffered serious bodily and/or psychological harm. Rather, from the testimony of the victims, as revealed by the hospital one-stop services centres, the act of actual rape or sexual intercourse almost always does not happen instantly: the perpetrators have usually committed a series of acts corresponding to the sexual act or an indecent act.⁶⁶

The appeal for further legal protection in broader terms, in incorporating all the elements of sexual abuse, is required to enforce the right of girl-children to freedom from sexual abuse.

6.2.2 Access to justice

As the current focus of the government has shifted from its ordinary responsibilities to diverting resources to the effort to control the spread of the pandemic, access to justice remains at stake. A significant limitation in the effort to provide effective protection to the rights of girl-children

⁶⁶ Interview with Sister Manguday seifu, supra note 27; interview with Sister Meseret Dibaba, supra note 29.

amidst COVID-19 is the absence of access to justice. The closure, reduction of or changes to the activities of the courts, police stations and other essential service providers has interrupted access to legal services and legal information.

For the most part, the police and justice sector were in total or partial lockdown, while girl-children were exposed to repetitive and continuous sexual abuse, not being able to attend police stations or similar organs in a timely manner to address their legal needs. Although the courts were open, the police and prosecutors' offices were not. As a result, trials were affected, as they could not get tested for the abuse promptly in hospital, despite this counting as conclusive evidence before the courts.⁶⁷

Furthermore, the emergency hotline services that were in place were not operating, and others had reduced their activities. For example, the Setaweet Movements's toll-free Alegnta GBV emergency hotline 6388, which provides a first response to GBV survivors with professional psychological support and referral, had not been working until June due to the lock-down measures.⁶⁸ Similarly, the office of the EWLA was also closed for months and only resumed its service in mid-April, initially by telephone, before re-opening its doors for in-person services.

6.2.3 Lack of co-ordination

Effective coordination of the organs of the justice system is very essential to the response measures against sexual abuse amid the COVID-19 pandemic. However, a lack of coordination in the preparedness and response measures to mitigate the impact of COVID-19 and protect girl-children from sexual abuse has complicated the task of preventing such abuse. In particular, coordination among the various organs of the justice system was faced with a multitude of teething problems: for instance, disaggregated data are only available in different institutions.

With the aim of protecting the rights of women and children amidst the pandemic, MoWCY revealed that it has formed a special task force with different stakeholders, including the FDRE office of the Attorney General, the Addis Ababa Police Commission and the FDRE Ministry of Health. However, the task force's efforts to gather accurate data on the extent of sexual abuse cases and implementing preventive strategies have not yet materialized, mainly as a result of a lack of coordination. According to the Director for Child Rights, Kibri Hailu, the Ministry of

⁶⁷ Interview with Mrs. Enku Asnake Besha, *supra* note 58.

⁶⁸ Telephone interview with Tsion Molla, Project Manager at Setaweet Movement, (6 October 2020).

Women, Children, and Youth is currently conducting research on the increase in reports of sexual abuse and forced child marriage, mainly in Amhara regional states, in collaboration with UNICEF. However, the Ministry's effort was affected by a lack of support and coordination from various stakeholders, including the regional police. As a result, the exact number of cases of sexual abuse is unknown, as the data available from various institutions is not reliable.⁶⁹

Furthermore, while the courts were partially opened so that gender-based cases of violence could be heard during the pandemic, according to President of the Supreme Court, Meaza Ashenaf, this was undermined by the non-availability of other stakeholders, including the police and prosecutors.⁷⁰

6.3 A Path Towards a More Effective Protection Mechanism

The FDRE must develop an effective protection mechanism, including legislative measures, to effectively protect the rights of girl-children to be free from sexual abuse. One of the most important mechanisms of protection in this regard, including in private spaces such as the home, is to enact legislation against sexual offences. Another area that enhances legal protection includes having a national emergency hotline, a national sexual offenders record system, and facilitating collaboration with citizens and law-enforcement organs, especially the community police.

6.3.1 Legislative Measures

In the FDRE, there is a need to introduce specific and comprehensive legislation against sexual abuse-related criminal behaviour, this taking the form of a sexual offences proclamation aimed at punishing wrongful sexual behaviour, including stalking.⁷¹ This sexual offences legislation would provide for the absolute legal protection of the rights of girl-children, including the right to be free from sexual abuse in all settings, including in private spaces such as homes and in

⁶⁹ Interview with Mr. Kibri Hailu, *supra* note 33.

⁷⁰ Z. Bacha, "As long as reasonable conditions are in place, responsibility must be exercised properly", *The Ethiopian Herald*, 15 September 2020, <www.press.et/english/wp-content/uploads/2020/09/Untitled_opt-5.pdf>, visited on 5 October 2020.

⁷¹ The concept of stalking has never been an issue for consideration in the Ethiopian legal system. Hence, passing legislation like the US anti-stalking act constitutes another task for the legislator.

times of emergency, with a clear and comprehensive definition of sexual abuse.⁷² Furthermore, there is also a need to amend the Criminal Code, especially Articles 626 and 627, to include acts of illicit sexual activities or indecent acts with matching punishments, as follows:

Article 626:- Sexual Outrages on Minors between the Ages of Thirteen and Eighteen Years.

- (1) Whoever performs sexual intercourse *or [an act corresponding to the sexual act or any other indecent act]* with a minor of the opposite sex, who is between the ages of thirteen and eighteen years, or causes her to perform such an act with her, is punishable with rigorous imprisonment from three years to fifteen years.

Article 627:- Sexual Outrages Committed on Infants.

- (1) Whoever performs sexual intercourse *or [an act corresponding to the sexual act or any other indecent act]* with a minor of the opposite sex, who is under the age of thirteen years, or causes her to perform such an act with her, is punishable with rigorous imprisonment from thirteen years to twenty-five years.

6.3.2 Other measures

The government, in addition to adopting these measures, should take the following comprehensive actions in order to strengthen the required protection. In that regard, the role of the House of Peoples' Representatives (HPR) is paramount, and it must participate actively in the fight against sexual abuse. The HPR should establish a working group or committee with specific competence in the rights of girl-children. The committee should work in close collaboration with the MoWCY, the Attorney General and the Federal Supreme Court with the aim of ensuring that each institution makes a budgetary allocation to fighting sexual abuse. The establishment of a separate directorate or department for the prosecution of sexual offences in the FDRE Attorney General's office, supported by specially trained prosecutors and investigating police officers, is very significant. Moreover, the directorate or department should be given, *inter alia*, a national sex-offenders register to reduce rates of sexual recidivism by keeping track of the activities of recidivist offenders.

⁷² The definition of the term "sexual abuse" (against the girl) used in this study is: "[a]ny actual or attempted sexual contact inflicted upon the girl to engage in or inflicting sexual activity in any context, whether resulting in injury or not, whether it happens in a public or a private sphere".

Furthermore, there is also a need to introduce a national emergency hotline to the federal police commission with a number that is easily remembered by girl-children seeking protection. Awareness-creation measures are also important in protecting girl-children from potential predators. In that regard, the role of CSOs is very important in exposing abuses amidst the pandemic. Research and co-operation also play a pivotal role in the fight against sexual abuse.

7. Concluding Remarks

Girl-children have been disproportionately affected by COVID-19 response measures, such as school closures and stay-at-home orders. Some government officials have reported a rise in cases of sexual abuse in the COVID-19 era, although these claims have not yet been corroborated with strong evidence. However, existing data from institutions indicate that the identity of perpetrators of cases of sexual abuse reported during the COVID-19 lockdown had significantly shifted from strangers to close family members.

The pandemic has exposed the weak legal and institutional framework that has long existed in this area and the need for close attention to be paid to providing better protection of the rights of girl-children to be free from sexual abuse. The inadequacy of the existing laws and policies has been revealed during these trying times, which should be a turning point for the government in recognising that girl-children are vulnerable in the private sphere as well as in public.

Thus, a new law (sexual offences legislation) and policy (sexual abuse prevention and response policy) should be introduced with a clear and comprehensive definition of sexual abuse. First, the intended legislation should make provision for prompt, adequate and effective protective measures that are capable of stopping the increasing trends in sexual abuse in the home. Second, the associated enforcement mechanisms and procedures must also satisfy the general principles of children's rights, including the best interests of the child and the right to be heard. Furthermore, they should provide adequate provision for equivalent reparation and remedies to the survivors of sexual abuse.

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Chapter 6

Impacts of COVID-19 on Women's Rights to Work in China

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Abstract

The COVID-19 pandemic has aggravated existing conditions for women, who are discriminated against in all sectors. This article will focus on the impacts of COVID-19 on women's rights to work in China. COVID-19 has raised hopes that flextime may be introduced. Although different groups of Chinese women are facing greater challenges at work during the pandemic, these challenges could give us indications of how to make improvements and reduce the impact of COVID-19 on women.

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1. Introduction

Given the blurring of boundaries between paid and unpaid work amid the COVID-19 pandemic and the related increase in workloads in both spheres, women around the world are facing multiple personal struggles as they try to balance gender role expectations within the family as well as meet career commitments and fulfil personal aspirations. The COVID 19 pandemic has aggravated existing conditions for women, who are discriminated against in all sectors. Women have nonetheless played an important role in fighting the COVID-19 pandemic. In China, on the one hand, the outcomes of COVID-19 are raising hopes that flextime may be introduced. On the other hand, Chinese women are facing more challenges at work during the pandemic. Women are often disproportionately affected by the after-effects of the disease and face more challenges and difficulties in balancing work and family. For example, school closures are likely to have a particular impact on women, who assume the principal responsibility for their children. Women's participation in work outside the home is likely to fall, and already more women have been fired during the pandemic.

There is also a degree of gender-blindness in respect of the labour protection of medical workers. For example, the protective medical clothing worn by frontline staff was not designed with women in mind, and there is a lack of supplies protecting women, such as sanitary napkins.

To improve understanding of how COVID -19 has impacted on women's right to work in China in respect of both the opportunities and the challenges involved, we use a mixed-methods approach consisting of both qualitative and quantitative research. Firstly, recent changes in both domestic policies and practice are used to explain how COVID-19 is raising hopes that flextime might be introduced. Secondly, we use a questionnaire and interviews to describe the challenges faced by so-called "grassroots women" in China. "Grassroots women" is a term used for women living in poor rural or urban communities, who are among the most susceptible to risks and vulnerabilities because of their economic, social and political marginalization³.

Online questionnaires are administered to grassroots women to elicit their comments on issues relating to themselves, families, livelihoods and psychological condition during the pandemic. The questionnaires were published through network media, mainly Weibo and WeChat, and complete answers from 662 respondents were collected in three days. The vast majority of the respondents in this questionnaire are grassroots women (90.3%) whose monthly incomes are

³ do Livramento Gonçalves G., Castro B.C.G., de Andrade Guerra J.B.S.O. (2020) Grassroots Women and Sustainable Development. In: Leal Filho W., Azul A., Brandli L., Lange Salvia A., Wall T. (eds.) Gender Equality. Encyclopedia of the UN Sustainable Development Goals. Springer, Cham.
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less than 5,000 yuan. A fairly large proportion of the respondents are engaged in the service industry (37.6%) or are full-time housewives (20.1%). The respondents are mainly the young and middle-aged, with 18-35 year-old women accounting for 51.7% and 36-50 year-old women for 39.3%. Most of the respondents are married (69%). The interviewees live in thirty provinces, autonomous regions and municipalities across the entire country. Besides the questionnaire, semi-structured interviews were conducted with four respondents who were willing to do an additional interview through WeChat as a supplement to the questionnaire survey. The purpose of the questionnaire and interview was to understand the situation and difficulties of grassroots women in the pandemic. Thirdly, since medical workers play an important role in combatting the pandemic, attention should be paid to their needs. We used domestic news reports to uncover the problems they face.

In the paper, we also comment on the opportunities and challenges presented by the pandemic, as well as make suggestions on how to improve the protection of women's rights to work at this time.

2. The Opportunities Created by the Pandemic

Flextime is a working schedule that permits flexibility in starting and stopping work, and it has gained wide currency as a partial solution to conflicts between work and family life.⁴ The “Beijing Declaration and Platform for Action” advocates governments, the private sector and trade unions facilitating temporary leave and flexible working hours for both male and female employees. Some countries and regions have also implemented effective practices for flextime and family-related leave and services.

Flextime has become an important means of creating a family-friendly working environment because it provides employees with flexible working hours. However, in practice, many employers regard flexible working hours as impractical and inconvenient, so there is a lack of willingness for implementing flextime. Issued by the Ministry of Human Resources and Social Security, the “Measures for Examining and Approving Enterprises’ Non-Fixed Working Hour System and Comprehensive Working Hour System”⁵ specifies that businesses’ adoption of a

⁴ Christensen, K. E., and Staines, G. L. ‘Flextime: A viable solution to work/family conflict?’, *Journal of Family Issues*, 11(4), pp. 455–476. <<https://doi.org/10.1177/019251390011004007>>, visited 2 December 2020.

⁵ Ministry of Human Resources and Social Security, “Measures for Examining and Approving Enterprises’ Non-Fixed Working Hour System and Comprehensive Working Hour System”(《关于企业实行不定时工作制和综合计算工时工作制的审批办法》), visited 2 December 2020.
<http://www.mohrss.gov.cn/SYrlzyhshbzb/zcfg/flfg/gz/201705/t20170522_271153.html>.

non-fixed working hours system needs to be reviewed and approved by central and labour departments. As we can see, employers in China need official approval to adopt flextime, and this will involve them in some effort.

The pandemic has made the shift to flextime more practical. With the outbreak of COVID-19, the dual requirements of actively combating the pandemic and working hard for economic recovery and the resumption or maintenance of production have objectively promoted implementation of the flexible work-hours system. On January 31, 2020, the Beijing Municipal People's Government issued a "Notice on flexible work arrangements for enterprises in Beijing during the prevention and control of COVID-19",⁶ suggesting that on the one hand enterprises should arrange for employees to use flexible methods involving use of the telephone and internet to complete their work at home if they can. On the other hand, enterprises that are not able to take the above measures should adopt methods of flexibly calculating working hours such as staggered rush-hours or flextime. This document encourages all employers to adopt flextime, although it does not make any suggestions regarding the procedures for doing so, as outlined in the "Measures for Examining and Approving Enterprises' Non-Fixed Working Hour System and Comprehensive Working Hour System". Some other local governments have issued similar regulations. Indeed, since the beginning of February, enterprises in various regions have successively been using modern information technologies, such as cloud office systems, to introduce innovative working methods.

There have been a lot of useful attempts to introduce these changes, and there is some initial experience with them. During the pandemic, the vast majority of employers have moved to online telecommuting at home, others have used flextime, and yet others have implemented a system of staggered commuting. This is becoming common in many sectors, for example, education, civil aviation, the transmission of information, and the software and information technology service industries.

In addition, the implementation of flextime during the pandemic has prompted all sectors of society to actively consider the feasibility and specific operating methods of continuing to practice a moderately flexible work-hour system in relevant industries after the pandemic in order to help employees achieve a balance between their personal career development and family responsibilities. In July 2020 the National Development and Reform Commission, the Office of Cyberspace Affairs Commission, the Ministry of Industry and Information and ten other departments issued a document on "Opinions on Supporting Sound Development of New

⁶ Beijing Municipal People's Government, 'Notice on flexible work arrangements for enterprises in Beijing during the prevention and control of COVID-19' (《关于在新型冠状病毒感染的肺炎疫情防控期间本市企业灵活安排工作的通知》), <http://www.gov.cn/xinwen/2020-01/31/content_5473425.htm>, visited 2 December 2020.

Business Forms and New Modes, and Activating the Consumer Market to Drive and Increase Employment”⁷. In this document, new forms of business and new methods supporting the integration of online and offline operations have been suggested to act as the basis for economic transformation and the promotion of reforms and innovations with the aim of breaking with traditional ways of thinking.

China takes the development of the new online ways of working that have emerged during the pandemic as an opportunity and is encouraging the development of easy-to-use online offices. The above document states that an online office environment should be created to supplement offline working in certain industries on a regular basis. The government should also provide support to the promotion of remote office applications and the development of safe and reliable online office tools to enhance working efficiencies and innovate new ways of business collaboration and new business management methods. Better infrastructure, such as electronic contracts, electronic invoices, electronic seals, electronic signatures and electronic certification, can also be provided for online office work, the document further suggests.

3. Challenges Faced by Chinese Women at Work during the Pandemic

Progress towards greater gender equality has been slow and hesitant in recent years, and the COVID-19 pandemic now risks sending it into reverse, since Chinese women are facing greater challenges at work during the pandemic. For grassroots women in general, not only are they finding it harder to balance between work and family, since more care work falls on them, but the pandemic has also had a greater impact on the lives and livelihoods of grassroots women. Female medical workers are also facing a lack of labour and maternity protection.

