

COVID-19 AND ACCESS TO JUSTICE FOR VICTIMS AND SURVIVORS OF VIOLENCE AGAINST WOMEN AND GIRLS IN EAST AND SOUTHERN AFRICA

ACKNOWLEDGEMENT

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The views expressed in this paper are those of the author(s) and do not necessarily represent the views of UN Women, the United Nations or any of its affiliated organizations.

1. Introduction

This paper presents the findings related to COVID-19 and access to justice for women in East and Southern Africa. The findings are drawn from the multi-country study on access to justice for women and girls, including victims/survivors of violence in ten countries from East and Southern Africa. The countries studied include Burundi, Ethiopia, Kenya, Malawi, Mozambique, Somalia, South Sudan, Tanzania, Uganda and Zimbabwe. This paper focuses on women's experiences with access to justice,

including the forms of discrimination faced when seeking justice during the COVID-19 pandemic. The report has made specific recommendations regarding response and recovery for women during this pandemic. The study targeted various stakeholders from critical institutions dealing with and addressing issues of access to justice regionally or nationally, judicial personnel (such as judges, magistrates, lawyers and prosecutors, and police officers), local government administration officers, including chiefs and local elders, as well as traditional and religious leaders. Survivors and victims of gender-based violence were also interviewed in the data collection processes to enhance cross-referencing and corroboration of the case studies. This was done with consideration for survivor-centred and ethical data collection practices.

2. Background of the study

Violence against women and girls is a global pandemic and is the most widespread human rights violation. More than 1 in 3 women (36.6 per cent) globally report having experienced physical and/or intimate partner violence or sexual violence by a non-partner.¹ Like many other regions, the East and Southern Africa region also faces multiple challenges in preventing and responding to violence against women. These include weak implementation of legislation and

policies and weak accountability to commitments made. Similarly, the persistence of systems of patriarchy (as evident in harmful social and traditional norms), women not knowing their entitlements and rights; gender, discrimination, limited investments in prevention of violence before it begins, underreporting of cases, impunity, inadequate coordination, and limited access to essential response services. Ensuring women and girls' access to justice is a critical cornerstone of democracy and a fundamental development goal established in the 2030 Agenda. Access to justice is multi-dimensional. It encompasses the justice system's justiciability, availability, accessibility, quality and accountability, and the provision of remedies for victims.

Like in many disaster settings, women's health, livelihoods and bodily integrity are in jeopardy during the Corona Virus Disease-2019 (COVID-19) pandemic. There are reports of increased domestic violence, sexual violence, femicide, harmful practices, sex trafficking, sexual harassment, and in some instances, coercion by landlords to vacate the houses.² Women were also denied access to Gender Based Violence (GBV) and reproductive health services, stigma and attacks on health care workers, who comprise 70 per cent of women³, and other longstanding gender inequalities and forms of violence against women and girls. Violence against women is a life-threatening human rights issue that violates international, regional and national human rights laws and principles of gender equality. It also threatens the mutual peaceful coexistence of families and communities and hinders the prevention of the COVID-19 pandemic and national, regional and global recovery efforts.

Social distancing is one of the recommended strategies to contain the virus. Economic and social stress coupled with restricted movement and social isolation measures has increased the risk of Gender Based Violence (GBV). Social distancing may isolate the victim from her family, friends, social networks, and service providers as a part of emotional/psychological violence and controlling behavior. Reports indicate that the

spike in domestic violence and sexual exploitation increased due to the increased strains of security, health and money worries, harmful social norms, and cramped and confined living conditions. As the pandemic takes a foothold, there is a strong likelihood of increased rates of gender-based violence in public spaces in addition to domestic violence.

Adding to this, with schools that remained closed for the better part of 2020 in most of the study countries in the region, girls out of schools were exposed to GBV, early/forced marriage, female genital mutilation, unwanted pregnancies, and HIV infections, among other harmful practices. Limited economic opportunities increased child labor and exploitation of women and girls, including sexual exploitation and abuse.

3. COVID-19 and access to justice in the global context

Globally, COVID-19 has disrupted and ravaged systems and curtailed access to justice institutions, creating an intense shock worldwide with different implications for men and women. The disruption of access to justice is more evident now as a result of the outbreak of the COVID-19 virus. It is estimated that seven million unintended pregnancies could occur during the pandemic since 47 million women do not have access to contraceptives due to restricted movements and the crisis. Further, it is expected that an additional 31 million cases of sexual gender-based violence globally and 13 million child marriages could occur.⁴ The COVID-19 pandemic has had a worse impact on women since they are more often victims of gender-based violence and are now locked down with their abusers and in informal work or jobs lacking social protection. These facts and figures call for direct and urgent attention to upholding the rights of women and girls in the era of COVID-19.

