

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
PETITION OF 2020

In the Matter of Articles 1, 2, 3, 10, 19, 20(1)(4), 21, 22,24,25, 27, 28, 29, 35, 165 232(1), 253,
258 and 259 of the Constitution

and

In the Matter of Section 4 And 9 the Access to Information Act, 2016

and

In the Matter of Section 5, 6, 7 and 10 of the Health Act, 2017

BETWEEN

ERICK OKIOMA.....1ST PETITIONER
ESTHER NELIMA.....2ND PETITIONER
CHRIS OWALLA.....3RD PETITIONER
CM.....4TH PETITIONER
FA.....5TH PETITIONER
KB.....6TH PETITIONER
MO.....7TH PETITIONER
EL.....8TH PETITIONER
KATIBA INSTITUTE.....9TH PETITIONER
KENYA LEGAL AND ETHICAL ISSUES NETWORK
ON HIV/AIDS (KELIN).....10TH PETITIONER
THE KENYA SECTION OF THE INTERNATIONAL COMMISSION OF
JURISTS (ICJ KENYA).....11TH PETITIONER
TRANSPARENCY INTERNATIONAL KENYA.....12TH PETITIONER
ACHIENG ORERO.....13TH PETITIONER
(9th to 13th Petitioners suing on behalf of health and human rights civil society and non-
governmental organizations)

VERSUS

MUTAHI KAGWE, CABINET SECRETARY
FOR HEALTH.....1ST RESPONDENT
PATRICK AMOTH, AG DIRECTOR GENERAL,
MINISTRY OF HEALTH.....2ND RESPONDENT
CORNEL RASANGA, GOVERNOR OF
SIAYA COUNTY.....3RD RESPONDENT
COUNCIL OF GOVERNORS.....4TH RESPONDENT
FRED OKENGO MATIANGI, CS INTERIOR AND
COORDINATION OF NATIONAL
GOVERNMENT.....5TH RESPONDENT
HILARY NZIOKI MUTYAMBAI, INSPECTOR GENERAL
OF THE POLICE, KENYA.....6TH RESPONDENT
JOSEPH WAKABA MUCHERU, CABINET SECRETARY
FOR INFORMATION AND

COMMUNICATIONS.....7TH RESPONDENT
 COMMISSION ON ADMINISTRATION
 OF JUSTICE.....8TH RESPONDENT
 DANIEL YUMBYA, CHIEF EXECUTIVE OFFICER,
 KENYA MEDICAL PRACTITIONERS' AND DENTISTS
 COUNCIL.....9TH RESPONDENT

AND

KENYA NATIONAL COMMISSION ON
 HUMAN RIGHTS (KNCHR).....1ST INTERESTED PARTY

13TH PETITIONER'S AFFIDAVIT IN SUPPORT OF THE PETITION

I, **ACHIENG ORERO**, residing in Nairobi in the Republic of Kenya and of Post Office Box 62323-00200 representing Women's Link Worldwide do hereby solemnly make oath and state THAT:

1. I am an adult of sound mind and a Staff Attorney at Women's Link Worldwide, duly authorized and thus competent to make and swear this affidavit in support of and on behalf of Women's Link Worldwide.
2. I swear this Affidavit in support of the Petition.
3. Women's Link Worldwide is an international non-governmental organization founded in 2001 working to uphold women's rights through the domestic implementation of international human rights law and the use of comparative law by national courts.
4. As a clearinghouse of legal precedent from national, regional and international courts, Women's Link Worldwide is a global resource for judges, advocates and organizations committed to women's human rights. We are a trusted international resource for legal expertise in women's human rights and have a demonstrated commitment to sharing that expertise by providing information on a national, regional and international level, through our publications and amicus briefs. We have intervened as amicus curiae before the Supreme Court of Rwanda (Prosecution v NTIBAJYINAMA Esther, Case No. RPAA 0078/15/CS), the Court of Appeal of Rwanda (Prosecution vs TWAGIRUMUKIZA Claver, Case No. RPA 00001/2018/CA), the High Court of Kenya at Bungoma (Petition No. 5 of 2014) and the High Court of Kenya at Nairobi (Petition No. 266 of 2015).
5. Women's Link Worldwide has issued numerous publications relating to the protection and promotion of women's and girls' human rights, focusing on sexual and reproductive rights and health, gender-discrimination and gender-based violence. Focusing specifically on sexual and reproductive health and rights, some of the organization's publications in English include: *Human Rights: the Foundation for a Comprehensive Sexual and Reproductive Health Counselling Service* (2012), *Migrant Women's Rights: An Invisible Reality* (2009), *Mothers in Human Trafficking Networks: Robbed of their Rights* (2017), *The Truth Spoken Aloud* (2017), *Trapped in Europe. Dignity denied* (2016), and *Trafficking of Nigerian girls and women: slavery between borders and prejudices* (2014).

6. In April 2020, the 1st Respondent issued the Kenya Covid 19 RMNH Guidelines: A Kenya Practical Guide for Continuity of Reproductive, Maternal, New-born and Family Planning Care and Services in the Background of COVID 19 Pandemic (hereafter referred to as RMNH Guidelines). The Guidelines were intended to provide health care service providers as well as members of the general public, particularly women and girls, information related to provision and acquisition of sexual and reproductive health services.
7. Given that the RMNH Guidelines as they currently exist are not comprehensive in their scope and have left out information crucial to the fulfilment of the highest attainable standard of reproductive health for women and girls as provided for under Article 43 of the Constitution of Kenya, the 13th Petitioner in concerted effort with a number of other Civil Society Organisations wrote to the 1st Respondent vide an e-letter dated 28th April, 2020 seeking more information as to how the RMNH Guidelines could ensure a comprehensive approach to sexual and reproductive health and rights of women and girls.