⁷ National Development and Reform Commission, Central Cyberspace Administration, Ministry of Industry and Information Technology, Ministry of Education, Ministry of Human Resources and Social Security, transportation Department, Ministry of Agriculture and Villages, Ministry of Commerce, Ministry of Culture and Tourism, National Health Commission, State-owned Assets Supervision and Administration Commission of the State Council, General Administration of Market Supervision, National Medical Security Administration, ‘Opinions on Supporting Sound Development of New Business Forms and New Modes, and Activating the Consumer Market to Drive and Increase Employment’ (《关于支持新业态新模式健康发展 激活消费市场带动扩大就业的意见》), <https://www.ndrc.gov.cn/xxgk/zcfb/tz/202007/t20200715_1233793.html>, visited 2 December 2020.

3.1 Challenges Faced by Grassroots Women

In May 2020 the researchers conducted an online survey using questionnaires and interviews, under the title of “Grassroots women in the pandemic: care work, family and livelihoods”.⁸ We summarise the survey findings here.

On the one hand, despite the pandemic, women remain the main caregivers in the family. Affected by traditional gender norms and the prevailing culture of the family, women usually assume more responsibilities for care within the family. When asked about the division of caring work within the family, only 6% of the interviewees said that men were the main family carers during the pandemic, 40% felt that they were performing this role, and 12.7% stated that other women in the family were responsible.

The questionnaire also identified those groups that need the most care in the family, namely children and the elderly. More than half the respondents said that they had had to care for their children at home during the pandemic (40.8% of them children in kindergarten or elementary school, 16% children under three years old, and 9.8% of them at junior or high school). One interviewee said that she was “exhausted physically and mentally from taking care of the children during the day and staying up late to work at night”. Nearly 30% of respondents had to care for elderly relatives over sixty years old.

Interviewees confined to unpaid work at home also talked about the problems they had in “every day buying vegetables, cooking, doing housework, teaching their children...and no private space” or worrying about being unable to work because they have to take care of their children.

As the main caregivers in the family, women often spend more time doing unpaid work than men. According to data released by the National Bureau of Statistics, in 2018 the daily average time women spent on unpaid work, including housework and parenting, was 3 hours and 48 minutes, while it was only 1 hour and 32 minutes for men. Social changes, such as the need to protect health and the lockdown (including school closures) caused by the pandemic have further increased the burden on women. More than 50% of the interviewees reported that their caring work had increased during the pandemic, and 25% believed that it had increased a lot.

⁸ ‘Investigation Report: Grassroots Women in Pandemic: care work, family and livelihood’ (调查报告-疫情中的基层女性: 照料、家庭与生计), <https://www.thepaper.cn/newsDetail_forward_7581337>, visited 2 December 2020.

The pandemic has also had a big impact on the lives and livelihoods of grassroots women. Falls in income and increases in expenditure are the main impacts on the livelihoods of most of these women. When asked about the impacts of COVID-19, 70.7% of the respondents stated that family incomes had decreased, and 45.9% reported that their own incomes had decreased. At the same time, nearly 60% indicated that their family expenditure had increased. In the interview, some mentioned that increases in consumption and the higher prices of groceries and anti-pandemic materials (such as masks, sanitizers and soaps) were the main reasons for the increased costs. In addition, some interviewees mentioned that, due to the school closures, the fact that children who used to live on campus now live at home had also increased the family's daily expenditure.

Some interviewees described the pressure they feel when it comes to their livelihoods:

"I feel depressed because of reduced financial resources," "I am a bit anxious because of unemployment." "Family income is unstable, and it makes me anxious." "The income is limited while the rent is not reduced. I am very tired from all types of consumption." "My husband is a Didi⁹ driver. The car he uses had an accident in February. Due to the pandemic, it took more than three months for the car to get repaired. My husband has been unemployed. We need to repay all kinds of loans and credit cards. It really makes our life extremely difficult." Tiredness and exhaustion are descriptions that appear many times in the interviews, indicating psychological feelings of anxiety and stress among grassroots women.

More than 50% of the respondents were also worried about employment. Even many otherwise full-time housewives need to do part-time jobs (such as micro-businesses) to increase the family income. Unpaid labour such as raising children and caring for the family does not exhaust all the work they do. At the same time, women engage with the gig economy differently from men, being concentrated in stereotypically female, undervalued work such as caring and cleaning. This problem is compounded by women's tendency to be the primary carers, given expectations that the gendering of roles makes them the primary carers. With schools and nurseries closed, many women with childcare responsibilities are now unable to work, and for those in the gig economy, this means having no income. There is a significant risk that COVID-19 will force many women to give up work and enter the social security system, with long-term consequences for women's and children's poverty, women's equality in the labour market and China's economy. The fragility of the gig economy may make women (especially women at the grassroots level) more susceptible to the pandemic, and the livelihood pressures caused

⁹ Didi is a Chinese vehicle-for-hire company headquartered in Beijing with over 550 million users and tens of millions of drivers.

by reduced incomes and the difficulties in finding jobs were also mentioned by many interviewees.

Interviewees were also asked what they felt needed to be resolved most urgently, among which the need for a livelihood was the most prominent. 72.2% of the interviewees expressed a wish to increase the family income, while 61.3% believed that it was necessary to strengthen employment support. This is consistent with the economic difficulties, just mentioned, faced by grassroots women and their families. Moreover, 31% of the respondents wanted to see strengthened support for family caregivers, and 30% wanted to see strengthened support to protect families from the pandemic.

As we can see from the results, the increased pressure on unpaid labour and livelihoods within the family due to the pandemic has further exacerbated the dual plight of grassroots women both at work and at home. The pandemic affects everyone's lives, but it has especially magnified and deepened the plight of those who had vulnerable positions in the social structure already. Firstly, grassroots women are still the main caregivers in the family. Traditional gender roles and the gendered division of labour tend to define unpaid care work as the responsibility of women in the home, and it is difficult for grassroots women to purchase care services in the market by "outsourcing parenting" for financial reasons. The highly gendered responsibility for family care, including childcare, limits women's opportunities to participate in the labour market. As day-care centres and schools close down, women face the double burden of providing full-time care for their families — including home-schooling them — while also trying to hold down a full-time job. "Full-time housewives" are the last resort for many grassroots women in trying to cope with the pressures of motherhood. At the same time, China does not recognize care as work. The report "Gender Equality in China during Economic Transition" by UN Women points out that the devaluing of unpaid care work has exacerbated gender inequalities in the family, resulting in the return of women's family roles and a decline in their status in the family, as well as limiting their independence. The report suggests that we should recognize the value of unpaid labour and incorporate family care services into the public service system. The dual dilemma of grassroots women's families and livelihoods, which has been increased during the pandemic, makes it more necessary than ever to mobilise publicity on this issue. Secondly, grassroots women's livelihoods face other difficulties, such as declining incomes, increases in expenditure and difficulties in employment, all of which make women feel more anxious and depressed.

3.2 Challenges by Female Medical Workers

According to statistics, more than 50% of the doctors in the National Medical Assistance Team in Hubei who are engaged in combating the pandemic are women, as are more than 90% of the nurses on the front line. However, the personal protective equipment provided to front-line medical staff is inadequate and unevenly distributed. This has led to medical staff, most of them women, being exposed to a greater risk of infection. When the pandemic broke out, women who were on the front line were also the first to be affected, given the increased risk of infection, the sharp increases in their workloads and the lack of sufficient supplies for prevention and protection. In the current situation, when women account for the vast majority of first-line medical staff, insufficient protective equipment will disproportionately cause adverse consequences for women.

This is underlined by certain news items in the media. Thus one young female nurse returned to the front line ten days after an abortion, while another was working on the front line while nine months pregnant. These female medical workers not only aroused the public's admiration, they are also evidence of the insufficient labour and maternity protection provided to female employees. In addition, this also reveals a certain gender-blindness in labour protection, namely the lack of protection for female employees, including menstruation management, leaving their personal care needs unmet.¹⁰ When responding to disasters or emergencies, people often ignore the basic needs of women and vulnerable groups, such as physiological needs and the high level of requirements for privacy. What is more, the medical protective clothing worn by frontline females is not designed for women but for “smaller” men, meaning that women have to wear small-size clothing produced for the male figure. Many female medical workers are very thin so that even the small size is still too large for them, especially the inappropriate size of the cuffs and caps, which reduces their work efficiency and increases the risk of exposure and infection. Fortunately, a mandatory rest order was issued to the pregnant nurse, and the personal care needs of female medical workers in Hubei have also been resolved. One large company established a special supplies team to assist the National Medical Assistance Team in Hubei by donating 70,000 packs of feminine hygiene products to them.¹¹ These examples of the experience of female workers in the fight against the pandemic all show how easily gender may be neglected when it comes to the protection of labour rights.

In fact, the example of medical protective clothing is just the tip of the iceberg. Not only medical staff, but many workers in other areas, such as the police, engineers and scientific

¹⁰ She Yunqing, ‘The pregnant doctor is on the frontline! Female doctors ask for help during their menstrual period – who responded?’ (《怀孕医生也在一战线！女医护的生理期求助，谁听到了？》) *Phoenix Network Charity*, <<https://gongyi.ifeng.com/c/7u0hTSOBT0a>>, visited 2 December 2020.

¹¹ Yiming, ‘Alipay has established a living supplies guarantee team for the medical team in Hubei, and the first batch of supplies has arrived’ (《支付宝成立援鄂医疗队生活物资保障组，首批物资已到达》), *Observer.com*, <<https://baijiahao.baidu.com/s?id=1658310857468660143&wfr=spider&for=pc>>, visited 2 December 2020.

researchers, have their own uniforms, and some also require different kinds of personal protective equipment. In 2016, a study was initiated by the United Kingdom Federation of Trade Unions and other organizations to investigate the cases of women who need to wear protective equipment to work in many fields. More than half the women interviewed stated that their uniforms and protective equipment not only did not fit, but also affected their actions and hindered their efficiency at work.¹² This type of problem arises because most employers believe that women only need to wear small-size equipment and therefore ignore the physiological characteristics of female bodies, such as enlarged breasts, wider hips and narrower hands and feet. Women live in a world based on male data, and they are often faced with adapting to standards drawn up on the basis of such data. Data biases cause inconvenience to women's work and lives, even threatening their health and lives.

Article 33 of the Chinese Constitution stipulates: “The State respects and preserves human rights.” Reproductive rights are basic human rights. Maternity protection takes the form of employment, income and vacation guarantees provided by the state and society for expectant and nursing mothers and their families in order to protect the health of mothers and children, as well as to resolve conflicts between women's reproduction and employment. Article 26 of the Law of the People's Republic of China on the Protection of Women's Rights and Interests stipulates that, in line with women's characteristics, and according to the law, all units should protect women's safety and health during their work or physical labour and not assign them any work or physical labour that is unsuitable for women. Women shall be under special protection during the “four periods”, namely the menstrual period, pregnancy, the obstetrical period and the nursing period. Moreover, the “Special Rules on the Labour Protection of Female Employees” (hereinafter the Special Rules) stipulate that employers should improve the labour protection of female employees, take measures to improve labour safety and health conditions for them and provide them with training on labour safety and health knowledge. Article 6 of the Special Rules states that where a female employee is no longer able to perform her usual labour as a result of her pregnancy based on the certificate of a medical institution, the employer must reduce her work or arrange other work that she can perform. Moreover, the employer must not prolong hours of work or arrange a night shift for female employees in or after the seventh month of pregnancy and must allow them a certain amount of rest while at work. The time spent by pregnant female employees undergoing an antenatal examination during working hours must be included in their working hours. Article 7 stipulates that female employees who have a miscarriage before the fourth month of pregnancy must be granted fifteen days of

¹² In the study, female police officers suggested that the protective boots the authority provides for crime-scene investigations should be unisex. Female police officers generally feel that these boots were heavy and unsuitable. They were not only uncomfortable to wear, but also put pressure on their Achilles heels. However, they are always disappointed when they report this situation to the head of the police station, so they are compelled to buy suitable boots on their own.

maternity leave, while female employees who have a miscarriage in or after the fourth month of pregnancy must be granted 42 days. The appendix to the Special Rules sets out the range of work that female employees are prohibited from engaging in during their menstrual periods, pregnancies or nursing periods.

Obviously, the female nurse who returned to work ten days after an abortion did not take maternity leave as required. Although maternity leave is an individual right and can be waived by the woman, given the health needs of female employees, this practice should not be encouraged. The medical team did not take the labour and maternity protection of female employees into account when selecting its members, which made it unreasonable for the employee who was nine months pregnant to work on the frontline against the pandemic. Frontline work is extremely intense. Given circumstances in which protective materials must be saved, frontline medical workers do not rest, eat or use the toilet until the end of a certain working period. This kind of work is obviously not suitable for a worker who is nine months pregnant, and it does not comply with the labour protection provisions set out in the Special Rules for female employees. Accordingly, during the pandemic, the Beijing Municipal Human Resources and Social Security Bureau issued a document calling on companies to “take care of female employees, arrange for pregnant employees to work at suitable jobs and allow breastfeeding employees to use their breastfeeding time intensively.”¹³

4. Conclusion and Recommendations

The evidence of global research is clear: economic crises exacerbate pre-existing inequalities, damaging the employment opportunities and economic security of women more than men. The 1980s debt crisis, the 1997 Asian financial crisis and the 2008 global financial crisis all provided stark warnings to governments and businesses that recent efforts to promote gender equality and economic empowerment will be undone unless women are prioritized in COVID-19 recovery planning and policy-making. The challenges faced by Chinese women at work could give us some indications in how to make improvements and reduce the impact of COVID-19 on women.

¹³ Four departments, including the Beijing Municipal Human Resources and Social Security Bureau and the Beijing Federation of Trade Unions, ‘Going forward through wind and rain, working hand in hand to jointly maintain the harmony and stability of the city’s labor relations: proposal to the city’s enterprises and employees’ (《风雨同行、携手共济 共同维护全市劳动关系和谐稳定——致全市企业和职工的倡议书》), < http://rsj.beijing.gov.cn/xwsl/mtgz/202002/t20200217_1647198.html >, visited 2 December 2020.

First, recent changes in both domestic policies and practice have raised the hope that COVID-19 will encourage the introduction of flextime. Secondly, as the questionnaire and interviews show, grassroots women are finding it difficult to balance work and family since more of the caring work is falling on them just at a time when the pandemic is also having a greater impact on their lives and livelihoods. Thirdly, female medical workers also face the lack of labour and maternity protection. Given all the opportunities and challenges that Chinese women are experiencing in the pandemic, we shall now make some recommendations for protecting women's right to work, not only during the pandemic, but also afterwards.

First of all, labour and maternity protection for female employees should take into account their physiological characteristics. Although the law provides for protection of the legal rights and special interests of female employees, suitable mechanisms have not yet been introduced. Special labour protection for female employees should be an important part of the supervision of safety at work. The protection of female employees' reproductive rights, occupational health and safety guarantees should be strengthened.

Secondly, the gender factors that distinguish female workers from male should be fully represented in health and labour protection. As mentioned above, the design of protective medical clothing does not suit female figures. In fact, legitimate and reasonable female requirements in respect of the protection of labour rights should be transformed from an unmentionable secret into an indispensable guarantee, as happened in the case of feminine hygiene products. Women are by no means the second sex, nor are they miniature versions of men. The female characteristics of labour rights protection should be fully and reasonably visible. For example, suitable and safe toilet facilities should be built that satisfy women's needs, while personal protective equipment and health services suitable for women could be provided that can meet their health needs.

Thirdly, in the process of economic recovery and the resumption of work and production, we should pay more attention to the difficulties faced by grassroots women and take their demands into account when formulating policies and measures. We should adopt well-directed, long-term economic strategies when formulating policies and recovery plans in order to empower women and reduce the current and future impacts of the pandemic. Therefore, pandemic-related data must be classified according to gender, age and other criteria to reflect accurately the different challenges the pandemic poses to different groups. Policy-makers need to think about measures to support economic development and recovery from COVID-19. In addition, due to the countless failures of small businesses and the reduced demand for informal work, women are likely to continue to lose their financial independence, which will affect their empowerment in the short term and may also have a long-term impact on children's education (especially of girls). This may adversely affect the employment of the next generation of

women. During the pandemic, providing assistance to women through targeted social assistance programmes and ensuring that women receive financial support is essential for both rapid recovery and long-term economic and social development. Economic crises should be turned into opportunities, and a socio-economic system capable of achieving gender equality should be formulated.

