



Addressing the Gendered Impact of COVID-19 on ESC Rights

IN
SOUTHERN AFRICA



Africa Judges and Jurists Forum

A POLICY BRIEF

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Table of Contents

EXECUTIVE SUMMARY	5
CHAPTER 1: DEFINING SOCIO-ECONOMIC AND CULTURAL RIGHTS	7
Introduction.....	7
CHAPTER 2: THE SADC RESPONSE TO COVID-19.....	11
CHAPTER 3: REGIONAL OVERVIEW OF COVID-19 REGULATIONS AND ATTENDANT ESC RIGHTS VIOLATIONS IN SOUTHERN AFRICA	14
1. Right to work	14
(i) Women	16
(ii) Increased incidence of gender-based violence	20
(iii) Women with Disabilities	21
(iv) Lesbian Gay Bisexual Trans Intersex Queer Persons (LGBT+)	23
2. Right to Health.....	24
(i) Women	24
(ii) Women with Disabilities	26
(iii) Lesbian Gay Bisexual Trans Intersex Queer Persons (LGBT+)	28
(iv) Children.....	29
3. Right to education	29
(i) Children	29
(ii) Children with Disabilities (CWDs)	31
4. Right to take part in cultural life.....	32
(i) Women	33
(ii) Lesbian Gay Bisexual Intersex Queer Persons (LGBT+) & Persons with Disabilities (PWD)	33
(ii) Indigenous Communities	34
5. Right to protection of the family and vulnerable groups (ACHPR Article 18).....	35
6. Right to economic, social, and cultural development	35
(i) Children	36
(ii) Indigenous communities.....	36
CHAPTER 4: RECOMMENDATIONS	37

EXECUTIVE SUMMARY

It has been sixteen months since the World Health Organisation declared COVID-19 a public health emergency and later a pandemic. Globally, governments have had to balance restrictive measures put in place to protect their populations, with safeguarding social, economic and cultural rights, and trying to reduce the social damage from curtailing societal interactions and activities. These restrictive measures include stay at home orders, wearing of personal protective equipment, limits on gatherings and maintaining social distance.

Africa was not initially as hard hit by the pandemic¹ as anticipated. However, already failing health care systems and low commitment to upholding social economic and cultural rights, resulted in unnecessary anguish, including; job displacement, income loss, and an increase in gender-based violence. COVID-19 also magnified and increased glaring disparities in gender equality.

This report addresses the gendered impact of the COVID-19 public health emergency on economic, social and cultural rights in Southern Africa. In particular; the right to work, the right to health, the right to adequate standard of living including adequate food, clothing and housing, right to education, right to take part in cultural life, right to protection of the family and vulnerable groups, and the right to economic, social and cultural development. It gives an overview of the gendered impact of the pandemic, acknowledging that the existence of multiple intersecting identities of women (women with disabilities, indigenous women, members of the LGBT+ community etc.) is important in understanding the complexities of health disparities for these groups that have been historically marginalized.

Having highlighted the gendered impact of the pandemic, the report provides the following recommendations to governments in Southern Africa:

- Implement fiscal and monetary measures to channel liquidity to small to medium enterprises, informal workers against the economic shocks of COVID-19.
- Acknowledge the multiple intersecting identities of marginalized groups such as PWDs, LGBT+ persons, women, and indigenous groups in national and regional platforms responsible for formulating inclusive COVID-19 measures to ensure that the doctrine of ‘leave no one behind’ is adhered to.
- Designate health and related services relied on by sexual minorities and PWDs as essential services during periods of public health emergencies.
- Remove custodial sentences for lockdown violations and put in place proportional and necessary laws while considering the impact of restrictions on movement on economically fragile households and vulnerable groups.

¹ Salyer, S et al ‘The first and second waves of the COVID-19 pandemic in Africa: a cross-sectional study’. March 24, 2021, Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)00632-2/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)00632-2/fulltext)

- Increase access to information on COVID-19 prevention protocols, particularly amongst vulnerable groups, including by providing information in local languages, sign language and braille.
- Comply with regional and international guidelines on human rights-based quarantine and ensure that where movements are restricted, provision for access to food, water, housing, and adequate healthcare is made available.
- Ease eligibility requirements for women and girls to receive government benefits, food aid and other COVID-19 relief to prevent hunger.

CHAPTER 1: DEFINING SOCIO-ECONOMIC AND CULTURAL RIGHTS

Introduction

The term public health emergency is traditionally reserved for infectious disease outbreaks, natural disasters or bio-terrorist attacks. Any public issue becomes a public health emergency of International concern (PHEIC) when formally declared so by the World Health Organisation (WHO) as ‘an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response’. A PHEIC is formulated when a situation arises that is ‘serious, sudden, unusual or unexpected, carries implications for public health beyond the affected State’s national border’ and may require immediate international action.² The Ebola Virus Disease³ was declared a PHEIC in 2014⁴ and 2019,⁵ other PHEIC include swine flu and the Zika virus pandemic.⁶ COVID-19’s declaration was issued in February 2020. These emergency situations and the measures to curb them have a gendered impact which highlights the pre-existing multidimensional gender inequalities and vulnerabilities of women and girls.

As of June 17, 2021, there were 5,179,687 confirmed COVID-19 cases in Africa, representing around 2.9 percent of global infections, and South Africa had 58423 deaths, the highest on the continent.⁷ Governments created responses on how to protect the public’s health while safeguarding socio economic cultural rights and reducing the social damage, including gender inequality that comes from restricting societies activities.⁸

Socio-Economic and Cultural Rights (ESC) are fundamental human rights that provide protection for freedom, dignity and the well-being of all individuals by guaranteeing State support for shelter, education, housing, standard of living, decent working conditions, health care, water and sanitation amongst others. The recognition of socio economic and cultural rights began in the 20th Century, as the world moved away from communism towards democracy.⁹ After World War I and II, there was emphasis placed on rights that were defined as positive such as, the right to health care and education as well as the protection of workers from their employers. This change was influenced by the fact that reformers believed that civil and political rights could not be achieved if there was

² WHO International Health Regulations Third edition 2005. Available at: <https://www.who.int/publications/i/item/9789241580496>

³ Centres for Disease Control and Prevention, Ebola, Available at: <https://www.cdc.gov/vhf/ebola/index.html>

⁴WHO, Ebola outbreak in West Africa declared a Public Health Emergency of International Concern. Available at: <https://www.euro.who.int/en/health-topics/communicable-diseases/pages/news/news/2014/08/ebola-outbreak-in-west-africa-declared-a-public-health-emergency-of-international-concern>

⁵Zarocostas, J ‘Ebola Outbreak declared a PHEIC, the world waits next steps’ Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)31712-X/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)31712-X/fulltext)

⁶ Pillinger, M, WHO declared a public health emergency about Zika’s effects. Here are three takeaways. February 2, 2016. Available at: <https://www.washingtonpost.com/news/monkey-cage/wp/2016/02/02/who-declared-a-public-health-emergency-about-zikas-effects-here-are-three-takeaways/>

⁷ Statista, “Number of coronavirus(COVID-19) cases in the Africa continent Available at: <https://www.statista.com/statistics/1170463/coronavirus-cases-in-africa/>

⁸PERC Responding to COVID-19 in Africa: Using Data to find a Balance Available at: https://preventepidemics.org/wp-content/uploads/2020/09/PERC_RespondingtoCovidData.pdf

⁹ Bignami, F and Spivack C, Social and Economic Rights as Fundamental Rights. 2014. The American Journal of Comparative Law, Volume 62.

no improvement in the social and economic lives of ordinary people.¹⁰ These rights were adopted in 1966 as the International Covenant on Economic, Social and Cultural Rights (CESCR)¹¹ in accordance with the Universal Declaration of Human Rights (UDHR) that recognized that free human beings can only enjoy freedom from fear and want if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.¹²

Africa was slower to accept justiciability of socio-economic and cultural rights compared to civil and political rights because of colonialism and apartheid. Many recent African conflicts have been based on the government's inability to bring about meaningful change in the day to day living of the citizens, failing to realise the socio-economic rights that had been promised in the struggle for self-determination.¹³ Women's movements have used basic rights to demand for gender equality resulting in the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (Maputo Protocol), and the SADC Protocol on Gender and Development.¹⁴ Demands that basic rights be respected for all, played an important role in the liberation struggles in the region, including in Zimbabwe.¹⁵ Basic rights have remained one of the most important bases for stating political claims; labour and social movements have used a rights-based discourse to push for the realisation of socio-economic advancement including access to basic services, such as housing and sanitation.¹⁶

Southern African countries are party to various international instruments such as the CESCR as well as the regional instruments such as the African Charter on Human and Peoples' Rights (the African Charter)¹⁷ and the SADC Treaty. The African Charter contains both civil and political and socio-economic rights which are justiciable. An aggrieved person or group may bring a complaint against their government regarding violation of their rights to the African Commission on Human Rights (The African Commission) for determination. However, the recommendations of the African Commission are only persuasive. The African Charter in its preamble recognises that civil and political rights cannot be separated from socio-economic and cultural rights, 'in their conception as well as the universality... the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights'.¹⁸ The SADC Treaty acknowledges the need to involve people in the process of development and integration through the guarantee of

¹⁰ IDEA Social and Economic Rights: International IDEA Constitution Building Primer 9. 2017. Available at: <https://www.idea.int/sites/default/files/publications/social-and-economic-rights-primer.pdf>

¹¹ United Nations Human Rights Office of the High Commissioner, International Covenant on Economic, Social and Cultural Rights. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

¹² <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹³ Austin G, 'African Economic Development and Colonial Legacies' 2010 Available at: <https://journals.openedition.org/poldev/78>

¹⁴ GenderLinks produces the SADC Gender Barometer Available at: <https://genderlinks.org.za/about-us/who-we-are/>

¹⁵ Raftopoulos B and Mlambo, A.S 'Becoming Zimbabwe: A history from the Colonial Period to 2008. 2016 Available at:

https://www.researchgate.net/publication/287607676_Becoming_Zimbabwe_A_history_from_the_pre-colonial_period_to_2008/stats

¹⁶ Marlea Clarke & Carolyn Bassett. 'The struggle for transformation in South Africa: unrealised dreams, persistent hopes' Journal of Contemporary African Studies, 2016, Available at:

https://www.researchgate.net/publication/306004426_The_struggle_for_transformation_in_South_Africa_unrealised_dreams_persistent_hopes

¹⁷ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, June 27, 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982). Available at: <https://www.refworld.org/docid/3ae6b3630.html>

¹⁸ *Ibid*

democratic rights and observance of human rights. It does not, however, clearly spell out the recognition of socio economic and cultural rights and leaves women, children, people with disabilities (PWDs) and members of the Lesbian, Gay, Bisexual, Transsexual, Intersexual and Queer (LGBT+) community vulnerable.¹⁹

Economic and social rights are also included in numerous other human rights legal instruments which recognise and focus on the elimination of discrimination and foster the leave no one behind doctrine.²⁰ Most Southern Africa States are party to these instruments, such as the:

- Convention on the Rights of the Child (CRC)
- The Convention on the Rights of Persons with Disabilities (CRPD)
- Convention on the Elimination of Discrimination Against Women (CEDAW)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Vienna World Conference on Human Rights Declaration and Plan of Action
- Conventions of the International Labour Organization

The Vienna Declaration and Programme of Action²¹ affirms the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues. The Declaration goes on to reaffirm that States are duty-bound, as stipulated in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and in other international human rights instruments, to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms.

There is broad acceptance of socio-economic rights by most African governments but there is no commitment to implementing these rights, particularly addressing the gendered impact.²² This is highlighted by the current socio-economic conditions that most Africans find themselves in, which have been exacerbated by the COVID -19 pandemic.

The focus will be on the following rights and how the pandemic has affected the implementing of these rights on the intersectionality of marginalized groups:

- Right to work and enjoy just and favourable working conditions
- Right to adequate standard of living including adequate food, clothing and housing
- Right to health
- Right to education
- Right to take part in cultural life
- Right to protection of the family and vulnerable groups (ACHPR Article 18)

¹⁹Moyo A, The Protection and promotion of socio-economic rights in the SADC region' ESR Review, Vol 11No.3 2010 Available at: <https://journals.co.za/doi/pdf/10.10520/EJC33363>

²⁰ When adopting the 2030 Agenda for Sustainable Development UN Member States pledged to take steps to curb inequalities, end extreme poverty, address discrimination and fast track progress for the furthest behind. Sustainable Development Goals Available at: <https://sdgs.un.org/2030agenda>

²¹ United Nations Human Rights Office of the High Commissioner, The Vienna Declaration and Programme of Action: Available at: <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

²² UN Women, UNFPA, "Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa Abridged version", March 2021. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](https://reliefweb.int)

- Right to economic, social and cultural development

CHAPTER 2: THE SADC RESPONSE TO COVID-19

Although COVID-19 progressed in Africa at a much slower rate than the rest of the world²³, the African Union (AU) Commission, through the Africa Centres for Disease Control and Prevention (Africa CDC), quickly convened an emergency meeting of all ministers of health in Feb 22, 2020, to develop and endorse a Joint Continental Strategy for the COVID-19 outbreak.²⁴ This was 14 days after the World Health Organisation (WHO) declared the outbreak an international public health issue.²⁵

Southern Africa, especially South Africa was hardest hit despite having put in place strict measures to control the spread of the COVID-19 virus. Southern Africa recorded its first case of COVID-19 in early March 2020 and by the end of April, every member state had recorded cases.²⁶ In order to deal with the pandemic SADC adopted the WHO COVID-19, guidelines in terms of preparedness; coordination; planning and monitoring; surveillance, case investigation; infection prevention and control.²⁷

SADC member States undertook several measures that included preparedness and response mechanisms; awareness programmes, suspension of inbound and outbound flights, suspension of business and tourism travel, set up of border and in-country testing centres; social distancing and cancellation of gatherings; adoption of self-isolation and mandatory quarantines for a minimum of 14 days; and treatment for those that test positive. included national states of disasters (Malawi, South Africa, and Zimbabwe) states of emergencies (Angola, Democratic Republic of Congo, Eswatini, Lesotho, Mozambique, and Namibia), Declarations of Public Health Emergencies (Botswana, Madagascar). Some member states imposed lockdown measures early on, allowing only essential services to remain open (South Africa, Botswana, Zimbabwe were among the first to impose stringent lockdowns).