Annexed hereto and marked AO-1 is a copy of the letter to the 1st Respondent dated 28th April 2020.

8. The 1st Respondent has to the date of the filing of this Petition neither acknowledged receipt or responded to the said letter of 28th April, 2020 leaving women and girls in this country with uncertainty on how to access certain essential reproductive health care services within the existing reality of the COVID 19 pandemic and the measures in place such as the lockdown and curfew.
9. On 7th May 2020, the 13th Petitioner in partnership with Amnesty International and International Planned Parenthood Federation Africa, launched Guidelines for African States to protect the rights of women and girls during the Covid-19 Pandemic. Based on the State obligations emanated from international and regional human rights instruments that Kenya has ratified, the guidelines outlined recommendations that states must address in order to ensure their responses to the pandemic guarantee the protection of women and girls' right to live free from gender based discrimination and violence and to access essential sexual and reproductive health rights services, commodities and information.
10. The guide which is a roadmap for national and local government authorities to better understand their obligations towards women and girls during this COVID-19 Pandemic period provides for: public information campaigns on support services such as medical care and counselling; protection measures like provision of shelter in safe houses and access to legal support available to ALL women victims of domestic violence during the pandemic. Others include mass dissemination, publication and public access to information on sexual and reproductive health services and commodities in relevant languages for the targeted communities and in accessible formats for all women including women living with disabilities and women in the context of migration and human mobility.

Annexed hereto and marked AO-2 is a copy of the guidelines launched on the 7th May 2020.

11. The prevailing conditions created by the COVID 19 pandemic as well as the measures put in place by the Respondents restricting movement has inadvertently restricted the access of women and girls to essential services. The failure to issue comprehensive information by the Respondents regarding any exceptions to movement restrictions if at all only serves

to violate the rights of women and girls not only to access information as provided in Article 35 of the Constitution of Kenya, but inextricably the right to the highest attainable standard of health care also provided in the Constitution of Kenya, Article 43(1)(a). The State has an obligation to ensure information on exceptions to movement restrictions for women survivors of violence who need to seek assistance outside their homes or who escape from situations of violence is made available. Similarly, information on support services such as medical care, counselling and legal assistance for women survivors of sexual violence which are essential services must also be availed.

12. In times of emergency, risks of violence to women and girls increase. As UN Women has noted, violence against women is “the most widespread human rights violation in the world.” The World Health Organization has described it as “a global public health problem of epidemic proportions.” Staying home reduces the risk of catching COVID-19. However, for thousands and women and girls, staying home does not mean greater safety, but rather greater risk of violence, including sexual violence, when they are isolated with their abusers or potential abusers. This is due to high rates of sexual violence, particularly by girls’ family members or other people close to them, and lack of access to reproductive health services; a situation that is exacerbated by measures such as curfews and by the overwhelmed healthcare system.
13. The judiciary through an address by the Chief Justice of Kenya has indeed reported a sharp increase in the number of rape and defilement cases reported since March 2020 as a result of the advisory to stay at home and other measures subsequently issued by the 1st Respondent in response to the COVID 19 pandemic. In his statement, the Chief Justice, Justice David Maraga indicated that sexual offences constitute 35.8% of the criminal matters reported during this period with ‘perpetrators being close relatives, guardians and/or persons living with the victims’.

Annexed hereto and marked AO-3 is a copy of the statement on justice sector operations in the wake of the COVID-19 pandemic’ (CJ’s Statement) issued on 1st April 2020.

Annexed hereto and marked AO-4 is an article published by Standard Media on ‘Sex predators on the Rampage amid Curfew’ on 18th April 2020.

Annexed hereto and marked AO-5 is an article published by Human Rights Watch on ‘Tackling Kenya’s Domestic Violence Amid COVID-19 Crisis’ on 8th April 2020.

14. Violations of the rights to life, health and particularly the sexual and reproductive health and rights of women, including women in situations of heightened vulnerability due to circumstances such as humanitarian or health crises, are forms of gender violence that may constitute torture or cruel, inhuman, or degrading treatment. Failure to provide these essential services is a form of discrimination against women and girls because it places their lives, health, and physical and psychological integrity at risk.
15. It has been reported by a number of media outlets that women and girls in Kenya are failing to access health care facilities and reproductive health services as a result of the stringent curfew measures and further the failure by the Respondents to issue and disseminate clear and comprehensive guidelines and information to the public responding to these challenges.

Annexed hereto and marked AO-6 is a news article 'Pregnant Mother bleeds to Death During Curfew' published on 10th April 2020.

Annexed hereto and marked AO-7 is an article 'Pregnant Women in Rural Kenya are Struggling to Access Health Care Amid covid-19' published on 15th April 2020.

16. The Respondents therefore have a special obligation to ensure access to these healthcare services in accordance with principles of dignity, equality, and non-discrimination, particularly in light of the range of vulnerability or risk situations women and girls may face while quarantine and isolation measures are in effect.
17. Women's right of access to information on sexual and reproductive health gives rise to a proactive obligation for the Respondents to provide reliable, complete, timely, and accessible information that allows them to exercise their rights or meet their needs. Considering the fact that vulnerable women and girls face more barriers to access information—particularly those who are poor, rural, migrants, or lacking in education—States must make special efforts to ensure information reaches them. The use of Internet, social media platforms and mainstream media should also be accompanied by various community outreach programs to ensure non-discrimination of women who have no access to the above means of communication.
18. The Constitution of Kenya recognizes the right to receive information in Article 33 stating, "every person has the right to freedom of expression, which includes—(a) freedom to seek, *receive* or impart information or ideas." (Emphasis added). Article 35 further guarantees the right of access to information stating, "(1) Every citizen has the right of access to—(a) information held by the State; and (b) information held by another person and required for the exercise or protection of any right or fundamental freedom"; in the case of the latter, validly including information required for the exercise or protection of the right to the highest attainable standard of health.
19. The right to information as stated in the Constitution of Kenya obligates the State to provide information that is **accurate, impartial and complete**. The right to access to information is an essential part of guaranteeing women's right to health. The right to access to information is especially relevant in the area of health, as individual's ability to make free and informed decisions with regard to their health is contingent upon their access to information. The right to information also intersects with other rights, such as the right to non-discrimination, as marginalized groups including women, migrants, ethnic minorities, and people living in rural areas often have less access to information than other member of society.
20. The State has an obligation, pursuant to the respect and guarantee obligations imposed by regional and international law, and under the principles of equality and non-discrimination, to ensure that accurate information is available in a timely, complete, accessible, and reliable manner to all women and girls, and particularly to the poor, vulnerable, and those from marginalized communities.
21. Further, both Articles 19 of the ICCPR and the UDHR recognize everyone's 'right to freedom of expression; including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print'.

