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STATES' OBLIGATIONS AND INTERSECTIONAL CONSIDERATIONS IN THE COVID-19 RESPONSE AND RECOVERY

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PART I: INTRODUCTION

This report highlights the importance of states complying with their obligations under international human rights law in their responses to the COVID-19 pandemic and its aftermath, in particular those with respect to the rights of women and girls as set out in the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹ Failure to undertake a gender analysis in policy and decision-making with respect to temporary emergency measures to contain the spread of the virus has resulted in variable impacts across different communities and on women within those communities who have experienced disproportionate disadvantage and harm.

That blanket measures would have different social consequences was inevitable given the different social contexts and individual circumstances existing prior to the pandemic. The effects of law and policies are rarely gender neutral. It follows that if laws and policies are not to cause direct or indirect discrimination, a gender analysis must be carried out, taking into account other intersecting factors that impact women's lives such as their race, ethnicity, class, sexuality, and able-bodiedness. The term 'intersectionality' was coined by Kimberlé W. Crenshaw to highlight the struggles and lived experiences of Black women in the United States and the ways in which these experiences were based on multiple intersecting axes of social discrimination, including, but not limited to race, gender, and class. As Crenshaw stressed, "any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated."² As a tool of analysis, intersectionality helps to reveal how societies are structured and organised to already disadvantage certain people defined by their socially constituted intersecting identities. It also facilitates critical reflection on whether law and policy create and/or perpetuate exclusion and disadvantage. It is a tool to prevent structural injustices that are experienced by those most marginalised and to ensure their full protection by the law. While Crenshaw's analysis focused specifically on the interlocking power structures of race, gender, and class, intersectionality applies much more broadly to multiple intersecting axes of discrimination.

It is not possible in this report to examine the impact of all such factors in the context of COVID-19. As the only specific category of women explicitly protected by a separate provision in CEDAW, the situation of rural women provides a useful illustrative case study to show how rurality can operate to create additional disadvantage and contribute to discrimination. The report first outlines state parties' obligations under CEDAW as developed and applied by the monitoring Committee, the Committee on Elimination of Discrimination against Women, emphasising the Committee's recognition of the diversity of women and its approach to intersectionality. It then provides a detailed examination of the position of women in rural areas and the impact of pandemic-related policy responses on their (1) right to adequate living conditions and related right to livelihood; (2) right to security of person; (3) right to healthcare, including reproductive health services; and (4) right to participation in political and public life. This is not an exclusive list, nor should the rights identified be interpreted as introducing a hierarchy of rights since all rights are inter-dependent. Some issues straddle all these areas and present further obstacles to the enjoyment by rural women of their human rights (such as availability of and access to affordable transportation often determine rural women and girls' access to education, employment, healthcare, and support services). The report analyses how state failure to comply with the CEDAW obligations has resulted in foreseeable and preventable violations of women's rights and draws recommendations from the lessons learned.



PART II: STATES' OBLIGATIONS UNDER CEDAW

As the most comprehensive international agreement on the human rights of women,³ CEDAW provides an international standard for protecting and promoting women's rights. It was adopted by the UN General Assembly on 18 December 1979 and came into force in 1981. The Convention has 189 parties, with a small minority of non-party states, including the United States. 109 states are also parties to the 1999 CEDAW Optional Protocol enabling individuals or groups within the jurisdiction of the state party to bring claims of violation before the CEDAW Committee once domestic remedies have been exhausted.⁴ It also grants the Committee the power to conduct inquiries into situations of grave or systematic violations of women's human rights.⁵ The CEDAW Committee has expounded on the obligations of the states parties to the Convention through its General Recommendations (GR), concluding observations and opinions. General Recommendations, often on topics that are underdeveloped in the Convention, provide authoritative guidance on state obligations and elaborate legal standards on women's rights by clarifying, developing, and interpreting the rights set out in the Convention.⁶ The Committee initiates comprehensive discussions around General Recommendations, which allow for expert opinions and contributions from civil society. The Convention must be read in conjunction with the now 38 General Recommendations.

CEDAW condemns discrimination against women in all its forms and importantly defines discrimination in article 1 as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, ... of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." It thus covers direct ('purpose') and indirect ('effect') discrimination. This is important in the context of COVID-19 as many of the measures that have been introduced are not directly discriminatory in that they apply to all persons, but their differential adverse impact on women brings them within the prohibition of indirect discrimination.⁷ The CEDAW Committee has explained that article 1 also covers discrimination on the grounds of gender.⁸ The Convention allows for the adoption of temporary special measures to accelerate equality between women and men.⁹ Substantive provisions reflect and make provisions in the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic Social and Cultural Rights (ICESCR) explicitly applicable to women, for instance, livelihood rights such as equality with respect to employment opportunities, social security, and protection of health and safety in working conditions,¹⁰ to healthcare,¹¹ to security of the person,¹² and participation in decision-making.¹³ The CEDAW Committee has emphasised that other international agendas such as the Sustainable Development Goals (SDGs)¹⁴ and the Security Council's Women, Peace and Security (WPS) agenda¹⁵ must be implemented in accordance with the substantive provisions of the Convention and premised on a model of substantive equality. The focus of the WPS agenda on post-conflict reconstruction offers direction that could be used in developing states' responses to the present emergency.¹⁶ Indeed the Security Council's 2015 WPS resolution 2242 recognises the impact on peace and security that "the global nature of health pandemics" can have and the related need for increased "attention to women, peace and security as a cross-cutting subject."¹⁷