The effects of the COVID-19 global pandemic have been felt in the Judiciary. Countries worldwide have effected changes in their judicial systems in

response to the new context. Courts around the African continent are either closed or operating under new hours, with limited types of cases being heard. The unprecedented global situation is widening the justice gap and affecting women's and girls' access to justice. In most instances, women bear the brunt of gender-based violence, environmental disasters, and health crises. Even in the COVID-19 era, access to justice for women is a fundamental principle of the rule of law, which is a fundamental human right. It is a means of implementing other human rights, good governance, and gender justice and requires the Judiciary's impartiality, credibility, independence and independence. Reference from CEDAW General Recommendation No. 30⁵ on Women in Conflict Prevention, Conflict and Post-Conflict Situations (CEDAW GR 30) and General Recommendation No. 33⁶ on Women's Access to Justice (CEDAW GR 33) underscore that justice delivery must respond and conform to the desires of women. This would, in turn, enrich their access to justice by mainly being accessible, available, justiciable and accountable.⁷ For example, 40 and 75 per cent more women report legal issues at a higher rate than men related to domestic violence and child support.⁸

Additionally, women with disabilities are significantly disadvantaged in accessing justice with imminent escalation during COVID-19. This has been aggravated by use of technology in most courts, which has not integrated assistive devices for disability-inclusive processes, jeopardizing efforts to serve women and girls with disabilities. Across the globe, measures to contain the spread of COVID-19 have created disruptions for many marginalized groups. This has exacerbated the vulnerability of women and girls with disabilities to gender-based violence due to pre-existing gender inequalities, toxic social norms, and barriers to accessing response services, including access to justice.

The UN Women and UNDP COVID-19 Global Gender Response Tracker revealed that out of the 42 countries surveyed, one-fifth (20 per cent) of those analysed have no gender-sensitive measures in response to COVID-19. From the data,

only 25 countries (12 per cent of the world) have introduced measures that cover the provision of helplines and judicial or shelter responses to counter the surge in violence against women and girls during the pandemic. Similarly, the provision of childcare services or paid family and sick leave, and cash transfers directly targeted women in those countries.⁹

Globally, courts are continuing to adjust and adopt different approaches toward court procedures and processes, including limited in-person appearances in "exceptional" or "urgent" cases. However, what constitutes "urgent" or "exceptional" has been viewed differently as to whether gender-related justice cases will be considered "urgent" or "exceptional" by judicial officers. This finding has been echoed in all the ten study countries in East and Southern Africa.

4. Regional analysis of violence against women and girls in East and Southern Africa during the COVID-19 pandemic

UN Women's rapid mapping and analysis of the impact of COVID-19 on women and girls in the East and Southern Africa region (ESAR) reveal that it is likely to drive a similar trend as Ebola. Since the steady emergence of COVID-19 in the area in March 2020, efforts have been made to undertake rapid assessments and put in place systems and strengthening for effective Ending Violence against Women (EVAW) response during COVID-19. The available data and evidence gathered in 2020 and 2021 highlight the increased vulnerability of women and girls to sexual and gender-based violence in the wake of COVID-19, as reported in Kenya,¹⁰ Rwanda,¹¹ Tanzania,¹² Uganda,¹³ South Africa¹⁴, and other countries in the East and Southern Africa Region. Experts globally and in Africa warn that the potential for tension in homes due to limited movements to suppress the virus and economic and social stress is bound to increase. This might lead to an increase in the number of sexual and gender-based violence incidents. Women who are displaced, refugees, those living in conflict-affected areas, and women with disabilities are

particularly vulnerable to sexual and gender-based violence. Women and children who live with domestic violence cannot escape their abusers during quarantine.

Per various rapid assessments and reports, some forms of violence against women escalated during COVID-19. They included sexual violence, including rape of elderly women and infant girls, marital rape, sexual slavery, trafficking, early marriage, sexual harassment, exploitation and abuse, domestic violence, and primarily intimate partner violence (IPV), among other harmful practices. Additionally, there are incidents of denial of access to services, excessive use of force by police on women defying the lockdown, attacks on healthcare workers, who comprise 70 per cent of women, and extreme economic sanctions. On the same note, forced confinement in expensive hotels at the expense of women returning home from other countries, limited health, psychosocial and support services to women and girls, including fears of being inflicted with COVID-19 due to overcrowding and little adherence to prevention guidelines in shelters were in the rise.

According to the Kenya National Council on Administration of Justice, there is a significant spike in sexual offenses in many parts of the country. Sexual offenses such as rape and defilement have constituted more than 35 per cent of all reported cases.¹⁵ Similarly, the GBV Command Centre in South Africa recorded a spike in gender-based violence cases reported during the lockdown from 27th March to 16th April, with a total of 10,660 through phone calls, 1503 through unstructured supplementary services data (USSD), and 616 SMSs. On 16th April alone, the Centre had received 674 cases.¹⁶ In Uganda, in February 2020, 2344 GBV cases were registered, and the number increased to 2808 in March 2020.¹⁷ Countries in the region also reported increased cases of trafficking in women and children; one of the countries reported the trafficking of 27 women and girls aged between 12 and 16. However, these girls were rescued and resettled with the intervention of law enforcement agencies. It is anticipated that there will be an increase in sex trafficking due to the pandemic and the massive loss of jobs and livelihoods.