22. The Respondents have an obligation of active transparency consistent with providing the public the maximum amount of information proactively—without a petition—particularly when the information in question is related to satisfying other rights. The obligation of active transparency is particularly relevant when the information has to do with issues related to sexuality and reproduction, since such information helps people be prepared to make free and informed decisions concerning these aspects that are so intimate to their lives.
23. The right of access to information is closely related to the exercise of other human rights, and in that sense, the failure to comply with the obligations of respecting and guaranteeing women’s free access to information can be understood to lead to various violations of their rights to live free from violence and discrimination. As such, the Respondent’s obligation to guarantee the right of access to information is essential in order for women to be able to fully exercise all of their rights, and in particular, their sexual and reproductive rights.
24. The failure of the Respondents to adhere to its obligation to guarantee the right to access information to women and girls continues to pose a threat to their attainment of the highest attainable standard of reproductive health.
25. Without the timely intervention of this Honourable Court and issuance of the reliefs sought in the Petition, the Respondents will continue to act in neglect of their obligation to ensure the provision of accurate, transparent, impartial and timely information to the detriment of women and girls across this country.
26. I depose this affidavit in support of the Petition from facts within my knowledge save for the information the sources whereof are otherwise disclosed. I believe this affidavit to be in accordance with the Oaths and Statutory Declarations Act, Cap 20.

SWORN at NAIROBI by the said
ACHIENG ORERO
This day of 2020



Achieng Orero
DEPONENT

Achieng Orero

26 June 20
women's Nairobi worldwide



Hon. Mutahi Kagwe, Cabinet Secretary for Health and
Chairperson, National Emergency Response Committee on Coronavirus
Ministry of Health
Afya House
Cathedral Road
P.O. Box 30016-00100
Nairobi
Email: ps@health.go.ke; cabsecretary@health.go.ke

Women's Link Worldwide
Via email only:
guiacovid@womenslinkworldwide.org

28th April 2020

Dear Sir/Madam,

Re: Ministry of Health COVID-19 RMNH Guidelines: A Kenya Practical Guide for Continuity of Reproductive, Maternal, New-born and Family Planning Care and Services in the Background of COVID19 Pandemic.

We write in relation to the “COVID-19 RMNH Guidelines: A Kenya Practical Guide for Continuity of Reproductive, Maternal, New-born and Family Planning Care and Services in the Background of COVID19 Pandemic” (hereinafter, “the guidelines”), issued by the Kenyan Ministry of Health in April 2020 in response to the COVID-19 pandemic in Kenya.

We, the undersigned, are representatives of civil society organisations which advocate for the protection and promotion of human rights standards, particularly relating to the rights of women and girls. Firstly, we are grateful to the Ministry for acting swiftly in responding to the developing situation with the COVID-19 pandemic and seeking to ensure that the rights of women and girls to access sexual and reproductive health services continue to be protected throughout this challenging and unprecedented time. Further to the guidelines given on family planning and maternity care, we write to urgently draw the Ministry's attention to the need to include access to safe abortion, as permitted by the Constitution under Article 26(4), and comprehensive post-abortion care within the scope of these guidelines as emergency health care treatments which must continue to be prioritised, even during the COVID-19 pandemic. In light of the range of vulnerability or risk situations that women and girls may face while curfew and isolation measures are in place, it is vital that women and girls continue to have access to a full range of healthcare services, particularly sexual and reproductive healthcare services, as guaranteed by international and regional human rights standards.

Women and girls have a right to comprehensive health care, including sexual and reproductive health care. This is laid down in various instruments within international human rights law, particularly in the International Covenant on Economic, Social and Cultural Rights, which recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Particularly in relation to sexual and reproductive health rights, the UN Committee on Economic, Social and Cultural Rights has established that the right to health, which includes sexual and reproductive health, requires [health services to be available, accessible, acceptable and of good quality; including legal abortion](#). Further, under the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the "Maputo Protocol"), the right of women to adequate, affordable health services, including safe abortion services under specified circumstances has been recognised. This was reinforced by the African Commission on Human and People's Rights' in [General Comment No.2](#), which recognises that it is critical that States "ensure the availability, financial and geographic accessibility, as well as the quality of women's sexual and reproductive health-care services without discrimination." It is also important to note that the right to the highest attainable standard of health, which includes the right to health care services, is encompassed within the rights and fundamental freedoms guaranteed by the Constitution of Kenya, at Article 43(1)(a).

The right to reproductive health care is explicitly included within this provision. This right was reaffirmed by the High Court last year in *Federation of Women Lawyers (FIDA-Kenya) & 3 Others v Attorney General & 2 Others; East Africa Centre for Law & Justice (Interested Party) & Women's Link Worldwide & 2 Others (Amicus Curiae) [2019] eKLR*, which declared that women and girls have the right to the highest attainable standard of health, which includes mental and social well-being, as well as physical health, the right to non-discrimination and other rights, and affirmed the rights of victims of sexual violence to access an abortion.