Over the years, the CEDAW Committee has developed its thinking on intersectionality, drawing attention to the fact that discrimination of women based on sex and gender is inextricably linked with other factors, such as their race, ethnicity, religion or belief, health, status, age, class, caste, sexual orientation and gender identity.

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The Committee has emphasised that it is the obligation of states to recognise and address the intersecting forms of discrimination experienced by women belonging to different groups. It follows that states should pay attention to the different forms and manifestations of intersecting harms confronted by women and take positive steps to consider the context that has allowed rights to be violated. This includes the harm that some women experience as a consequence of structural intersecting systems of power – embedded in political, economic and social regimes – that are nearly always rendered invisible. States must consider the consequences that follow such violations and not only ensure that women have access to remedies for the harm suffered, but also aim to transform the structures that allowed for the discrimination to occur in the first place.²⁶ Such remedies must be appropriate in the circumstances and to the particular women's social and economic contexts.²⁷



CEDAW does not contain a derogation clause, which means that the obligations continue to bind states parties in full and throughout any emergency, including the present pandemic. At the outbreak of the pandemic, the Committee drew attention to the specific and often disproportionate harm that women were experiencing and issued a *Guidance Note on CEDAW and COVID-19*. The *Guidance Note* calls on states parties to address the disproportionate impact of the pandemic and related responses on women's health, including providing essential, sexual and reproductive health services; to protect women and girls from gender-based violence, including in humanitarian settings; to ensure continuous education and equal participation of women in decision-making; to provide socio-economic support to women; and to strengthen institutional responses, dissemination of information and data collection.²⁸ The *Guidance Note* continues the Committee's earlier attention to the importance of recognising intersecting harms²⁹ by reminding states of their positive obligation to adopt targeted measures for disadvantaged groups of women to ensure de facto equality of women with men and between women. The pandemic has exposed and exacerbated existing societal fault lines and response and recovery plans cannot simply aim to return to the "before" situation. Rather in their COVID-19 responses states parties must be cognisant of and address the structures of power for failure to actively tackle existing discrimination will further deepen the inequalities.



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PART III: CEDAW AND THE HUMAN RIGHTS IMPLICATIONS OF RURALITY

Rural populations make up three-quarters of the world's poor³⁰ and rural women make up more than a quarter of the world's total population.³¹ This alone points to the importance of considering the experiences of women in rural areas in decision and policy-making processes. Rural women are not a homogenous group and the opportunities and constraints they face differ across their lifetimes, contexts, and circumstances, depending on location, socio-economic status, and social identities associated with other forms of marginalisation, such as Indigenous origin, ethnicity, disability, age, and refugee or migrant status. Nevertheless, on every available indicator, including access to education opportunities, food security and nutrition, health services, land and other natural resources, social protection, employment, and decent work, rural women fare worse than rural men and are also disadvantaged in comparison with urban women.³² In addition, their access to and power in decision-making is often restricted, as is their mobility.

Although peoples' ability to fully enjoy their rights is often determined by their location, rurality is not usually recognised as a "ground of discrimination," nor are there specific rights protecting rural populations.³³ The exception to this is CEDAW where Article 14 spells out the specific responsibilities of states parties in respect of rural women. It is the only provision in the Convention that is directed at an identified category of women, indicating the particularity of their struggles and their frequent legal lack of recognition and consideration in policy planning.³⁴



Article 14 of CEDAW states:

- 1** States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
- 2** States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.³⁵

The CEDAW Committee has elaborated on Article 14 in its General Recommendation 34 (GR 34)³⁶ and in its concluding observations on the periodic reports of several countries.³⁷ GR 34 notes that since rural women are not a homogenous group further intersectional analysis should be used in identifying the harms and discrimination they face.