In 2020 SADC developed ten coordinated regional actions in response to COVID-19 as follows²⁸:

1. Disaster Risk Management - member States agreed to establish National Emergency Operations Centres to facilitate coordination of logistics and stockpiling for disasters at the national level, and to establish National Emergency Trust Funds and National Resource

²³ Salyer, S et al 'The first and second waves of the COVID-19 pandemic in Africa: a cross-sectional study'. March 24, 2021, Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)00632-2/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)00632-2/fulltext)

²⁴ African Union, 'Ministerial meeting on Coronavirus Disease Outbreak', 2020 Available at: <https://au.int/pt/newsevents/20200222/ministerial-meeting-coronavirus-disease-outbreak>

²⁵ WHO 'COVID-19 Public Health Emergency of International Concern: Global research and innovation forum' 2020 Available at: [https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum)

²⁶ The first case was in South Africa, a thirty eight year old man who was part of a group of ten who had returned from northern Italy, all ten were tested and the Minister of Health issued a press release Powell, A, South Africa confirms first Coronavirus Case, March 5, 2020. Voice of America 2020 Available at: <https://www.voanews.com/science-health/coronavirus-outbreak/south-africa-confirms-1st-coronavirus-case>

²⁷ SADC Regional Response to COVID-19 Pandemic 2020 Available at: https://www.sadc.int/files/9115/8697/9635/SADC_regional_response_to_COVID-19.pdf

²⁸ Ibid

Mobilization Strategies to facilitate mobilization of resources for national disaster responses.

2. Suspension of regional face-to-face meetings and instead, utilizing modern technology such as Video conferences, Webinars and Skype.
3. Re-establishment and expansion of the Technical Committee for Coordinating and Monitoring the Implementation of the SADC Protocol on Health which meets on a regular basis to advise the region on health and related matters, and other socio-economic matters related to the COVID-19 pandemic.
4. Mobilisation of regional support towards containment of the COVID-19 pandemic, and mitigation of its socio-economic impact on the SADC region. The regional resource mobilisation initiative builds on national initiatives and is based on gaps identified by individual member States to respond to the COVID-19 short to long-term needs.
5. The SADC Pooled Procurement Services for pharmaceuticals and medical supplies is being implemented to provide sustainable availability and access to affordable and effective essential medicine and health commodities. Member States have been encouraged to utilise this facility for the procurement of the needed supplies for prevention, treatment and control of COVID-19 and any other epidemics.
6. Adoption of guidelines on harmonisation and facilitation of Cross Border Transport Operations across the Region during the COVID-19 pandemic. The guidelines were put in place to facilitate and ease the process of transporting essential goods and services within the region during the pandemic. Member States agreed to establish National Transport and Trade Facilitation Committee (TTFC) to coordinate the implementation of the guidelines, and resolve operational issues at borders or roadblocks. The TTFC included officials from the Ministries responsible for Transport, Health, Police/Army, and Trade.
7. Partnership with the United Nations Educational, Scientific and Cultural Organization (UNESCO) to mitigate the effects of COVID-19 on education.
8. Introduction of SADC Regional Status report on COVID 19, prepared and shared weekly with member States.
9. Monitoring and analysing the socio-economic impact of the COVID-19 on SADC economies.
10. Daily updates on the status of COVID-19 in the region.

The EU and European Investment Bank (EIB) announced a € 2,031 million fund in June 2020 for Sub-Saharan Africa to assist countries in healthcare, and to fund the development of a fast and equitable access to safe, quality, effective and affordable tests, treatments and vaccines against coronavirus.²⁹ Over the course of the year, SADC has held virtual meeting to discuss implementation of these action points. For example, the SADC Ministers of Health held an extraordinary virtual meeting on May 11, 2021, to discuss the COVID-19 epidemiological

²⁹ SADC Regional Response to COVID 19 Pandemic Bulletin 14 Available at: https://www.sadc.int/files/7016/0499/7092/BULLETIN_14-SADC_Response_to_COVID19_-ENGLISH.pdf

situation in the region and come up with recommendations to mitigate the spread of the pandemic.³⁰ Similarly, the Expanded Technical Committee for Coordinating and Monitoring the Implementation of the SADC Protocol on Health developed guidelines and Standard Operating Procedures to facilitate cross-border movements of goods and public health surveillance at points of entry for essential goods and services. Despite these positive actions, more can still be done to mitigate the socio-economic and cultural impact of COVID-19 in the region.

According to the UN Secretary General³¹, the pandemic deepened pre-existing inequalities and exposed vulnerabilities in social, political, and economic systems. In addition to civil and political rights, many key ESC rights, particularly those of women, children, persons with disabilities (PWDs) and members of the LGBTQ community, were violated due to pandemic laws and regulations put in place by countries in Southern Africa. Numerous countries around the world reported disruptions in the provision of essential health services, with the greatest impact reported in low- and middle-income countries.³² Many Southern Africa States had deplorable health care systems before the pandemic, resulting in government officials often seeking medical care in other countries.³³ Almost all Southern Africa States reported the most disruption to services for; outreach services, facility-based services, non-communicable diseases diagnosis and treatment, family planning and contraception, treatment for mental health disorders, and cancer diagnosis and treatment. In some States, health care workers went on strike refusing to work without personal protective equipment and a risk allowance.³⁴ However, most of the difficulties experienced in accessing critical health services, were because of restrictions on movement due to lockdowns resulting in transport availability challenges. In addition to transport restrictions, many health care services began primarily focusing on COVID-19, placing an extra burden on health systems.³⁵ In the midst of COVID-19, people continued to suffer from other diseases and other medical emergencies such as traffic accidents³⁶, and some countries reported disruptions in emergency blood transfusion services, and in 24-hour emergency services.³⁷

³⁰ SADC convenes virtual Extraordinary Meeting of Ministers of Health, May 12, 2021. Available at:

<https://www.sadc.int/news-events/news/sadc-convenes-virtual-extraordinary-meeting-ministers-health/>

³¹ UN Women 'The impact of COVID on Women 2020' Available at: <https://www.unwomen.org/en/digital-library/publications/2020/04/policy-brief-the-impact-of-covid-19-on-women>

³² WHO In WHO global pulse survey 90% of countries report disruptions to essential health services since COVID-19 pandemic August 31, 2020 Available at: <https://www.who.int/news/item/31-08-2020-in-who-global-pulse-survey-90-of-countries-report-disruptions-to-essential-health-services-since-covid-19-pandemic>

³³ Two Zambian presidents Levy Mwanawasa and Micheal Sata died in Europe in 2008 and 2014 respectively; Available at: <https://www.reuters.com/article/us-zambia-president-idUSLJ48660020080819>
<https://www.bbc.com/news/world-africa-29813612>

³⁴ Daniel, A and Bickton, F. M. Coronavirus in Malawi June, 11, 2020 Think Global Health, Available at: <https://www.thinkglobalhealth.org/article/coronavirus-malawi>

³⁵ Frieden, T and John Nkengasong J, The Double Threat of COVID-19 in Africa, October, 30, 2020 Think Global Health Available at: <https://www.thinkglobalhealth.org/article/double-threat-covid-19-africa>

³⁶ Mananavire, B, July 31, 2020 The Zimbabwe Independent Available at: <https://www.theindependent.co.zw/2020/07/31/crumbling-health-care-in-zim-the-silent-genocide/>

³⁷ SADC Regional Response to COVID 19 Pandemic Bulletin 14 Available at: https://www.sadc.int/files/7016/0499/7092/BULLETIN_14-SADC_Response_to_COVID19_-ENGLISH.pdf

CHAPTER 3: REGIONAL OVERVIEW OF COVID-19 REGULATIONS AND ATTENDANT ESC RIGHTS VIOLATIONS IN SOUTHERN AFRICA

This section will analyse the gendered impact of the COVID-19 pandemic and government measures focusing on selected socio-economic and cultural rights. The impact on each right is analysed with a particular focus on how the intersecting identities of women when ignored in policy making, gives rise to a heightened risk of abuse.

1. Right to work

Article 15 of the ACHPR, guarantees that every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.”³⁸ Article 6(1) of the CESCER guarantees the right of individuals to work, including the right to gain a living by work which he or she freely chooses or accepts, including the right not to be deprived of work unfairly.³⁹ “Every individual has the right to be able to work, allowing him/her to live in dignity.”⁴⁰ The right to work contributes to the survival of the individual and their dependents and encompasses the need for governments to establish a compensation mechanism in the event of loss of employment.⁴¹ Generally, the Southern Africa region has a low coverage of social insurance because the majority of workers are employed in the informal economy, and there is little coverage of workers in the formal economy.⁴²

COVID-19 control measures negatively impacted women, young women and women with disabilities, who are the dominant labour force in the informal economy. The International Labour Organisation (ILO) reports that globally, 61 percent of people aged 15 and above are informally employed.⁴³ The informal sector includes, vending in local markets, agricultural work, and informal cross border trading (ICBT). ICBT is, “any business operating in goods and services that trades across the border, and that has no official export/import license or permit within a defined threshold and frequency”.⁴⁴ ICBT generates substantial income and employment in the region, which enables vulnerable populations to access goods and services that are key for their economic independence and critical to poverty alleviation, food security and household livelihoods.⁴⁵

³⁸ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, June 27, 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982). Available at: <https://www.refworld.org/docid/3ae6b3630.html>

³⁹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> See Article 6(1).

⁴⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 18: The Right to Work (Art. 6 of the Covenant)*, February 6, 2006, E/C.12/GC/18, para 1. Available at: <https://www.refworld.org/docid/4415453b4.html>

⁴¹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 18: The Right to Work (Art. 6 of the Covenant)*, February 6, 2006, E/C.12/GC/18, para 26. Available at: <https://www.refworld.org/docid/4415453b4.html>

⁴² Gift Dafuleya, “Social and Emergency Assistance Ex-Ante and During COVID-19 in the SADC Region”, *The International Journal of Community and Social Development* 2(2) 2020, p 255. Available at: [Social and Emergency Assistance Ex-Ante and During COVID-19 in the SADC Region \(sagepub.com\)](https://www.sagepub.com)

⁴³ Florence Bonnet, Joann Vanek and Martha Chen, “Women and Men in the Informal Economy – A Statistical Brief”, ILO, January 2019, p 3. Available at: [Women and Men in the Informal Economy – A Statistical Brief \(ilo.org\)](https://www.ilo.org)

⁴⁴ USAID Southern Africa, “Women Informal Cross Border Traders in Southern Africa Contributions, Constraints, and Opportunities in Malawi and Botswana”, 2016, p 16. Available at: [ICBT-Gender-Assessment-Report_Final_4-30-2016_DEC.pdf \(banyanglobal.com\)](https://www.banyanglobal.com)

⁴⁵ United Nations Economic Commission for Africa, “COVID-19 pandemic impact on Southern Africa”, 2020, p. Available at: [PowerPoint Presentation \(uneca.org\)](https://www.uneca.org)

Women in Southern Africa contribute 60 percent of the labour to food production and perform 70 percent of the agricultural work,⁴⁶ and about 70 – 80 percent of the women engage in ICBT.⁴⁷

Because the informal labour sector is comprised of enterprises that are small in terms of revenue and capital, lockdown periods may have a permanent negative impact on these businesses, as they might never be able to resume operations if the owners are forced to sell assets as a response to lost income.⁴⁸ Similarly, a loss of income has a negative impact on other social and economic rights necessary for an adequate standard of living.