Comprehensive post-abortion care includes not only emergency treatment for complications relating to spontaneous or induced abortions, but may, where relevant for each individual patient, also include family planning and birth spacing counselling, the provision of family planning methods, and evaluations for sexually transmitted infections including HIV/AIDS. Article 43(2) of the Constitution guarantees every person the right to emergency treatment and this is also reflected at Section 6 of the Health Act and post-abortion care must be guaranteed as part of emergency treatment. We note with the utmost concern that there is no provision for treatment of all emergencies in the guideline in the light of the government imposed curfew and the mere guideline to seek telemedicine as an alternative does not adequately address the needs of survivors of Sexual and Gender Based Violence or pregnant women who go into labour during the curfew hours. Provision of post-abortion care is considered part of the core obligations of State Parties to the Covenant on Economic, Social and Cultural Rights, in relation to the realisation of sexual and reproductive health, as a component of the right to the highest attainable standard of health. Further, as a signatory to the [Beijing Declaration and Platform for Action](#), the Kenyan State has committed to ensure the provision of post-abortion care. States are required to undertake measures to ensure access to post-abortion care for all women and girls, free from discrimination, violence or coercion. This obligation includes the provision of adequate training, support, and supplies to ensure that abortion-related complications can be treated, irrespective of the legality of abortion. The denial of life-saving obstetric care, including post-abortion care, has been recognised as a violation of women's and girl's right to life by the [UN Human Rights Committee](#).

The obligation on States to provide comprehensive health services, including sexual and reproductive health services and, particularly relevant in this context, comprehensive post abortion care, continues during times of national emergencies, including health care

emergencies such as the current COVID-19 pandemic. As emphasised by the UN Committee on the Elimination of Discrimination Against Women in their [General Recommendation No. 37](#), “Health services and systems, including sexual and reproductive health services, should be available, acceptable and of good quality, even in contexts of disaster.”

Reviewing the guidelines as published by the Ministry of Health, we note with concern that **the need to continue providing abortion, as permitted by the Constitution, and post-abortion care as essential and urgent treatments is missing from the list of acute gynaecological conditions outlined in Section 9 of the guidelines.** When post-abortion care is denied, or such treatment is administered inadequately or unsafely, women and girls are placed at significant risk of suffering serious physical and mental harm, and sometimes even die from being denied such care. [Research](#) into abortion in Kenya, to which this Ministry contributed and was a study partner, found that there were around 464,000 abortions induced in 2012; translating to an abortion rate of 48 per 1,000 in women aged 15 to 49. Further, it was estimated that around 120,000 women are hospitalised in Kenya each year due to abortion-related complications. Further research carried out by the Ministry of Health and the Africa Population and Health Research Center has shown that the cost of unsafe abortions borne by the Public Sector each year is estimated at KES 533 Million with 58% of the cost being towards the cost of the personnel and 42% of this cost being allocated to the medication and other related costs. This cost being known and documented should be allocated in the overall budgeting and costing for the response to Covid-19. Unless the need to provide comprehensive post-abortion care as an emergency medical treatment is explicitly incorporated into the guidance offered by the Ministry of Health to health care professionals, women and girls will be denied care and their lives, health, and physical and psychological integrity will be left at risk of serious harm during the pandemic. **We therefore urge the Ministry to amend the official guidelines without delay by releasing and distributing supplementary information which addresses the need for healthcare professionals to provide providing abortion, as permitted by the Constitution, and post-abortion care as emergency treatments during the Covid-19 pandemic.**

We would also like to share with you the [Guidelines for Protecting the Rights of Women and Girls During the Covid-19 Pandemic](#), which have been developed by the international human rights organisation [Women’s Link Worldwide](#), together with Amnesty International (Americas

Office) and with IPPF Western Hemisphere Region, on how States should make sure they protect and fulfil women and girls rights during the COVID-19 pandemic. The recommendations contained in this document are tailored towards Latin American States but can in fact be used by any national authority as a roadmap on how to avoid deepening gender inequality during the pandemic. Please note that we will shortly be launching a version of these guidelines which is tailored to African States and adapted to the regional context; we would be pleased to share this with the Ministry when this is available.

We refer the Ministry specifically to section 2 of these Guidelines, focusing on the provision of sexual and reproductive health services, and in particular, point 2 *“Voluntary termination of pregnancy services....should be considered essential services during quarantine, and any contingency plans adopted should take this into account,”* and point 4, *“They should also designate post-abortion care as an essential service during times of quarantine and isolation.”* We hope that these recommendations, alongside the other guidance contained within this document, is of use when the Ministry is considering ways in which to expand and extend the published guidance to ensure the full protection of women’s and girl’s right to health during the COVID-19 pandemic.

Should you need any further information or assistance in relation to this matter, please do not hesitate to contact us. **Given the urgent nature of this matter, we respectfully request your response within 7 working days of receipt of this letter (in either physical or electronic format) in order to inform our next action.**

Endorsed by:

1. Amnesty International
2. Boda Boda Association of Kenya
3. Community Forum for Advanced and Sustainable Development (COFAS)
4. Community Initiative Action Group Kenya
5. ICW Kenya Chapter
6. Kenya Ethical Legal Issues Network (KELIN)
7. Kenya AIDS NGO Consortium (KANCO)
8. Kenya Sex Workers’ Association (KESWA)
9. Mumbo International

10. Nyarwek Network
11. Trust for Indigenous Culture and Health
12. Women's Empowerment Link
13. Women's Link Worldwide



GUIDELINES FOR AFRICAN STATES TO
 PROTECT THE RIGHTS OF WOMEN AND GIRLS
 DURING THE COVID-19 PANDEMIC

The COVID-19 pandemic — like all crises — will have a distinct impact on women and girls that is both immediate and that poses the risk of exacerbating pre-existing gender and other intersecting inequalities. Women and girls, particularly those who are already experiencing the greatest marginalization, will be disproportionately affected and, unless their rights are protected and their needs are met, will be further deprived of justice. Any measures taken to respond to the COVID-19 pandemic must uphold and protect human rights, including basic rights such as access to food and water, shelter and health services. States must ensure that their responses include a gender approach in order to guarantee the rights of all women and girls to live free of gender-based discrimination and violence, and to access essential sexual and reproductive health services, commodities and information.