Fourthly, China should recognize the value of unpaid labour and incorporate family care services into the public service system. As shown in our research, unpaid work and gender equality have always been issues in China, and the pandemic has made the situation worse. Here several policy reforms are relevant. For example, policies could be devised to promote the equal sharing of unpaid work between women and men or to introduce changes in the organisation of paid employment in order to facilitate individual combinations of paid and unpaid work by both women and men. Also, we should expand the scope of public services to include unpaid work such as child care. Policies should also consider placing domestic labour on a commercial basis.

Last but not least, legislation and policies should take gender differences into account. It is undeniable that there are gender differences between women and men, but these differences can only be used as criteria for different treatment under certain circumstances. Some of these differences are inherent, while others are constructed or reinforced by society and culture. Not all of them can form a reasonable basis for differential treatment or a defence for gender discrimination in employment. Therefore, both gender-neutral and gender-specific legislation may lead to infringements or insufficient protection of women's rights. The legal system must be examined from the perspective of gender to determine whether the law should treat women and men equally or differently. Otherwise, gender-neutral legislation may be based on gender-blindness and use male standards to define and empower women, thus ignoring the needs of women and introducing only formal equality while not addressing substantive equality. The legislation on gender differences may make reference to the pursuit of substantive equality and special protection, but it may lack justifiable reasons and appropriate means, instead actually leading to discrimination or reverse discrimination. Introducing a gender perspective to assess gender issues in the legislative process can overcome the gender essentialism and physiological determinism in such legislation, expose the implicit male standards in the law and reduce the adverse impact of the law on women.

When China was battling the surge in the COVID-19 pandemic earlier this year, two thirds of the 40,000 medical workers who went to help Hubei Province fight the pandemic were women, as Chinese President Xi Jinping acknowledged at a high-level meeting on the 25th anniversary of the Fourth World Conference on Women at the 75th UN General Assembly. During his speech, Xi called for special attention to be paid to the special needs of women and for the

Beijing Declaration and Platform for Action to be implemented in fighting the pandemic. Xi proposed to help women get rid of the impact of the pandemic by paying attention to their physical health, social and psychological needs, as well as their working environment as front-line female medical workers. Protection of the rights and interests of women must be given a significant place in both public health and the resumption of work and production in order to combat the violations of women's rights. He also mentioned the necessity of strengthening social services, prioritizing giving guarantees to special groups such as pregnant women, and paying special attention to vulnerable groups such as poor, elderly or disabled women. The Chinese people should ensure that the President's words are translated into action.

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Chapter 7

The Impact of COVID-19 on Women Street Vendors in Addis Ababa

Tirsit Sahledengil ¹

Abstract

In Ethiopia, the informal economy provides a livelihood for millions of people. Most of the informal business sectors are found in densely populated urban centres with limited access to basic services, particularly water, sanitation and health services. The capital, Addis Ababa, is one of the hot spots of the COVID-19 pandemic in Ethiopia, which has been affected since March 2020. The impact of the pandemic on women involved in the informal economic sector is common across less developed countries. As a result, women in the informal economy have had to co-exist with the new pandemic from the beginning, and have perhaps suffered greater socio-economic impacts from it than the men. By drawing on the lived experiences of female street-vendors in Addis Ababa, this paper examines the nature of the multifaceted challenges and the different coping mechanisms women use in facing these challenges.

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1. Introduction: Setting the Scene

Significant numbers of women are engaged in the informal economy without having employment contracts, workers' benefits, social protection or workers' representation.² Among informal workers, waged workers and the self-employed are most at risk of losing their jobs and incomes. These women are among the poorest workers in Ethiopia and often work in a seasonal, casual or temporary business, which makes them more vulnerable to economic shock.³ Street-vending businesses, low-paying beauty salons, waitressing and door-to-door cleaning services are among the informal sectors in which women work in the capital, Addis Ababa.⁴ In Ethiopia, as in other countries around the globe, many business activities have been liquidated due to the effects of the virus, and significant numbers of women have been forced into losing their jobs. However, despite many reports showing that women in informal economic sectors have been severely affected by the economic downturn, detailed accounts of their lives during the current COVID-19 pandemic have not been adequately documented, especially in Ethiopia.

Ethiopia declared a state of emergency for five months in accordance with Article 93(4) of the Ethiopian Constitution, which, however, did not impose a total lockdown on the country but left relative freedom to workers in the informal economy.⁵ Nonetheless, nationally and sub-nationally the lockdowns, including the restrictions on the movement of people that led to the closure of informal businesses, has resulted in negative outcomes, particularly for street vendors whose customers were forced to stay at home due to the restrictions. The state of emergency, Article 3, also stated that religious places would be closed for an indefinite period and all schools would also be closed.⁶ This is significant because women street-vendors' customers are mainly religious congregations, who buy different items from them after church, and students who buy snacks from them after school. This results in most of the business that women street-vendors carry out being in conflict with the restrictions of the state of emergency.

² *The Impact of Covid-19 on Women*, United Nations, April 2020, pp.1-21.

³ Ebsa Deribe, 'Women in the informal sector: evidence from Southwestern Ethiopia', *International Journal of Peace and Development Studies*, December 2012: www.academicjournals.org/IJPDS visited on 4 December 2020.

⁴ Care, *Gender implications of COVID-19 outbreaks in development and humanitarian settings*.

⁵ 'State of Emergency Proclamation No. 3/2020 Implementation Regulation No. /2020'.

⁶ See Article 3, 'State of Emergency Proclamation No. 3/2020 Implementation Regulation No. /2020'.

Informal enterprises are likely to suffer increasing impacts as long as the COVID-19 pandemic continues.⁷ In the first place, since the pandemic is new to the world, solutions to it are still at the stage of experimental research, including the development of vaccines and ways of overcoming its adverse socio-economic impacts. Second, the focus of governments and other responsible bodies seems to be on the macro-level socioeconomic impacts of the virus, much less attention being paid to the informal sector. Instead, civic organizations, donors and volunteers are focused on giving immediate food support to those who have lost their businesses due to the pandemic. However, there are regional differences in the intensity of these economic impacts based on differences in different countries' social, economic and political realities. In this regard, Ethiopia is among those countries that did not impose a total shutdown of businesses or of the movement of people in seeking to cope with COVID-19.

Many relevant reports exist, most of which are quantitative: it would be of value to understand the realities behind the numbers as well. The challenge for women with low incomes is complicated and many-stranded, since most women are also victims of gender-based violence due to their having to stay at home for long periods of time. Cases of gender-based violence (GBV) are known to have increased during the COVID-19 pandemic.⁸ As a result, both the government and non-government organizations (NGOs) have focused their attention on the GBVs and other sexual and reproductive health issues. The financial problems these women face have received less attention. Indeed, most of the challenges that women are having to confront during the pandemic are intertwined. However, stressing just one of these challenges obscures other factors and also contributes to the failure to resolve the problem in an adequate fashion. In this regard, the argument of this research opposes interpretations of the victimization of women that present women as not being immune to threats and economic challenges.⁹ In attempting to fill this gap, the paper will attempt to answer the following key questions: How has COVID-19 impacted on the economic lives of women engaged in the informal economic sectors? What are the challenges that women face and what opportunities were they given in the course of the pandemic? And what different coping mechanisms do women adopt in overcoming the various economic challenges they have faced as a result of the pandemic?

Given that detailed data is required to answer these research questions, field-based qualitative research was conducted. More specifically, the economic impact of the pandemic was studied

⁷ *Supra* note 3.

⁸ Meron, Zeleke, *We need a national conversation in Ethiopia as COVID- 19 hits women hard*. <https://www.diiis.dk/en>. 20 August 2020.

⁹ UNFPA, *Experiences of vulnerable urban youth under Covid-19: the case of domestic workers. COVID-19 SERIES Ethiopia*. Gender and Adolescence Global Evidence (GAGE) 2020.

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2. Lived Experiences of Female Street-Vendors

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2.1 Major Challenges Faced by Women Street-Vendors

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Utggv'xgpf kpi 'pqv'qpn' 'hcmu'y kj k'p'y g'kphqto cnlugevqt.'k'ku'cnuq'eqpukf gtgf 'cp'knki cnldwukpguu' cev'x'k'f'0:'Ceeqtf kpi n'.'y g'r qnleg'q'lhv'p'v'cti gv'y qug'k'pxq'k'g'f'k'p'ugmkpi 'cpf'dw'f'kpi 'kgo u'k'p'y g' utggv'o quv'qh'y j qo 'ectt{'qp'y g'k'k'dwukpguugu'k'p'y gug'r tgectk'q'wu'ek'ewo u'cpegu'0'O cnkpi " G'y kqr kcp'v'cf k'k'qpcn'eq'lhgg'cu'c'dwukpguu'qp'y g'utggv'ku'c'eqo o qp'cev'x'k'f' 'k'p'C'f'f'ku'C'dcdc." qpgr'tgf qo kpcpvn' 'qeevr k'f'd{'y qo gp'0O qtgxgt.'uo cm'eq'lhgg'uj qr u'j cxg'dggp'ug'v'w'.'o quvn' " qp'y g'r g'f'gutkcp'tqcf u'cpf 'k'p'ltqp'v'qh'q'y gt'hqto cn'dwukpguu'uj qr u'0'Vj g'ewuqo gtu'qh'y gug' eq'lhgg'ugmgtu'ctg'y gtghqtg'qdri g'f'v'q'uk'g'k'y gt'k'p'y g'qr gp'qt'w'pf gt'uo cm'v'g'p'u'o cf g'lt'qo " r'ru'k'le'uj gg'v'kpi 0'"

Qp": 'Cr't'k'4242'y g'J q'wug'qh'T gr t'gug'p'v'x'g'u'f ger'ctgf "c"u'cv'g'qh'go gti gpe{'d'c'p'p'kpi 'r'w'ri'k'le' i'c'y g't'kpi u'cpf 'k'p't'q'f'w'ekpi 'o'cp{'q'y gt't'gut'k'v'k'p'u'0J qy gxgt.'y g'o gcu'wt'gu'v'ek'ul'kpi 'u'ej q'qnu'cpf " r'w'ri'k'le't'get'g'v'k'p'cn'eg'p't'gu'cpf 'r'ko k'kpi 'r'w'ri'k'le'i'c'y g't'kpi u'ctg'p'q'v'ut'k'ev' "g'p'h'q'tegf'0'Vj g't'g'y cu' pq'g'z'r'k'ek't'gut'k'v'k'p'h'q'tekpi 'r'g'qr'ng'v'q'uc{'j qo g.'cu'k'p'u'qo g'G'w't'qr'g'cp'eq'w'p't'k'gu'0'Vj g'r't'ko g' o'k'p'k'v'gt'cpf "q'y gt'G'y kqr kcp'q'h'k'ek'nu'uc'v'g'f'y'c'v'c'm'qen'f'qy p'y cu'cp'w'p't'g'c'k'v'k'le'qr'v'k'p'h'q't' G'y kqr k'c.'u'k'peg'y g'h'k'g'k'y q'q'f'u'q'h'v'q'o'cp{'r'g'qr'ng'f'gr'g'p'f'g'f'qp'g'ct'p'kpi 'c'f'ckn' 'k'p'eqo g'y'q'w'i'j " r'cd'q'w't'kpi 'qt'x'g'p'f'kpi 0'"

Qpg'y qo cp'y j q'y cu'ugmkpi 'p'wu.'ek' ctg'v'gu'cpf 'i'wo 'k'p'ltqp'v'qh'c'd'ct'o'gp'v'k'p'g'f'y'c'v'uj g'w'ugf " v'q'ugm'c'k'k'q'q'h't'q'c'v'g'f'r'g'cp'wu'gxgt{'y'q'f'c{'u'd'gh'q't'g'y'g'r'cp'f'go'k'0J qy gxgt.'h'q'm'y kpi 'y'g' q'w'd't'g'c'n'q'h'y'g'r'cp'f'go'k'.'r'g'qr'ng'u'v'qr'r'g'f'i'q'kpi 'v'q'y'g'd'ct'v'q'f't'k'p'm'cp'f'ej'c'v'y'k'y'lt'k'p'f'u'f'w'g' v'q'y'g'h'g'ct'q'h'y'g'x'k'w'u'cp'f'y'g'uc'v'g'q'h'go gti gpe{'t'gut'k'v'k'p'i'r'g'qr'ng'i'c'y g't'kpi 'k'p'd'ctu'cp'f' t'g'u'c'w't'c'p'u'0Cu'c't'g'u'w'v'uj g'y cu'p'q'm'pi gt'c'd'rg'v'q'ugm'j gt'p'wu'v'q'ewuqo gtu'cp'f'y cu'h'q'tegf'v'q' u'qr'y'q'tn'kpi 'd'ge'c'w'ug'q'h'y'g'h'c'm'q'h'ewuqo gtu'0O qtgxgt.'j gt'j'w'ud'cp'f'j'cu'd'ggp'uk'en'lt'q't'o'cp{' {g'ctu.'cp'f'uj g'ku'y'g'q'p'n'q'p'g'u'w'r'q't'v'kpi 'y'g'h'co'k'f'0Uj g'c'nu'q'uck'f'y'c'v'd'gh'q't'g'E'Q'X'K'f'3;'uj g' w'ug'f'v'q'j'cx'g'j'gt'ej'k'f't'g'p'ugm'ej'gy kpi 'i'wo 'k'p'ech'g'v'g't'k'cu'0J qy gxgt.'f'w'g'v'q'y'g'r'cp'f'go'k'j'gt' ej'k'f't'g'p'ct'g'p'q'm'pi gt'y'q'tn'kpi 'g'k'y'gt.'h'w't'y'gt'k'p'et'g'c'ukpi 'y'g'd'w't'f'g'p'q'p'j'gt'0'3'Vj g'uc'v'g'q'h' go gti gpe{'f'k'f'p'q'v'ur'g'ek'h'ec'm'f'h'q'teg'y'gug'ut'ggv'x'g'p'f'q'tu'v'q'uc{'j qo g.'cp'f'k'p'f'gg'f'y'g'f'y'g't'g' c'm'y'g'f'v'q'eq'p'v'k'p'w'g'y'g'k't'cev'x'k'k'g'u'r't'q'x'k'f'g'f'y'g'f'o'c'k'p'v'k'p'g'f'u'q'ek'n'f'k'w'c'p'eg.'y'q't'g'o'c'u'm'i' r't'q'r'g'tn'cp'f'y'c'uj'g'f'y'g'k't'j'cp'f'u'lt'g's'w'g'p'v'0J qy gxgt.'y'g'f'y'g't'g'k'p'f'k'g'ev'v'ch'g'ev'g'f'd{'y'g' q'qen'f'qy p'd'ge'c'w'ug'o'quv'q'h'y'g'k't'ewuqo gtu'y'g't'g'uc{'kpi 'c'v'j'qo g'0'O quv'q'h'y'g'k'p'h'q'to'cp'wu' eq'p'u'w'ng'f'k'p'k'p'v'g't'x'k'g'y'ut'gu'ug'f'y'c'v'c'n'y'q'w'i'j'y'g'f'f'k'f'p'q'v'h'g'ct'y'g'f'k'ug'c'ug'y'g'r't'g'x'g'p'v'k'g'g'

3: 'I'qpi c.Y gmkpi v'p.'-Utg'gv' X'g'p'f'kpi "C'v' O'gi'g'p'ci'pc" *G'y kqr k'c-<E'j'c'm'g'p'i'gu'cp'f' "R't'q'ur'g'ev'u'd' Review of Management Innovation and Creativity (4234+0'

42"Supra"p'q'v'g'90'

43"K'p'f'gr'y'k'p'v'g't'x'k'g'y'."42"U'g'r'v'go'dgt'4242'C'f'f'ku'C'dcdc0'

o gcuwtgu'o gcpv'y cv'y gk'r tqdngo u'kp'gctplpi 'c'rkxgkj qqf 'y qwf 'uqpp'j cxg'y g'uco g'ghgev'cu' yj g'f lugcug0' Vj g' qy gt' o clqt' geqpqo le' ej cngpi g' yj g{ "gpeqwpvgtgf "tgrvgu" vq" yj g'equv' qh' vcpur qtvcvkp0' Vj g'ucvg' qh' go gti gpe{ "tgf wegf "yj g'ectt{ lpi "ecr cekv{ "qh'r wdrle" vcpur qtvcvkp" d{ "j crh'cpf "f qwdrgf "yj g'htgu0J qy gxgt. "yj g'xgpf qtu'eqwf "pqv'chhqt f "yj ku'kpetgcug'kp'htgu. "uq' kpuvgf "yj g{ "j cf "vq'y cmlo cp{ "nkqo gtu'htqo "yj g'o ctngv'r meg"vq'eqpf wev'yj gk'dwukpguugu0' Vj g'uqqt{ "qh'qpg'kphqto cpv'kwxutcvgu'yj ku<"