In many households in Southern Africa, the standard of living declined due to the negative impact of COVID-19 measures on the right to adequate food, clothing, and housing. Reportedly, 43 million people were estimated to be acutely food insecure in Southern Africa due to COVID-19 impacts.⁴⁹ In many Southern Africa countries, lockdowns sparked panic buying making food scarce, or led to massive price hikes that made essential items out of the reach of ordinary citizens. In Madagascar, for example, citizens reported not having enough food, and being unable to buy rice during the lockdown due to a sudden increase in price.⁵⁰ In June 2020, 71.2 percent of respondents surveyed reported skipping a meal due to lack of money.⁵¹ UNICEF reported that COVID-19 containment measures were expected to increase acute malnutrition by 25 percent or more into 2021 across Southern Africa, impacting 8.4 million children under five.⁵²

Poverty is closely linked to food insecurity and in 2017, prior to the pandemic, 45 percent of citizens in Southern Africa were already living in extreme poverty, defined as surviving on less than USD1.90 per day.⁵³ Globally, more women than men lived in poverty before the COVID-19 pandemic.⁵⁴ Generally, on the continent and in Southern Africa specifically, “Poverty and inequality have an extremely severe and disproportionate effect and impact on African women.”⁵⁵ COVID-19 induced poverty has pushed more women into extreme poverty, and according to the UN, “...the pandemic will push 96 million people into poverty by 2021, 47 million of whom are women and girls”.⁵⁶

⁴⁶ Southern Africa Trust Report (2018), “Experiences and Challenges of Women in the SADC Region: The Case of Trade and Agricultural Sector”, January 2018, vii. Available at: [Experiences and challenges of women in SADC.pdf \(africaportal.org\)](https://www.africaportal.org/publications/experiences-and-challenges-of-women-in-sadc.pdf)

⁴⁷ USAID Southern Africa, “Women Informal Cross Border Traders in Southern Africa Contributions, Constraints, and Opportunities in Malawi and Botswana”, 2016, p 17. Available at: [ICBT-Gender-Assessment-Report_Final_4-30-2016_DEC.pdf \(banyanglobal.com\)](https://www.banyanglobal.com/wp-content/uploads/2016/12/ICBT-Gender-Assessment-Report-Final-4-30-2016-DEC.pdf)

⁴⁸ Karment Naidoo, “The Labor market challenges of COVID-19 in sub-Saharan Africa”, Africa Portal, June 10, 2020. Available at: [The labour market challenges of COVID-19 in sub-Saharan Africa \(africaportal.org\)](https://www.africaportal.org/publications/the-labor-market-challenges-of-covid-19-in-sub-saharan-africa)

⁴⁹ SADC, “SADC Food Security Quarterly Update 2019/2020 Agricultural Season”, April 2020, p 1. Available at: [Agromet Update Issue 04 - 2019-2020 Season \(sadc.int\)](https://www.sadc.int/publications/agromet-update-issue-04-2019-2020-season)

⁵⁰ See: [Everything you need to know about human rights in Madagascar | Amnesty International | Amnesty International](https://www.amnesty.org/en/latest/news/2020/07/everything-you-need-to-know-about-human-rights-in-madagascar/), 2020.

⁵¹ Megan O’Donnell et al, “The Gendered Dimensions of Social Protection in the COVID-19 Context”, *Center for Global Development*, Working Paper 576, April 2021, p7. Available at: [gender-social-protection-during-covid.pdf \(cgdev.org\)](https://www.cgdev.org/publication/gender-social-protection-during-covid)

⁵² UNICEF, “COVID-19: A Catastrophe for Children in Sub-Saharan Africa”, Nov 2020, p 20. Available at: [COVID-19-A Catastrophe-for-Children-in-SSA.pdf \(unicef.org\)](https://www.unicef.org/press-releases/2020/11/covid-19-a-catastrophe-for-children-in-ssa)

⁵³ Alex Porter, “Extreme Poverty Set to Rise Across Southern Africa”, April 5, 2017. Available: [Extreme poverty set to rise across Southern Africa - ISS Africa](https://www.issafrica.org/insights/extreme-poverty-set-to-rise-across-southern-africa)

⁵⁴ Megan O’Donnell et al, “The Gendered Dimensions of Social Protection in the COVID-19 Context”, *Center for Global Development*, Working Paper 576, April 2021, p 5. Available at: [gender-social-protection-during-covid.pdf \(cgdev.org\)](https://www.cgdev.org/publication/gender-social-protection-during-covid)

⁵⁵ ILO, “Inequalities in Southern Africa: Options for Redress”, Nov 20, 2013, p 5. Available at: [wcms_230181.pdf \(ilo.org\)](https://www.ilo.org/publications/230181.pdf)

⁵⁶ UN Women, “COVID-19 and its economic toll on women: The story behind the numbers”, Sept 16, 2020. Available at: [COVID-19 and its economic toll on women: The story behind the numbers | UN Women – Headquarters](https://www.unwomen.org/en/news/stories/2020/09/covid-19-and-its-economic-toll-on-women-the-story-behind-the-numbers)

(i) Women

The informal labour sector on which women rely was heavily impacted by the pandemic and this negatively affected their social and economic rights, putting many at risk of falling into poverty. In recognition of the dominance of women in the informal labour sector in Africa, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol)⁵⁷, obliges State parties to create conditions to promote and support the occupations and economic activities of women⁵⁸, particularly in the informal sector, and provide a system of protection and social insurance for them.⁵⁹ Women who work predominantly in the service industry and informal sector, faced unequal access to social safety nets when COVID-19 measures limited and in some cases, shut down businesses.⁶⁰ In response to the impact of COVID-19, the Special Rapporteur on the Rights of Women in Africa urged governments to provide support to women who have lost their income. The Special Rapporteur also called upon governments to ensure their post COVID-19 economic plans include women in rebuilding efforts.⁶¹ However, in the Southern Africa region, as will be detailed below, women who lost livelihoods in the formal and informal sectors, were at heightened risk of gender-based violence and had increased burden of care due to school closures and other COVID-19 restrictions. For women with disabilities, the risk of gender-based violence is far worse as they "...face more significant risks of being victims of sexual and physical abuse."⁶²

Loss of the livelihoods in the informal sector

Female informal cross border traders suffered losses and disruption to their businesses caused by sudden border closures by governments in the region.⁶³ Women engaged in the sale of perishable goods in informal markets suffered huge losses due to prolonged lockdown measures, with many forced to throw away spoiled goods, and/or use their business capital to sustain their families. A Zambian study found that women informal traders reported hopelessness to revive their business due to spending up of their savings during COVID-19 lockdown [s].⁶⁴ Restrictions on movement of street vendors, and rural subsistence farmers, the majority of whom are women, led to scarcity of food, particularly for poorer and vulnerable citizens in urban areas that depend on these informal markets.⁶⁵ Unfortunately while food street vendors were banned due to COVID-19 restrictions,

⁵⁷ African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, July 11, 2003. Available at: <https://www.refworld.org/docid/3f4b139d4.html>

⁵⁸ African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, July 11, 2003, article 13 (e). Available at: <https://www.refworld.org/docid/3f4b139d4.html>

⁵⁹ African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, July 11, 2003, article 13 (f). Available at: <https://www.refworld.org/docid/3f4b139d4.html>

⁶⁰ World Bank, "COVID-19 and the future of work in Africa: Emerging Trends in Digital technology Adoption", *Africa Pulse*, April 2021, vol 23, p 1. Available at: [9781464817144.pdf \(worldbank.org\)](https://www.worldbank.org/publications/9781464817144.pdf)

⁶¹ African Commission, "Press Release of the Special Rapporteur on the Rights of Women in Africa on violation of women's rights during the COVID-19 pandemic". Available at: [African Commission on Human and Peoples' Rights Pressrelease \(achpr.org\)](https://www.achpr.org/press-releases/press-release-on-human-and-peoples-rights-press-release)

⁶² UN Women, "Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa", p 11. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/digital-library/publications/2020/05/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

⁶³ Simonetta Zarrilli & Mariangela Linoci, "What future for women small-scale and informal cross-border traders when borders close?". Available at: [What future for women small-scale and informal cross-border traders when borders close? | UNCTAD](https://unctad.org/publication/what-future-for-women-small-scale-and-informal-cross-border-traders-when-borders-close)

⁶⁴ Matthew Nyashanu et al, "The impact of COVID-19 lockdown in a developing country: narratives of self-employed women in Ndola, Zambia", *Health Care for Women International*, Vol 41, 2020, Issue 11 -12: Women's Health in an era of COVID-19, p 1375. Available at: [Full article: The impact of COVID-19 lockdown in a developing country: narratives of self-employed women in Ndola, Zambia \(tandfonline.com\)](https://doi.org/10.1080/07440144.2020.1811111)

⁶⁵ Advancing Rights in Southern Africa (ARISA), "Impact of COVID-19 on Women's Customary Land Rights and Livelihoods in Southern Africa", P 13. Available at: [Impact of COVID-19 on Women's Customary Land Rights and Livelihoods in Southern Africa \(usaid.gov\)](https://www.usaid.gov/impact-of-covid-19-on-women-s-customary-land-rights-and-livelihoods-in-southern-africa)

“...providers of food in the formal sector were classified as essential and therefore allowed to continue with their businesses.”⁶⁶

While many big and medium businesses received COVID-19 relief funding, some Southern Africa governments did not provide similar financial safety nets to small enterprises in the informal sector. Where they were provided, the monies were difficult to access, for example, South Africa provided funds to cushion businesses from the socio-economic impacts of COVID-19, but the requirements to access the monies presented barriers to entry for most small enterprises, especially those operating in townships where economic activity is predominantly informal.⁶⁷ These businesses which are predominantly run by women⁶⁸, are not registered, are largely cash based, and therefore would not have the necessary certification, tax or financial records to demonstrate the impact of COVID-19 on their economic operations.⁶⁹ In Zimbabwe, COVID-19 relief funds worth ZWL18 billion were disbursed through commercial banks with the Reserve Bank of Zimbabwe, providing a 50 percent guarantee which meant that vendors were excluded, and only businesses that operated formally in the commercial sector could access these funds.⁷⁰ Commendably, the government of Seychelles offered financial assistance to the informal sector under the Unemployment Relief Scheme of the Agency for Social Protection.⁷¹

Some groups, such as indigenous communities, were not able to take advantage of social protections for COVID-19 impacts, even though their income was also affected by the pandemic. The decline in tourism due to COVID-19, negatively impacted the ability of indigenous women in Botswana and South Africa to earn a living, because they depend on selling their wares to tourists.⁷² The Working Group on the Rights of Indigenous Populations/Communities in Africa noted that, “...the responses of some States to COVID-19 have a disproportionate impact on Indigenous Peoples, including the closure of markets in Indigenous areas, which curtails their livelihoods.”⁷³ For example, in Tsumkwe-west in Namibia, indigenous women were unable to sell their products due to the pandemic, and finances they may have used to sustain their informal activities, had to be reprioritized towards household necessities.⁷⁴ Although some countries such as Namibia introduced emergency income grants to cushion the most vulnerable citizens from the shocks of the pandemic control measures, the San indigenous communities were unable to access

⁶⁶ Advancing Rights in Southern Africa (ARISA), “Impact of COVID-19 on Women’s Customary Land Rights and Livelihoods in Southern Africa”, P 13. Available at: [Impact of COVID-19 on Women’s Customary Land Rights and Livelihoods in Southern Africa \(usaid.gov\)](https://www.usaid.gov/impact-of-covid-19-on-women-s-customary-land-rights-and-livelihoods-in-southern-africa)

⁶⁷ Lebo Mokgabudi, “Spazas and informal trade are excluded from COVID-19 relief efforts in South Africa”, April 16, 2020. Available at: [Spaza shops excluded from COVID-19 relief efforts in South Africa \(bfaglobal.com\)](https://www.bfaglobal.com/spaza-shops-excluded-from-covid-19-relief-efforts-in-south-africa)

⁶⁸ Sehlaphi Sibanda, Engendering South African township economies: An African feminist perspective on the role, position and experiences of women in informal trade, 2020. Available at: https://awdf.org/wp-content/uploads/Engendering-South-African-township-economies_FINAL-1.pdf

⁶⁹ Lebo Mokgabudi, “Spazas and informal trade are excluded from COVID-19 relief efforts in South Africa”, April 16, 2020. Available at: [Spaza shops excluded from COVID-19 relief efforts in South Africa \(bfaglobal.com\)](https://www.bfaglobal.com/spaza-shops-excluded-from-covid-19-relief-efforts-in-south-africa)

⁷⁰ [Response to the Minister of Finance and Economic Development on the Disbursement of the ZWL18 Billion Covid-19 Relief Funds – Kubatana.net](https://www.kubatana.net/response-to-the-minister-of-finance-and-economic-development-on-the-disbursement-of-the-zwl18-billion-covid-19-relief-funds)

⁷¹ UNDP, “An Assessment of the Socio-Economic Impact of Covid-19 in Seychelles”, December 2020, p 3.

⁷² Freedom House, “The Impact of COVID-19 on the Rights of Indigenous Peoples in Southern Africa”, 2020, p 11 Available at: [12032020 ARISA Rights Southern Africa Report Impact COVID19 on IPRs.pdf \(freedomhouse.org\)](https://www.freedomhouse.org/report/2020/arisa-rights-southern-africa-report-impact-covid19-on-iprs)

⁷³ African Commission on Human and Peoples Rights, “Press Release on the impact of the COVID-19 virus on Indigenous Populations/Communities in Africa”. Available at: [African Commission on Human and Peoples’ Rights Pressrelease \(achpr.org\)](https://www.achpr.org/press-releases/press-release-on-the-impact-of-the-covid-19-virus-on-indigenous-populations-communities-in-africa)

⁷⁴ Freedom House, “The Impact of COVID-19 on the Rights of Indigenous Peoples in Southern Africa”, 2020, p 11 – 12. Available at: [12032020 ARISA Rights Southern Africa Report Impact COVID19 on IPRs.pdf \(freedomhouse.org\)](https://www.freedomhouse.org/report/2020/arisa-rights-southern-africa-report-impact-covid19-on-iprs)

these funds because many of them do not have the required identification and access to gadgets necessary for mobile banking, which was used to distribute the funds.⁷⁵

Governments need to put in place protection measures that safeguard women's enterprises as outlined in article 13 (e) of the Maputo Protocol. Social protections are an example of measures envisioned by the Maputo Protocol. Research has shown that social protections for women in the informal sector such as cash transfers, help sustain their businesses during hardship, and ensure they are able to reopen after restrictions on economic enterprise are lifted. For example, in Kenya, an experimental study where women in microenterprises were given cash transfers, enabled many of them to reopen their businesses and restock after COVID-19 related business restrictions were lifted.⁷⁶