The [UN High Commissioner for Human Rights](#), the [UN Special Rapporteur on violence against women](#), the [African Commission on Human and Peoples' Rights](#) and [others](#) have issued clear guidelines for States that should be used to craft measures to respond to the pandemic that also fulfill their human rights obligations. National and local authorities should be aware that in contexts of health, humanitarian, or other crises, inequality gaps increase when the adverse effects of these crises on women and women's rights are not taken into account and addressed.

The COVID-19 crisis does not relieve States of their obligations to address the gender-based violence faced by thousands of women and girls in the region; on the contrary, it requires more rigorous measures to minimize the negative impacts this new health crisis may have on them. Without a differential approach, half of the population may lack effective protection during the crisis resulting from the pandemic, which may have long-term effects well beyond the current health crisis, leading to greater exclusion and discrimination against women and girls in Africa.

Worldwide, 70% of the [healthcare and social service workforce are women](#) — meaning women are at the front lines of containing the spread of COVID-19 and may be heavily exposed to the virus through work in the health and social service sectors. Public service systems rely on women's unpaid labour, including for home-schooling and providing care for family members who are elderly, sick or living with disabilities. Women and girls are affected by poverty in disproportionately high numbers in the region. In Sub-Saharan Africa, [women make up to 92 percent of workers in the informal sector](#), where there is no job security and no safety net if a crisis like COVID-19 deprives them from their earnings. Informal work includes many occupations such as street vendors, goods traders, and seasonal workers, which are most likely to be harmed by the

pandemic containment measures such as quarantines, lockdowns, travel restrictions and social distancing, and by the economic slowdown. Women are also over-represented in service industries that [have been among the hardest hit by the response to COVID-19](#). Women and girls are also at high risk of domestic violence, which is [reported to have increased](#) with travel restrictions, social isolation and lockdowns.

States must take into account the underlying gender and other, intersecting forms of discrimination that increase women and girls' vulnerability in this context, including on the grounds of migrant or refugee status, nationality, ethnicity, belonging to religious or linguistic minorities or Indigenous people; age, gender identity, sexual orientation and sex characteristics, or status as a human rights defender, among others. Likewise, States must specifically address the needs of women living with disabilities, in rural or remote areas, and women needing access to essential, time-sensitive services such as voluntary termination of pregnancy, and guarantee access to assistance and protection for women victims of sexual violence, trafficking and other forms of exploitation.

As governments across the globe have introduced states of emergency, curfews and general lockdowns in order to slow the spread of COVID-19, billions of people have faced unprecedented restrictions. As a consequence of some governments having approached the pandemic as a security threat rather than as a public health emergency, [some police forces around the world are applying violent and humiliating punishments](#) to enforce quarantine on the poorest and most vulnerable groups, including tens of millions people who live hand-to-mouth and who risk starving if they are not able to seek work or subsistence for themselves and their families. Therefore, it is imperative that while working to mitigate the adverse impact of the global pandemic, States parties to the African Charter on Human and Peoples' Rights are also obliged to take appropriate measures to respect, protect and fulfill the rights enshrined in the Charter, including through taking all necessary measures to prevent threats to the life, safety, and health of people, while also respecting human and peoples' rights and protecting marginalized groups. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the [Maputo Protocol](#)) which guides African Union member States in addressing women rights also protects these rights.

HOW TO USE THIS GUIDE

This guide provides a roadmap for national and local government authorities and agencies, as well as sub-regional and regional organisations, to better understand the obligations they must fulfill as regards women and girls' rights during the pandemic. This guide is designed to help duty bearers to ensure that minorities, internally displaced persons (IDPs), the vulnerable, marginalized and disadvantaged communities have access to basic rights and freedoms during these challenging times. This is a short guide and does not cover the full extent of State obligations under international human rights law. Instead, this guide focuses on some particular aspects of the crisis which differentially and disproportionately impact women and girls. Importantly, States should ensure that women are enabled to effectively participate in the decision making relating to COVID-19.

For civil society and human rights organizations, this guide may be used as a list of minimum indicators for assessing State responses to the pandemic as regards their obligations to uphold women and girls' rights, and as a support for advocacy activities directed at getting governments and authorities to apply a human rights approach to any response.

For humanitarian and international cooperation organizations, this guide may complement efforts underway to provide technical support and assistance to States as they prepare contingency and pandemic response plans in order to ensure that these responses include a differential approach and that effective measures that were in place prior to the crisis continue to work.

This guide is also meant to be an inventory of competencies and activities that States should strengthen as they grapple with their response to the global COVID pandemic. The measures in response to the pandemic should leave no one behind and should be backed up with sufficient resources to ensure they are implemented without discrimination.