5. Regional analysis for COVID-19: alternative approaches to providing access to justice for women

This paper cannot overlook the global shock of 2020 COVID-19. The study establishes that the advent and persistence of the COVID-19 crisis have seriously tested the resilience of justice systems globally. 2020 has changed the landscape of access to justice for women and girls not only in the region but also across the world. Apart from the weak justice delivery systems that entirely depended on physical judicial proceedings and processes in navigating the justice terrain, women and girls were most affected by the health crisis. Notably, court systems in some study countries adopted various mechanisms for classifying cases as 'exceptional' or 'urgent' to continue the prosecution. Although this approach, including the activation or reactivation of virtual courts, was a creative solution during the pandemic, its application and, of course, the classification of cases varied widely across the region. Judiciaries must find innovative ways to handle recurring domestic violence, rape, child custody disputes, divorce, and rights to alimony and property, among others.

COVID-19 led to an escalation in violations of women's rights, with courts in all the study countries adopting alternative approaches to providing justice for women. The use of technology and virtual platforms, such as zoom and skype, remains one of the most preferred tools for delivering justice for women. This was witnessed in 90 per cent of the countries studied, except Tanzania. Despite this, digital gaps among women have discussed whether virtual courts reinforce women's marginalization in accessing justice. Ideally, 65 per cent of people with identification, compared to 40 per cent in low-income areas, have a mobile phone. These statistics represent whether women can access their savings during economic turmoil to access justice. Gallup World Poll statistics from 150 countries revealed that almost 500 million women were not connected to a mobile network in 2017. The poll added that wider gender gaps were evident in South Asia (20 per cent), Sub-Saharan Africa (13 per cent), and

the Middle East and North Africa (10 per cent). This means more women cannot access court sessions or get information regarding justice messaging.

The study reports that justice recovery mechanisms for women in all the study countries, apart from Tanzania, where evidence of delay was not identified, have been affected due to lost time and delayed rulings linked to the inability to connect through virtual systems. More delays were also experienced in the traditional and religious courts (informal systems), which were entirely closed and were not handling any cases during the COVID-19 peak in all the study countries. Across Low Medium Income Countries (LMICs), women are eight per cent less likely than men to own a mobile phone, indicating a slight decrease from the 10 per cent gender gap in preceding years.

The new operating context of justice institutions has left growing injustice for women and girls in all the study countries. Further, intimate partner violence survivors have reduced access to support services, such as first responders and helpline crisis hotlines, linked to legal assistance, safe housing, and financial assistance. This has dramatically impacted justice system delivery, as affirmed by respondents during the focused group discussions and key informant interviews in the study countries. Compounded job losses caused by COVID-19 have affected women's support and alimony, including potential adjustment of case management, enforcement and decisions, which leave women vulnerable and delinked from access to justice in all ten study countries. Subsequently, lockdown conditions in the study countries exacerbate risks of abuse, violence, exploitation and harassment, as evident from previous predicaments and preliminary cases reported in Burundi, Ethiopia, Kenya and Mozambique during the COVID crisis.¹⁸ The study notes that the pre-existing gender justice gaps and challenges before the COVID-19 pandemic have since increased with the pandemic. This relates to justice responses to intimate partner violence, emergent injustice for women labourers, those on the crisis's frontlines, and addressing discriminatory laws.¹⁹ Globally, it is estimated

that approximately 2.73 billion women live in countries where stay-at-home and lockdown orders are in place, which severely amplifies the risk of intimate partner violence.²⁰ Only Tanzania remains with unrestricted movements among the study countries, with activities continuing and having fewer effects on access to justice for women. The current pandemic has created a staggering gap of inequality and injustice for the growing cases of gender-based violence coupled with diminished effective delivery of justice. It, therefore, calls for the creation of innovative ways to support women's access to justice and empower them to realize their rights.

This paper reports that mobile ownership trends have not been consistent and uniform in different regions, including East and Southern Africa, where the study was conducted. South Asia has seen consistent growth in narrowing the mobile internet gender gap divide, creating over 78 million more women coming online in the last three years. Regions like Sub-Saharan Africa have made minor progress in the past years. It is therefore congruent that technology and mobile assistance court attendance and information sharing are limited in the Sub-Saharan region compared to any other region. Regarding mobile ownership and the gender gap in Sub-Saharan Africa, Mozambique records the lowest level of women's mobile ownership, with only 46 per cent of women owning a mobile phone compared to 56 per cent of men.²¹

The study finds that in East and Southern Africa, the COVID-19 pandemic has conditioned lawyers, magistrates, courts, and judges. Similarly, Alternative Dispute Resolution ('ADR') practitioners and traditional leaders in the justice system re-evaluate how they deliver justice to the ever-changing ecosystem. This has required them to use technology and alternative means to operate remotely and use tools that often are not constructed to support the needs of those working in the justice sector.²²

Most court cases reviewed and delivered during this period confirm that court responses have been disrupted by decisions taken in response to the COVID-19 pandemic.