Loss of employment in the formal sector

In the formal sector, women remain underrepresented, and many of them suffered job losses due to the pandemic. Statistics show that the number of the unemployed, as a proportion of all workers, is higher for women than for men in all Southern Africa countries.⁷⁷ This is despite the fact that article 13 of the Maputo Protocol, States are obligated to adopt and enforce "...measures to guarantee women equal opportunities in work and career advancement and other economic opportunities."⁷⁸ Similarly, article 19 (1) of the SADC Protocol on Gender and Development (2016) urges States to provide equal access to employment opportunities for men and women.⁷⁹ In the Southern Africa region, the risk of unemployment is compounded for women with disabilities because they usually have less access to education and economic opportunities.⁸⁰ Even access to vocation training is problematic for girls with disabilities in all the countries in the region, which leads to a vicious circle of poverty, due to limited employment opportunities.⁸¹

For female workers that were able to get jobs in the formal sector, their ability to work and earn an income was severely curtailed, or they lost jobs due to COVID-19 and related measures. Reportedly, in 11 countries in Southern Africa, women and youth face high employment risk and vulnerability due to the shocks of COVID-19,⁸² with Angola, Zimbabwe and South Africa being

⁷⁵ Advancing Rights in Southern Africa (ARISA, "The Impact of COVID-19 on the Rights of Indigenous Peoples in Southern Africa", p 13. Available at: [12032020 ARISA Rights Southern Africa Report Impact COVID19 on IPRs.pdf \(freedomhouse.org\)](https://www.freedomhouse.org/report/2020/03/2020-arisa-rights-southern-africa-report-impact-covid19-on-iprs)

⁷⁶ Megan O'Donnell et al, "The Gendered Dimensions of Social Protection in the COVID-19 Context", *Center for Global Development*, Working Paper 576, April 2021, p10. Available at: [gender-social-protection-during-covid.pdf \(cgdev.org\)](https://www.cgdev.org/publication/gender-social-protection-during-covid)

⁷⁷ Nthabeleng Moshoeshe and Yu Baorong (2021). Economic Growth and Participation of Women in Labor Markets: The Case of Southern Africa. *International Journal of Science and Business*, 5(1), 30-41, p 31. Available at: [Economic Growth and Participation of Women in Labor Markets: The Case of Southern Africa \(repec.org\)](https://www.repec.org/publication/Economic-Growth-and-Participation-of-Women-in-Labor-Markets-The-Case-of-Southern-Africa)

⁷⁸ African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, July 11, 2003, article 13. Available at: <https://www.refworld.org/docid/3f4b139d4.html>

⁷⁹ Adopted Revised SADC Protocol on Gender and Development, 2016. Available at: [ADOPTED-REVISED-PROTOCOL-ON-GAD.pdf \(genderlinks.org.za\)](https://www.genderlinks.org.za/publications/ADOPTED-REVISED-PROTOCOL-ON-GAD.pdf)

⁸⁰ UN Women, "Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa", p 8. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/news/stories/2021/05/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

⁸¹ UN Women, "Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa", p 52. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/news/stories/2021/05/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

⁸² Joshua Rosenberg et al, "COVID-19 impact on SADC labour markets: Evidence from high-frequency data and other sources", *African Development Review*, Special Issue Article, May 5, 2021, p3. Available at: <https://doi.org/10.1111/1467-8268.12528>

among the worst affected.⁸³ Similarly, Comoros, the DRC and Madagascar face high risks of employment loss for women and youth due to COVID-19.⁸⁴ However, it has been argued that Namibia and Botswana's labour markets are the least affected by COVID-19.⁸⁵

Although more men than women lost their jobs due to the pandemic⁸⁶, generally, women experienced a steeper decline in employment in the region. For example, in South Africa, in April 2020, one month after the first COVID-19 case and nationwide lockdown, 36 percent of women were employed, a decline from 46 percent in February 2020. In contrast by April 2020, 54 percent of men were employed, compared to 59 percent in February 2020, representing a 5 percent decline in male employment statistics.⁸⁷

COVID-19 affected employment in the tourism industry globally and on the continent. In 2019, the tourism industry contributed to more than 10 percent of GDP of the following Southern Africa countries: Seychelles, Mauritius, Madagascar, Lesotho, Botswana, Tanzania, Namibia, and Comoros.⁸⁸ COVID-19 meant that countries had to close their borders to control the spread of the disease, which limited the number of foreign visitors, directly impacting job security, continuity, and availability, in the tourism sector. Economic shocks to tourism due to COVID-19, threaten women's livelihoods.⁸⁹ Across the world, women make up the majority of workers within the tourism industry,⁹⁰ comprising more than 50 percent of those employed in the accommodation and food services sectors.⁹¹ For example, Seychellois women were most affected by fewer jobs in the tourism sector, especially in accommodation and service.⁹²

Job losses in both the formal and informal sector generally led to a decline in women's income in the region. Reportedly, more than 60 percent of women and men in Malawi, Mozambique, and South Africa experienced a complete loss or decline in personal income due to COVID-19.⁹³ In

⁸³ Joshua Rosenberg et al, "C OVID-19 impact on SADC labour markets: Evidence from high-frequency data and other sources", African Development Review, Special Issue Article, May 5, 2021, p14. Available at: <https://doi.org/10.1111/1467-8268.12528>

⁸⁴ Joshua Rosenberg et al, "C OVID-19 impact on SADC labour markets: Evidence from high-frequency data and other sources", African Development Review, Special Issue Article, May 5, 2021, p14. Available at: <https://doi.org/10.1111/1467-8268.12528>

⁸⁵ Joshua Rosenberg et al, "C OVID-19 impact on SADC labour markets: Evidence from high-frequency data and other sources", African Development Review, Special Issue Article, May 5, 2021, p15. Available at: <https://doi.org/10.1111/1467-8268.12528>

⁸⁶ UN Women & UNFPA, "Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa", March 2021, p 14. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](https://reliefweb.int/document/458222/abridged-impact-of-covid-19-on-gender-equality-and-women-empowerment-in-east-and-southern-africa.pdf)

⁸⁷ Daniela Casale, Dorrit Posel, "Gender inequality and the COVID-19 crisis: Evidence from a large national survey during South Africa's lockdown", Research in Social Stratification and Mobility, Volume 71, 2021, p2. Available at: <https://www.sciencedirect.com/science/article/pii/S0276562420301050>

⁸⁸ OECD, "COVID-19 and Africa: Socio-economic implications and policy responses", May 7, 2020, p9. Available at: [COVID-19 and Africa: Socio-economic implications and policy responses \(oecd.org\)](https://www.oecd.org/coronavirus/policy-responses/covid-19-and-africa-socio-economic-implications-and-policy-responses/)

⁸⁹ UN Women & UNFPA, "Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa", March 2021, p 16. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](https://reliefweb.int/document/458222/abridged-impact-of-covid-19-on-gender-equality-and-women-empowerment-in-east-and-southern-africa.pdf)

⁹⁰ Simonetta Zarrilli & Nursel Aydiner-Avsar, "COVID-19 puts women working in SIDS tourism industry at risk", UNCTAD, May 13, 2020. Available at: [COVID-19 puts women working in SIDS tourism industry at risk | CNUCED \(unctad.org\)](https://unctad.org/en/PublicationLibrary/covid-19-puts-women-working-in-sids-tourism-industry-at-risk.aspx)

⁹¹ Simonetta Zarrilli & Nursel Aydiner-Avsar, "COVID-19 puts women working in SIDS tourism industry at risk", UNCTAD, May 13, 2020. Available at: [COVID-19 puts women working in SIDS tourism industry at risk | CNUCED \(unctad.org\)](https://unctad.org/en/PublicationLibrary/covid-19-puts-women-working-in-sids-tourism-industry-at-risk.aspx)

⁹² UNDP, "An Assessment of the Socio-Economic Impact of Covid-19 in Seychelles", December 2020, p 41.

⁹³ UN Women & UNFPA, "Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa", March 2021, p 14. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](https://reliefweb.int/document/458222/abridged-impact-of-covid-19-on-gender-equality-and-women-empowerment-in-east-and-southern-africa.pdf)

June 2020, over 64 percent of households in Madagascar, reported that their incomes had decreased significantly.⁹⁴

Increased incidence of gender-based violence

The inability to work, coupled with little to no social safety nets, not only robbed women of the ability to earn an independent source of income, but exacerbated financial stress, which when coupled with confinement to their homes during a time of hardship, increased the risk of gender-based violence.⁹⁵ In Zimbabwe, “90 percent of calls to national hotlines between March 30th and May 30th 2020 were related to intimate partner violence.”⁹⁶ Nine days into South Africa’s lockdown, police had recorded over 2,300 gender-based violence cases.⁹⁷ In Namibia’s Omaheke region, San farm labourers reported an increase in domestic violence after many of the workers were dismissed without pay, leading to increased pressure and frustration.⁹⁸

The Special Rapporteur on the Rights of Women in Africa has stated that States should provide alternative accommodation for victims of gender-based violence and ensure that female victims can access the necessary counselling services.⁹⁹ Studies have shown that cash-based interventions (CBIs) for women may result in a reduction in “...poverty related stressors, improving the overall emotional wellbeing of household members”, and thus reducing the incidence of intimate partner violence (IPV).¹⁰⁰ CBIs can give women “the self-sufficiency to manage or influence expenditure or leave the relationship.”¹⁰¹ Although in some cases, providing women with CBIs can also create intra household conflict resulting in an increase in emotional abuse, where the woman’s partner, “...seeks other, less conspicuous ways to either channel frustration or to influence how the money is spent.”¹⁰² Overall, the majority of evidence points to a decline in physical and emotional abuse in general where CBI’s are provided.¹⁰³ In terms of the Maputo Protocol and the SADC Treaty on Gender, SADC States should ensure they put in place the necessary protection measures to protect women from economic and job losses, and from the increased threat of gender-based violence that ensues.

⁹⁴ See: [Everything you need to know about human rights in Madagascar | Amnesty International | Amnesty International](#), 2020.

⁹⁵ United Nations Economic Commission for Africa, “Facilitating cross-border trade through a coordinated African response to COVID-19”, July 2020, p 8.

⁹⁶ UN Women & UNFPA, “Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa”, March 2021, p 38. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](#)

⁹⁷ Amnesty International, “Treated like Furniture Gender-based violence and COVID-19 Response in Southern Africa”, 2021, p 14. Available at: [Southern Africa: Treated like furniture \(amnesty.org\)](#)

⁹⁸ Advancing Rights in Southern Africa (ARISA), “The Impact of COVID-19 on the Rights of Indigenous Peoples in Southern Africa”, p 12. Available at: [12032020_ARISA_Rights_Southern_Africa_Report_Impact_COVID19_on_IPRs.pdf \(freedomhouse.org\)](#)

⁹⁹ African Commission, “Press Release of the Special Rapporteur on the Rights of Women in Africa on violation of women’s rights during the COVID-19 pandemic”. Available at: [African Commission on Human and Peoples’ Rights Pressrelease \(achpr.org\)](#)

¹⁰⁰ Claire A. Simon, “The effect of cash-based interventions on gender outcomes in development and humanitarian settings”, UN Women Discussion Paper No. 31, November 2019, p 8. Available at: [discussion-paper-effect-of-cash-based-interventions-on-gender-outcomes-en.pdf \(unwomen.org\)](#)

¹⁰¹ Claire A. Simon, “The effect of cash-based interventions on gender outcomes in development and humanitarian settings”, UN Women Discussion Paper No. 31, November 2019, p 9. Available at: [discussion-paper-effect-of-cash-based-interventions-on-gender-outcomes-en.pdf \(unwomen.org\)](#)

¹⁰² Claire A. Simon, “The effect of cash-based interventions on gender outcomes in development and humanitarian settings”, UN Women Discussion Paper No. 31, November 2019, p 11. Available at: [discussion-paper-effect-of-cash-based-interventions-on-gender-outcomes-en.pdf \(unwomen.org\)](#)

¹⁰³ Claire A. Simon, “The effect of cash-based interventions on gender outcomes in development and humanitarian settings”, UN Women Discussion Paper No. 31, November 2019, p 9. Available at: [discussion-paper-effect-of-cash-based-interventions-on-gender-outcomes-en.pdf \(unwomen.org\)](#)

Increased burden of care work

In addition to an increase in incidence of gender-based violence, women also experienced an increase in work related to their gender roles. An already heavy burden of unpaid care work became unbearable for many women due to closure of schools and day care centres as part of COVID-19 lockdown measures.¹⁰⁴ Due to child care primarily falling on women in most households in the region, more women were forced to leave their work or combine work with child care.¹⁰⁵ A survey of young women living in urban areas across countries including South Africa found that “...71 percent of respondents reported increased domestic work during lockdown measures, with 46 percent reporting an additional two to four hours of work, and 31 percent reporting more than four hours of additional work.”¹⁰⁶ It is the responsibility of Southern Africa States to not only recognize the value of unpaid care work and domestic work, but to put in place public services and social protections for women that engage in this type of work.¹⁰⁷

The burden of unpaid domestic work was already heavy for women and girls living with disabilities in the Southern Africa region. Prior to the onset of COVID-19, the UN reported that many women and girls with disabilities were already being exploited by family members as unpaid domestic workers.¹⁰⁸ Due to these circumstances, COVID-19 and stay-at-home orders are likely to have exponentially increased the burden of unpaid domestic work for women and girls with disabilities.