Case one

[guj k'pqv'j gt'tgcn'pco g+'ku'58"cpf 'ku'o cttkgf 'y kj 'y q'ej kf tgp0Uj g'j cu'dggp'ugnkpi "maran" i tcuu. "lpegpug"cpf "ej wtej "leqpu'kp'htqpv'qh'U0O ct{ æ'Ej wtej "hqt'yj g'rcuv'plpg" { gctu0Uj g'f qgu" pqv'gzcevn{ "mpqy "j gt'o qpvy n{ "lpeqo g0J gt'j wudcpf "ku'c'f tkxgt'y j q'eqxgtu'yj g'tgpv'cpf "uqo g" dcule'uej qqn'o cvgtkcu'hqt "yj gk'ej kf tgp'htqo "j ku'lpeqo g0Uj g'uwr rqtu'j gt'ho kn{ "d{ "eqxgtlpi " cm'ku'hqf "gzs gpugu0Uj g'y cu'ugxgtgn{ "ko rcevgf "d{ "yj g'r cpf go le. "gur gekcm{ "f wtkpi "yj g'htuv" yj tgg'o qpvy u. "y j gp'yj g'ej wtej "y cu'cuq'emugf 0'J qy gxgt. "uj g'j cu'pqv'lwuv'uc{ gf "cv'j qo g" f wtkpi "yj g'eqtqpcxktwu"qwdtgc m'cti wtkpi "yj cv'õK'y qwf "tcy gt'f kg'htqo "yj g'xktwu'yj cp'htqo " j wpi gtõ0[guj K'cuq'cuugtvgf "yj cv'hqt "yj g'htuv'yj tgg'o qpvy u'y j gp'yj g'ej wtej "y cu'emugf "cpf " yj gtg'y cu'pq'cevxkv{ "ctqwpf "ku'uj g'tgcrugf "yj cv'yj g'r tqdngo "y cu'gxgt{ "dk'cu'ugtqwu'cu'emukpi " ej wtej gu'cpf "dgeco g'f gur gtcvg'cdqww'yj g'hwmtg0J qy gxgt. "rkxg'eqpvkpwgf. "cpf "uj g'j cf "vq'hggf " j gt'ej kf tgp0' K'y cu' yj gp' yj cv'uj g'f gekf gf "vq'ugm'ngo qpu"cpf "qy gt'ur legu"vq" r tqxkf g" c" rkxgkj qqf 0⁴⁴

Vj g'cdqxg'uqqt{ "ku'rkng'yj cv'qh'o cp{ "y qo gp'y j q'ecppqv'ej qqug"vq'uc{ "cv'j qo g"vq"r tqvgev' yj go ugrxgu'cpf "yj gk'rxgf "qpgu'htqo "yj g'eqtqpcxktwu'ukpeg'yj g{ "j cxg'vq'i q'qw'vq'gctp'o qpq{ " hqt'yj gk'f ckv{ "uwdukvpeg"cpf "r w'hqf "qp'yj g'vcdng0Uqo g'kphqto cpv'tgr qtvgf "yj g'i qqf "f ggfu" qh'uqo g'j qwug/qy pgtu. "y j q'i cxg'yj go "tgrgh'htqo "j cxkpi "vq'r c{ "yj g'tgpv0J qy gxgt. "yj gtg'y gtg" o cp{ "ej cngpi gu'kp'yj gk'rkxgu. "kpenw' lpi "yj g'tkug'kp'hqf "r tlegu"cpf "yj g'wpchhqt f cdkkv{ "qh'b cumi" cpf "ucpkkugtu" f wtkpi "yj g'htuv'hgy "y ggmi'qh'yj g'r cpf go le0"

Vj g'qy gt'ej cngpi g'hgo crg'utggv'xgpf qtu'hceg'ku'yj g'pgy "f go cpf u'qh'yj gk'ewuqo gtu. "y j q'j cf " dgeqo g'ecwkwu"cdqww'yj g'kgo u'yj g{ "y gtg'dw{ lpi 0'K'p'uqo g'ekewo ucpegu"yj gk'ewuqo gtu" tghwug"vq'dw{ "wpucpkkugf "kgo u0'Qpg'qh'yj g'"maran" i tcuu/ugngtu"uckf "yj cv'chngt'yj g'ej wtej " tgqr gpgf "uqo g'ewuqo gtu'cungf "j gt'y j gyj gt'uj g'y cuj gu'yj g'i tcuu'vq'r tngxgpv'eqpco kpcvkp"d{ " yj g'xktwu0Y j gp'uj g'vrf "j gt'ewuqo gt'yj cv'uj g'eqwf "pqv'chhqt f "vq'dw{ "f gvgti gpv'vq'y cuj "cm'yj g" i tcuu'uj g'y cu'ugnkpi. "yj g'ewuqo gt'hgh'y kj qw'dw{ lpi "cp{ 0"

Vj wu. "yj g'qxgtcm'kphrcvkp"cpf "yj g'tkug'kp'equu'kp'qdvcklpi "f gvgti gpw'cpf "qy gt'o gcuwtgu'hqt" r tngxgpv'pi "yj g'urtgcf "qh'yj g'xktwu"chgev'yj gug'y qo gp'ugxgtgn{ 0'Cu'c'tguwn. "yj g{ "y gtg'hceg f "

⁴⁴"Kp/f gr yj 'kpvgtxgy. "44"Ugr vgo dgt"4242. "Cf f ku'Cdcdc0'

with the extra expense of using detergent because their clients demanded it. However, for most street vendors offering sanitizers and alcohol to all their customers was unaffordable. Most of these women lack access to formal saving mechanisms except for those who belonged to a weekly *ekub*.

Moreover, most of these street vendors do not use proper masks but rather cover their mouths with a scarf or veil to save the money they would have to spend on a mask. This lack of regard for masks stems from the perceptions these women have of COVID-19, some believing that the virus does not have a severe effect. One informant told me that “I was expecting to see the street full of patients and corpses.” However, the problem was not the disease but the stress of being hungry and of living without hope, with the police forever chasing them because they are treated as illegal traders. The state of emergency even made their situation worse given the small size of the spaces they were used to sitting in to sell their stock, now made even smaller in order to maintain their physical distance from others.

Other challenges mentioned by informants included the new demands placed on them by their customers and government officials enforcing the rules related to social distancing. For street vendors involved in selling local coffee, as for those running a business in such a small space, maintaining ideal social distancing and providing a service to their customers is simply unrealistic. There are two reasons for this. In the first place, they are not able to arrange the space available to them to keep a social distance from their customers. As a result, they are forced to serve only one or two people at a time. Second, the traditional Ethiopian coffee ceremony is not provided just to individuals. Rather, people enjoy drinking coffee together and are not interested in going to traditional coffee houses separately.

In this regard, the *woreda*'s trade and industry officer said that many people perceive that street businesses are not safe and clean enough, given that they mainly serve those with low incomes. The health extension workers also strongly recommended street coffee-sellers to boil their cups and other materials before serving the coffee. The latter stated that they understood they should protect their customers from the virus by keeping all their materials clean, but doing so did not address the major problem they faced related to the number of customers.²³

The other challenge mentioned by informants was the physical violence the vendors often encountered from local police and militias, which was justified as law enforcement. In addition to the lack of social protection, another gap has occurred in enforcing the state of emergency. Restrictions on movements and enforcement of the provisions of the state of emergency by the police and security forces can create a failure of the rule of law in relation to women's rights.²⁴

²³ Key informant interview, 27 September 2020, Addis Ababa.

²⁴ UN, *supra* note 6, 2.

Interpreting the rules and improperly implementing them are frequent in Ethiopia. Women in the informal sector who cannot stay at home due to the nature of their businesses were vigorously targeted by those security forces responsible for enforcing the rules and regulations. Although these women vendors went out and overcame all their uncertainties and fears of being attacked by the virus, continuing their businesses was not as easy as before the virus, since most of them did not have a fixed legal place from which to run their businesses, and they were often accused by the police, to whom their visibility increased because of the lack of crowds.

Chasing hawkers from the street is obvious work for the police, and vendors accused by the police might have their sale items taken away or be attacked by the police.²⁵ The formal sectors were protected under the state of emergency so they could continue to be paid and did not lose their jobs during the pandemic. Informal workers, conversely, failed to be given any such protection, which nonetheless relieved them from being chased by the police, at least during the pandemic. The following case illustrates this:

Case Two

Lemlem (not her real name) is a 41-year-old women with four children. Before the pandemic she was engaged in selling French fries and toasted biscuits on the street. Her daily income, though small, was enough to buy bread for her children. She also stated that her customers were mostly day-labourers, but that after the pandemic most construction workers left to go elsewhere due to the lockdown, so that the demand for her products declined, causing her to lose most of her daily income. Her customers also became suspicious of the items she was selling and asked her whether they were clean or not. Some of them also told her to use gloves. However, she could not afford to buy gloves and instead sanitised her hands with lemon juice in front of her customers.

Regarding the state of emergency, she mentioned that she tried to stay at home for the first few days of the pandemic, but realised that this was not a sustainable solution and that it was vital to try and overcome the challenge. She therefore returned to doing her usual business.

She also stressed that she was worried about leaving her children at home. Telling them to wash their hands frequently is another challenge because their house is too small, and it is difficult to spend the whole day and night in such a small space. Moreover, the money she was making was not enough to feed the whole family, since her husband had also lost his job.

²⁵ Desalegn Amsalu, 'Awi Migration and Adaptation to Addis Ababa', *Annales d'Ethiopie* (2018) p.108.

The worst scenario she described using the phrase *በአንቅርቻ ላይ ጅሮ ይገፋ*²⁶, a reference to the situation of double victimhood in that the authorities that are enforcing the state of emergency always ask her whether she has a business license or not. She replies that she was just earning her living and not begging in the streets. However, they fail to understand her situation. She said that she was suffering from the complexity of the situation and could not think about the poverty she is experiencing, which was making her stressed through both the uncertainty of her business and the complicated measures against the pandemic, as well as the challenge of law enforcement.²⁷

The local police have exploited their enforcement of the state of emergency declared against the COVID-19 pandemic to crack down on those businesses that are considered “illegal”. Most of the women I interviewed reported that the police had threatened them. According to informants selling different items in front of the church, the police maltreated both the businesswomen and their customers. Although the police’s concerns were over physical distancing and the proper wearing of masks, the way they attempted to address the problem was unethical and against the rights of the people they were targeting. Zinash (not her real name) said the following about her experience of this manner of law enforcement:

As you see, I am serving traditional coffee in this small shed. The shed serves only three people at a time. My customers were university teachers, and they didn’t visit me after the pandemic. I guess they feared to visit my crowded small coffee house. Then, I started serving the coffee for walking customers who only sometimes enter my shed. When they enter my small shed, I tell them to wear masks, since keeping a physical distance is unrealistic. I also always get frustrated when three or more customers enter my coffee shop. One day a policeman came and asked me why I was allowing people to gather against the law restricting gatherings. I tried to answer politely but the policeman told me to serve the customers in a place that allows enough distancing. I know and the policeman also knows that there is no space to observe the rule of physical distancing, but I promised I would do that. Then he left me. The next day he came back and asked me why I am serving people who are not wearing masks. Indeed there were two customers who were drinking coffee and did not wear masks because one cannot drink coffee while wearing a mask. Again I told him that I will tell my customers to wear masks. And some people take out masks as

²⁶ Idiomatic expression, meaning that multiple problems and challenges appear together.

²⁷ In-depth interview, 25 September 2020, Addis Ababa.

*soon as they sit in the coffee house. When I tell them to wear the mask, they are not happy. What can I do in this case?*²⁸

The other interesting finding of the study is that the government's suggested means of prevention contradicts local social values of intimacy. Informants stressed that the social view of intimacy entails embracing others in times of hardship and not suspecting them of having medical problems. According to the street-vendors I interviewed, after the schools were closed most of their customers were beggars, street-children and day labourers, who, on being told to keep a physical distance, became angry and failed to visit again. Thus, forcing customers to wear a mask or to keep their distance is a challenge for the coffee sellers, as their customers are not happy when they are asked to wash their hands or to wear a mask properly. Some of their customers also wanted to argue with them, claiming that 'there is no coronavirus in Ethiopia'. This leads to the vendors being forced to serve their customers and take the risk of being accused by the police, rather than losing their businesses and having arguments with their customers. In this regard, the challenges facing male street-vendors are less than in the case of women, since most male vendors sell books, clothes, shoes or car accessories. They also spend less time with their customers than women street vendors must do because of the nature of their business.

The pandemic also weakened the strong social bonds between people. Most street vendors live in small houses where they share taps and toilets with other members of their compounds. This also presents an opportunity to share food and other non-food items with their neighbours. However, since the pandemic, they fear to share food or drink coffee together. This is due to the influence of the media frequently warning people to maintain social distancing. However, this is not applicable to most of those in the informal sector, who prefer to confront the virus in order to earn a livelihood for themselves. For women who are the main or sole source of their family income, the most important thing is fulfilling subsistence needs. However, they have been involuntarily forced to modify their ways of carrying out their businesses in order to keep those businesses going. There are a number of different reasons why not many of them were that concerned about the medical impact of the virus. First, the number of those who were affected by COVID-19 were quite few according to the daily reports of the Ethiopian Ministry of Health. For example, those said to be affected by COVID-19 only numbered 26 in the first reported month, March 2020. During this month also, no deaths were reported in Ethiopia, providing an opportunity to predict future deaths in the country. The first death from the pandemic in the country was reported one month after the first confirmed infection. Even in April the number of deaths reported as being due to COVID-19 was only three. Therefore, women street vendors started to think about how they could survive the economic distress they

²⁸ In-depth interview, 28 September 2020, Addis Ababa.

had already been facing since the first outbreak of the virus in Ethiopia, rather than worrying about the medical impact of the disease, which had killed only a few people so far in Ethiopia.²⁹

Second, most informants were strong in their religious faith and perceived Ethiopia as not being affected by the disease because of the many religious qualities and the existence of spiritual covenants in the country. Indeed, the social significance of the religious reaction to COVID-19 needs further research, given how common are religious justifications for the lower impact of the disease in Ethiopia.

COVID 19 has such an impact on women because women are also expected to look after their homes, given that their children are now staying home due to the closure of the schools. In addition to earning money by street vending, women are expected to cook for the family. In this regard the involvement of these women in street vending does not relieve them of the responsibility for their domestic activities, including childcare. Rather, they are supposed to carry out both domestic activities and their businesses.

2.2 Women's Coping Mechanisms: Changing Aspects and Opportunities

Case three

Almaz (not her real name) formerly sold fried potato chips on the streets. Most of her customers were Addis Ababa University students and *Minilik* II secondary school students, whom she deliberately targeted when she established this business. She also said that she started the business two years ago by borrowing money from the micro-finance arm of the *woreda* administration. She also said that, although the business was small, it was quite lucrative. However, she is now totally bankrupt due to the school closure and has been struggling to survive. In particular, she could not keep her business going from the passing trade, as movement in the area is restricted, and most of those who ate chips in the street have now stopped out of fear of the virus and their having to wear masks. Moreover, the fries are also sold to her customers by hand, meaning there is no way to totally avoid hand contact. She also mentioned that, as a way of overcoming the fear of physical contact, she has started wearing gloves to avoid direct contact, but still takes the money in her hand and gives her customers change by hand. She believes that she is trying her best to keep her business going amid the

²⁹ ghdx.healthdata.org/organizations/ministry-health-ethiopia. COVID-19 pandemic in Ethiopia – 20 September 2020.

hardships. She has now started packing up her fries at home and selling them door to door, but she finds that people are not happy with the idea of buying packed chips. However, rather than waiting for customers on the street, she has found that moving around the villages and targeting people door to door is lucrative. She finally remarked that even after the lockdown she plans to continue doing what she is doing now.³⁰

This case shows that the outbreak of the pandemic has not only created fear and panic in the lives of the street vendors, it has also helped some of them look for different opportunities and be creative and add value to the items they sell in order to maintain their businesses. According to information obtained from the emergency response task force in the study area, many street hawkers have started to sell items associated with preventing infection by COVID-19. Selling lemons, *feto*,³¹ garlic and other local herbs and spices which are believed to have a protective and healing property was observed.³²

One other creative strategy can be seen in the case of women who sell onions, tomatoes and other fresh vegetables that need hand contact. These women have shifted their business from selling fruit and vegetables to selling items that do not require contact but are also used for the prevention of COVID-19, namely sanitisers, masks and spices, which are all becoming profitable. However, it should be stressed that many street vendors are not well educated and do not know how to improve their businesses. These success stories are therefore actually quite rare.