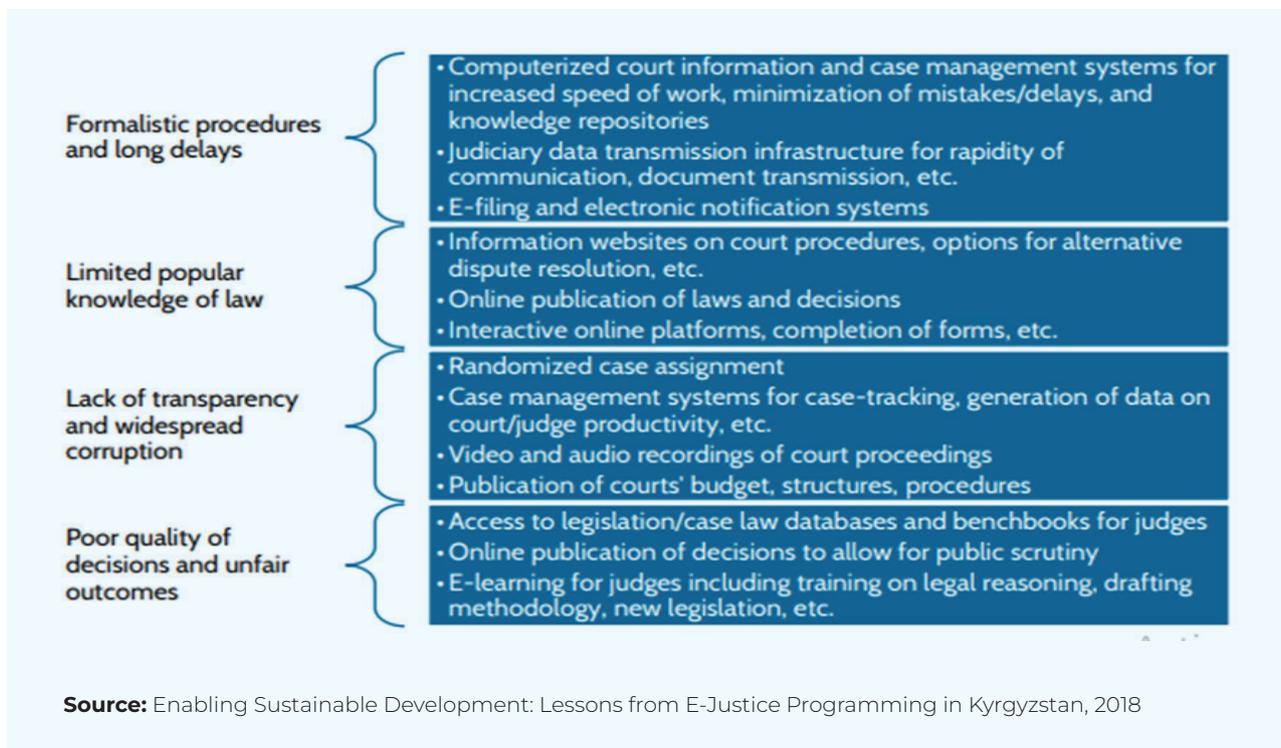
For example, Justice Sylvain Oré, President of the African Court on Human and Peoples' Rights issued a proclamation on 23rd March 2020 suspending the 56th Ordinary Session of the court by declaring that all matters shall be handled remotely. In his recommendation, he highlighted that essential staff work on rotation while observing social distancing, while non-essential staff works remotely.²³ At the Economic Community of West African States (ECOWAS) sub-regional level, Justice Edward Asante, President of the Economic Community of West African States Court of Justice, also issued a statement suspending court hearings until further notice. As witnessed in East African Community states, many countries are embracing online processes, turning to remote and virtual participation from various locations, including prisons. To this end, women and girls are in particular danger of being adversely affected in the administration of justice, access to legal remedies, and dispute resolutions.²⁴ At the same time, Uganda's Chief Justice and his Kenyan counterpart issued a directive to suspend court hearings and appearances and deliver virtual and online rulings.