(iii) Women with Disabilities

Article 27 of the CRPD provides for the right to work for PWDs and obliges States to “promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment”.¹⁰⁹ According to UN Women, discrimination against women and girls with disabilities characterizes all the countries in the Southern Africa region.¹¹⁰

This discrimination is across all sectors including labour. In Tanzania for example, 72.3 percent of the households under the management of PWDs rely on subsistence farming as the primary source of income.¹¹¹ In Zimbabwe only 2 percent of PWDs are employed in the public sector, and

¹⁰⁴ UN Women & UNFPA, “Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa”, March 2021, p 12. Available at: [abridged_-_impact_of_covid-19_on_gender_equality_and_women_empowerment_in_east_and_southern_africa.pdf \(reliefweb.int\)](#)

¹⁰⁵ Sun, C and Russel L, ‘The Impact of COVID-19 childcare closures and women’s labour supply’ January 22, 2021. Available at: <https://voxeu.org/article/impact-covid-19-childcare-closures-and-women-s-labour-supply>

¹⁰⁶ Megan O’Donnell et al, “The Gendered Dimensions of Social Protection in the COVID-19 Context”, *Center for Global Development*, Working Paper 576, April 2021, p9. Available at: [gender-social-protection-during-covid.pdf \(cgdev.org\)](#)

¹⁰⁷ Agreement Amending the SADC Protocol on Gender and Development, Article 16(a). Available at: [file.html \(tralac.org\)](#)

¹⁰⁸ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p 42. Available at: [mapping_of_discrimination_against_women_and_girls_with_disability-web.pdf \(unwomen.org\)](#)

¹⁰⁹ UN General Assembly, *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly*, January 24, 2007, A/RES/61/106, article 27 (1) (e). Available at: <https://www.refworld.org/docid/45f973632.html>

¹¹⁰ UN Women, “Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa”, p xxii. Available at: [Impact_of_COVID-19_on_Gender_Equality_and_Women’s_Empowerment_in_East_and_Southern_Africa.pdf \(reliefweb.int\)](#)

¹¹¹ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p 20. Available at: [mapping_of_discrimination_against_women_and_girls_with_disability-web.pdf \(unwomen.org\)](#)

less than 7 percent are in employment.¹¹² A majority of PWDs in Southern Africa are employed in the informal sector and were unable to work, resulting in a decline in income generating activities due to COVID-19 restrictions.¹¹³ In Eswatini, 83.7 percent of PWDs are economically passive due to COVID-19.¹¹⁴ In Zimbabwe PWDs experienced a 50 percent decline in income due to COVID-19 movement restrictions and a ban on informal activities.¹¹⁵

“Poverty, gender, and disability is interconnected”.¹¹⁶ Globally, the World Health Organization found that, the rate of employment for men with disabilities was 52.8 per cent, while for women with disabilities, the employment rate stood at 29.9 per cent.¹¹⁷ In Southern Africa, women with disabilities constitute the poorest of the poor¹¹⁸, and have less access to economic opportunities.¹¹⁹ Challenges related to mobility, assistive devices and education make entry into the labour force difficult for women with disabilities, whose inequity is exacerbated by the intersection of their gender and disability.¹²⁰ Resultantly, women with disabilities are more likely to face gender-based violence in Southern Africa.¹²¹ In Zimbabwe, 19.1 percent of women with disabilities surveyed, reported experiencing physical and sexual violence during the lockdown period, including abuse from a spouse over shortages of food and money in the household.¹²²

In addition, the majority of PWD’s faced challenges in accessing food due to the closure of many informal enterprises during COVID-19 lockdowns. Women with disabilities in Malawi reported that increases in bus fares had a significant impact on their ability to access food stores.¹²³ In Zimbabwe, PWDs who previously enjoyed at least three meals a day prior to the pandemic could barely afford two meals a day due to reduced income resulting from COVID-19 related restrictions on the informal economy.¹²⁴ In Eswatini, transport operators would not allow PWD’s

¹¹² UNESCO, “Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe”, Nov 10, 2020, p 5. Available at: [Rapid impact assessment of COVID-19 on persons with disabilities in Zimbabwe - UNESCO Digital Library](#)

¹¹³ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p 20. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹¹⁴ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p 20. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹¹⁵ UNESCO, “Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe”, Nov 10, 2020, p1. Available at: [Rapid impact assessment of COVID-19 on persons with disabilities in Zimbabwe - UNESCO Digital Library](#)

¹¹⁶ UN Women, “Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa”,p XXI. Available at: [Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa.pdf \(reliefweb.int\)](#)

¹¹⁷ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p 20. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹¹⁸ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p VIII. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹¹⁹ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p VIII. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹²⁰ United Nations, “Policy Brief: Disability Inclusive Response to COVID-19”, May 2020, p 6. Available at: [sg-policy-brief-on-persons-with-disabilities-final.pdf \(who.int\)](#)

¹²¹ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p VIII. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹²² UNESCO, “Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe”, Nov 10, 2020, p14. Available at: [Rapid impact assessment of COVID-19 on persons with disabilities in Zimbabwe - UNESCO Digital Library](#)

¹²³ Women Enabled International, “COVID-19 at the Intersection of Gender and Disability Findings of a Global Human Rights Survey, March to April 2020”, May 2020, p 15. Available at: [COVID-19 at the Intersection of Gender and Disability Women Enabled International May 2020](#)

¹²⁴ Garnder & Manikai, “Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe”, November 10, 2020, ILO, p 13. Available at:

to board their buses, because they carried a limited number of passengers and did not want to allocate seats to people who did not pay bus fare.¹²⁵

In upholding the rights of women with disabilities, Southern Africa States have a responsibility to create inclusive public health measures that take into account their lived realities, and their rights as women and PWDs.

(iv) Lesbian Gay Bisexual Trans Intersex Queer Persons (LGBT+)

Life during lockdown introduced hardship to undocumented LGBT+ persons because they could no longer work in “the informal trades that had sustained them, including restaurants, bars, or sex work.”¹²⁶ In South Africa, in May 2020, undocumented African LGBT+ persons who fled persecution in their countries of origin were ineligible to access food packs and social grants provided by the government, because they do not have South African identity cards and social security cards.¹²⁷

Due to widespread cultural taboos and discrimination against LGBT+ persons in the region, many faced the threat of homelessness, from the violence and rejection from families and communities, coupled with their exclusion from many State sponsored COVID- 19 related social programs. In Tanzania, one LGBT+ activist reported that being at home all day with a family that did not accept one’s sexuality exposed sexual minorities to potential eviction. He noted, some LGBT+ Tanzanians reported that they had been kicked out, and told by their families, “ ...you cannot stay here at home if you are not working and gone all day.”¹²⁸ When LGBT+ persons are kicked out of their homes by families, they are often able to get alternative accommodation in shelters and private homes, but constant raids and attacks by State security forces and communities, further violate their right to housing. For example, in Tanzania, private homes and shelters that provided housing to groups of LGBT+ persons were often attacked by community members who accused them of spreading COVID-19.¹²⁹ In Zanzibar, the police targeted, raided, and searched more than 30 houses known to be occupied by LGBT+ persons, under the guise of enforcing social distancing measures.¹³⁰

¹²⁵ Siphso Dlamini, “FODSWA Assesses COVID-19 Impact on PWDs in Eswatini”, November 22, 2020. Available at: [FODSWA Assesses COVID-19 Impact on PWDs in Eswatini – COVID-19 Inclusive Response \(safod.net\)](https://www.fodswa.org/2020/11/22/fodswa-assesses-covid-19-impact-on-pwds-in-eswatini/)

¹²⁶ Human Rights Watch, “South Africa: End bias in food aid. Refugees, Asylum Seekers excluded; Face starvation”, May 20, 2020. Available at: [South Africa: End Bias in Covid-19 Food Aid | Human Rights Watch \(hrw.org\)](https://www.hrw.org/news/2020/05/20/south-africa-end-bias-in-covid-19-food-aid)

¹²⁷ Human Rights Watch, “South Africa: End bias in food aid. Refugees, Asylum Seekers excluded; Face starvation”, May 20, 2020. Available at: [South Africa: End Bias in Covid-19 Food Aid | Human Rights Watch \(hrw.org\)](https://www.hrw.org/news/2020/05/20/south-africa-end-bias-in-covid-19-food-aid)

¹²⁸ Frontline Defenders, “LGBTIQ+ and Sex Workers Rights Defenders at risk during COVID-19”, December 2020, p 15. Available at: [front_line_defenders_covid-19.pdf \(frontlinedefenders.org\)](https://www.frontlinedefenders.org/en/front-line-defenders-covid-19.pdf)

¹²⁹ Frontline Defenders, “LGBTIQ+ and Sex Workers Rights Defenders at risk during COVID-19”, December 2020, p 15. Available at: [front_line_defenders_covid-19.pdf \(frontlinedefenders.org\)](https://www.frontlinedefenders.org/en/front-line-defenders-covid-19.pdf)

¹³⁰ Frontline Defenders, “LGBTIQ+ and Sex Workers Rights Defenders at risk during COVID-19”, December 2020, p 23. Available at: [front_line_defenders_covid-19.pdf \(frontlinedefenders.org\)](https://www.frontlinedefenders.org/en/front-line-defenders-covid-19.pdf)

2. Right to Health

The ACHPR and CESCRC provides the right to the highest attainable standard of physical and mental health for all.¹³¹ The right includes access to timely and appropriate health care and to health-related education and information, including on sexual and reproductive health. “A further important aspect is the participation of the population in all health-related decision-making.”¹³² The Protocol on Health in the Southern Africa Development Community (SADC Health Protocol) recognizes that a healthy population is a prerequisite for sustainable development and has various provisions that recognize the right to health for women, PWDs and children, among other vulnerable groups.¹³³ Due to increasing domestic violence and a lack of access to reproductive health services, women, women with disabilities, and LGBT+ persons suffered violations of the right to health during the pandemic.

(ii) Women

As the national health infrastructure of many Southern Africa nations braced for the impact of COVID-19, basic health services were curtailed, hospital resources and personnel were redirected to tackling the pandemic, impacting the quality and availability of maternal health services.

The right to health for women includes the right to control one’s health and body, including sexual and reproductive freedom.¹³⁴ Thus article 14 of the Maputo Protocol protects women’s reproductive health rights, and legally obliges States to ensure they protect women’s rights to control their fertility, and provide accessible pre-natal, delivery and post-natal health services.

Regionally however, COVID-19 measures led to a 68 percent disruption to family planning and contraception health services.¹³⁵ For example, in Namibia, contraceptives ran out during the lockdown, resulting in an increase in teenage pregnancies.¹³⁶ The situation of access to contraception during the pandemic was likely to be more pronounced for women with disabilities due to historic exclusions. A study in Tanzania found that women with disabilities are generally more likely to be refused access to sexual and reproductive health services.¹³⁷

A decline in access to sexual and reproductive health services was accompanied by a similar decline in access to maternal health services. In Zambia and Zimbabwe, there were large

¹³¹ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, June 27, 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), article 16 (1). Available at: <https://www.refworld.org/docid/3ae6b3630.html>. See also: UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, December 16, 1966, United Nations, Treaty Series, vol. 993, p. 3, Article 24. Available at: <https://www.refworld.org/docid/3ae6b36c0.html>

¹³² UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, August 11, 2000, E/C.12/2000/4, para 11. Available at: <https://www.refworld.org/docid/4538838d0.html>

¹³³ Protocol on Health in the Southern African Development Community (1999). Available at: [Protocol on Health1999.pdf \(sadc.int\)](https://www.sadc.int/Protocol%20on%20Health1999.pdf)

¹³⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, August 11, 2000, E/C.12/2000/4, para 8. Available at: <https://www.refworld.org/docid/4538838d0.html>

¹³⁵ SADC, “SADC Regional Response to COVID-19 Pandemic with focus on Health, Law Enforcement and Security; and Food, Nutrition Security and Livelihoods Sectors”, Bulletin No. 14,

¹³⁶ Freedom House, “The Impact of COVID-19 on the Rights of Indigenous Peoples in Southern Africa”, 2020, p 12. Available at: [COVID-19 & the Rights of Indigenous Peoples in Southern Africa | Freedom House](https://www.freedomhouse.org/report/2020/06/01/indigenous-peoples-southern-africa)

¹³⁷ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, p 37. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/news/stories/2020/06/mapping-of-discrimination-against-women-and-girls-with-disability-web.pdf)

disruptions in facility deliveries in 2020 compared to 2019, with increased maternal deaths of 28 percent in Botswana, and 18 percent in Mozambique.¹³⁸ In Zimbabwe, there were reports of “...hospitals’ unwillingness to attend to pregnant women due to inadequate personal protective equipment, compelling women to resort to home deliveries.”¹³⁹ In addition, in Zimbabwe, there was also cancellation of antenatal, childbirth and post-partum care.¹⁴⁰ Infant mortality also increased in Malawi and Zambia.¹⁴¹

Restrictions on public transport due to the pandemic, greatly affected women’s access to maternal health services. In Zimbabwe, the government banned informal public transport operators during lockdown, with the government owned bus service company, Zimbabwe United Passenger Company (ZUPCO,) designated as the only authorized provider of transportation. The result was that in rural areas without ZUPCO buses, pregnant women did not have transport to get to health centres.¹⁴² Additionally, “Authorisation or exemption letters required for passage through police-staffed roadblocks were affecting pregnant women’s ability to travel. Those whose letters were deemed unsatisfactory were turned back and were unable to reach hospitals.”¹⁴³ In other parts of Southern Africa, such as the Comoros and South Africa, the WHO reported an increased number of maternal deaths due to challenges with COVID-19 restrictions, which made it harder for pregnant women to get to health care centres.¹⁴⁴

Female health care workers also suffered the brunt of COVID-19 infections. In the Seychelles, women accounted for 71 percent of healthcare worker COVID-19 infections, while in Eswatini, females accounted for 64 percent of the population of healthcare workers who tested positive for COVID-19.¹⁴⁵ In addition to the increased incidence of COVID-19 infection, female essential services workers, including public health workers suffered risk of gender-based violence due to the reduced availability of public transportation. In Mozambique, a Maputo Central Hospital worker was raped on her way from her work.¹⁴⁶ Reportedly, “She was on her way home, late at night because of the scarcity of public transport during the state of emergency restrictions.”¹⁴⁷