PART IV: THE SITUATION OF WOMEN IN RURAL AREAS

The agricultural and informal economy sectors constitute the primary sources of livelihood for rural women.³⁸ According to the International Labour Organisation, in 2020 women comprised over 37 per cent of the world's rural agricultural employment, rising to 48 per cent for low-income countries.³⁹ Within this sector, the majority of seasonal, part-time and low-wage work is performed by women.⁴⁰ Accordingly, many rural women are particularly vulnerable in times of economic crisis or when the competition for this type of work increases. Women typically do not have ownership rights over the land they work. Due to cultural and legal barriers, fewer than 15 per cent of all landholders in the world are women.⁴¹ Data from 2014 indicates that in as many as 102 countries women are denied the same rights to own land as men.⁴² In addition to weak land tenure, there is a gender gap in asset ownership with rural women having unequal access to productive resources than men, such as draught animals, mechanical tools or technical assistance.⁴³ These factors contribute to rural women's difficulties in ensuring adequate living conditions and livelihoods, increasing their financial dependence, and thus vulnerability to poverty, homelessness, and food insecurity.

Sexual and gender-based violence (SGBV) remains a global blight with one in three women on average being affected by gender-based violence during their lives.⁴⁴ Statistics from 2017 indicate that in more than half the countries surveyed physical or sexual violence committed by a husband/partner is higher in rural areas compared to urban centres.⁴⁵ While the lack of shelters and safe houses is an endemic problem across all societies, in rural areas the problem is even more acute. Women in rural areas are far more likely to encounter practical obstacles in accessing supplementary support and emergency services compared with women in towns and cities. The societal stigma that still surrounds SGBV that is often even greater in smaller communities, further contributes to vulnerability and an inability to seek justice. Many rural women remain disempowered to deal with the violence they experience as they lack material and physical resources to seek relief and justice. This in turn results in rural women and girls being less likely than their urban counterparts to report violence or have access to adequate justice and other services for survivors.⁴⁶



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Women and girls who have been the victim of SGBV often need medical interventions, which directly links to rural women's right to healthcare. Accessing healthcare services in rural areas is dependent on their availability, including specialist support, and transportation.⁴⁷ Geographical isolation compounded by states' lack of investment in rural health and transport infrastructure often means that basic services, let alone specialised healthcare, including cancer screening and mental healthcare, are not available. Exclusion is further aggravated by the privatisation of healthcare services given the income insecurity confronted by rural women and girls as noted above.

In low- and lower-middle-income countries, mothers and children living in rural areas are less likely to receive appropriate health services than their urban counterparts.⁴⁸ According to 2018 data, a rural woman in the least developed countries is "38% less likely than an urban woman to give birth with the assistance of a skilled health professional."⁴⁹ This discrimination is further compounded by other intersecting factors, such as the historical exclusion and marginalisation of certain communities that have left Indigenous women, for example, even less likely to have access to services thereby condemning them to worse maternal outcomes than other rural women.⁵⁰ An additional compounding barrier to accessing sexual and reproductive healthcare stems from societal norms around women's health and bodily autonomy, which can be even more patriarchal in rural areas.

Rural women across the globe face challenges in enjoying their right to participation in public life and overall political participation.⁵¹ This includes the right to take part in the conduct of public affairs through elections, to directly participate in policy making and implementation, as well as to participate in civil society or rural organisations. In some cases, women's participation will be hampered by the sociocultural norms around the role of women in the community and upheld by the local (male) leaders; it can even be an issue of physical safety if women try to exercise their right to participate in public life. In other cases where cultural norms are more receptive towards women's participation in public life, they may still face practical barriers to accessing physical or digital decision-making venues, due to time poverty, and lack of accessible and affordable care facilities, transport, and digital technologies.



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PART V: THE IMPACT OF GOVERNMENT COVID-RELATED RESTRICTIONS ON WOMEN IN RURAL AREAS

In the wake of the pandemic, many governments declared (or assumed) states of emergency and introduced various temporary measures and restrictions to stop the spread of and to manage the virus.⁵² These have ranged from the compulsory closure of retail and non-essential establishments, nursery closures, moves to online teaching by schools and universities, advising people to work from home wherever possible and the imposition of home quarantine measures, the closure of international and domestic borders for all but essential travel and services, and prohibitions on contact and assembly, culminating in curfews and “lockdowns of entire towns, cities, provinces, and even nations.”⁵³ Additional measures included the reallocation of resources to responding to the pandemic, which often resulted in funding cuts from other health domains and facilities, furlough programmes for eligible, registered workers and many services, including non-essential health and social services, being moved to online platforms.



Most temporary measures were crafted with urban (and typically male) populations in mind and, at best, treated rural women as a homogenous group. As a result, the measures introduced disproportionately affected women and posed new challenges to women in rural areas, causing disrupted livelihoods and imposing further limitations on their access to healthcare, economic opportunities and social services.