While some women street-vendors have changed or modified their businesses, others are using the coronavirus outbreak as an opportunity to start a street business. Unlike women street-vendors whose businesses have been negatively impacted by the pandemic, those who have started businesses specifically to sell face masks, alcohol and sanitisers have been profitable.

One informant stated that she used to run a door-to-door cleaning service before the pandemic. However, since then her customers have started using the laundry, so she has lost her job. Then she started selling small containers of sanitiser and face masks. She said that there is a good market for such items since people badly need these. However, she does not produce these items and finds them expensive. Thus, her profits are not encouraging. Although she said she is not afraid of the disease, she is constantly worrying about how she will overcome her financial problems if the present situation persists. Expressing her fears, she said the following:

³⁰ In-depth interview, 25 September 2020, Addis Ababa.

³¹ *Feto* is a kind of spice which is widely used in Ethiopia as an indigenous treatment for COVID-19, being a mixture of ginger, garlic and honey.

³² Key informant interview, 19 September 2020, Addis Ababa.

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2.3 Government and NGO Measure to Address the Challenges

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⁵⁵ Kp' f gr y j " lptgtxlgy. " 46 " Ugr vgo dgt " 4242. " C f f ku' Cdcdc0'

⁵⁶ HCQ. " supra " pqv' 80'

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3. Conclusion

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⁵: "Supra."pqv'560

⁵: "Mg{ "lphqto cpv'lpv'gtxkgy . "47"Ugr go dgt"4242."Cff ku'Cdcde0'

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Gendered Impacts of COVID-19 on Higher Education in Cambodia: Perspectives of Female Lecturers and Students

Boravin Tann¹ and Sophorn Tuy²

Abstract

Vj ku"r cr gt" gzt rgtgu" yj g"ko r ceu"qh" yj g"wpkxgtuk\ "enquwtgu" cpf "tgo qvg" rgtplpi "qp" hgo crg" rgewtgtu" cpf "uwf gpw" cv" dqj "r wdrl" cpf "r tlxcvg" wpkxgtuk\ ku" Rj pqo "Rgpj ." Uxc{ "Tlapi ." Dcwco dcpi " cpf " Ugo " Tgr " kp" Eco dqf ko' K" j ki j rli j w" yj g" ej cmppi gu" cpf " qr r qtwpk\ ku" tgi ctf lpi " yj g" r gf ci qi lecnr gthqto cpeg'qh' hgo crg' rgewtgtu' kp' vgtu u'qh' r rpplpi . "ko r ngo gpv\ lpi " cpf "cuugulpi "eqwtugu' Vj g" cecf go le" r gthqto cpeg" qh' hgo crg" uwf gpw" y cu" cuq" ko r cevgf "d{ " yj gk' hko kgf "hpqy rgi i g"qh' yj g" vgej pqm\ { " yj g{ " j cf "vq" wug. "r qqt" kpvtpgv' eqppgevkpu. " cpf " rcm' qh' vgej lpi " o cvgtknu" cpf " r ctvkr cvkp" kp" qprikpg' encuugu' Kp" cf fklqp. "ko r ceu" y gtg" cuq" pqvgf " cv' yj g" r gtuqpcn' hgxgn" cu' dqj " i tqw u' gzt rgtkpegf " go qvqp cnlf kut guu. " ghgeu' qp" r j { ulecn' j gcnj " cpf " kpetgcugf " hpcpekn' dwtf gpu' co kf uv' yj g" r cpf go ko' Vj g" i gpf gt" ko r ceu" qp" hgo crg' rgewtgtu" cpf " uwf gpw" y gtg" cuq" go r j cuk gf " kp' vgtu u' qh' cf fklqp cnlf vpr ckl " ectg' y qtn' cpf " yj g" y kf gp\ lpi " qh' i gpf gt/ tgrvgf " f ki kcn' cpf " vgej pqm\ lecn' unkm' i cr O' Vj ku' ukwcvkp" tckugu' eqpegtpu' tgi ctf lpi " yj g" ceegu\ kdk\ { " cpf " s wcrk\ { " qh' j ki j gt" gf wecvkp" cpf " yj g" tgu\ kpege" qh' Eco dqf ko' u' gf wecvkp" u\ ugo " cu' c' y j qrg' kp' yj g' eqpvz' v' qh' yj g' EQXK /3; " r cpf go ko'

³ Tgugetej gt. "Egpgt' hqt" yj g' Uwf { "qh' J wo cpkctkcp" Ncy . "Tq{ cn' Wpkxgtuk\ "qh' Ncy " cpf " Gcpqo leu. " Eco dqf ko' vcp0lqtclpB gndn' euj nlti "

⁴ Nkdtctkcp" cpf " Tgugetej gt. "Egpgt' hqt" yj g' Uwf { "qh' J wo cpkctkcp" Ncy . "Tq{ cn' Wpkxgtuk\ "qh' Ncy " cpf " Gcpqo leu. " Eco dqf ko' uqr j qtpB gndn' euj nlti

1. Introduction

The COVID-19 pandemic is more than just a global health crisis: it is having social, economic and political impacts across the globe. In Cambodia, the pandemic was first identified in late January in Sihanoukville province and spread further across the country during March. At the time of writing (November 2020), there are 305 confirmed cases, all of them imported, in 295 of which the patient has recovered. The pandemic led to the closure of 13,482 schools nationwide, including 124 higher education institutions (HEIs), in March³ and November⁴ respectively, affecting more than 3.5 million learners at all levels.⁵ The most obvious impact of COVID-19 on the right to a higher education across the globe is the suspension of face-to-face learning, which has greatly affected students, teachers, non-academic staff and HEIs alike. In this situation of limited internet access and learning materials, disparities in education have increased, especially for vulnerable groups accessing education, namely women, persons with disabilities, students from low-income families and ethnic minority students.⁶ School closures, combined with pre-existing structural inequalities and stereotypes, as well as social and cultural norms, have exacerbated gender inequality in Cambodia in various respects.⁷

Due to the principle of managerial autonomy,⁸ HEIs in Cambodia have received relatively few concrete guidelines or technical support for distance learning in response to the pandemic and the university closures. No remote or e-learning platform has been established for tertiary education in Cambodia.⁹ While the effects of the pandemic on the health and well-being of students and children at the primary and secondary levels have been comprehensively

³ MoEYS, Directive No. 13 on Getting Started Short-term Vacation and Early School Break for All Public and Private Educational Institutions across Cambodia, 6 March 2020.

⁴ MoEYS, Directive No. 64 on Temporary Suspension of Public and Private Education Institutions for Two Weeks in Phnom Penh and Kandal Provincial Town, 08 November 2020.

⁵ MoEYS, 'Cambodia Education Response Plan to COVID 19 Pandemic', July 2020, <www.moeys.gov.kh/index.php/en/planning/3858.html#.X2gp4GgzblV>, visited on 13 September 2020.

⁶ IESALC, 'COVID-19 and higher education: Today and tomorrow: impact analysis, policy responses and recommendations', 13 May 2020, <www.iesalc.unesco.org/en/wp-content/uploads/2020/05/COVID-19-EN-130520.pdf>, visited on 23 September 2020.

⁷ S. Tuy, 'Discrimination against Women in Accessing Higher Education in Cambodia', 3(1), *Journal of Southeast Asian Human Rights* (2020), pp. 101-123; D. Mattes, M. Ngouv, and S. Kum, 'Women in the law: policy-oriented data collection and recommendations to establish female leaders in the Cambodian legal sector', in Compendium Report, Women in the Law: Enhancing Leadership, Opportunities, and Knowledge, Center for the Study of Humanitarian Law and Center for Human Rights and International Justice, March 2020, <humanrights.stanford.edu/publications/women-law-compendium-report>, visited on 30 November 2020.

⁸ 2007 Education Law of Cambodia, Article 13.

⁹ MoEYS, *supra* note 5.

kpxgukl cvgf . "v'j g'ko r ceu'qp'uwf gpw'cpf "gf wecvkqp'r gtuqppgnlcv'v'j g'vgtvkt { "rgxgnlkp'Eco dqf kc"
 ctg"pqv'y gmf qewo gpvgf . "qt"cv'v'j g'xgt { "rgcu'v'j cxg"pqv'dggp"gzco kpgf "v'j tqwi j "v'j g'ngpugu"qh"
 i gpf gt"cpf "j wo cp'tki j wu."kpenw kpi "kp"v'j g'eqpvz'v'qh'EQXKF/3; 0'C"uwf { ³²"qh'Ncvk"Co gtlec"
 cpf "v'j g'Ectkddgcp'wpf gtrkpgu'v'j g'o clp"cur gew'qh'v'j g'r cpf go kexu'ko r ceu."{ gv'hcku'v'q'r tqxkf g"
 kpuki j wu"kpq"v'j g'gxr gtlgpegu"cpf "ej cmgpi gu'hceg" d { "uwf gpw'cpf "vgej gtu0Cpqv'gt"rti g/
 uecrg"uwf { ³³"j cu"cuq"dgpp"eqpf wevgf "qp"uwej "ko r ceu"qp"uwf gpw."dw'f kf "pqv'kpenw g"v'j g"
 Eco dqf kcp"uco r ng0Ci clpuv'v'j ku"dcenf tqr . "v'j ku"uwf { "clo u"v'q"gzr mtg"v'j g'r gf ci qi lecn'qt"
 cecf go k"cpf "r gtuqpcn'ko r ceu"gzr gtlgpegf "d { "hgo cng"ngewtgu"cpf "uwf gpw'cv'r wdike"cpf "
 r tkcxg"J GKt'guwukpi "htqo "v'j g'kptqf wecvkqp"qh'tgo qvg"ngctpkpi "cpf "wpkxgtukf"enquwgu"kp"
 Eco dqf k0K'cuq"gzco kpgu'v'j g'ej cmgpi gu'cpf "qr r qtwpkkgu'f gtlxgf "htqo "qprkpg"vgej kpi "cpf "
 ngctpkpi "kp"r tqxkf kpi "cpf "ceegukpi "s wcrk { "j ki j gt"gf wecvkqp0 Vj ku'r cr gt"v'j gtghqtg"clo u"v'q"
 cpuy gt"v'j g'hmqy kpi "tgugtej "s wguvqp<*How is remote learning resulting from university
 closures during the COVID-19 pandemic impacting on female students' right to education and
 affecting the teaching of female lecturers in Cambodia?* Kp"qtf gt"v'q"cpuy gt"v'j ku's wguvqp."v'j g"
 uwf { "ftcy u"qp"co kzf"o gv'j qf u'cr r tqcej "eqpukukpi "qh'kp/f gr v'j "kpvgtxky u'cpf "hqewu/i tqwr "
 f kuewukpu"v'q"gzr mtg"v'j g'xky u'qh'hgo cng"ngewtgu"cpf "uwf gpw'cv'J GK"kp'Rj pqo "Rgpj "cpf "
 vti gvgf "r tqxkpegu"kp'Eco dqf kc0'

Hmqy kpi "v'j ku'kptqf wecvkqp."v'j g'r cr gt"f guetkdu'v'j g'o gv'j qf qm { "qh'v'j g'uwf { "cpf "r tqxkf gu"cp"
 qxgtxky "qh'v'j g'f go qi tcr j ku."hmqy gf "d { "c'lw o ct { "qh'v'j g'tki j v'q'j ki j gt"gf wecvkqp"dqy "kp"
 i gpgtcr'cpf "kp"v'j g'eqpvz'v'qh'Eco dqf kc."cu'y gmf'cu'ng { "gf wecvkqpcn'tgur qpugu"v'q"EQXKF/3; 0'
 Vj g"pgz'v'ugevqp" f kuewugu"v'j g'o clp"tgugtej "hpf kpi u."y j lej "ctg" f kxkf gf "kpq"v'q"o clp"
 ecvgi qtlgu."v'j g'ko r ceu'qp'hgo cng'ngewtgu"cpf "qp'hgo cng'uwf gpw'tgur gev'xgnf . "r tqdkpi "hwt v'j gt"
 v'j g'r gf ci qi lecnkecf go k"cpf "r gtuqpcn'ko r ceu"qp"gej "v'cti gv'i tqwr 0'Ncu'dw'pqv'ngcu."v'j g"
 r cr gt"gp'f u'y ky "c"u { ugo c'ke"eqpenwukqp"qh'v'j g'hpf kpi u"cpf "tgeqo o gpf cvkqpu"ht"o wmk rg"
 uvcngj qrf gtu0'

2. Methodology

Vq"hn"kp"v'j g'i cr "kp"tgugtej "o gpvqpgf "cdqyg"cpf "v'q"i clp"kpuki j wu"kpq"v'j g'kuwgu"dgkpi "
 gzco kpgf "htqo "f hgtgpv'cpi ngu."v'j ku'uwf { "j cu'cf qr vgf "c'o kzf/o gv'j qf u'cr r tqcej "ftcy kpi "qp"
 kpvgtf kuek rkpct { "r gtur gev'xgu."kpenw kpi "hgtcwtg"cpn'uku."hqewu'i tqwr u."cpf "ugo k'utwewt gf "

³²"KUCNE."supra"pqv'80'

³³"C0Ctkuqxplm"gv'cn0'ko r ceu'qh'v'j g'EQXKF/3; "Rcpf go k"qp'Nhg"qh'J ki j gt"Gf wecvkqp"Uwf gpw'c'i nqdcn'
 r gtur gev'xga"34*42+."Sustainability, 35"Qevdgt"4242.">y y y 0 fr kqgo 4293/3272 B4 421: 65: lj vo .@'xkukgf "qp"
 8'F gego dgt"42420""

cpf "r tqdrgo /egpvtgf "lpvgtxkgy u0Vj ku"cr r tqcej "o cngu't quukdrg"u{ urgo cve't guwn'cpf "r tqxkf gu" pwcpegu"qp" yj g"eqpegr wcn'cpf "go r ktlecn'wpf gtucpf lpi u"qh" yj g"vqr le0' Hktuv" yj g"rkgtcwtg" cpcn{ uku'ku'etwekn'q'g'zr nqtg'yj g'hgi crlcpf "yj ggtg'lecn'htco gy qtn'qh'yj g'tki j v'q'j ki j gt"gf wecvkqp" kp"Eco dqf kc0' Vj ku"htco gy qtn'ku"cuugugf "d{ "o gcpu"qh" c"tgxkgy "qh"Eco dqf kcp" rny "cpf " tgi wrcvqpu"kp"eqplwpevkqp"y kj "yj g"lpvgtpcvkqpcn'j wo cp'tki j w'uucpf ctf u'yj cv'ctg"cr r rlecdrg"vq" Eco dqf kc."y j kng"yj g"j wo cp'tki j w/dcugf "cr r tqcej "J TDC+."kp"rkpg"y kj "egtckp"i gpf gt"cpf " uqekqmi lecn'uwf lgu."y km'ugt'xg"cu'yj g"dcendqpg"qh'yj g'rkgtcwtg"cpf "go r ktlecn'cpcn{ uku'yj cv'ku" tgrgxcpv'vq"yj g'eqpvz v'qh'EQXKF /3; "lp"Eco dqf kc0'

Vj g'uco r ng'i tqwr u'cf f tguugf "lp"yj ku'r cr gt"ctg'hgo cng'uwf gpw'cpf "hgo cng'ngewtgu"cv'J GK'lp" Rj pqo "Rgpj ."Dewco dcpj ."Ugo "Tger 'cpf "Uxc{ "Tlapi "lp"Eco dqf kc0Vj g'vcti gygf "J GK'lpnwf g" dqy "r wdrlc" cpf "r tlxcvg" wplxgtuklgu0' Vj g"ugrgevq" qh"J GK' y cu" dcugf "qp" i gqi tcr j lecn' ceeguukdkk{ "cpf "yj g'eqxgplkpeg"uco r rpi "utcvgi { "qh'hgo cng'uwf gpw'cpf "ngewtgu0'Y kj lp" gcej "J GK'hgo cng'ngewtgu"cpf "uwf gpw'y gtg'ugrgevqf "dcugf "qp"upqy dcm'uco r rpi "htqo "yj g" hqewu"r qlpv'qh" gcej "J GK' Vj g"eqphf gpvckrk{ "cpf "cpqp{ o k{ "qh'r ctvckr cpw"y gtg"gpwugf " yj tqwi j qw'v'j g'uwf { 0"