AN URGENT RESPONSE: ACTIONS TO RESPECT, PROTECT AND FULFILL THE HUMAN RIGHTS OF WOMEN AND GIRLS

1) THE RIGHTS TO LIVE FREE FROM VIOLENCE AND TO BE FREE FROM TORTURE AND CRUEL, INHUMANE OR DEGRADING TREATMENT

In times of crisis, the risk of gender-based violence against women and girls increases. As [UN Women](#) has noted, violence against women is "the most widespread human rights violation in the world". Therefore, during the COVID-19 crisis, addressing risks of violence faced by women and girls in the context of social distancing and isolation, states of emergency, travel restrictions, and other containment measures should be prioritized. The implementation of States' measures such as curfews, travel restrictions and lockdowns can lead to police brutality and violence which ultimately puts women and girls at an increased risk of being subjected to sexual violence as [it has recently been the case in parts of Kenya](#).

When dealing with the pandemic, **States should ensure that support services and protective mechanisms for women survivors of violence remain accessible while travel restrictions and quarantine orders are in effect.** To this end, States should promote the following measures:

- Judicial authorities should ensure women survivors of domestic violence and their children or other family members have effective access to justice and timely protective measures such as restraining orders including extending the current ones, with no additional requirements, for the period of the pandemic.
- Competent national and local authorities should ensure that support services such as shelters remain open and that they have sufficient capacity to provide safe space for self-isolation if needed, and/or new facilities are made available for women who must leave their homes while quarantine orders are in effect in order to be protected from their assailants. Authorities

should also ensure that all women and girls have information regarding services available during this quarantine period.

- Services allowing women to report violence and receive assistance such as gender desks and Gender Based Violence Recovery Centres (GBVRCs) should remain open, and those services and lines established to provide assistance during the pandemic should include measures allowing for effective reporting of cases of domestic violence, disappearances, risk of femicide, FGM, child marriages and similar incidents.
- Authorities should adopt necessary measures to allow search protocols to be carried out when women are reported missing while quarantine orders are in effect.
- Travel restrictions should include exceptions for women survivors of violence who need to seek assistance outside the home or who escape from situations of violence or exploitation. Law enforcement agencies should be directed to consider these situations in order to prevent revictimization or prosecution of victims.
- States should strengthen efforts to effectively identify victims of trafficking in human beings and other forms of exploitation and provide them with necessary legal assistance, medical care and support services.
- In countries where crisis and turmoil have historically led to documented widespread gender-based violence, including sexual violence (such as recently in [Kenya](#) and [Rwanda](#)), authorities should include prevention and protection measures from the outbreak of the crisis.
- Medical care, counselling and legal assistance for women victims of sexual violence should be considered an essential service during quarantine.
- Authorities should ensure there are public information campaigns on support services and protective measures available to women victims of violence during the pandemic.

2) ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES, COMMODITIES AND INFORMATION

Access to healthcare services, commodities and information is a key part of human rights protected under multiple regional and international human rights instruments, in particular the right of all persons to enjoy [the highest possible level of physical and mental health](#), including sexual and reproductive health. Violations of the rights to life and health, including the sexual and reproductive health rights of women and girls, particularly those in situations of heightened vulnerability due to circumstances such as humanitarian or health crises, are forms of gender-based violence that may in some cases constitute [torture or cruel, inhuman, or degrading treatment](#). Denial or failure to provide these essential services is a form of gender-based discrimination, and places the lives, health, and personal and bodily integrity of women and girls and people who can become pregnant at risk.

States have an obligation to ensure access to healthcare services, commodities and information in accordance with principles of dignity, equality, and non-discrimination, particularly in light of the range of circumstances putting women, girls and marginalised groups at greater risks while quarantine and isolation measures are in effect.

When prioritizing assistance to specific groups and/or designating services as essential during the COVID-19 crisis, States should ensure availability of, and access to, sexual and reproductive healthcare services, commodities and information as follows:

- Care for pregnant and breastfeeding women should be available, adequate, accessible and affordable. Uninterrupted access to maternal health services (including pre- and antenatal care and emergency obstetric services) should be guaranteed under safe circumstances for staff and pregnant people.
- Safe abortion, contraception including emergency contraception, and maternal health services should be considered essential services during quarantine, and any contingency plans adopted should take this into account. These services should be exempted from travel restrictions in order to ensure access.
- Service providers' ability to travel and continue their work should be supported, in particular by granting the necessary travel permits to medical providers, humanitarian groups, and cooperation organizations during times of quarantine and isolation.
- When travel restrictions are in place, States should adopt measures to facilitate access to voluntary termination of pregnancy services using abortion medication at home and tele-health tools. They should also designate post-abortion care and miscarriage treatment as an essential service during times of quarantine and isolation.
- Delays in access to safe abortion services may be anticipated during the crisis, so States whose abortion laws are based on a gestational limits model should consider increasing flexibility in those time limits. States should also mitigate any enhanced barriers to access, such as refusals of care on grounds of personal beliefs, mandatory counselling, waiting periods, and multiple authorizations.
- Measures should be taken to increase assistance to territories and regions that have historically had greater barriers to access to health services. Local authorities should encourage implementation of these measures, with the support of national authorities.
- Emergency obstetric care should be prioritized during the crisis, and measures should be taken to provide healthcare personnel with necessary protections in case of suspected or confirmed cases of COVID-19.
- Healthcare services should be guaranteed for women and girl victims of sexual violence during the crisis, including effective application of protocols or guidelines in effect in each country. Referral pathways should also be updated to reflect the changes in available facilities.
- Impacts on supply and distribution chains for family planning methods and other sexual and reproductive health commodities related to menstrual health should be addressed and measures to minimize these impacts adopted. This includes listing these products as essential services to be supplied by relevant State authorities so they can continue to be available and accessible.
- States should uphold the right to receive information with an intersectional approach by continuing to ensure the dissemination, publication, and public access to information on sexual and reproductive health services and commodities in relevant languages for the targeted communities and in accessible formats for people with disabilities.