Contrary to states’ CEDAW obligations various government measures, temporary or otherwise, have resulted in indirect discrimination against women, particularly women in rural areas. Most temporary measures were crafted with urban (and typically male) populations in mind⁵⁴ and, at best, treated rural women as a homogenous group. As a result, the measures introduced disproportionately affected women and posed new challenges to women in rural areas, causing disrupted livelihoods and imposing further limitations on their access to healthcare, economic opportunities and social services.⁵⁵ Further, school closures and lack of accessible or available care infrastructure have increased women’s household responsibilities and care burden.⁵⁶ The overall effect has been to exacerbate pre-pandemic inequalities as well as heightening rural women’s vulnerability to gender-based violence and the denial of a host of cascading rights.



Much of this should and could have been avoided had states taken adequate measures to ensure women's equal representation and participation in public sector decision-making. According to March 2021 data, women on average made up only 24 per cent of members among 225 COVID-19 task forces examined across 137 countries.⁵⁷ Without inclusivity and diversity in decision-making, responses are likely to be blinkered and existing inequalities discounted. The dominance of men and lack of gender advisors in COVID-19 decision-making processes have contributed to the gender-specific impacts on women being side-lined and to the gendered and gendering impact of the pandemic being at first not realised and then ignored.⁵⁸ For those located at the site of intersecting forms of discrimination the consequences of exclusion from decision-making processes have been particularly prejudicial.

The following sections focus on the adverse impact of government restrictions on four rights of women in rural areas, guaranteed by CEDAW.

A. RIGHT TO AN ADEQUATE STANDARD OF LIVING AND LIVELIHOODS

Restrictions on the movement of people and goods across and between communities have disrupted agricultural value chains and food systems.⁵⁹ Rural women involved in small scale farming and reliant on selling their produce in markets have been particularly disadvantaged as many were no longer able to trade while others had little choice but to accept significantly reduced prices for their goods. This left many rural women unable to make provision for the following season compounding their already dire situation. Existing inequalities in ownership of land and assets that could be used as collateral were typically unavailable to women in the agricultural sector exacerbating the precariousness of their livelihoods.⁶⁰

Women's over-representation in low-paid seasonal or part-time agricultural jobs and in the informal sector, has meant that they have been less likely to be entitled to temporary state support schemes (when made available) or to qualify for social protection measures, such as cash transfers introduced in response to the pandemic.⁶¹ Since rural women's exclusion from such programmes have traditionally been compounded by a combination of other factors including "mobility constraints, care burden, constraints related to cultural norms or illiteracy and limited access to information on such schemes"⁶² the emergency measures were more likely to entrench pre-existing barriers and thus deepen inequalities.

The return of male workers from towns to villages due to the loss of jobs in urban areas and/or government return policies resulted in rural women losing their jobs to men, increasing their vulnerabilities.⁶³ The closures of care facilities and schools further compounded the challenges faced by rural women who found themselves unable even to look for work outside the home.⁶⁴ The additional care responsibilities and limited support infrastructure, employers' preference for the returning male workers, and the shrinking work opportunities in the agricultural and the informal economy sectors as a result of COVID-19 restrictions have together placed rural women in a particularly vulnerable position in comparison to their urban counterparts, as well as to rural men.



An intersectional analysis points to states having failed to protect rural women from indirect discrimination. This is especially evident in the time poverty and the care burden increased by school closures and lack of available and accessible childcare in rural areas. It is also evident in the economic and livelihood insecurity in working at the periphery of the agricultural and informal sectors. In these sectors governmental movement restrictions have led to jobs either entirely disappearing or being taken up by men returning from the urban areas. The analysis therefore shows not only that states parties to CEDAW have failed to fulfil their Convention obligations but have also failed to introduce temporary special measures that “[p]romote [rural women’s] empowerment and ensure their economic and social independence,” as clearly recommended in GR 34.⁶⁵

States are obliged to consider how the COVID-19 restrictions impact different rural women’s livelihoods and living conditions. This would entail the introduction of temporary gender-responsive mechanisms in the agricultural sector, as well as non-contributory social protection for those in the informal economy sector. Mindful of the gender gaps in land and asset ownership that negatively affect rural women’s equal participation in the agricultural sector, the CEDAW Committee has reminded states of their obligation to ensure fair access to financial services, credit, loans, matrimonial savings, insurance, domestic payment services, and information on available services. The Committee has also urged states to consider how structural inequalities can be addressed to achieve substantive equality for rural women and ensure their human rights are respected.

B. RIGHT TO SECURITY OF PERSON

Emergency measures, such as closure of non-essential establishments, government advice to work from home, lockdowns, and curfews, have pushed people into their households resulting in an increase in violence, especially domestic violence and abuse against women and girls.⁶⁶ This has been driven by tensions in the household related to isolation, job losses, food and financial insecurity, and to the closure of schools.⁶⁷ The United Nations Population Fund (UNFPA) has estimated that, worldwide, 15 million cases of gender-based violence will occur for every three additional months of the lockdown.⁶⁸

Most of the pandemic policy responses, immediate and subsequent alike, have not considered the interlinkage of issues that increase domestic violence and the violation of women’s right to security of the person. For example, introducing lockdowns and curfews without restrictions on the sale of alcohol when the home remains the only place where alcohol can be consumed, ignores evidence that suggests that alcohol use increases the occurrence and severity of domestic violence.⁶⁹ Policy makers have also failed to consider the link between job loss and increased household tensions, sometimes resulting in domestic violence.