Hktuv."ugo k'utwewtgf "cpf "r tqdrgo /egpvtgf "lp/f gr yj "lpvgtxkgy u"y kj "ugxgp" hgo cng'ngewtgu" htqo "hkg"vcti gygf "J GK'y gtg'eqpf wevgf "htqo "Cwi wuv'vq"Ugr vgo dgt "4242"xlc"glkj gt" qqo "qt" I qqi ng'O ggw'f w'v'q' yj g'uqeknf kucpekpi "o gcuwtgu"cpf "lpvgtxkgy ggu'cxckrdk{ ."cpf "vq"o ggw' yj gkt "eqpxgplkpeg0'Vj g'lpf kxkf wcn'y gtg'ugrgevqf "dcugf "qp"dqy "eqpukf gtcvqpu"qh'eqpxgplkpeg" cpf "tcpf qo "uco r rpi 0'Vj g'lpvgtxkgy ggu'eco g'htqo "xctkqu"dcem' tqwpf u'cpf "j cf "c'xctkqv' "qh" vgej lpi "g'zr gt'kpeg"cpf "ucwu0'Vj gug'lpvgtxkgy u"y gtg'lo r qtvcpv'lp"cmqy lpi "wu"vq" f'grxg"lpvq" yj g'vqr leu'uw'hlekpwn' "vq"wpf gtucpf "yj g'lo r cew'qh'EQXKF /3; "cv'yj g'lpukwv'kqpcn'cpf "r gtupcn' r'gxgu"cpf "cp{ "ej cmgpi gu'ecwugf "d{ "yj g'r cpf go le0'Vj g'lpvgtxkgy u"y gtg'cm'ugo k'utwewtgf ." y kj "ugxgten'qr leu'eqo o qp"vq'cm'lpvgtxkgy ggu.'dw'gcej "lpvgtxkgy "y cu'uw' r ngo gpvgf "d{ "o cp{ " hqmqy /w' "s wguvqpu"ur gek'lecm' "vckr'gtf "vq"yj cv'lpf kxkf wcn'u'tgur qpugu" f'v'v'lpi "yj g'lpvgtxkgy 0' Vj g"s wguvqpu"lpnwf gf "yj gkt "vgej lpi "o gj qf u'dghq'gt"cpf "chgt "yj g"wpkxgtuk{ "enquwtgu." yj g" tgur qpug'o gcuwtg"qh'yj gkt "J GK"yj g'ej cmgpi gu"cpf "qr r qtwpk'k'gu"yj g{ "j cxg" g'zr gt'kpegf "cv'yj g" r gtupcn'rgxgn'ukpeg"yj g'uej qqr'eqw'gu"cpf "yj gkt "q'xg'tcm'r gtegr vkqp"qh'i gpf gt"gs wcrk{ "f'v'v'lpi " yj g'r cpf go le0'Cm'lpvgtxkgy u"y gtg'tgeqtf gf "y kj "yj g'zr rlekv'cr r tqxcn'qh'yj g'lpvgtxkgy ggu"cpf " r'vgt "t'cpuetkdgf "cpf "tqwi j n' "t'cpur'v'gf 0'

Kp"cf f k'kqp."y q'hqewu/i tqwr "f'kuewukpu"HI F +y gtg'eqpf wevgf "y kj "y grxg"wpf gti tcf wcvu." qp'g'o cng'cpf "grxgp" hgo cngu."qp'g'y kj "ukz"uwf gpw'*qp'g'o cng'cpf "hkg'hgo cng'uwf gpw'+htqo " J GK'lp'Rj pqo "Rgpj ."cpf "cpqy gt'y kj "ukz'hgo cng'uwf gpw'htqo "J GK'lp"yj g'vcti gygf "r tqxkpegu0' Vj g'r ctvckr cpw"y gtg'ugrgevqf "dcugf "qp"yj gkt "wplxgtuklgu0'F w'v'q'uqeknf kucpekpi "o gcuwtgu" kptqf wegf "dgecwug"qh'yj g'EQXKF /3; "qwdt'gcm"yj g'HI F u'y gtg'eqpf wevgf "qprkpg"xlc" qqo "lp"

early August and late September 2020.¹² Questions were asked on group members' personal and academic experiences and impressions during the university closures, self-assessed quality and methods of teaching provided, and any perceived positive impacts of the university closures. The FGDs were recorded with the express consent of participants and transcribed for the purposes of this study.

Since this is not a population-based study, it does not aim to be representative of all female students and lecturers at HEIs in Cambodia. Instead it offers a critical and fact-based, rather than assumption-based, perspective on the COVID-19 impacts on higher education in Cambodia through the lenses of gender and human rights. Nor does the research propose to comprehensively address the political, socio-economic and institutional challenges resulting from the shift to online learning for higher education, nor to offer solutions to the personal impacts for female students and lecturers. Due to logistical and time constraints, this study cannot be exhaustive, and further research will be necessary to investigate each issue in sufficient detail. It was therefore impossible to comprehensively assess the impacts of the pandemic at this time, as it is both continuing and unpredictable. However, this research does provide an entry point for further research on the multidimensional impacts of the pandemic on higher education in Cambodia and may assist decision-making and policy formulation in responding in an effective and inclusive manner to COVID-19 in the context of higher education.

3. (The Right to) Higher Education in Cambodia

Everyone has the right to higher education, including women and girls.¹³ As a fundamental right, the right to education is also an enabling right in respect of achieving other human rights. Access to higher education is to be ensured by the state in accordance with the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other core human-rights instruments which Cambodia has ratified.¹⁴ Among these, the Beijing Declaration, adopted by the Fourth Conference on Women in 1995, put forward an action plan to improve the quality

¹² The FGD was conducted in Khmer, and all quotes were translated into English by the authors.

¹³ 1948 Universal Declaration of Human Rights, Article 26; 1960 UNESCO Convention against Discrimination in Education, Article 4(a).

¹⁴ ICESCR, Article 13(2)(c); 1979 International Convention on the Elimination of Discrimination Against Women, Article 10.

of education and provide equal opportunities for women and men in terms of accessing education at all levels.¹⁵

In particular, to progressively realize the right to education under Article 13 of the ICESCR, states should implement the availability, accessibility, acceptability and adaptability (AAAA or 4As) framework.¹⁶ This also applies to distant-learning programmes for students, especially female students in tertiary education during the COVID-19 pandemic.

Corresponding to the international human rights treaties on the right to education that Cambodia has ratified, the Constitution of the Kingdom of Cambodia recognizes that,

*The State shall protect and promote the right of the citizen to a quality education at all levels and shall take every measure to progressively make this education available to all the citizens.*¹⁷

The Law on Education was adopted in 2007, in line with the Cambodian constitution. This law aims to ensure educational quality and the principle of freedoms of study at all levels¹⁸ (higher or tertiary education is the level that follows secondary and primary education).¹⁹ However, Cambodia has not codified any specific provision to promote or protect the right of access to higher education for women.²⁰

Instead, strategies and action plans have been adopted and are being implemented to empower women and girls in the education sector, including the higher education sub-sector. A document on Equitable Access to Higher Education (EAHE) announces the elimination of all forms of discrimination against women and is continuously increasing the number of scholarships for female students.²¹ The National Strategic Development Plan (NSDP) 2014-2018 also aimed to promote women in higher education by increasing scholarships for female students.²² The

¹⁵ Tuy, *supra* note 7.

¹⁶ CESCR, 'General Comment No. 13: The right to education', 8 December 1999, <[www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d\)GeneralCommentNo13Therighttoeducation\(article13\)\(1999\).aspx](http://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d)GeneralCommentNo13Therighttoeducation(article13)(1999).aspx)>, visited on 30 November 2020.

¹⁷ 1993 Constitution of the Kingdom of Cambodia, Article 65.

¹⁸ 2007 Education Law of Cambodia, Article 1.

¹⁹ Ibid., Article 18.

²⁰ Tuy, *supra* note 7.

²¹ MoWA, 'Five Years Strategic Plan for Gender Equality and Empowerment of Women 2014-2018', 2014, <www.undp.org/content/dam/cambodia/docs/DemoGov/NearyRattanak4/Cambodian%20Gender%20Strategic%20Plan%20-%20Neary%20Rattanak%204_Eng.pdf>, visited on 2 December 2020.

²² RGC, 'National Strategic Development Plan 2014-2018', 2014, <cambodia.unfpa.org/en/publications/national-strategic-development-plan-2014-2018>, visited on 2 December 2020.

Education Strategic Plan (ESP) 2014-2018 established a clear relationship between national and educational strategies to provide high-quality education with equitable access for all.²³ A five-year strategic plan (2014 – 2018) on Gender Equality and the Empowerment of Women entitled Neary Rattanak IV was launched by the Ministry of Women’s Affairs (MoWA).²⁴ Inclusive and equitable quality education and the promotion of lifelong learning opportunities for all (Goal 4) was also adopted as one of Cambodia’s Sustainable Development Goals (CSDGs), in particular, to ensure equal access for all to affordable and quality technical and tertiary education.²⁵

3.1 Higher Education in the COVID-19 Context

Education at all levels in Cambodia has been affected by two waves of school closures. In March 2020, 124 HEIs were closed in the first wave after a spike in imported cases. More than one hundred private universities almost entered bankruptcy after the Ministry of Education, Youth and Sports (MoEYS) announced university closures from March 2020.²⁶ The second wave of closures was imposed in early November due to a visiting foreign dignitary testing positive in Bangkok and all universities were reopened after two weeks.²⁷ The impacts of COVID-19 and the university closures have affected students, teachers, non-academic staff and HEIs alike. Students are concerned about social isolation, financial issues, internet connectivity and pandemic-related anxiety, while those undergraduates who will graduate in 2020 or 2021 and enter a depressed labour market amidst the crisis are now facing an uncertain future. On the other hand, teachers are expected, if not required, to adapt abruptly to a virtual modality of teaching with little or no time, knowledge of or skills in non-traditional ways of teaching, while some have even lost their temporary contracts, as have some non-academic staff at HEIs. HEIs, both public and private, have been greatly affected in their ability to remain active amidst the university closure and to maintain their financial sustainability. The impacts of the pandemic

²³ MoEYS, ‘Education Strategic Plan 2014-2018’, 2014, <www.moeys.gov.kh/en/policies-and-strategies/559.html#.X8cNM2gzBIU>, visited on 2 December 2020.

²⁴ MoWA, *supra* note 21.

²⁵ UNDP, ‘Cambodia Sustainable Development Goals: Goal 4 Quality Education’, 2020, <www.csdgs.org/en/csdgs/goals/4>, visited on 2 December 2020.

²⁶ S. Khorn, ‘Private Schools Struggling’, *The Phnom Penh Post*, 8 April 2020, <www.phnompenhpost.com/national/private-schools-struggling>, visited on 16 September 2020.

²⁷ MoEYS, Directive No. 64 on Temporary Suspension of Public and Private Education Institutions for Two Weeks in Phnom Penh and Kandal Provincial Town, Issued 08 November 2020; see more at: K. Mom, ‘PM urges calm in wake of November 3 event’, *The Phnom Penh Post*, 10 November 2020, <www.phnompenhpost.com/national/pm-urges-calm-wake-november-3-event>, visited on 2 December 2020.

also call into question the effectiveness of the higher education system as a whole in ensuring quality education and pedagogical skills for non-face to face teaching and learning in the medium and long terms.²⁸

Even though distance and e-learning platforms were introduced by MoEYS for alternative and continuous learning opportunities,²⁹ the closure of the universities has significantly affected students' right to higher education, in particular the right to access higher education by women and girls in Cambodia.³⁰ Limited internet access and the availability of learning materials are the key concerns here.³¹ In this situation, existing disparities in education and access to it are being widened, especially for vulnerable groups like women, persons with disabilities, students from low-income families and ethnic-minority students.³² The pandemic is also having a visible impact on various aspects of gender equality in Cambodia. School and day-care closures are placing additional pressure on working mothers, including female teachers. Pre-existing, gender-based structural inequalities and social and cultural norms continue to exacerbate the vulnerabilities and marginalization of Cambodian women and girls in many areas, such as employment and earnings, the division of domestic labour, decision-making and participation.³³ These conditions, which have been compounded by the pandemic, may increase the risk of widening the gender and digital skills gaps in education, as girls are expected to devote more time to unpaid care work and have limited access to digital devices and internet connectivity. Gender-based violence also has the potential to increase in a situation of quarantine and isolation measures.³⁴

4. Impacts on Female Lecturers

²⁸ IESALC, *supra* note 6.

²⁹ MoEYS. Directive No. 23 on "Distance Learning" and "E-learning" programme for students from Pre-Primary, Primary and Secondary Education. Issued 24 April 2020.

³⁰ MoEYS, *supra* note 3; UN, 'Education during COVID-19 and beyond', *Policy Brief*, August 2020, <www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2020/08/sg_policy_brief_covid-19_and_education_august_2020.pdf>, visited on 20 October 2020.

³¹ Ibid.

³² IESALC, *supra* note 6.

³³ *Supra* note 7.

³⁴ K. Dellen, 'CARE Rapid Gender Analysis for COVID-19: Cambodia', July 2020, <reliefweb.int/sites/reliefweb.int/files/resources/CARE%20Cambodia%20Rapid%20Gender%20Analysis%20for%20COVID-19%20FINAL%20APPROVED%20July%202020.pdf>, visited on 22 September 2020.

All HEIs in Cambodia have been affected to a greater or lesser extent by the university closures. Education personnel, namely teachers, have been greatly affected in respect of their capacity to teach and their professional support.³⁵ All female lecturers in our study highlighted the negative impacts of the university closures on the effective delivery of continuous learning programmes and, to a lesser extent, the opportunities arising from such a change. These impacts are considered below in two aspects: pedagogical impacts and personal impacts.

4.1 Pedagogical Impacts

Planning

The university closures have presented barriers to the female lecturers in our study when it comes to planning, implementing and assessing the performance of their students. Suitable training courses have been suggested to assist them in effectively implementing non-face to face delivery of teaching.³⁶ However, teachers were also tasked with implementing distance learning, often without sufficient support in the form of guidance, training, or resources.³⁷ Although MoEYS swiftly issued operational guidelines in support of distance learning in higher education,³⁸ it also left relative autonomy to HEIs in developing their own responses and mechanisms. The HEIs in our study were not ready for the drastic changes from face-to-face learning to distance or remote learning in support of opportunities to develop continuous learning.

As the training provided by the respective HEIs was inadequate, the lecturers in our study undertook more of their own research and studied how to equip themselves with a suitable platform and methodology. Challenges, however, remained, as training was not provided to students in using non-face to face learning, despite their lack of familiarity with it: as one female lecturer noted, “students can barely use learning tools like Zoom, as the university provided training only to lecturers, not students.”³⁹

³⁵ MoEYS, *supra* note 5.

³⁶ C.M. Toquero, ‘Challenges and Opportunities for Higher Education amid the COVID-19 Pandemic: The Philippine Context’, 5(4), *Pedagogical Research*, 16 April 2020 <doi.org/10.29333/pr/7947>, visited on 22 September 2020.

³⁷ UN, *supra* note 3030.

³⁸ MoEYS. No. 29. Operational Guideline for the Distance Learning Implementation. Issued 8 June 2020.

³⁹ A female lecturer from a private university in Siem Reap, interview by authors, 12 August 2020 (Interviewee #3).

Teaching online entails much more than just putting materials online: it also involves arranging content and learning methods to ensure that students do not feel isolated and left alone in the learning process.⁴⁰ In order to deliver lessons in an online environment successfully, technological devices, the design of the programme, a responsive curriculum and supportive stakeholders are necessary.⁴¹ The lecturers in our study were expected, if not challenged, to swiftly find creative and innovative approaches to act on and learn on the go in order to demonstrate their adaptability and flexibility in planning the content and design of online courses.⁴² Female teachers mentioned that they had to spend more time rearranging their teaching materials and methods to adjust to the new learning environment. As one teacher noted,

*I have to work a lot ranging from preparation of class structure to reflection. I usually do research for videos to upload for my students... It created more work compared to a physical class... I need more time to find interesting videos on YouTube to fit in my lectures. I need to go through them one by one. It takes more time to sit in front of the computer.*⁴³

Another teacher, however, described the existing structure of the virtual modality of teaching at her university as follows:

*We introduced Google Classroom even before the university closure to distribute study materials. The online class isn't new to the students. They knew how to use technology, and also owned laptops and other learning tools which made the class easier for them to access.*⁴⁴

Therefore, the pandemic not only present challenges to the female teachers in our study, it also provides opportunities to learn and adjust to the new modalities of teaching. A knowledge of technology was cited as the main acquisition from distance learning:

One undeniable advantage is knowledge about technology. We have time to explore features related to education. Therefore, it increases our ability in

⁴⁰ Aristovnik, et al., *supra* note 11.