Courts have innovatively adopted technology to deliver and hear cases remotely, enhancing accountability and efficiency. Nonetheless, concerns arising from existing challenges, including inaccessibility, inadequate technology infrastructure,

and lack of user skills prevent many women from having their cases determined expeditiously. During this time, it is also notable that courts experienced linguistical inaccessibility, chronic under-resourcing, and inefficient management of justiciable cases for women. The context thus overlooked the increasing trends of gender-based violence in all ten study countries. Procedures and information proved difficult for women to access and understand during this period, rendering courts unfriendly spaces for women. The study notes that the introduction of technology for justice programming during COVID-19 has the potential to address several barriers to access justice for women in the study countries. For example, digital technology has lessened the need for direct contact between disputing parties, especially in gender-based violence cases. Secondly, the court administration in some countries has simplified electronic forms through e-filing, e-payment systems, and e-notification, which allow women to access and file court documents from an internet café, home computer, or lawyer's office.²⁵ The remaining question to be documented is how effective teleconferencing has been in hearing pleadings and presenting on gender-related violence evidence cases.

Figure 1

Barriers to access to technology-driven justice solutions



6. Country situational analysis of access to justice by women during COVID-19

According to the UN SDG Group 2020 report, the COVID-19 pandemic has resulted in the loss of livelihoods, economic pressure, disruption in access to health, social and protection services, and disruption of access to justice. This follows the government directive to effect a state of emergency in several countries targeted by the study. Heightened stress levels are known to result in violence, with families forced to spend more time together than usual. This has increased cases that need attention in courts; however, women and girls remain vulnerable without possible access to justice. Delayed justice and rulings have caused grief and uncertainties to women who want their cases concluded. In response, communities have encouraged those affected by violence to seek support and services during the pandemic.²⁶

Respondents from Burundi confirmed that COVID-19 had undermined access to justice for women, as resources were shifted from the criminal justice system to other sectors like the health emergency and management of various sectors.

In Ethiopia, Meaza Ashenafi, Ethiopia's Supreme Court President, closed the federal courts for two weeks on 18th March 2020 to contain the spread of COVID-19 in the country. Since the first case of COVID-19 was reported in Ethiopia, one-stop crisis centres and shelters have not been able to support survivors because of the lack of isolation rooms for newcomers and insufficient human resources and personal protective equipment. To fill this gap, a transitional shelter was opened to serve as a space where survivors could stay during the quarantine period. Once the survivors are tested for COVID-19 [and they are negative], they can be transferred to existing shelters.

Across the study countries, due to COVID-19, people were not going to the police immediately after a violent incident, which delayed the time to collect medical evidence and press charges against the perpetrator. People thought that such services were not available during the pandemic. As a result, many rape cases went unreported, and many women have had to endure repeated violence, as reported by a respondent in Ethiopia.

The three one-stop centres that serve Addis Ababa-Ethiopia-Tirunesh Beijing, Gandhi and Menelik hospitals remained open but have seen a decrease in reported cases of sexual violence. This is perhaps because women and girls fear going to health

centers during a raging health crisis or because they live with people who have caused them harm and do not have the privacy to report abuse. Nonprofit organizations focusing on women's rights, such as Setaweet, worked with partners such as Ethio telecom to move services online so that calls could be rerouted to counsellors in the safety of their homes.²⁷ In Ethiopia, the Chief Justice and the President of the Supreme Court announced that the courts would hear domestic violence cases as a priority area that will not be affected by the closure of most courts. This was a substantial pre-emptive move against the surge in violence that was appreciated.²⁸

Table 1

Technology adoption for justice delivery in courts during COVID-19

Country	Technology Adopted		Courts open or closed	Disability-assistive technology installed
	Yes	No		
Uganda	Yes	-	Access restricted	No
Malawi	Yes	-	Access restricted	No
Zimbabwe	Yes	-	Access restricted	No
Mozambique	Yes	-	Access restricted	No
South Sudan	-	No	Opened	No
Kenya	Yes	-	Access restricted	No
Tanzania	Yes	-	Opened	No
Somalia	-	No	Opened	No
Ethiopia	-	No	Restricted	No
Burundi	-	No	Opened	No

Source: Secondary data review and Primary interviews conducted from KIIs.²⁹

As shown in the table above, 60 per cent of the countries in the study adopted technology to facilitate court sessions. Only four countries (Burundi, Ethiopia, Somalia, and South Sudan) did not provide evidence of using technology to access court sessions during the pandemic. No government adopted disability-assistive technology for accessing justice during the pandemic, which

constrained opportunities for access to justice by women and girls with disabilities.

In Kenya, the Chief Justice, through a circular, recommended that courts remain closed, and that Judges could administrate cases through virtual and online platforms. For example, Hon. Hannah Okwengu managed to deliver 57 judgments and

rulings of the Court of Appeal via virtual video link using a virtual platform. All decisions were made available to the parties through email, and judgments were published on the Kenya Law website within 48 hours. Therefore, technology remains a potential technique that can hasten cases related to violence against women in the COVID-19 era.