Economic and social strains, potential loss of income and livelihood, mandatory lockdowns, quarantine, and self-isolation, as well as reduced peer support due to socialising restrictions and transportation limitations put rural women at a particularly great risk of SGBV. COVID restrictions may also prevent the survivors of violence in rural areas from fleeing from violent situations or accessing essential health and legal services especially in light of “the reduced availability of legal, social, and policing structures in rural areas.”⁷⁰ With the redirecting of funds towards the current emergency, further reductions in these structures in rural areas appear certain.



Restrictions on movement, loss of livelihoods and funding cuts combined with their lack of access to shelters, support networks, and finances have meant that measures introduced to keep populations safe from the virus have effectively exposed some rural women to domestic violence and abuse.

The economic impact of the pandemic measures, and restrictions on movement, not only create barriers to leaving a violent domestic situation, but also higher risks of sexual exploitation and consequential economic deprivation.⁷¹ The limited number of shelters and transitional housing that rural women can access, the lack of access to information about SGBV services and to adequate telephone and internet services present pre-COVID have been worsened by the pandemic responses, compounding the discrimination rural women face in this domain.

An intersectional analysis shows how rurality, socioeconomic position, and gender have interlocked in the emergency measures with a particular negative and discriminatory impact on rural women. Restrictions on movement, loss of livelihoods and funding cuts combined with their lack of access to shelters, support networks, and finances have meant that measures introduced to keep populations safe from the virus have effectively exposed some rural women to domestic violence and abuse.

States parties to CEDAW have an obligation to take effective measures to prevent acts of violence against women and girls and to prosecute and punish such acts regardless of whether the perpetrator is the state, non-state actors or private persons.⁷² Prevention requires consideration of and addressing the structural conditions that make rural women, and certain groups of rural women, especially vulnerable to SGBV. It also requires that states consider their COVID-19 responses in an interconnected and contextualised manner bearing in mind how such measures can threaten women's right to personal security.

States are obliged to ensure that victims and survivors in rural areas have access to justice, legal aid, redress and/or reparation, as well as to integrated services, including emergency shelters and comprehensive health services. These must be designated as 'essential services' in the context of pandemics and other emergencies to ensure accessibility, funding, and human resources. The WPS resolutions on SGBV in conflict and post-conflict settings provide useful guidance to states responding to emergency situations, including pandemics.⁷³ Resolution 1820, for instance, urges the member states, various UN entities, and financial institutions "to support the development and strengthening of the capacities of national institutions, in particular of judicial and health systems, and of local civil society networks in order to provide sustainable assistance to victims of sexual violence."⁷⁴ Resolution 1888 directly acknowledges the position of rural women by encouraging states to "increase access to health care, psychosocial support, legal assistance and socio economic reintegration services for victims of sexual violence, in particular in rural areas."⁷⁵



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States must also ensure the safety and security of rural women human rights defenders who are subject to threats and attacks. This includes those engaged in struggles related to land and the environment in the context of extractive industry projects.⁷⁶ In circumstances of national lockdowns and limited movement, states must also consider how certain responses further jeopardise these rural women’s security and make them targets for attack.

C. RIGHT TO HEALTHCARE AND SEXUAL AND REPRODUCTIVE HEALTH SERVICES

Curfews, lockdowns and limitations on travel created additional obstacles for rural women needing to access basic healthcare services which were often difficult to access even prior to the introduction of such measures. While the shift to online clinical consultations have benefitted some, for many rural women this move resulted in them being disproportionately excluded due to the lack of reliable, affordable digital infrastructure in remote areas.⁷⁷ Moreover, government health and safety measures – from masking, to sanitising, participating in ‘track and trace’ initiatives and regular testing – all presuppose that rural women have access to and can afford to purchase additional items and that they own the latest digital devices to benefit from such initiatives.