⁴¹ Toquero, *supra* note 36.

⁴² IESALC, *supra* note 6.

⁴³ A female lecturer from a private university in Phnom Penh, interview by authors, 31 August 2020 (Interviewee #6).

⁴⁴ A female lecturer from a public university in Phnom Penh, interview by authors, 31 August 2020 (Interviewee #5).

*education-related technology. Even when we go back to a normal physical classroom, we'll still need Zoom for some occasions.*⁴⁵

Implementing

The female teachers in our study taught for between three and eighteen hours a week. In some cases, teaching hours surprisingly increased after the outbreak of the pandemic due to the technological illiteracy or unfamiliarity of elderly teachers and a preference for not teaching online. As already noted, teachers received training on how to use the new online platform, including Microsoft Team, Google Classroom, Zoom, Google Meet, university-based websites and social media platforms such as Facebook Messenger and Telegram, as supplementary means to assist in teaching and communication with students. Although the contents of the courses remained almost unchanged, teachers encountered challenges in adjusting pedagogical methods to the new non-face to face classes.

First of all, even though the number of teaching hours increased in some cases, the actual teaching hours in each session were reduced as an adjustment to the distance-learning environment: “For my class, I never kept it up for long. I teach them for an hour and 25 minutes, then give them a break, so they will not get bored or have a headache. The students cannot stand a three hours’ straight lecture.”⁴⁶ Interactive or participatory class activities apart from lectures were reduced or eliminated completely in order to cope with the reduced teaching hours for each session. One female lecturer explained:

*Prior to university closure, I had many activities such as research, community interviews, case studies and filming videos. But now I have reduced all the activities and paperwork. I have instead converted them into short quizzes with true/false answers or filling a blank. This needs to be done weekly as core activities to alert the students and avoid them reading too much material... Students used to have a course book, so I just divided the chapter for them to do presentations, but now I skip the course book. I spent time finding case studies online for them to do some activities. I also need to modify some slide presentations in order to fit in with the limited time and spend time reducing the size of documents in order to send files to students in any way possible.*⁴⁷

⁴⁵ *Ibid.*

⁴⁶ A female lecturer from a public university in Svay Rieng, interview by authors, 06 August 2020 (Interviewee #1).

⁴⁷ A female lecturer from a private university in Phnom Penh, interview by authors, 09 August 2020 (Interviewee #2).

Additional work beyond teaching hours was also noted in the case of online teaching in order to assist students in understanding the lessons. The teachers in our study spent more time and effort answering questions from students, as the latter were not able to cope with a situation that does not allow them to ask questions in real time. Students were provided with options instead to ask questions in social media groups or private messages to teachers, creating yet more work for teachers:

I think I spend so much time answering the students' questions compared to a physical class. In a physical class, if they have questions, then I will answer them directly or keep them for a later session. But for an online class, I cannot answer their questions in class directly because we want to use Zoom only to cover the lesson.⁴⁸

Some teachers, however, were able to adapt to remote learning successfully and find creative ways of keeping students entertained in their sessions. One teacher described this as follows:

I posted my lecture one week in advance with clear structure, which is crucial for e-learning in order to avoid confusion. In order to attract students' attention, I have used different methods such as games... I also have a messenger group or telegram group to alert the students before class. When they entered the virtual classroom, their presence is ticked off. I wait fifteen minutes before starting my lecture. By reminding students before starting each class, it helps students avoid pressure... Whenever the class is well-organized, the student will enjoy learning.⁴⁹

Another main challenge experienced by all female teachers in our study was internet connection. In a 2016 survey, only 48 percent of Cambodians were found to own a smartphone.⁵⁰ According to a small-scale online survey by MoEYS and UNICEF Cambodia, it was found that 54 percent of respondents indicated poor internet connectivity as the most common challenge in accessing continuous learning platforms and programmes.⁵¹ The internet connection was often interrupted or unstable, which affected their teaching flows and their motivation in teaching. Sometimes, they also encountered audio problems from technical interference from students. More importantly, unstable or slow internet connectivity for

⁴⁸ *Ibid.*

⁴⁹ Interviewee #6.

⁵⁰ K. Phong, L. Srou, & J. Solá, 'Mobile Phones and Internet Use in Cambodia 2016', Asia Foundation, December 2016, <asiafoundation.org/wp-content/uploads/2016/12/Mobile-Phones-and-Internet-Use-in-Cambodia-2016.pdf>, visited on 20 September 2020.

⁵¹ MoEYS, *supra* note 5.

students also posed challenges for teachers in delivering their lectures and communicating with their students.

Unfavourable study environments for students were also mentioned by teachers as a challenge to the implementation of remote learning. Interference or disruption from family members, in particular parents, during the online teaching were noted.

At the beginning, they were disturbed by their families who did not believe they [the students] were studying. I heard their parents complaining about them and accusing them of playing games.⁵²

They don't have their own space. Some students just came to have their attendance marked and then left. They told me directly that their parents asked them to go somewhere or go out with them. Their parents thought they weren't studying.⁵³

There is noise from my neighbour's ceremony or a nearby construction site. But the biggest challenge is the interruption of noise from the students' side, which forces me to mute them if they aren't speaking.⁵⁴

The socio-economic situations and personal safety of female students presented a particular challenge for our female teachers in providing quality higher education via online platforms and ensuring tertiary education was accessible. Female students, and girls in general, were expected, if not required, to help with household chores during this period of distance learning, which negatively affected their concentration and participation in the online classes, as indicated by MoEYS and UNICEF.⁵⁵

Most female students who returned to their homes in the provinces informed me that there is no internet connection, so they cannot study via an online class. In some other cases, female students studied from a café, where they cannot stay late, so they are asked to leave the class early.⁵⁶

Girls and women are therefore expected to benefit less than boys and men from online learning. This increases the burden of unpaid care work on women and girls and heightens the risks of

⁵² Interviewee #2.

⁵³ A female lecturer from a public university in Phnom Penh, interview by authors, 03 September 2020 (Interviewee #7).

⁵⁴ Interviewee #2.

⁵⁵ MoEYS, *supra* note 5; Dellen, *supra* note 3434.

⁵⁶ Interviewee #7.

widening the educational gender gap in Cambodia. This was actually a persistent issue even before the university closures.⁵⁷

Assessing

The most common concerns of the female teachers in our study were learning outcomes and examinations. Neither MoEYS nor HEIs have provided clear guidelines on assessment criteria for students' performance in distance learning. Teachers are uncertain about the assessment criteria for assignments, projects, other continuous assessments and examinations when there is online delivery.⁵⁸ These matters were left to each teacher and specific course. In terms of learning outcomes, female teachers shared the observation that their students are learning less than when the universities were open. This issue was also evident in an online survey conducted by MoEYS-UNICEF showing that the majority of students thought they were learning less than when the universities were open.⁵⁹ One female lecturer explained:

*Compared to studying in a physical classroom, online learning produces low-quality education for students. They are hardly able to use learning tools like Zoom, as the university provided training for lecturers, but not students. As lecturers, we cannot follow up with them whether they have read a book. Therefore, learning in a physical class provides better quality.*⁶⁰

In particular, class participation has significantly declined, even though attendance improved with online teaching. This emphasizes the deterioration of the quality of education and the uncertain future for the students,⁶¹ thus questioning the acceptability and adaptability of online educational programmes.⁶² One teacher stated:

If we talk about their participation in terms of attendance, it is way better than in the physical classroom. For their interaction in class, however, this has become less. Only a few students interact by answering questions... When I posted my question or lesson on Google Classroom in order to encourage their

⁵⁷ Tuy, *supra* note 7.

⁵⁸ P. Sahu, 'Closure of Universities Due to Coronavirus Disease 2019 (COVID-19): Impact on Education and Mental Health of Students and Academic Staff', 12(4), *Cureus* (2020), e7541.

⁵⁹ MoEYS, *supra* note 5.

⁶⁰ Interviewee #3.

⁶¹ A. Naciri, et. al. 'Mobile Learning in Higher Education: unavoidable alternative during COVID-19', 4(1), *Aquademia*, ep20016, <doi.org/10.29333/aquademia/8227>, visited on 22 September 2020.

⁶² CESC, *supra* note 16.

participation, they seemed so silent and inactive. I even told them to direct the answer to me privately via Messenger or email, but they still didn't respond at all.”⁶³

Teachers faced challenges in encouraging students to engage actively in the online classroom. Giving additional scores for answering questions or asking questions randomly, for example, were among the methods used to encourage more class participation. However, the result did not always reflect the efforts of the teachers. “I always encourage them to ask questions in any possible way, such as commenting on the video, through a phone call or Telegram, but still they didn't”,⁶⁴ one teacher explained. A lack of confidence in asking questions was cited as the reason for low student participation in class. Our data did not suggest gender parity in class participation in online platforms. Rather, male students were more actively engaged in class discussions and more bold in asking questions during class,⁶⁵ although female students were more active and diligent in studying even when working or living in rural areas.⁶⁶ Another teacher stated that individual learning capacity was the determining factor for a student’s engagement in class, rather than gender.⁶⁷ Low student and teacher engagement was linked to the lack or absence of monitoring mechanisms during online learning:

*I don't know whether the students are cheating during the exam, since I only saw them sitting in front of the webcam. During the lecture, I am not sure whether students are listening to me, and I cannot control their activities.*⁶⁸

*Most students mute themselves, so I teach alone. Sometimes, when I call their names, there is no response, either due to the internet connection or because they have left the lecture and gone somewhere else.*⁶⁹

Furthermore, ways of assessing student performance have had to be adjusted or compromised when delivering education online:

⁶³ Interviewee #5.

⁶⁴ A female lecturer from a public university in Phnom Penh, interview by authors, 12 August 2020 (Interviewee #4).

⁶⁵ Interviewee #7.

⁶⁶ Interviewee #4.

⁶⁷ Interviewee #5.

⁶⁸ *Ibid.*

⁶⁹ Interviewee #7.

“I have reduced all the activities and paperwork. Instead I convert them into a short quiz with True/False answers or filling in a blank. And it needs to be done weekly as a core activity to alert students and avoid them reading too many materials ... Since the students cannot come to buy the course book, I provide it as a pdf and still use slides as well as additional short videos. I prefer written answers because I want them to use their analytical skills. After watching the video, I ask them to use their critical thinking because I want to hear their ideas. Now I have changed it into a class activity instead of a written exercise.”⁷⁰

This semester I cannot assign them to do presentations because there are around ten students in each group, so the group is too big. But I asked them to conduct research and send it to me via Telegram. Since they cannot do presentations, I used another method, asking them to upload video presentations instead.”⁷¹

In terms of examinations, no guidelines have been provided to teachers for purposes of online learning. One teacher described the challenge of designing examinations as follows:

The biggest challenge is during exams. The university didn't set rules for the exam. As teachers, we need to do research on our own. For example, I need to use Google Forms for MCQ and use Word files for open questions. It's hard for me to mark the exam sheet. Before, I gave feedback directly on the exam sheet to my students, but I cannot do so now... I required my students to sit in front of the computer during exams, but some of them use their phone to type their answers. Some of them were doing examinations in the same coffee shop. It's hard for me to find out whether they were cheating.”⁷²

Personal Impacts

The drastic change from face-to-face learning to distance learning also affected the teachers in our study at the personal level in the form of financial, physical and mental health impacts. First, teachers mentioned several emotional effects they had experienced during distance teaching, including stress, loneliness, anxiety and low self-esteem. However, the exact source of the stress varied. On the one hand it was accentuated by the social distancing requirement, as both teachers and students were in isolated environments in their respective homes, an

⁷⁰ Interviewee #2.

⁷¹ Interviewee #4.

⁷² Interviewee #7.

unfamiliar teaching and learning environment for both. For one teacher, social distancing even made her feel like she was “being locked up”.⁷³ However, internet connection problems were the main source of stress, namely poor internet connections or audio problems with the devices used for teaching and learning, which caused problems in hearing or communicating well. This sometimes led to low teacher and student engagement, imposing an emotional burden on the teachers in our study. Second, the inability to exercise physical movement, i.e. to stretch or walk while teaching and constantly having to sit in front of the computer for hours, was also cited as a physical challenge.

Anxiety was also triggered by the unfamiliar environment of teaching, as well as the emotional burden posed by the many constant questions from students. Our study also recorded low self-esteem or self-doubt on the part of female teachers, and feelings of insecurity:

*I felt shy because I don't have a good voice. I feel insecure if I tend to stress my tone on important points, as it might disturb my students. Even though I have taught many classes already, I still feel shy. I also informed my students and excused them in case my tone is too high, as it was the first time of teaching and learning offline.*⁷⁴

*I am concerned about my ability to teach. I was concerned that I had a lower ability than my student to access the learning platform in terms of its features.*⁷⁵

On the other hand, remote learning provided a degree of flexibility in preparing for the teaching in terms of dress and appearance (dressing up for the class), as well as in doing administrative and management tasks.⁷⁶ It also offered some personal comfort in saving time spent travelling, both for the teachers and the students, many of whom live far from the university or have full-time jobs. It also caused changes in lifestyle routine, such as shifting to a healthy diet. Some teachers were able to overcome the stress by means of various creative and interactive measures.⁷⁷ Such efforts were also recognized as the right time to learn from this critical situation and to overcome the challenges.⁷⁸

⁷³ Interviewee #4.

⁷⁴ *Ibid.*

⁷⁵ Interviewee #5.

⁷⁶ S. Pors, ‘Introducing and implementing an online learning environment in a Cambodian academic program: Impacts, enabling factors and constraints’, Doctoral Thesis, University of Melbourne, January 2016, <minerva-access.unimelb.edu.au/bitstream/handle/11343/92341/Pors_Thesis_Final.pdf?sequence=1&isAllowed=y>, visited on 16 September 2020.

⁷⁷ Interviewee #1, #2 and #5.

⁷⁸ Sahu, *supra* note 58.

Second, the financial situations of female teachers were greatly affected by university closures and distance learning methods. A majority of the female teachers in our study were directly affected by the reduction in teaching hours after the university closures, which caused a loss of or decrease in income. One teacher explained her financial situation and her consequent decision to change her career as follows:

My salary was reduced, and I didn't receive any salary, which led me to change my job. I am a part-time teacher, not a full-time one anymore. I decided to change my job because both my husband and I are working at the university, and if neither of us can get a salary, it's hard for our family income."⁷⁹

Such decisions bring to light a concern over the retention of female teachers, which could reduce the participation of young girls in higher education.⁸⁰ Moreover, additional expenses for an internet connection, either Wi-Fi or mobile, were also noted in this regard, although teachers did not have to spend extra on teaching equipment as they all owned a laptop. This situation nonetheless affects individual, family and community well-being, as well as obstructing the delivery of quality online education.⁸¹

A rapid gender analysis by CARE indicated that women in Southeast Asia, who are already bearing a disproportionate burden of unpaid care and domestic work, saw this exacerbated by the school closures.⁸² Our own study presented mixed results on this point. The division of domestic labour was not an issue for some female teachers in our study, reflecting incremental change in the perception of gender roles in their families:

*In my family, we have shared housework for a long time. If I am busy teaching, my husband will cook. If we both are busy, we will buy food. Our family never faced a burden with household chores.*⁸³

My husband also shared the burden of taking care of our son when he's off from work. I am lucky that I can choose to teach offline because I don't think I can commit to an online class that is required to teach two hours and a half straight

⁷⁹ Interviewee #2.

⁸⁰ UNESCO, 'Addressing the Gender Dimensions of COVID-related school closure', *Education Sector Issue Note* No. 3.1, 2020, <en.unesco.org/events/addressing-gender-dimensions-school-closures-covid-19-education-webinar-3>, visited on 21 September 2020.

⁸¹ UN, *supra* note 30.

⁸² Dellen, *supra* note 34.

⁸³ Interviewee #2.

*and seeing students face to face; moreover, I don't want to disturb my family too much.*⁸⁴

The perception of a disproportional burden of domestic work was also raised by others:

*For women in general, during COVID-19, both husband and wife are working from home, but only women will work both on their professional work and do housework such as cooking and cleaning. For instance, my husband works from home, but he just focuses on his work, while I am responsible for both my job and cooking.*⁸⁵

*Before the school closures, I also took care of my family and worked at the same time. It isn't too much different now. It is a bit more convenient now, as I can stay home and don't need to travel to work. It isn't because of COVID that gender inequality has been created. Even prior to COVID-19, women still need to take care of the family.*⁸⁶

Overall, female lecturers and HEIs in Cambodia were not prepared either mentally or pedagogically to change drastically from face-to-face learning to a virtual mode of delivery. Challenges both pedagogical and personal were identified by all female lecturers in various respects. Teachers experienced difficulties in adjusting to planning, implementing and assessing the content of online course(s) and the new teaching methods. Personally, the impacts on the personal and family economies and on mental and personal health were mentioned as the main effects. Meanwhile, opportunities, namely increasing one's knowledge of technology and greater personal and professional flexibility, were noted as resulting from the remote learning programmes.