Malawi, like other countries worldwide, documented increased cases of Gender Based Violence, although reporting was complicated, and many were forced to reside with abusers out of risk for their lives.³⁰ To reach out to support women survivors of violence, hotlines were set up where response mechanisms can be coordinated. The most affected justice responses were the criminal trial courts and industrial relations court matters where women sought redress for unlawful dismissal and minimal pay. Industries affected are those where most workers are women, such as flight attendants, restaurant workers, others in the hospitality sector, hair-dressers and beauticians, and others who rely on daily wages. Their wages have been significantly reduced or cut due to limited business, as in all the other countries. The alternative means of redress is relying on social cash transfer schemes to cushion income earners in Kenya, Ethiopia and Malawi.

A respondent confirmed that Sexual and Reproductive Health clinics found themselves understaffed in Malawi, as health workers fearing contamination left facilities. Women could, therefore, not access clinics, and the few that were left in operation were in far-to-reach areas.

The closure of schools in nine of the ten countries (except Tanzania) left parents worried about increased child marriages, where parents have given their daughters for marriage to receive dowry. In Kenya, Malawi and Somalia, government data and media reports documented evidence of increased child marriage. Women have been reported to resort to sex work to earn a living, and girls have been forced into transactional sex to meet basic needs.³¹ School closures left children unsupervised and exposed to sexual

predators. Child labour also soared, with reports of children selling water, sweets and other items on the streets, exposing girls to sexual exploitation and sex trafficking.³²

Similarly, households are losing income due to the imposed travel restrictions and social distance measures, which were eased in October-December 2020. Fares in public transport doubled in 90 per cent of the countries affected (except Tanzania), affecting small-scale women entrepreneurs surviving on daily wages. Hunger and acute malnutrition increased, placing women and girls at greater risk of pregnancy, coercion, and commercial sexual exploitation due to increased transactional sex in exchange for survival basics like food, clean water, and sanitary products.

In Malawi, on 27th March 2020, the Office of the Chief Justice issued a statement ordering judges, registrars, magistrates, chairpersons, and researchers to review their case lists and adjourn non-urgent matters to reduce overcrowding in court premises. All cases, including chamber matters, are being held in open courtrooms one at a time as they have more space. Entry is restricted to only court officers, legal practitioners, prosecutors, litigants, accused persons, witnesses, and security personnel. Parties not being heard must wait outside for their cases to be brought forward. Access to the gallery is also restricted, with persons having to maintain at least one to two meters from each other.³³ There is no uniformity in approach, as some courts have suspended non-urgent matters.³⁴ This has slowed women and girls' access to justice, including the judgment of cases.

In Mozambique, directive no. 01/TS/GP/2020, of 23rd March 2020, spelled out individual and collective prevention measures against the COVID-19 pandemic in courts. Court proceedings were postponed for 60 days between 1st April 2020 and 30th May 2020, including suspension of hearing all court cases. People were kept away from the courts, with restrictions allowing only the accused, litigants, witnesses, those accompanying children, people with disabilities, victims of domestic violence and abuse, family members, and media personnel for

cases certified as urgent. Trials were also postponed, and proceeding cases were handled via video links. Accused persons in prison or police cells, or youth centres had stopped being presented in court. No eviction notices were allowed to be issued, and sheriffs serviced urgent court documents. However, challenges were observed in enforcing child welfare orders and cases where children moved weekly between parents. The courts, therefore, ordered that such children stay with one parent during the pandemic. Other complexities were also noted in cases requiring court orders addressing issues of foster care, children in need of care and protection, adoption, placements in child and youth centres, abductions, and first-time applications, which continued to be heard. These resulted in applications for interim protection against harassment being issued as well as domestic violence protection orders. Lawyers were required to show proof that they had matters on the day they appeared before the court and that the case was urgent. Other parties were summoned on days they need to appear in court. While in court, everyone maintained social distancing, washed hands, and completed a form to review exposure to COVID-19.³⁵

In Somalia, citizens were adjusting to changes amidst the ongoing insecurity. However, the government came up with procedures to aid women in accessing justice during the pandemic, as reported by Amin Abdi Mohammed, the leader of gender-based violence and child protection at Mogadishu-based Somali Women Development Centre (SWDC). The SWDC team addressed the effects of COVID-19 on women and its implications on gender-based violence, working to defend women affected by the conflict and increased domestic violence abuse.

South Sudan was also affected by delays in case processing due to the pandemic. The ministries of Gender and Humanitarian Affairs, Community Empowerment for Progress (CEPO), and Rural Women for Development South Sudan (RWDSS) performed a gender analysis to investigate how the pandemic impacted women and girls. The study also aimed at identifying their needs,

understanding their rights, and how they could seek justice. Consequently, restrictive procedures aimed at limiting exposure to COVID-19 resulted in limited access to justice and increased exposure to rights violations, especially for marginalized women within South Sudan. Entry points identified to mitigate these risks included sharing good practices to inform preparation and planning among justice actors on handling cases in the context of COVID-19. This follows international standards, cooperation with bar associations and other governing bodies of lawyers, and partnership with civil society to enhance access to justice for women. There was also support to community-based dispute resolution organs to improve the quick delivery of justice. The support also facilitated access to restorative justice services, such as online mediation and alternative dispute resolution, administrative services and legal documentation, supporting legal information, rights awareness, and justice. This also ensured continued remote access to legal education, providing equipment and training to enable court systems to function virtually. Additionally, the provision of personal protective equipment (PPE) for justice sector actors, establishing criteria for prioritization of cases in contexts where courts needed to scale down functioning, and enabling justice systems to develop business continuity plans were emphasized. Prioritization of cases and remote case management systems and supporting the development of a holistic and inclusive strategy for ensuring the functioning of the justice system and equal access to fair, timely, and effective justice services became indispensable.