3) ACCESS TO JUSTICE

High levels of impunity are one of the greatest challenges to access to justice for women and girls survivors of violence in the region. States have a special obligation to ensure due diligence in the investigation and prosecution of all cases of gender-based violence. International and regional human rights bodies have found that judicial ineffectiveness encourages impunity, perpetuates gender-based violence, and sends a message to society that violence against women and girls may be tolerated and accepted.

The obligation to ensure access to justice for women survivors of violence should be strictly observed in contingency plans for the COVID-19 crisis. The following actions should be taken:

- The capacity of government institutions to receive and process complaints should be increased through adoption of the special measures necessary to ensure continued availability of judicial actors.
- Assistance and support services for women survivors of violence should be considered essential during quarantine, and local and national authorities should take steps to ensure their continued availability and funding.
- Survivors of violence should have access to flexible means of making complaints and seeking protections, such as by electronic means, telephone, or other alternative means, taking into account the travel restrictions in effect.
- Security forces and law enforcement should prioritise responding to and following up on complaints of violence against women as they perform their duties during the crisis.
- Any extension of judicial time limits should take into account the obligation to ensure access to justice for women victims of violence within a reasonable time and without undue delay.
- Special mechanisms should be put in place to ensure proper collection of forensic evidence in cases of physical, sexual, and/or psychological violence for use in court proceedings.
- Adequate records of complaints of gender-based violence made during the crisis should be kept and follow-up mechanisms should be put in place to assist victims and initiate appropriate legal actions.

4) WOMEN AND GIRLS IN THE CONTEXT OF MIGRATION AND HUMAN MOBILITY

In a joint statement, [UNHCR, IOM, OHCHR and WHO](#) have specified that the rights of migrants, refugees, displaced people, and persons at risk of being stateless must be protected in the context of the pandemic response, and that even as borders are being closed, the principle of non-refoulement must still be observed.

In other regions, human rights organizations have stressed the [importance of protecting the life and health of migrants and refugees](#) in the context of the COVID-19 crisis, particularly in light of the extreme impact caused by State responses in the Americas, including border closings and other measures directly affecting these groups. In the African region, organizations have expressed similar concerns about the [exclusion of migrants and refugees in States' responses to the pandemic](#).

The above mentioned measures regarding access to justice, to sexual and reproductive health services commodities and information, and to a life free from violence, torture and cruel, inhumane or degrading treatment should apply to migrant and refugee women and girls, and more broadly, to women and girls on the move in Africa, regardless of their migration status. Border closings will [increase the use of clandestine border crossings](#), placing women and girls at greater risk of violence, exploitation, and trafficking in human beings, including for the purposes of sexual exploitation.

Africa hosts more than [25.2 million refugees and internally displaced people](#) and houses [four of the world's six largest refugee camps](#) (in Uganda, Kenya, Tanzania and Ethiopia). Refugee camps usually provide inadequate and overcrowded living arrangements that present a [severe health risk](#) to inhabitants and host populations. Inadequate supplies in some camps, such as clean running water and soap, insufficient medical personnel presence, and poor access to adequate health information are major problems in these settings. Additionally, women and girls face an increased risk of suffering sexual violence and of being recruited into trafficking.

States must therefore adopt measures that take into account the differential impact of the crisis on women and girls on the move, including the following:

- Put in place clear service delivery mechanisms for migrants and include access to healthcare and prevention systems in pandemic contingency plans.
- Ensure access to essential healthcare services, including sexual and reproductive health services, commodities and information for migrant women, in accordance with the above guidelines under "Access to sexual and reproductive health services, commodities and information".
- Follow the guidelines jointly developed by IFRC, IOM, UNHCR and WHO, "[Scaling-Up COVID-19 Outbreak Readiness and Response Operations in Humanitarian Situations, Including Camps and Camp-Like Settings](#)" to, at a minimum, avoid refugee camps becoming spaces for transmission of the coronavirus and to make sure they are equipped with adequate water, sanitation and hygiene facilities and products.
- Increase capacities and strengthen implementation of protocols for identification, referral and assistance for victims of human trafficking and other forms of exploitation, particularly in places where borders are closed, or migration is restricted in the context of the crisis.
- Immigration authorities should consider extending time limits for immigration proceedings, refugee applications, and travel permits. They should also expedite processing of asylum applications in cases related to gender-based violence and provide access to GBV services for asylum applicants and migrants regardless of migration status.
- Given Africa's significant human mobility and humanitarian crises related to forced displacement, clear guidelines should be put in place to ensure that humanitarian aid groups can continue to perform their work, particularly those providing assistance to victims of gender-based violence or essential sexual and reproductive health services. Local authorities should assist in these efforts, including by issuing the necessary permits for healthcare personnel so they can travel safely.

- Adopt special protective measures to ensure access to healthcare and protection for migrants held in detention centres and living in refugee camps, particularly pregnant women, victims of sexual violence, and survivors of trafficking and exploitation. In the context of the pandemic, authorities should consider relaxing immigration policies, increasing access to asylum applications, and providing safe facilities for migrants.

5) WOMEN AND INFORMAL ECONOMY

[Africa's informal sector plays an important role](#) in creating jobs and providing incomes for its population. Women contribute a majority of workforce within this sector, greatly affected by the COVID-19 pandemic. This means many women are out of employment and have no source of income to fend for themselves and their families.

It is therefore important that States adopt measures to reduce the adverse impacts of this on women by:

- Implementing social protection measures such as social security and national health insurance schemes, particularly for women who cannot work, to ensure needs such as access to healthcare are met during this period.
- Introducing bailouts and stimulus packages for women in informal employment such as reduction of tax on essential products and services, including food and health care. Food baskets should also be introduced, with a specific focus on ensuring the needs of elderly women, sick women and those living with disabilities are met.
- Ensuring a conducive environment is created to allow women in business to continue operations without putting them at risk of infection. This includes providing information on how to prevent the spread of COVID-19, particularly the need to practice social distancing in public spaces like markets, the provision of masks and access to hand sanitizers. Further, security should be provided in such spaces to ensure all women are protected from harm in their workspaces.