5. Impacts on Female Students

The university closures have also had direct effects on students and their higher education across Cambodia. The most direct impact is unfamiliarity with the new learning modalities and associated challenges due to the suspension of face-to-face learning, but this has also been

⁸⁴ Interviewee #4.

⁸⁵ *Ibid.*

⁸⁶ Interviewee #1.

accompanied by the emergence of new opportunities. Indirect effects were also noted in various respects, including the financial burdens. It is important to note that, although the challenges described below are discussed separately, they are interlinked and need to be addressed in a systematic manner.

5.1 Technological Knowledge

Some students were hardly able to find sufficient reading materials when their teachers assigned them homework and assignments. In the first few weeks of distance learning, it was difficult for students to adapt to the new learning platforms, which required a certain level of technological knowledge and skills. Consequently, they were not able to keep up with the lessons and even had problems accessing online classes. In this situation, concern was raised regarding the basic technological knowledge and skills of undergraduates as a way of enhancing their learning experience.

Our informants perceived the existence of a digital gender gap between male and female students in which men are more likely to have access and to know how to use the internet and information and communication technology (ICT) than women.⁸⁷ Some Cambodian women even believed that technological skills are more useful for men than for women.⁸⁸ Our female students pointed out that they faced greater challenges with technology than male students, as the former had lower basic ICT skills than the latter. The lack of such knowledge and skills led one female student in Kampong Thom to drop out, as another student explained:

*My friend needed to return to her hometown in the province, and the internet was very slow and unstable there. She also didn't know how to download an application like Zoom and other applications for online study. She thus couldn't access the online class via the provided link. She missed classes, and then she decided to drop out this semester.*⁸⁹

This indicates a gender-stereotypical perception that technology is for men only. Furthermore, women in rural and remote areas particularly do not possess technological knowledge due to either a lack of opportunity or the discouragement of the family and community. Instead, they are expected to help with the household chores, taking care of their siblings and elderly

⁸⁷ UNESCO, *supra* note 80.

⁸⁸ Khorn, *supra* note 26.

⁸⁹ A female freshman student from a private university in Phnom Penh in FGD 1.

relatives, and helping with the farming. Thus, it has proved quite challenging for female students to adapt to online learning during the COVID-19 outbreak. This raises a further concern that these female students might not be able to return to university without proper support, increasing their vulnerability further.⁹⁰

5.2 Internet Connectivity

Due to the COVID-19 outbreak and the university closures, most students needed to return to their hometowns, the majority living in rural areas. As previously highlighted by MoEYS and UNICEF in Cambodia,⁹¹ internet connection was the main challenge in accessing continuous learning programmes, especially for students from poor households or those living in remote areas. Due to poor internet connections, the students in our study usually missed some lessons, including important instructions from their lecturers. They were afraid to ask their lecturers to repeat the lessons or instructions or to disturb their classmates.

The expense of an internet connection presented a further barrier to accessing higher education via online classes. Many families in rural areas are very poor, and some could not afford internet fees. Our students spent at least one-and-a-half times or twice more on phone credits to gain online access to their learning. Weather was also a factor affecting their online learning, study being greatly disrupted during the rainy season from July to November, with heavy rain, lightning strikes and storms. One student stated that,

*It is the rainy season now. There are many lightning strikes during the rain. I need to turn off internet access because I am afraid of lightning strikes. Therefore, I have to miss some lessons.*⁹²

They thus opted to do other tasks or drop out of their courses completely. Online learning therefore deepens the inequalities between students living in cities and those in remote areas, as well as between those from high-income and poor-income households respectively.⁹³

⁹⁰ UN, *supra* note 30.

⁹¹ MoEYS, *supra* note 5.

⁹² A female senior student from a private university in Siem Reap in FGD 2.

⁹³ K. Som, 'Pros and cons of E-learning in universities', 22 June 2020, <www.khmertimeskh.com/50736457/pros-and-cons-of-e-learning-in-universities>, visited on 22 September 2020.

5.3 Learning Materials and Class Participation

Properly designed and prepared learning materials, the lecturer's engagement, and lecturer-student and student-student interactions are all necessary to ensure effective online learning.⁹⁴ The provision of reading materials is one of the main challenges highlighted by our female students. They used to receive reading materials, including textbooks, from their teachers or buy them from bookstores. Libraries were also a main source of study and research materials. During university closures, however, students could not access some necessary reading materials, nor the library. This was even more difficult for students living in remote and rural areas, who could not download online reading materials instantly or had difficulties in finding printing houses for hard copies of their materials. One student mentioned that,

*It's bad and hard for me to follow the lessons. Additionally, as I am living in the district, it's hard for me to copy the class materials since I prefer the hard copy more than soft copy. Another problem is searching for study materials. Since the library at university is closed, it's really hard for me to search online, and sometimes I cannot find it at all.*⁹⁵

Moreover, students get bored with online classes because they could not ask so many questions compared with a physical class. Reaffirming the observation made by the female lecturers in our study, although some students would be online, they did not pay much attention during the class, playing games, chatting with friends, sleeping and engaging with other matters instead. According to one student:

*We felt distracted due to no interaction and would use Facebook or other social media. While studying in physical class, there is a teacher watching us, so we dare not browse social media... While learning at home, we are very independent. To be honest, sometimes I play with my phone when I feel bored with the lesson. Some students just leave the online class open and do something else. It's not out of habit, but sometimes they feel it so hard to concentrate and sit in front of the screen. Some of them do something else during class, and the teacher is just teaching alone.*⁹⁶

⁹⁴ Aristovnik, *supra* note 11.

⁹⁵ A female master's student from a private university in Siem Reap in FGD

2. ⁹⁶ A male junior student from a public university in Phnom Penh in FGD 1.

Sometimes, the teacher asked questions and no one answered. Because they pointed it out to one another, even when the teacher called out their names, they still don't answer because they just leave the screen open...⁹⁷

Some students were nonetheless able to gain confidence and learned to concentrate on their classes,

*During online class, I can spare my time to do something else, and I have more courage to be active compared to learning in physical class when I am scared of my teacher. Their power seems to decrease, as we cannot see their faces. One more thing: I have bad eyesight, [so] when I read slides on my laptop, it's more convenient for me.*⁹⁸

*It is fine for me. When I study alone in a silent place, I can understand the lesson well.*⁹⁹

The focus groups indicated no significant difference in the online participation of female and male students respectively. However, female students were reported to be more engaged by online learning. One student stated that “There are more female students in my class, and they are also more active”.¹⁰⁰ Another student mentioned that “For me there are more male students, but the performance of the female students is more active”.¹⁰¹ “Females are more active, especially when they are required to stay home and study. For male students, they tend to have more work to do during Saturday and Sunday, when they are police or soldiers. Mostly, they cannot even attend to do a presentation.”¹⁰²

Examinations were also reported to be a concern for online classes. During the exams, all students were required to turn on their cameras. As their houses or rooms were not fit to be shown to the outside world, some students decided to go to a café with internet. However, such places were not suitable for examination and concentration. One student explained:

During the exam, we are asked to turn the camera on. My friends and I felt uncomfortable because we need to expose a view of our room to others. We need to arrange and clean our room because we don't want others to see how messy it is. So, some decide to go to a coffee shop instead because of their room. When

⁹⁷ A female junior student from a private university in Phnom Penh in FGD

1. ⁹⁸ A female senior student from a public university in Phnom Penh in FGD

1. ⁹⁹ *Supra* note 92

¹⁰⁰ *Supra* note 98.

¹⁰¹ *Supra* note

¹⁰² *Supra* note 96.

*going to a coffee shop for an exam, they need to spend money on a coffee, and there is noise disturbance from the music and people talking. So, it will disturb their exam. For example, the university said they understand the situation, but there is no way of revitalizing a situation like that. So, it's hard for the student to concentrate on the exam.*¹⁰³

Relations between students and lecturers have also deteriorated or become unfamiliar in this setting. Some students felt hesitant to ask questions because they had never physically met their lecturers. One student mentioned that,

*It will ruin the relationship amongst lecturers and students. As we didn't know the lecturers so well, we are afraid of asking questions or answering the questions.*¹⁰⁴

Communication between students is also important in strengthening the quality of their education. After online classes, however, they rarely met to indulge in group discussions. Meeting and discussing things online were not as comprehensive or fruitful as in face to face classes. Group discussion in online learning reduces argument and criticism compared to physical classes, and discussion in a space with their classmates is less.¹⁰⁵ Online discussion activity seems like one-way discussion alone, and there is a lack of space for dialogue because of the reduced involvement of the lecturers. There is still a wide gap between actual enactment and practice.¹⁰⁶ This is a concern for female students in rural areas because they often miss group discussions due to poor internet connections. Peer-learning was also impractical, as some students were not able to seek help from their more able peers on the lessons or assignments. The situation has been exacerbated due to the unfamiliar relationship between students and teachers in online learning. Therefore, the quality of their work and assignments tends to fall and affects their overall performance on the course.

5.4 Economic Impact

The university closures have caused indirect impacts on the financial situations of many students owing to the economic situations of their households. Most students mentioned the economic limitations of their families and themselves, a factor that has a negative impact on

¹⁰³ *Ibid.*

¹⁰⁴ A female sophomore from a public university in Battambang in FGD

2. ¹⁰⁵ Pors, *supra* note 76.

¹⁰⁶ *Ibid.*

their ability to afford tuition fees and study materials. However, in our study the impacts varied. Two students mentioned that their parents had lost their jobs, which had affected their standards of living and their ability to pay tuition fees. Some female students even dropped out due to the lack of income during COVID-19. One student explained the situation of her friend:

*Her family has been struggling with finance during the pandemic and can hardly afford her tuition fees. But it turned out that she was late in payment. The university fined her an additional 100,000 riels. She needed to borrow money from other friends to complete the payment because her family could not afford that additional expense.*¹⁰⁷

Some students were not affected, as when their parents were civil servants. Even these students, however, reported additional expenses for coffee, snacks and internet access fees to support their online learning. It was also noted that some students were able to reduce transportation costs during the university closures.

5.5 Personal Impact

A proper study environment is critical for higher education, especially in the context of online learning. Most students preferred physical classes to online ones since they were often disturbed by their family members or neighbours during the online classes. Our students mentioned that:

*Before I came to my province and during the class, I did tell my mom that I am studying, but she sometimes forgot. Sometimes I get disturbed by my other family member asking ... unlike in Phnom Penh, where I have my own room and I just lock the door, so no one will disturb me. Another problem is disturbance from sound. Sometimes, the neighbour was playing loud music, which disturbed my class... I cannot answer my teacher's question because of that.*¹⁰⁸

¹⁰⁷ *Supra* note 97.

¹⁰⁸ *Supra* note 89.

*My neighbours usually have parties at home with loud music during my online class. Thus, it made a disturbing noise in the background when I was studying. I could not hear my lecturer well, and vice versa.*¹⁰⁹

Students also faced social isolation and a lack of interest in learning during remote learning,¹¹⁰ being neither familiar nor satisfied with the new learning environment. Instead it made them feel stressed, anxious, restricted, bored, and neglected in the lessons.

*I am so stressed because I am staying in a dorm, and there are many people there. We doubted one another when someone was going out... When I was hungry and I went out, I felt scared and had no concentration. I feel anxious and distracted. Boredom was also a mental problem. During quarantine, I am so stressed because I feel bored. To be honest, I am not close to my family. Most of the time, I cannot reach out to them, and they are also busy. So, it doubles my stress.*¹¹¹

It therefore affected their learning mentality, with potentially serious consequences for their future academic performance and professional careers. This also raises questions concerning the quality of continuous learning programmes and methods.

Discouragement from parents and other family members is also a concern. Most female students could not fully concentrate on or participate in their online learning, as they needed to help their families with household chores. Sometimes, they simultaneously studied via an online class and helped their parents with other tasks. Even though some parents and family members understand and encourage their daughters to continue to study online, women and girls were tasked with additional household chores during their online learning. Embedded social and cultural norms in Cambodia expect women and girls to devote more time to the burden of unpaid care than men.¹¹² There is indeed a barrier for women in accessing online learning during the university closures, and female students are concerned by not having sufficient learning time amidst the pandemic.¹¹³

¹⁰⁹ *Supra* note 92.

¹¹⁰ K. Som, 'E-learning highlights educational inequality', *Khmer Times*, 31 March 2020, <www.khmertimeskh.com/707759/e-learning-highlights-educational-inequality>, visited on 22 September 2020.

¹¹¹ *Supra* note 98.

¹¹² Dellen, *supra* note 3434.

¹¹³ UN, *supra* note 30.

5.6 Opportunities

Even though online learning has some disadvantages, it helps students improve their positive learning habits.¹¹⁴ Students in both focus groups identified certain opportunities in this new way of learning during COVID-19, including cost and time savings, the low risk of travelling, learning motivation, leadership, pleasure and health control. Online classes also increase the participation of students more than physical classes.¹¹⁵

The results from both focus groups showed that students were able to reduce their expenditure on fuel, meals and snacks, as well as other living expenses. In addition, they could reduce the risks of spending long hours travelling to university and back home. One student said: “I can stay home and do some household chores. It helped reduce travelling time and expenditure on gasoline, as my home is really far away, and I need to travel at least one hour every day to university. It also reduces my daily expenses”.¹¹⁶

Positive effects on physical health were also mentioned by both focus groups. One student reported that some students adjusted to the new lifestyle by spending their time at home doing exercises and eating healthy food:

*I think the pandemic made me care about my health. Before the pandemic I never cared about my health, but now I do some exercise at home and eat less red meat and more veggies in order to reduce stress.*¹¹⁷

Online learning also generates greater self-discipline and motivation on the part of our female students, as similarly indicated in a previous study.¹¹⁸ The new learning environment and academic difficulties made female students more disciplined, she explained:

*Because of the difficulty of internet access, I could arrange my study schedule well. I pay more attention to learning than before. Some study materials that my lecturer sent to us are too big, I could not open the files from my telephone, so it makes me pay more attention and take note the specific points.*¹¹⁹

¹¹⁴ C. Chheang and S. Khut, ‘In Cambodia, Learning during Covid-19’, *The Asia Foundation*, 13 May 2020, <asiafoundation.org/2020/05/13/in-cambodia-learning-during-covid-19> , visited on 22 September 2020.

¹¹⁵ Som, *supra* note 93.

¹¹⁶ *Supra* note 97.

¹¹⁷ *Supra* note 98.

¹¹⁸ Aristovnik, *supra* note 11.

¹¹⁹ *Supra* note

Basic information and knowledge of communication technology were also acquired or increased during the process, especially regarding the effective utilization of learning devices, i.e. smartphones and online learning platforms. Several students explained:

*In addition, I've never studied online before or taken an online exam, so the pandemic advanced me in a new skill. We are trying to find a way to communicate and adapt to a hard environment.*¹²⁰

*For me, during online class, I know how to use electronic devices for learning which I never used before.*¹²¹

*It helps me learn about technology, as now I am using the Microsoft Team. I need to do research on my own on how to use it.*¹²²

Such knowledge not only assisted them in their academic performance, it also helped them create remote career opportunities. Another student stated that “There is also a positive impact – it's about our knowledge related to technology. It helps us use our phones more effectively. We can find jobs or search reading materials on Google”.¹²³

Online learning is flexible, as students can learn anywhere with a variety of online reading materials. Students gained more ideas for asking questions through online learning than in a physical classroom because they could take their time to watch and understand the teaching videos. It also increases a sense of learning by students if they have the full support and assistance from their lecturers.¹²⁴ Students could do other tasks while they are learning online, as well as spare more time with their family members. One student stated that:

I think the pandemic can shorten distances. For example, I just applied for an internship with the Indian Publication Company, located in India. Before they never allowed me to have a virtual internship, but now due to pandemic they allow me to work virtually, and it's the first work experience for me”.¹²⁵

Despite the positive impacts of remote learning in various respects, all participants in our focus groups opted for physical classes rather than online class unless the situation required it. The

¹²⁰ *Ibid.*

¹²¹ *Supra* note 89.

¹²² A female senior student from a public university in Svay Rieng in FGD 2. ¹²³ *Supra* note 104.

¹²⁴ Som, *supra* note 93.

¹²⁵ *Supra* note 96.

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6. Conclusion and Recommendations

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