The Tanzanian justice system remained operational following the President's decision to allow normal operations in its core sectors. As such, the standard operating procedures for managing women and girl-related cases were still effective and operational. Even though the shock of the COVID-19 pandemic affected the country and somehow created panic, there is limited data on how women and girls were affected by the pandemic in accessing justice in Tanzania.

On 19th March 2020, the Chief Justice of the Republic of Uganda wrote a circular on administrative and contingency measures to prevent and mitigate the spread of Coronavirus by the Judiciary, suspending all court hearings for 32 days.³⁶ In Uganda, the pandemic brought new challenges to the Judiciary. It led to closure or reduction in court operations, which negatively impacted

hearings, causing untimely and unfair justice for victims of crime.³⁷ Cases have accumulated, leading to increased length of judicial proceedings. However, the government is trying to implement technology to enable the virtual determination of court cases. The Judiciary is also adopting different approaches to limit in-person appearances for urgent or exceptional cases.³⁸

Case Study 1

Mobile Call centre for COVID-19 related GBV victims in Uganda

According to the 2016 Uganda Demographic Household Survey, 56 per cent of women experience physical violence from their partners, while 22 per cent others are victims of sexual violence. This violence has been exacerbated by COVID-19, during which the country has recorded an increase in GBV cases reported, with districts such as Budaka recording 5,016 cases in less than nine months.

To address the spike in violence, LASPENT legal services, in collaboration with other CSOs and the EU-UN Spotlight Initiative, established a toll-free mobile telephone line for GBV victims during the pandemic. The service allows victims to report GBV cases and receive prompt legal information and help to enable them access to justice.

The call centre is run by 12 trained agents with diverse professional backgrounds, including lawyers, paralegals as well as legal students from several Spotlight Initiative districts, such as Amudat, Kampala, Arua, Kyegegwa, and Kasese. The agents operate both from the LASPENT headquarters and various locations to increase the efficiency and responsiveness of the centre.

“The initiative is a big boost for Uganda women whom COVID-19 has locked down with their abusers in the midst of judicial service disruptions. The women can now remotely receive much-needed legal services,” Dr Sylvia Namubiru Mukasa, CEO, LASPENT.

Zimbabwe also received a surge in gender-based violence cases reported during the pandemic. A total of 4,047 gender-based violence calls were received between 30th March 2020 and 15th July 2020, where 70 per cent of the calls were gender-based violence cases.³⁹ In reality, 94 per cent of the calls were from women reporting abuse, mostly psychosocial abuse at 55 per cent, physical violence at 22 per cent, economic violence at 15 per cent, and sexual violence at eight per cent.⁴⁰ Overall, 90 per cent of the cases involved intimate partner violence. It is also noted that Zimbabwe experienced an increase in the number of returnees, and stigmatization of points of entry,

especially with `border jumping`, trafficking, and retaliation through GBV against those reporting illegal migration.

Reports from nine of the study countries, except for Tanzania, where travel was restricted and curfew was initiated, indicate incidents of harassment at roadblocks, reduced access to public transport, and demands of passes for GBV survivors seeking essential response services, including to report the crime. This reduced the process of seeking justice, particularly access to post-rape treatment. Furthermore, those unable to afford masks, COVID-19 negative certificates, or mobile

transactions faced harassment or requests for transactional sex from law enforcement agents to operate, placing them at risk of other violence and exploitation. In some religious sects, members were engaging in unprotected gatherings and exposure to GBV for those failing to adhere to new regulations. Kenya reported a case where a prison warden was accused of raping a female patient in a COVID-19 isolation facility he was meant to guard. The attack added to fears over treatment in government facilities that health experts warned may deter Kenyans, especially women and girls, from coming forward to be tested for COVID-19.⁴¹

In Zimbabwe, the Chief Justice ordered measures to be enforced to prevent the further spread of the COVID-19 disease. All trials and non-urgent hearings were postponed for two months, except for bail applicants and initial remand. Judicial Service Commission members, legal practitioners, and litigants were to ensure that all courts observe COVID-19 global protocols, including washing hands frequently with soap and running water, disinfection of surface areas, and maintenance of two meters distance in registries and courtrooms. Every person was required to sanitize when going in and out of court. All court weddings were cancelled, and hearings of cases in chambers were postponed. In emergency cases, hearings were confined to only parties involved in the cases and their legal practitioners.⁴² It is, therefore, evident that women and girls have been greatly affected in accessing justice and reporting cases to the minimal operational courts.