¹³⁸ UN Women & UNFPA, “Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa”, March 2021, p 33. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](#)

¹³⁹ Amnesty International, “I never thought I could get healed from this’: Barriers to Treatment and human rights abuses of women and girls with obstetric fistula in Zimbabwe”, 2021, p23. Available at: [Zimbabwe: "I never thought I could get healed from this" \(justice.gov\)](#)

¹⁴⁰ Amnesty International, “ ‘I never thought I could get healed from this’: Barriers to Treatment and human rights abuses of women and girls with obstetric fistula in Zimbabwe”, 2021, p22. Available at: [Zimbabwe: "I never thought I could get healed from this" \(justice.gov\)](#)

¹⁴¹ UN Women & UNFPA, “Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa”, March 2021, p 33. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](#)

¹⁴² Amnesty International, “Treated like Furniture Gender-based violence and COVID-19 Response in Southern Africa”, 2021, p 33. Available at: [Southern Africa: Treated like furniture \(amnesty.org\)](#)

¹⁴³ Amnesty International, “Treated like Furniture Gender-based violence and COVID-19 Response in Southern Africa”, 2021, p 33. Available at: [Southern Africa: Treated like furniture \(amnesty.org\)](#)

¹⁴⁴ WHO, “Fewer COVID-19 cases among women in Africa: WHO analysis”, March 4, 2021. Available at: [Fewer COVID-19 cases among women in Africa: WHO analysis | WHO | Regional Office for Africa](#)

¹⁴⁵ WHO, “Fewer COVID-19 cases among women in Africa: WHO analysis”, March 4, 2021. Available at: [Fewer COVID-19 cases among women in Africa: WHO analysis | WHO | Regional Office for Africa](#)

¹⁴⁶ Amnesty International, “Treated like Furniture Gender-based violence and COVID-19 Response in Southern Africa”, 2021, p 17. Available at: [Southern Africa: Treated like furniture \(amnesty.org\)](#)

¹⁴⁷ Amnesty International, “Treated like Furniture Gender-based violence and COVID-19 Response in Southern Africa”, 2021, p 17. Available at: [Southern Africa: Treated like furniture \(amnesty.org\)](#)

While travel during COVID-19 created risks for women, confinement to the home also negatively impacted women and girls' physical and mental health. Women and girls experienced increased sexual violence, forced and early marriages. In Mozambique calls to the Child Helpline related to child marriages, abuse and neglect, doubled from January to April 2020, compared to the same period in the previous year.¹⁴⁸ Similarly in Malawi there was a 150 percent surge in calls to Child helpline regarding child rape under the lockdown period, compared to 2019.¹⁴⁹ Children with disabilities, suffer a greater risk of sexual abuse. For example, before the pandemic, a study in Zimbabwe found that "...87.4 percent of girls with disabilities had been sexually abused."¹⁵⁰ Thus being confined at home with abusers created an extremely harmful environment for girls with disabilities.

COVID-19 only served to deepen existing disparities in care for women with disabilities compared to women without disabilities. Pre-pandemic, the UN highlighted the intersection between gender and disability, stating, "The consequences of deficiencies and disablement are particularly serious for women. There are a great many countries where women are subject to social, cultural, and economic disadvantages, which impede their access to ...health"¹⁵¹

(ii) Women with Disabilities

Before COVID-19, women with disabilities, had greater unmet health needs, "and reduced access to health information, screening, prevention, and care services in the realm of sexual and reproductive health", compared to other women.¹⁵² Thus, they were more severely impacted by the general lack of access to sexual reproductive health services due to COVID-19.

Women and girls with disabilities have also experienced increased incidence of gender-based violence due to stay-at-home measures. A study surveying women with disabilities in Zimbabwe found that, 19.1 percent of the respondents reported facing gender-based violence, and verbal, physical and emotional abuse, during the lockdown period.¹⁵³ States parties have an obligation to provide access for PWDs to health services that are gender-sensitive according to article 25 of the

¹⁴⁸ UN Women & UNFPA, "Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa", March 2021, p 32. Available at: [abridged_-_impact_of_covid-19_on_gender_equality_and_women_empowerment_in_east_and_southern_africa.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/abridged_-_impact_of_covid-19_on_gender_equality_and_women_empowerment_in_east_and_southern_africa.pdf) (reliefweb.int)

¹⁴⁹ UNICEF, "COVID-19: A Catastrophe for Children in Sub-Saharan Africa", Nov 2020, p 23. Available at: [COVID-19-A Catastrophe-for-Children-in-SSA.pdf](https://www.unicef.org/press-releases/2020/11/17/covid-19-a-catastrophe-for-children-in-ssa) ([unicef.org](https://www.unicef.org))

¹⁵⁰ UN Women, "Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa", p 37. Available at: [mapping_of_discrimination_against_women_and_girls_with_disability-web.pdf](https://www.unwomen.org/en/digital-library/publications/2020/11/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa) ([unwomen.org](https://www.unwomen.org))

¹⁵¹ UN Women, "Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa", p 24. Available at: [mapping_of_discrimination_against_women_and_girls_with_disability-web.pdf](https://www.unwomen.org/en/digital-library/publications/2020/11/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa) ([unwomen.org](https://www.unwomen.org))

¹⁵² Xanthe Hunt, Mark T Carew, Stine Hellum Braathen, Leslie Swartz, Mussa Chiwaula & Poul Rohleder (2017), "The sexual and reproductive rights and benefit derived from sexual and reproductive health services of people with physical disabilities in South Africa: beliefs of non-disabled people", *Reproductive Health Matters*, 25:50, 66-79, p 68. Available at: [The sexual and reproductive rights and benefit derived from sexual and reproductive health services](https://www.tandfonline.com/doi/full/10.1080/14747059.2017.1380000) ([tandfonline.com](https://www.tandfonline.com))

¹⁵³ UNESCO, "Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe", November 10, 2020, p 13.

CRPD. In Eswatini, PWDs were not getting their medicine for HIV, TB, diabetes and other chronic diseases due to the lockdown.¹⁵⁴

The lived reality of PWDs are often overlooked by governments in devising and implementing measures to control COVID-19, resulting in rights violations. The SADC Protocol on Health obliges States to create a barrier free environment for the equalization of opportunities for PWDs in the area of health.¹⁵⁵

The right to health includes access to information necessary to prevent diseases.¹⁵⁶ Although countries in Southern Africa made efforts to widely disseminate information on COVID-19 to citizens, many PWDs were unable to access this information, because by December 2020, preventative and safety information related to COVID-19 was not widely available in formats such as Braille, sign language, large text, etc.¹⁵⁷ Similarly, periodic COVID-19 updates provided by governments did not include brailled information and there was no sign language interpretation to ensure the visual and hearing impaired people could also access information.¹⁵⁸ Due to socio-political and economic inequalities women and girls with disabilities generally have lower levels of education, and are more likely to be illiterate¹⁵⁹, which limits their ability to access vital health information.

In addition to inaccessible information formats, some health guidelines and attendant products for citizens to use in COVID-19 prevention were not designed in a manner that is inclusive of the circumstances of PWDs. For example, in Botswana, public washing spots were placed too high for persons that use wheelchairs, making it difficult for PWDs to reach them, and be able to comply with frequent handwashing directives.¹⁶⁰ Alcohol based hand sanitizers, which were encouraged for use in many public spaces in Southern Africa countries, are harmful to the delicate skin of people living with albinism. For example, in Zimbabwe a woman living with albinism was refused entry into a shop because she refused to use the alcohol based hand sanitizer.¹⁶¹ Additionally, “regulations related to social distancing hinder those who need and depend on assistants to get around.”¹⁶² Similarly mask wearing has made it difficult for those with hearing impairments to lip

¹⁵⁴ Siphso Dlamini, “FODSWA Assesses COVID-19 Impact on PWDs in Eswatini”, November 22, 2020. Available at: [FODSWA Assesses COVID-19 Impact on PWDs in Eswatini – COVID-19 Inclusive Response \(safod.net\)](#)

¹⁵⁵ Protocol on Health in the Southern African Development Community (1999), Article 15 (b). Available at: [Protocol on Health1999.pdf \(sadc.int\)](#)

¹⁵⁶ See: [OHCHR | OHCHR and the right to health](#)

¹⁵⁷ Southern Africa Federation of the Disabled, “COVID-19 Response Strategy for Persons with Disabilities in Southern Africa”, April 13, 2020, p 6. Available at: [SAFOD-Covid-Response-April20\(2\).pdf](#)

¹⁵⁸ Refilwe A. Monnakgosi, “The Plight of COVID-19 on PWDs: Lessons from the SAFODs virtual Training”, November 20, 2020. Available at: [The Plight of COVID-19 on PWDs: Lessons from the SAFOD’s Virtual Training – COVID-19 Inclusive Response](#)

¹⁵⁹ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, 2020, p9. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹⁶⁰ Refilwe A. Monnakgosi, “The Plight of COVID-19 on PWDs: Lessons from the SAFOD’s Virtual Training”, November 20, 2020. Available at: [The Plight of COVID-19 on PWDs: Lessons from the SAFOD’s Virtual Training – COVID-19 Inclusive Response](#)

¹⁶¹ Refilwe A. Monnakgosi, “The Plight of COVID-19 on PWDs: Lessons from the SAFOD’s Virtual Training”, November 20, 2020. Available at: [The Plight of COVID-19 on PWDs: Lessons from the SAFOD’s Virtual Training – COVID-19 Inclusive Response](#)

¹⁶² Refilwe A. Monnakgosi, “The Plight of COVID-19 on PWDs: Lessons from the SAFOD’s Virtual Training”, November 20, 2020. Available at: [The Plight of COVID-19 on PWDs: Lessons from the SAFOD’s Virtual Training – COVID-19 Inclusive Response](#)

read where important health information is being communicated verbally and with no sign language interpretation.¹⁶³

Stay-at-home orders negatively impacted the mental health of PWDs leading to mental stress because of idleness, and the inability to generate money for family upkeep.¹⁶⁴ In formulating public health measures, governments in Southern Africa should include PWD's and women with disabilities in the decision-making process.

(iii) Lesbian Gay Bisexual Trans Intersex Queer Persons (LGBT+)

At the SADC level and within the African human rights system, there are no formal broad protections for sexual minorities. The UN Human Rights Council has passed a number of key resolutions reaffirming the equality and dignity of all human beings regardless of sexual orientation and gender identity.¹⁶⁵ Even within the UN system, cultural and religious beliefs of various countries have played a key role in the lack of consensus on the human rights of LGBT+ persons globally. The most recent resolution of the Human Rights Council on sexual orientation and gender identity acknowledged the dilemma thus, “the present resolution should be implemented while ensuring respect for the sovereign right of each country as well as its national laws, development priorities, the various religious and ethical values and cultural backgrounds of its people...”¹⁶⁶

The UN Secretary General noted that during the COVID-19 crisis, States, “have an obligation to ensure everyone is protected and included in the response to this crisis.”¹⁶⁷ LGBT+ persons experienced violations of their right to health due to lockdown measures, restrictions on movement and social distancing measures designed to address the public health emergency. Members of the LGBT+ community faced difficulties or were unable to make the necessary trips to access specialized health services. Mainstream hospitals and clinics remained open, while LGBT+ focused health centres were forced to close. LGBT+ persons often experience denial of care, misgendering and trauma in mainstream public health centres, which forces them to rely on specialized health centres to serve members of the community.¹⁶⁸ For example, in Zimbabwe where trans health care is often limited to big cities, the combination of travel restrictions and the

¹⁶³ Kevin Munro, “Face masks are a challenge for people with hearing difficulties”, *The Conversation*, April 30, 2020. Available at: [Face masks are a challenge for people with hearing difficulties \(theconversation.com\)](https://www.theconversation.com/face-masks-are-a-challenge-for-people-with-hearing-difficulties)

¹⁶⁴ UNESCO, “Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe”, November 10, 2020, p 18.

¹⁶⁵ Resolution adopted by the Human Rights Council, “Human rights, sexual orientation and gender identity”, A/ HRC/RES/27/32, October 2, 2014. Available at: [Human Rights Documents \(ohchr.org\)](https://www.ohchr.org/en/huridocda/huridoca.aspx?doc=/res/res_a/hrc/res_27/32) See also: Resolution adopted by the Human Rights Council, “Human rights, sexual orientation and gender identity”, /HRC/RES/17/19, July 14, 2011. Available at: [Human Rights Documents \(ohchr.org\)](https://www.ohchr.org/en/huridocda/huridoca.aspx?doc=/res/res_a/hrc/res_17/19)

¹⁶⁶ Resolution adopted by the Human Rights Council on 30 June 2016, “Protection against violence and discrimination based on sexual orientation and gender identity”, A/ HRC/RES/32/2, July 15, 2016, preamble. Available at: [United Nations Official Document](https://www.un.org/en/development/desa/secretariat/human-rights-council/resolutions/2016-06-30-32-2.html)

¹⁶⁷ UN, “COVID-19 and Human Rights We are all in this together”, April 2020, p 3. Available at: [UN-SG-Policy-Brief-Human-Rights-and-COVID-23-April-2020.pdf](https://www.un.org/en/development/desa/secretariat/human-rights-council/resolutions/2020-04-23-23.html)

¹⁶⁸ Frontline Defenders, “LGBTIQ+ and Sex Workers Rights Defenders at risk during COVID-19”, December 2020, p 25. Available at: [front_line_defenders_covid-19.pdf \(frontlinedefenders.org\)](https://www.frontlinedefenders.org/en/covid-19)

heavy presence of soldiers to enforce lockdown measures, made it more difficult for trans people to access services.¹⁶⁹

Additionally, the indefinite closure of international borders within the region, denied trans individuals' access to Hormone Replacement Therapy (HRT) for months at a time, leading to physical changes to their bodies, which in some cases led to depression and other mental health challenges.¹⁷⁰ One Zimbabwean transwoman was unable to access her HRT in Botswana for five months due to border closures related to COVID-19 control.¹⁷¹ Southern Africa countries need to devise inclusive public health emergency protocols that recognize the importance of specialised services for the respect of the right to health for sexual minorities.