In already underserved rural areas, the diversion of healthcare resources to tackling COVID-19 has reduced the provision of basic maternal, child, sexual and reproductive healthcare services, leading to an increase in both maternal mortality and unwanted pregnancies.⁷⁸ Emerging data shows that global maternal and foetal outcomes have worsened during the COVID-19 pandemic, with “an increase in maternal deaths, stillbirth, ruptured ectopic pregnancies, and maternal depression.”⁷⁹ Analyses from around the world also show women being unable to access abortion or contraception, leading to an increased number of pregnancies and childbirths in some countries.⁸⁰ Rural women living in poverty and especially those from marginalised communities who rely on free or subsidized care are particularly affected by the reductions in sexual and reproductive healthcare services.⁸¹ The adverse consequences of the cuts in aid – justified as ‘necessary’ by some states – coupled with the diversion of resources from sexual and reproductive health are most acutely felt by those women and girls whose multiple intersecting identities have contributed to their exclusion.⁸²



The increase in time poverty experienced by women due to the disproportionate care responsibilities has also affected women's access to healthcare. These new obstacles, together with those pre-existing, are magnified for women in rural areas; a study shows that rural women with children are less likely, especially during the pandemic, to seek medical attention.⁸³ In addition, with health systems operating at maximum capacity and focussed on acute medical interventions much of the general healthcare burden has been shifted to households.⁸⁴ This has further increased care-related time pressures on women and even more so on rural women, where accessing the health system might not even be an option. Laws and policies that fail to take full account of the differently situated women and girls have in effect further excluded those who are already most marginalised in all societies. Rural women and girls who live in poverty have suffered the brunt of the decrease in already limited reproductive healthcare services worsened by funding cuts and redirection of resources to COVID-19 response.



Laws and policies that fail to take full account of the differently situated women and girls have in effect further excluded those who are already most marginalised in all societies. Rural women and girls who live in poverty have suffered the brunt of the decrease in already limited reproductive healthcare services worsened by funding cuts and redirection of resources to COVID-19 response.

States parties to CEDAW are obliged to respect, protect and fulfil women's rights to health care and ensure women's equal access to healthcare services including access to reproductive health such as family planning, pregnancy and post-natal services. The CEDAW Committee has emphasised the need for *special attention* to be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups such as migrant women, forcibly displaced women, women from marginalised communities as well as those with physical and/or mental health needs who are often excluded due to societal factors.⁸⁵

States must ensure that quality healthcare services and facilities are physically accessible, affordable and culturally acceptable for rural women, including older women, female heads of household, and women with disabilities. Such facilities must be staffed with adequately trained medical personnel. States' obligations to provide adequate funding for healthcare systems in rural areas, particularly sexual and reproductive health, does not stop in emergency or crisis situations. On the contrary, the requirement for states to deliver on this obligation is even more essential in such situations where other restrictions such as lockdowns have created greater need for sexual and reproductive health services.

The right to healthcare also requires states to ensure that women are given reliable, clinically sound information, including on the efficacy of vaccines to prevent serious illness and death. Such information must be made widely accessible, disseminated in local languages and dialects and in different forms including, but not exclusively, digital. States cannot assume that women have access to digital information. States also have an obligation to eliminate barriers that rural women face in accessing healthcare including taking measures to provide affordable public transport to hospitals and health centres. This is even more vital for rural women with disabilities. In some circumstances states would be required to use mobile units to roll out vaccine programmes for those in remote areas.⁸⁶

States must ensure that the COVID-19 response and recovery processes fully address existing barriers to healthcare services for women and girls who confront multiple structural obstacles including the fact of rurality. WPS resolution 1889 offers valuable direction in urging states, in consultation with civil society, including women's organisations, "to specify in detail women and girls' needs and priorities and design concrete strategies, in accordance with their legal systems, to address those needs and priorities, which cover (...) access to basic services, in particular health services, including sexual and reproductive health and reproductive rights and mental health."⁸⁷

D. RIGHT TO PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Globally the right to participate in political and public life has been severely curtailed by COVID restrictions. For example, since early 2020 national and local elections in at least 80 countries and territories have been postponed,⁸⁸ executive decision-making has dominated the political landscape, and civil society participation in public life including through scrutiny of decision-making and public protest have been curbed.⁸⁹ Not all measures introduced can be justified as proportionate.⁹⁰ These developments have disproportionately impinged on the right of women, most notably those located in rural areas, to participate in political and public life.

Paradoxically, it has been precisely when the failings of political incumbents have become most apparent that the opportunity for democratic change through elections has been deferred, depriving citizens from expressing their dissatisfaction and from the opportunity to secure fairer representation. The under-representation of women and of women representing different communities and interests in public sector decision-making roles has led to the adoption of gender (and intersectional) blind emergency measures exacerbating inequalities. The concentration of power in the hands of the executive branch also enabled male dominated ruling elites to take advantage of the state of emergency to adopt new laws restricting women's rights that would otherwise have been blocked by democratic processes.⁹¹ Emergency measures have concurrently extended to the police and security services draconian powers to enforce compliance with COVID restrictions, a development that has compounded the vulnerability of marginalised groups seeking to protect their rights, including women human rights defenders.⁹² In many cases, state authorities have resorted to disproportionate force.⁹³ As a result, women rights activists and especially those belonging to minorities and Indigenous communities located in rural areas have faced even greater risk of violence at the hands of both state and non-state actors.⁹⁴