7. Conclusions

The study highlights how COVID-19 has greatly exacerbated violence against women and girls (VAWG) by locking them in their homes with their abusers and nearly shutting down the available justice delivery mechanisms. The creation of adapted justice delivery systems has forced the countries studied, apart from Tanzania, to rethink appropriate approaches to addressing VAWG. Respondents said that innovative and

remote services, such as first responders and crisis hotlines or helplines, have served as helpful links to legal aid. At the same time, innovative solutions such as courts adopting technology to deliver and hear cases remotely have enhanced accountability and efficiency. Addressing barriers to and gaps in accessing these technologies for women and girls is essential. For instance, women in remote areas have internet connectivity challenges. Even when they do not, they may have no opportunity to make calls and report GBV cases if they reside with abusive partners. It has also emerged that Ethiopia, Kenya, South Sudan, Uganda and Zimbabwe, among others, have established toll-free telephone numbers for survivors of GBV to report their cases.

Additionally, women with disabilities are significantly disadvantaged in accessing justice with imminent escalation during COVID-19. This has been aggravated by use of disability-insensitive assistive technology in most courts, which has not integrated assistive devices for disability-inclusive processes, jeopardizing efforts to serve women and girls with disabilities. Across the globe, measures to contain the spread of COVID-19 have created disruptions for many marginalized groups. This has exacerbated the vulnerability of women and girls with disabilities to gender-based violence due to pre-existing gender inequalities, toxic social norms, and barriers to accessing response services, including access to justice.

8. Recommendations

- Member States and other stakeholders to increase their investment and focus on technologically assisted justice systems by digitizing the system and creating efficient virtual delivery of justice to all. This should be complemented by increased accountability for Judiciary on targets for justice delivery.
- Member States and other stakeholders to create incentives for the use and adoption of technology by the judges and magistrates in all the countries of study. This should be

complemented by capacity development, strengthening, and training on the user uptake of these new technologies shifting the culture of physical court attendance to virtual ones. This will allow greater uptake of digital engagements within the justice structure.

- Access to protection and legal services: The safety and security of the GBV survivors/victims and family members should not be compromised in any circumstances. The prosecution of GBV offenders is essential to GBV prevention and response, including through sustaining online court hearings. Besides, access to critical services for women is a priority and cannot be compromised during COVID-19.
- Member States and other stakeholders to invest in community digital transformation centres, enabling women from the communities and most unreached areas to access justice virtually without the barriers established by patriarchy and poverty, including lack of or inadequate internet services for accessing court sessions.
- During this pandemic, and because of restricted movements, access to the justice system has been challenging. Member States and other stakeholders should make the justice system accessible, including police, prosecution and the Judiciary, by creating an enabling environment for all victims and survivors of violence to freely report their cases while ensuring the preservation of evidence for case executions.
- Prioritize Support to Women with Disabilities, Migrants, Rural Women, Refugees, and other Vulnerable Women and Girls in access to justice: These groups often face double discrimination and challenges, including lack of access to disability-friendly information, services and increased risk of GBV during the COVID-19 pandemic. Due
- Provide information and diverse options to women seeking justice who may be disenfranchised because of the patriarchal system and cultural and religious laws, especially during the pandemic, which make women refrain from reporting to the police, seeking treatment, guidance and counselling, and giving evidence during court proceedings.
- Institutionalize and sustain training for judicial personnel, police officers, and prison staff on matters related to improving access to justice for women during this period of the COVID-19 pandemic. This will accustom judicial officials to the unacceptability of men's and boys' acts of violence against women and how to handle GBV cases. It will ensure that they respond to the dynamic needs of women in accessing gender-responsive justice and reduce the mishandling of GBV cases.
- Strengthen victim and survivor protection, given the cultural fear of negative consequences and backlash from the community (reprisals and revictimization) against survivors of sexual violence. This includes ensuring that the perpetrators living with the victims and survivors do not continue with the violations due to restricted movements during the pandemic. This should cover women's immediate-, medium- and long-term safety needs, involve assessment of risks and safety planning, enforcement, and coordination of protection measures with other service providers.
- Create policies and laws that promote the investment and creation of disability-inclusive services for women to access justice, including investment in the architecture of court buildings and provision of sign language interpretation. Additionally, they should offer facilities and aid to women with disabilities, addressing attitudinal barriers by educating judicial personnel on the rights of women and girls with disabilities and their state obligations, which are critical. Finally, states should adapt their justice process to the needs of women and girls with diverse disabilities, including reducing the procedures that could delay justice delivery. During this pandemic, this should extend to disability-friendly technologies used for accessing justice as most courts are virtual and have proven disability insensitive.

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