(iv) Children

The pandemic impacted children's access to healthcare, medicine, and medical supplies. In Zimbabwe, routine immunizations declined from 90 percent in December 2019 to less than 60 percent at the end of June 2020.¹⁷²

3. Right to education

Article 11 of the African Charter on The Rights and Welfare of Children (African Charter on Children) provides the right of equal access to education¹⁷³ for all children.

(i) Children

The right to education for girls was severely curtailed by the imposition of stay-at-home orders as children were forced to engage in harmful child labour practices. The African Charter on Children¹⁷⁴ prohibits child labour, which is defined as, "... all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development."¹⁷⁵

Due to the increased burden of household work, girls were more likely than boys to experience increased unpaid domestic work and chores, which would curtail the time spent on schoolwork, compromising their right to education. In addition, "Girls are also often expected to take on

¹⁶⁹ Frontline Defenders, "LGBTIQ+ and Sex Workers Rights Defenders at risk during COVID-19", December 2020, p 25. Available at: [front_line_defenders_covid-19.pdf \(frontlinedefenders.org\)](https://www.frontlinedefenders.org/en/front_line_defenders_covid-19.pdf)

¹⁷⁰ Frontline Defenders, "LGBTIQ+ and Sex Workers Rights Defenders at risk during COVID-19", December 2020, p 25. Available at: [front_line_defenders_covid-19.pdf \(frontlinedefenders.org\)](https://www.frontlinedefenders.org/en/front_line_defenders_covid-19.pdf)

¹⁷¹ Frontline Defenders, "LGBTIQ+ and Sex Workers Rights Defenders at risk during COVID-19", December 2020, p 28. Available at: [front_line_defenders_covid-19.pdf \(frontlinedefenders.org\)](https://www.frontlinedefenders.org/en/front_line_defenders_covid-19.pdf)

¹⁷² UNICEF, "COVID-19: A Catastrophe for Children in Sub-Saharan Africa", Nov 2020, p 22. Available at: [COVID-19-A Catastrophe-for-Children-in-SSA.pdf \(unicef.org\)](https://www.unicef.org/africa/stories/2020/11/17/covid-19-a-catastrophe-for-children-in-ssa.pdf)

¹⁷³ Organization of African Unity (OAU), *African Charter on the Rights and Welfare of the Child*, July 11, 1990, CAB/LEG/24.9/49 (1990), article 11(3)(e). Available at: <https://www.refworld.org/docid/3ae6b38c18.html> Available at: [achpr_instr_charterchild_eng.pdf](https://www.achpr.org/instr/charterchild_eng.pdf)

¹⁷⁴ Organization of African Unity (OAU), *African Charter on the Rights and Welfare of the Child*, 11 July 1990, CAB/LEG/24.9/49 (1990), available at: <https://www.refworld.org/docid/3ae6b38c18.html>. Article 15.

¹⁷⁵ Ibid see article 15(1).

childcare responsibilities ...and have to act as teachers for the younger children.”¹⁷⁶ The burden of work due to COVID-19 is even more pronounced for girls with disabilities because even in the absence of public health measures, they are often used by family members as unpaid domestic workers.¹⁷⁷

Additionally, due to increased poverty in households, some girls were forced to engage in transactional sex for survival. In the DRC, there was a reported increase in the number of girls who engaged in transactional sex as a means of supporting themselves and their families.¹⁷⁸ In Zimbabwe, there was an increase in young girls forced into transactional sex in return for cash, food, or even sanitary products.¹⁷⁹ UN Women reports that, cash transfers or the availability of extra income to parents and poorer households, improves financial independence, reducing the vulnerabilities that lead girls to engage in transactional sex for survival.¹⁸⁰

Limited household financial resources tend to negatively impact girls’ access to education. In the DRC, lockdown measures led to a decline in income for many households resulting in parents being unable to pay fees for their children to return to schools when they reopened. In Tanganyika province 75 percent of primary school teaching personnel reported that the number of girls aged 6 to 11 attending school had decreased compared to boys.¹⁸¹ In secondary schools, more boys than girls reported back to school due to the preference parents have for educating boys over girls.¹⁸² In addition the reduction in income coupled with school closures forced many girls to engage in transactional sex for survival.¹⁸³

The decline in household income due to lockdown measures, exposed children to back-breaking labour, and made them vulnerable to recruitment into armed groups. In the DRC, the lack of access to school and education, coupled with the hardship that lockdown measures introduced, led to more children, both boys and girls, being recruited by armed groups. Reportedly, an “estimated 30-40 percent of children recruited into armed groups in the DRC are girls.”¹⁸⁴

¹⁷⁶ UN Women, UNFPA, “Impact of COVID-19 on Gender Equality and Women’s Empowerment in East and Southern Africa Abridged version”, March 2021, p26. Available at: [abridged - impact of covid-19 on gender equality and women empowerment in east and southern africa.pdf \(reliefweb.int\)](#)

¹⁷⁷ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, 2020, p42. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](#)

¹⁷⁸ CASS, “The impact of school closures on the health, protection and education of children and adolescents in the Democratic Republic of the Congo”, May 2021, p4. Available at: [Impact des fermetures d’écoles sur les enfants DRC FR v001 \(reliefweb.int\)](#)

¹⁷⁹ “Under Siege: Impact of COVID-19 on Girls in Africa”, June 2020, p 8. Available at: [REPORT: Under Siege: Impact of COVID-19 on girls in Africa \(reliefweb.int\)](#)

¹⁸⁰ Claire A. Simon, “The effect of cash-based interventions on gender outcomes in development and humanitarian settings”, UN Women Discussion Paper No. 31, November 2019, p 11. Available at: [discussion-paper-effect-of-cash-based-interventions-on-gender-outcomes-en.pdf \(unwomen.org\)](#)

¹⁸¹ Social Sciences Analytics Cell CASS, “The impact of school closures on the health, protection and education of children and adolescents in the Democratic Republic of the Congo”, May 2021, p 6. Available at: [Impact des fermetures d’écoles sur les enfants DRC FR v001 \(reliefweb.int\)](#)

¹⁸² Social Sciences Analytics Cell CASS, “The impact of school closures on the health, protection and education of children and adolescents in the Democratic Republic of the Congo”, May 2021, p 6. Available at: [Impact des fermetures d’écoles sur les enfants DRC FR v001 \(reliefweb.int\)](#)

¹⁸³ Social Sciences Analytics Cell CASS, “The impact of school closures on the health, protection and education of children and adolescents in the Democratic Republic of the Congo”, May 2021, p 4. Available at: [Impact des fermetures d’écoles sur les enfants DRC FR v001 \(reliefweb.int\)](#)

¹⁸⁴ Social Sciences Analytics Cell CASS, “The impact of school closures on the health, protection and education of children and adolescents in the Democratic Republic of the Congo”, May 2021, p 9. Available at: [Impact des fermetures d’écoles sur les enfants DRC FR v001 \(reliefweb.int\)](#)

Governments in Southern Africa implemented online learning measures to try and address the challenge of children missing out on education due to lockdown policies. In Zimbabwe, this was successful for those in private schools as the lack of laptops, computers and smart phones for online learning impacted both educators and learners and compromised access to education for all.¹⁸⁵ In addition, power outages, and the cost of internet access, hindered the ability to log on to online learning platforms for many learners.¹⁸⁶ Zimbabwe tried to increase access to remote learning by introducing radio lessons, however in terms of accessibility, “not everyone has access to a radio set and radio frequency coverage is limited” particularly in the rural areas in the country.¹⁸⁷ Children with disabilities are at a greater disadvantage than children without disabilities because they have historically faced challenges in accessing quality education even prior to the pandemic. In Zimbabwe for example, children with disabilities have experienced negative attitudes from teachers and special education was not serving their needs.¹⁸⁸ Gender compounds challenges in education for children with disabilities, and generally, “access to education is more limited for girls than boys with disabilities in all the countries...”¹⁸⁹ in the region, with girls with disabilities not being sent to school.¹⁹⁰

(ii) Children with Disabilities (CWDs)

Over 32 million school aged CWDs are estimated to be out of school worldwide, and more than half of these live in sub-Saharan Africa.¹⁹¹ According to the UN, “...children with disabilities are far less likely to access quality education compared to their peers. Even those that are initially enrolled in education risk to drop out early.”¹⁹²

The African Commission on Human and Peoples Rights states that the right to education enshrined in article 11 of the African Charter on Children, includes the obligation on States to provide, “... reasonable accommodation measures for children with disabilities... to ensure inclusive quality education on an equal basis...”.¹⁹³ COVID-19 related school closures have resulted in inequitable access to education, particularly for CWDs. In a statement and action plan on education continuity, SADC in partnership with UNESCO sought to ensure that distance learning is strengthened, given the impact of COVID-19 on education. While the statement made laudable recommendations such

¹⁸⁵ Mutizwa Mukute et al, “Education in Times of COVID-19: Looking for Silver Linings in Southern Africa’s Educational Responses”, Southern African Journal of Environmental Education, Vol. 36, 2020, p 4. Available at: www.ajol.info

¹⁸⁶ Mutizwa Mukute et al, “Education in Times of COVID-19: Looking for Silver Linings in Southern Africa’s Educational Responses”, Southern African Journal of Environmental Education, Vol. 36, 2020, p 4. Available at: www.ajol.info

¹⁸⁷ UNESCO, “Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe”, November 10, 2020, p 16. Available at: [Rapid impact assessment of COVID-19 on persons with disabilities in Zimbabwe - UNESCO Digital Library](https://unesco.org/en/rep/rep_en/rapid-impact-assessment-of-covid-19-on-persons-with-disabilities-in-zimbabwe)

¹⁸⁸ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, 2020, p 40. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/rep/rep_en/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

¹⁸⁹ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, 2020, p 50. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/rep/rep_en/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

¹⁹⁰ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, 2020, p 40. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/rep/rep_en/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

¹⁹¹ UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, 2020, p16. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/rep/rep_en/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

¹⁹² UN Women, “Mapping of Discrimination against Women and Girls with Disabilities in East & Southern Africa”, 2020, p16. Available at: [mapping of discrimination against women and girls with disability-web.pdf \(unwomen.org\)](https://www.unwomen.org/en/rep/rep_en/mapping-of-discrimination-against-women-and-girls-with-disabilities-in-east-and-southern-africa)

¹⁹³ 346 Resolution on the Right to Education in Africa - ACHPR/Res.346(LVIII)2016, para i. Available at: [African Commission on Human and Peoples' Rights Sessions \(achpr.org\)](https://www.achpr.org/en/resolutions/346)

as, calling for the mobilization of resources for E-learning platform, and to support the education sector from Early Childhood Development (ECD) to Further Education and Training (FET), including E-learning, learners with disabilities were not explicitly included in the language.¹⁹⁴

Although Governments put in place measures to minimize the impact of school closures, they unfortunately were not inclusive and did not consider the needs of CWDs learning challenges. For example, Zimbabwe introduced radio lessons for primary school students in June 2020 which was not beneficial to hearing impaired children. Similarly, the pace of learning was not inclusive of children with learning challenges, such as those with mental impairments.¹⁹⁵

4. Right to take part in cultural life

The right to take part in cultural life “... guarantees the right of everyone to access, participate in and enjoy culture, cultural heritage and cultural expressions.”¹⁹⁶ Participation in cultural life and cultural spaces, is important for education and mental health in general. During a pandemic, such as the current outbreak of COVID-19, ensuring the enjoyment of the right to cultural life can help people overcome isolation, to stimulate the mind and senses of those staying at home and to enable healthy interactions with other members of society.¹⁹⁷ Government mandated lockdowns in the region forced the closure of many public spaces such as youth centres, community centres, performance centres, libraries, and galleries. In October 2020, COVID-19 measures limiting South African theatres capacity to 100 people for indoor venues, and 250 people outdoors, were not economically viable, leading to theatre closures.¹⁹⁸ Although the South African government put in place measures to disburse funds to support the arts sector, there was a delay in the money getting to the artists that were hard hit economically.¹⁹⁹

Expressions of culture and the arts are also intimately connected to livelihoods for many Southern Africa countries. In the Seychelles, artists that depended on the tourism industry were affected by the COVID-19 travel restrictions that led to a decline in foreign visitors.²⁰⁰ Most musicians depend on live performances to earn a living, due to the negative impact of piracy on their income. Many live music events that generate revenue for artistes were cancelled such as, the Bushfire festival in

¹⁹⁴Joint SADC-UNESCO Collaboration on Ensuring Continuity of Learning in the Context of COVID-19, April – December 2020, p 2. Available at: [SADC and UNESCO sign agreement to ensure learning never stops](#)

¹⁹⁵ UNESCO, “Rapid Impact Assessment of COVID-19 on Persons with Disabilities in Zimbabwe”, November 10, 2020, p16. Available at: [Rapid impact assessment of COVID-19 on persons with disabilities in Zimbabwe - UNESCO Digital Library](#)

¹⁹⁶ UNESCO website accessed June 4, 2021. Available at: [Right to participate in cultural life \(unesco.org\)](#)

¹⁹⁷ Para 32

¹⁹⁸ BBC, “South African artists struggle with Covid theatre closures”, April 9, 2021. Available at: [South African artists struggle with Covid theatre closures - BBC News](#)

¹⁹⁹ BBC, “South African artists struggle with Covid theatre closures”, April 9, 2021. Available at: [South African artists struggle with Covid theatre closures - BBC News](#)

²⁰⁰ UNDP, “An Assessment of the Socio-Economic Impact of Covid-19 in Seychelles”, December 2020, p 41.