Lockdowns have resulted in unprecedented advancements in digital technologies which have facilitated public interaction, but not all have benefitted from such technologies, especially given that such technologies are private sector owned and led. The consequence of this fact is that pre-existing digital divides – framed by gender, age, race, socio-economic status, education, disability, and geography (rural and urban; Global South and North) – have grown and have exacerbated inequalities. Poor digital infrastructure in rural areas excludes many from accessing information depriving them from opportunities to participate on an equal basis in political and public life.⁹⁵ For rural women living in poverty the obstacles are magnified leaving them even more marginalised.⁹⁶ Meanwhile, the escalation in online violence against women generally, and the rise in such violence targeted specifically at women in public life and most especially at women of colour in public life, has served to silence and to deprive them of fully enjoying the right to participate in political and public life.⁹⁷ To date, no state has responded adequately to online violence against women. Inaction has fuelled a culture that spills to offline violence against women. Rurality makes women even more at risk of violence by both state and non-state actors, disproportionately discriminating against them.



An intersectional analysis reveals the different ways in which state-imposed measures have directly and indirectly discriminated against women from enjoying their right to participate in political and public life and have both widened pre-existing social divides and made more vulnerable those who already confront multiple axes of oppression.

An intersectional analysis reveals the different ways in which state-imposed measures have directly and indirectly discriminated against women from enjoying their right to participate in political and public life and have both widened pre-existing social divides and made more vulnerable those who already confront multiple axes of oppression.

States parties to CEDAW have a basic obligation to take all appropriate measures to eliminate discrimination against women in political and public life and to ensure that they enjoy equality with men in political and public life.⁹⁸ Despite the reiteration of the importance of women's participation states are failing to meet that obligation. As elaborated by the CEDAW Committee, political and public life is a broad concept and should be understood accordingly. The obligation on states to ensure women's equal participation in political and public life has two aspects: *de jure* and *de facto*. Removing the legal barriers to equality is necessary but insufficient.⁹⁹ States should take temporary special measures to ensure women's *de facto* equal participation at all levels of political life and in all spheres of governance.¹⁰⁰ The Committee has expressly noted that insofar as rural women are concerned, states must ensure their "active, free, effective, meaningful and informed participation" at all levels of decision-making.¹⁰¹



The right to participation means that, where it is within their control, states have a responsibility both to appoint women to senior decision-making roles and, as a matter of course, to consult with and incorporate the advice of groups representative of women's views and interests into decisions.

The right to participation means that, where it is within their control, states have a responsibility both to appoint women to senior decision-making roles and, as a matter of course, to consult with and incorporate the advice of groups representative of women's views and interests into decisions.¹⁰² This includes ensuring that women who confront multiple intersecting forms of discrimination are either appointed to such roles or, at a minimum, that they are provided with adequate information, fully consulted and their views are reflected in decisions. Accordingly, states should take immediate steps to ensure women's equal representation in COVID-19 task forces and that such representation is diverse. Failing that, at a minimum, states must ensure that the advice and expertise of groups dedicated to the protection of women's rights generally and the specific rights of differently situated women such as rural women are included in the decision-making process and acted on.

To protect public health, states may introduce restrictions on the right to freedom of peaceful assembly. However, such restrictions must be temporary, provided by law and be necessary and proportionate.¹⁰³ States have a responsibility to ensure that the legislation adopted in response to the outbreak of COVID is not ambiguous or sweeping (for example, allowing for the imposition of blanket bans on protests) or discriminatory. States must also ensure that law enforcement authorities understand the limits of their powers and that they conduct themselves in a human rights compliant manner, without discrimination on any protected grounds, and do not use unnecessary and/or excessive force.

Pursuant to articles 1, 3 and 10¹⁰⁴ of CEDAW, as well as ICESCR, Article 15,¹⁰⁵ states are obliged to ensure that women are able to access and use digital technologies on an equal basis with men.¹⁰⁶ This obligation is an immediate one¹⁰⁷ that must be read with CEDAW Article 24, requiring states to take all necessary measures at the national level to fully realise the rights set forth in the Convention.¹⁰⁸ The lack of available resources to invest in digital infrastructure does not alleviate a state from its responsibility to ensure that women are not being disadvantaged from meaningful access to and use of digital technologies because of their sex or gender. In particular, the Committee has emphasised the need for states parties to adopt special measures to improve the access to digital technologies by rural women and girls who are disproportionately disadvantaged due to the cascading layers of obstacles they face, including poverty, geographic isolation, language barriers, lack of computer literacy and discriminatory gender stereotyping.¹⁰⁹



States must take proactive steps to develop and implement law and polices to counter the structural root causes of violence against women which, if unaddressed, will continue to impinge on women's freedom to fully enjoy the right to participate in political and public life.