Eswatini, Zakifo and AfrikaBurn in South Africa, Azgo in Mozambique, and Zimfest in Zimbabwe.²⁰¹

(i) Women

Globally, UNESCO reports that in countries where data is available, more women than men work in the cultural sector.²⁰² Additionally, there are more women working part-time in cultural occupations than men, and women tend to hold more than one job in the sector.²⁰³ In developing countries, 70 percent of women are employed in visual arts and crafts.²⁰⁴ Thus, restrictions on gatherings and events led to an adverse impact on women's livelihoods, which depend on the culture and arts.

Prior to the pandemic twice as many men compared to women were business owners or managers in cultural occupations in South Africa,²⁰⁵ and generally, women earned less than men.²⁰⁶ Post-COVID-19, 40 percent of businesses and freelancers involved in the arts and cultural industry in South Africa reported living off their reserves during the COVID-19 lockdown periods, while 21 percent were forced to rely on family and friends for support. Given the lower wages, women were likely to be in the majority of those severely affected by COVID-19 restrictions.

UNESCO has noted that “women are overrepresented in the arts and culture sectors hardest hit and most at risk as a result of COVID-19, yet there are few government measures specifically targeting gender equality in pandemic responses.”²⁰⁷ Governments in Southern Africa need to take note of the plight of artists in the sector, especially women, and provide protection measures to sustain them during periods where economic activity in arts and culture is restricted.

(ii) Lesbian Gay Bisexual Intersex Queer Persons (LGBT+) & Persons with Disabilities (PWD)

LGBT+ persons and PWDs that often have centres that cater to members of their communities were forced to close, impacting the cultural rights of these groups.²⁰⁸ Many of the cultural activities such as pride marches, moved online raising issues of exclusion for citizens that do not have access to the internet. “Such stark inequities in internet access translate to disparate enjoyment of cultural

²⁰¹ Silence Charumbira, “Musicians hit hard by festival cancellations in southern Africa

“, June 12, 2020. Available at: [Musicians hit hard by festival cancellations in southern Africa | Global development | The Guardian](#)

²⁰² UNESCO, “UIS Fact Sheet No. 47: Precarious situation for women working in the field of culture”, Nov 2017. P 8. Available at: [fs47-precarious-situation-women-working-field-culture-2017-en.pdf \(unesco.org\)](#)

²⁰³ UNESCO, “UIS Fact Sheet No. 47: Precarious situation for women working in the field of culture”, Nov 2017. P 5. Available at: [fs47-precarious-situation-women-working-field-culture-2017-en.pdf \(unesco.org\)](#)

²⁰⁴ UNESCO, “UIS Fact Sheet No. 47: Precarious situation for women working in the field of culture”, Nov 2017. P 8. Available at: [fs47-precarious-situation-women-working-field-culture-2017-en.pdf \(unesco.org\)](#)

²⁰⁵ South African Cultural Observatory, “The Economic Mapping of the Cultural and Creative Industries in South Africa 2020 Capstone Report Results and Policy Implications”, p 19. Available at: [https://www.southafricanculturalobservatory.org.za/assets/reports/capstonereport.pdf](#)

²⁰⁶ South African Cultural Observatory, “The Economic Mapping of the Cultural and Creative Industries in South Africa 2020 Capstone Report Results and Policy Implications”, p 22. Available at: [https://www.southafricanculturalobservatory.org.za/assets/reports/capstonereport.pdf](#)

²⁰⁷ UN Special Rapporteur in the field of cultural rights, “Report on the impact of the COVID-19 pandemic on cultures and cultural rights, Feb 4, 2021, [A/HRC/46/34](#), para 26. Available at: [OHCHR | Report on the impact of the COVID-19 pandemic on cultures and cultural rights](#)

²⁰⁸ UN Special Rapporteur in the field of cultural rights, “Report on the impact of the COVID-19 pandemic on cultures and cultural rights, Feb 4, 2021, [A/HRC/46/34](#), para 27. Available at: [OHCHR | Report on the impact of the COVID-19 pandemic on cultures and cultural rights](#)

rights during the pandemic.”²⁰⁹ The threat of exclusion from cultural life due to everything moving online also impacts PWDs, where persons with hearing or visual impairments may not be able to fully participate or follow proceedings. Unfortunately, the increased use of digital spaces as a platform for cultural gatherings has seen an increase in online harassment targeting LGBT+ persons, women, and other minorities.²¹⁰ Governments need to ensure that they implement laws and measures to protect vulnerable groups from such cyber-bullying and harassment.

The right to culture also includes “the right to enjoy the benefits of scientific progress and its applications.”²¹¹ The majority of Southern Africa countries implemented COVID-19 regulations based on science, while others denied science, endangering the health of their citizens. The UN has noted that, “Denial of science related to COVID-19 has also been a matter of great concern in some countries, including at the highest levels in some contexts.”²¹² In Tanzania, the government at the time, in May 2020, stopped testing for COVID-19, shunned conventional medicines, and instead touted the use of traditional remedies, including steam inhalation to fight respiratory infections.²¹³ In Madagascar, an untested herbal remedy COVID Organics (CVO) was created and widely distributed as a cure for COVID-19 without any testing for safety and efficacy.²¹⁴ While traditional remedies are culturally appropriate, ensuring that all medicines are evidence-based, regardless of the country they originate from and regardless of whether they are rooted in traditional treatments, is a matter of good science and protects human rights.²¹⁵

(ii) Indigenous Communities

Where online events are broadcast in the dominant language of a country, indigenous groups and minority tribes may be excluded from participating, as they will be unable to follow or understand proceedings. For example, cultural events may be broadcast in English or the main indigenous dialect spoken in the country, thus excluding smaller indigenous communities who use less widely spoken languages from enjoying the cultural life of their country. In addition, most indigenous communities regularly organize large traditional gatherings to mark special events e.g., harvests, coming of age ceremonies²¹⁶, but due to COVID-19 restrictions, these important occasions central to their existence have been restricted.

²⁰⁹ Report of the Special Rapporteur in the field of cultural rights, “COVID-19, culture and cultural rights”, A/HRC/64/34, February 17, 2021, para 30. Available at: [COVID-19, culture and cultural rights : \(un.org\)](https://www.un.org/en/press/docs/2021/02/210219.culturalrights.shtml)

²¹⁰ UN Special Rapporteur in the field of cultural rights, “Report on the impact of the COVID-19 pandemic on cultures and cultural rights, Feb 4, 2021, A/HRC/46/34, para 31. Available at: [OHCHR | Report on the impact of the COVID-19 pandemic on cultures and cultural rights](https://www.ohchr.org/en/press/docs/2021/02/210219.culturalrights.shtml)

²¹¹ IESCR article 15.

²¹² UN Special Rapporteur in the field of cultural rights, “Report on the impact of the COVID-19 pandemic on cultures and cultural rights, Feb 4, 2021, A/HRC/46/34, para 48 and 49. Available at: [OHCHR | Report on the impact of the COVID-19 pandemic on cultures and cultural rights](https://www.ohchr.org/en/press/docs/2021/02/210219.culturalrights.shtml)

²¹³ Kizito Nokoye, “Tanzania banks on herbal remedy to fight coronavirus”, Feb 10, 2021. Available at: [Tanzania banks on herbal remedy to fight coronavirus \(aa.com.tr\)](https://www.africanews.com/2021/02/10/tanzania-banks-on-herbal-remedy-to-fight-coronavirus/)

²¹⁴ Sarah L. Boshia and Adam R. Houston, “The Danger of playing politics with COVID-19 cures”, December 8, 2020. Available at: [The dangers of playing politics with COVID-19 cures | African Arguments](https://www.africanews.com/2020/12/08/the-danger-of-playing-politics-with-covid-19-cures/)

²¹⁵ Sarah L. Boshia and Adam R. Houston, “The Danger of playing politics with COVID-19 cures”, December 8, 2020. Available at: [The dangers of playing politics with COVID-19 cures | African Arguments](https://www.africanews.com/2020/12/08/the-danger-of-playing-politics-with-covid-19-cures/)

²¹⁶ [COVID- 19 and Indigenous peoples | United Nations for Indigenous Peoples](https://www.un.org/en/press/docs/2021/02/210219.culturalrights.shtml)

5. Right to protection of the family and vulnerable groups (ACHPR Article 18)

Article 18 of the ACHPR places an obligation on States to protect the family unit, take care of its physical health and provide assistance. Further, article 18 (4) requires States to provide special measures to protect the physical and moral needs of PWDs.

Several countries in Southern Africa put in place food baskets and cash payments to cushion the most vulnerable from the economic impact of COVID-19, however, many vulnerable groups, including indigenous families, PWDs, LGBT+ persons were excluded from these social protections. For example, in Botswana, government put in place measures to supply food rations and water to remote areas in tanks, but was unable to provide adequate supplies, and in some cases had challenges delivering to the remote areas.²¹⁷ In Angola, indigenous communities and rural communities were excluded from social protection measures.²¹⁸

In planning social assistance interventions in response to COVID-19, Southern Africa countries should include the views and perspectives of indigenous groups, PWDs and LQBT+ persons, to ensure they are not left out of distribution efforts.

6. Right to economic, social, and cultural development

Article 22 of the ACHPR provides that:

“1. All peoples shall have the right to their economic, social, and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.

2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.” This right to development in the African context is applicable both to communities or peoples, and the individual. According to the UN, “The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development...”²¹⁹

Additionally, Article 8 of the UN Declaration on the Right to Development charges governments with the role of putting in place measures to ensure the right to development by all, considering the importance of women’s participation. The UN also notes that the right to development demands equity in access to inter alia, “...education, health services, food, housing, employment and the fair distribution of income.”²²⁰

²¹⁷ Advancing Rights in Southern Africa (ARISA, “The Impact of COVID-19 on the Rights of Indigenous Peoples in Southern Africa”, p 10. Available at: [12032020_ARISA_Rights_Southern_Africa_Report_Impact_COVID19_on_IPRs.pdf\(freedomhouse.org\)](https://www.refworld.org/docid/3b00f22544.html)

²¹⁸ Advancing Rights in Southern Africa (ARISA, “The Impact of COVID-19 on the Rights of Indigenous Peoples in Southern Africa”, p 13. Available at: [12032020_ARISA_Rights_Southern_Africa_Report_Impact_COVID19_on_IPRs.pdf\(freedomhouse.org\)](https://www.refworld.org/docid/3b00f22544.html)

²¹⁹ UN General Assembly, Declaration on the Right to Development: resolution / adopted by the General Assembly, December 4, 1986, A/RES/41/128, article 1. Available at: <https://www.refworld.org/docid/3b00f22544.html>

²²⁰ [OHCHR | Declaration on the Right to Development](https://www.refworld.org/docid/3b00f22544.html)

(i) Children

Research has found that school closures as a measure of trying to limit the spread of COVID-19 are likely to have significant long-term impact on the well-being and development of children and adolescents.²²¹

Governments in Southern Africa should find ways in which to minimize the negative impact on the development and well-being of children, resulting from lockdowns that impact school closures.

(ii) Indigenous communities

The impact of COVID-19 restrictions on gatherings negatively impacts cultural development of indigenous groups. Many of the gatherings and ceremonies of indigenous communities are an opportunity for elders to keep and transmit indigenous traditional knowledge, culture, and practices, including on conservation, and customary law and governance.²²²

Indigenous communities should be consulted in the development of public health measures, to ensure their rights to development are not violated.

²²¹ CASS, “The impact of school closures on the health, protection and education of children and adolescents in the Democratic Republic of the Congo”, May 2021, p16. Available at: [Impact des fermetures d'écoles sur les enfants DRC FR v001 \(reliefweb.int\)](#)

²²² United Nations Department of Economic and Social Affairs, “The Impact of COVID-19 on Indigenous Peoples”, Policy Brief No. 7, May 2020, p2. Available at: [The Impact of COVID-19 on Indigenous Peoples \(un.org\)](#)

CHAPTER 4: RECOMMENDATIONS

Right to Work

1. Governments in Southern Africa should implement fiscal and monetary measures to channel liquidity to small to medium enterprises, informal workers against the economic shocks of COVID-19.
2. Governments in Southern Africa should avail economic and employment opportunities for women and other vulnerable groups to minimize job losses.

Right to Health

3. Governments in Southern Africa should include representatives of PWDs, LGBT+ persons, women, and indigenous groups in national and regional platforms responsible for formulating COVID-19 measures to ensure that their policies are inclusive.
4. Governments in Southern Africa need to designate health and related services relied on by sexual minorities and PWDs as essential services during responses to public health emergencies.
5. Governments in Southern Africa should repeal laws that provide custodial sentences and hefty fines for violations of lockdown rules.
6. Governments in Southern Africa should comply with international guidelines on human rights-based quarantine and ensure that where movements are restricted, provision for access to food, water, housing, and adequate healthcare is made.
7. Governments Southern Africa should ensure equal access to vital health information and public service announcements messages.

Right to Food

8. Governments in Southern Africa should ease eligibility requirements for vulnerable groups to receive government benefits, food aid and other COVID-19 relief to prevent hunger.
9. Governments in Southern Africa should recognize and support informal enterprises that provide food to low-income sections of the population to operate safely and effectively.

Right to Education & Culture

10. Governments should put in place measures for hybrid learning that accommodate learners with disabilities and ensure quality of education for CWDs at par with learners without disabilities.



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