States have an obligation to protect the same rights that exist offline in the digital sphere.¹¹⁰ This includes taking necessary measures to prevent and to counter online violence against women.¹¹¹ The obligation to prevent also requires states to adopt and implement measures to eradicate prejudices, stereotypes and practices as set forth in CEDAW Articles 2(f) and 5(a). In other words, states must take proactive steps to develop and implement law and polices to counter the structural root causes of violence against women which, if unaddressed, will continue to impinge on women's freedom to fully enjoy the right to participate in political and public life.



PART VI: CONCLUSIONS AND RECOMMENDATIONS

The public health risks posed by the spread of COVID-19 required prompt responses by governments. The consequences of doing too little, too late, by some states are clear to see from global statistics. However, the need to act promptly in an emergency, cannot be invoked to justify state failure to protect against discrimination in all its forms. States have a core responsibility to prepare for crisis situations and to ensure that the measures adopted in response comply fully with their human rights obligations. Human rights instruments are drafted to take full account of state responsibilities in crisis situations such as global pandemics. CEDAW is no exception.

The emergency measures adopted by states to counter the spread of COVID-19 were for the most part treated as being gender neutral. While some states considered the gendered effects of lockdown measures, too little was done to mitigate the harms that would follow. Moreover, the disproportionate harm that very many women would experience due to pre-existing intersecting layers of discrimination was a reality that few states, if any, fully considered.

To date few states have taken steps to mitigate the harm inflicted on those who were already classed as expendable, insignificant or undeserving. Nor have states shown any desire to address the pre-existing structural inequalities that have been further entrenched since early 2020. Consequently, states remain in violation of their obligations under CEDAW, as well as other human rights instruments to which they are parties.

“Build back better” is now a popular political slogan in common usage among UN bodies in reference to the global pandemic which is far from over, notwithstanding the claims by some states.¹¹² But whether it is in response to an immediate crisis – man-made or natural – or in designing a roadmap to recovery, this report argues that an intersectional gender analysis is necessary if states are to comply fully with their human rights obligations including CEDAW.¹¹³ Building back differently and therefore better also implies that states should adopt transformative measures to expunge structural inequalities that guarantee the privileging of a few at the expense of the most deprived especially in times of crisis.¹¹⁴

With this in mind, this report sets out the following recommendations to states:

A. IN RESPONSE TO ALL NATIONAL EMERGENCIES INCLUDING PUBLIC HEALTH CRISES

States should immediately:

- appoint women to senior decision-making roles within emergency task forces (eg, COVID task forces) and ensure de facto gender equality in representation;
- take all necessary measures to ensure that task forces comprise members representing different interests and that all socially protected groups are represented;
- require task forces to meaningfully consult with groups representative of women's views and interests, including with groups representing *differently situated women* such as rural women and ensure that the advice received is fully incorporated into decision-making processes, recommendations and final outcomes;
- assess the gendered and intersectional effects of existing and ongoing emergency measures and amend and/or repeal laws and/or policies that are discriminatory whether directly or indirectly;
- financially and logistically support existing women grassroots' self-help measures;
- look for good practices elsewhere and follow the lead of women's rights grassroots organisations;
- collect sex- and age-disaggregated data on the direct and indirect impacts of policy responses.

B. SPECIFIC MEASURES PERTAINING TO RURAL WOMEN

States should:

- take proactive steps to meaningfully consult with rural women and women's organisations involved in protecting the rights of rural women to better understand the adverse impact that emergency measures have on them;
- as parties to CEDAW, implement all recommendations contained in GR 34; and
- as non-parties to CEDAW, consider implementing the recommendations set forth in GR 34.



C. LONG TERM MEASURES TO ADDRESS STRUCTURAL INEQUALITIES

States should:

- introduce special measures to secure de facto gender equality across all spheres of political, economic and social participation and decision-making from the local to the global;
- introduce special measures to ensure that women who experience intersecting forms of harm and exclusion are represented across all spheres of political, economic and social participation and decision-making and that their interests are fully protected from the local to the global;
- appoint, at a senior level within the state apparatus, gender advisors and advisors with the specific mandate to consider intersecting forms of discrimination and give them adequate authority and powers to require changes in policies/laws to ensure ongoing compliance with CEDAW and with all other human rights obligations;
- establish a publicly funded independent entity with the authority to examine the impact of intersectional discrimination and with the power to demand change in policy and law; and
- take steps to reverse existing socio-economic arrangements and policies that create and maintain inequalities and replace them with those that advance gender equality including, for example, non-contributory social protection, universal basic income, and radically redistributive tax systems within and between states.¹¹⁵



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- 106 Article 3 of CEDAW requires states to take all appropriate measure to ensure the full enjoyment of rights on a basis of equality "in all fields." Read together, these two provisions anticipate the emergence of new forms of discrimination that may not have been identified at the time of CEDAW's adoption.



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