May 2020

women's  worldwide

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Achieng Orero

26 June 20
Nairobi

ncaj.go.ke



Statement on justice sector operations in the wake of the COVID-19 pandemic – National Council on the Administration of Justice

9-11 minutes

We, the members of the National Council on the Administration of Justice (NCAJ), join other national leaders in calling for strict adherence to the safety measures put in place by the National Emergency Response Committee on Coronavirus. The justice sector is committed to doing its part to ensure that the battle against the pandemic is won.

Further to this, we wish to make it clear that contrary to some perceptions, the Judiciary and the rest of the justice sector have not closed shop.

What has happened is that following the declaration by the World Health Organization of Coronavirus as a pandemic and the subsequent confirmation of positive cases in the country, the NCAJ – which comprises all the State and non-State actors in the justice sector – met on March 15, 2020 and resolved to scale down all the Judiciary public-facing operations in compliance with the recommendations of the National Emergency Response Committee on Coronavirus.

All the stakeholders in the justice sector have appropriately adapted to the emerging challenges and taken various actions, both individually and collectively, to ensure that they prevent the spread of the virus while also ensuring that the sector continues to render essential services to the people of Kenya.

Yesterday, the NCAJ members held a virtual meeting attended by, among others, the Director of Public Prosecutions; the Chief Executive Officer of the Ethics and Anti-Corruption Commission; the Inspector General of Police; the Commissioner General of Prisons; the President of the Law Society of Kenya (LSK) as well as the Chairman of the LSK Nairobi Branch; and the Judiciary leadership to review the sector operations in the wake of the scaling down of the Court operations.

After consideration of the issues raised and challenges experienced in the two-week period as well as a review of the measures taken by the different agencies, the Council agreed on the following:

1. HANDLING OF CRIMINAL MATTERS

A. Police Bond

i) Petty and traffic offenders should never be held at Police Stations for more than 24 hours; they should be released on either cash bail or free Police bond. Officers in charge of Police Stations are therefore under strict instructions to implement these directions.

ii) To enhance transparency and accountability, the Police will establish centralized records showing the number of people arrested and handled in all police stations and the terms of their release on bail or bond. This will be regularly monitored by Office of the Director of Public Prosecutions and periodic reports submitted to the NCAJ members.

B. Plea-Taking and Urgent Criminal Hearings

i. The Office of the Director of Public Prosecutions remains open with one officer in charge of every regional office to process files for plea-taking and other urgent matters.

ii. In consultation with Regional ODPP officers, Heads of Court Stations have been facilitating plea-taking for serious offences that are not subject to Police bond. Magistrates across the country continue to review and revise bail and bond terms for petty offenders to facilitate their release from Prisons as they await trial.

iii. Serious crimes, including defiance of national orders regarding the control of COVID-19, will continue to be presented to court for plea-taking. In consultation with the Police and the DPP, courts will be convened at short notice to handle such cases.

iv. There has been a significant spike in Sexual Offences in many parts of the country in the past two weeks. These offences constitute 35.8 per cent of the criminal matters reported during that period. In some cases, the perpetrators of such offences are close relatives, guardians and/or persons living with the victims.

Depending on the individual facts of each case, upon application by the DPP, the courts will consider giving directions on early hearing dates in such cases.

C. Decongestion of Prisons

i. In the past two weeks, files of inmates who are petty offenders jailed for less than six months and others who have less than six months to complete their jail terms have been presented to the High Court for review of their sentences. This has led to the release of 4800 inmates, significantly helping to decongest the prisons. The exercise is continuing.

ii. New inmates are being isolated to reduce the risk of infection and movement of inmates has been highly restricted. Prison visits have been suspended, including visits to the staff quarters. Prison labour has also been reduced to a bare minimum.

The justice sector actors will embrace technology and plans are under way to enable inmates to participate in virtual trials as the prisoners are no longer being produced in open court.

2. HANDLING OF CIVIL MATTERS

A. Filing of Urgent Matters and Pleadings

i. On March 20, 2020 the Chief Justice gazetted Practice Directions on Electronic Case Management to guide the integration of ICT in judicial proceedings. The Practice Directions are being used by various courts across the country to facilitate use of technology in the delivery of justice.

ii. The courts have provided contact lists including email addresses and telephone numbers of court stations and specific contact persons. Stakeholders are given directions as to the filing of matters under Certificate of Urgency and also the filing of time-bound pleadings. A duty Judge in each of the Superior Courts and a Magistrate in every station is available every day to deal with urgent matters. Urgent applications are forwarded to the Judges and Magistrates who give directions as to hearing or issue orders as necessary. This system is working well as is evidenced by the fact that in the first one week, 1779 matters were handled at various High Court stations.

iii. Tribunals, on the other hand, have handled 244 Applications under Certificates of Urgency in the past two weeks, the bulk of them being from the Business Premises Tribunal and the Rent

Restriction Tribunal.

B. Judgement and Rulings

i. In line with safety guidelines issued by the National Emergency Response Committee on Coronavirus, Judges and Magistrates are executing their duties albeit from home.

The Judges and Magistrates have taken this opportunity to write their pending judgments and rulings. In this regard, we are happy to report that in the next two weeks, the Supreme Court will deliver **one judgment and 10 rulings**; the Court of Appeal will deliver more than **45** judgments and rulings of appeals and applications heard in Nairobi, Kisumu, Mombasa and Eldoret through email on Friday, April 3, 2020; the High Court will deliver **367** judgments and rulings; the Environment and Land Court—**269**, the Employment and Labour Relations Court—**75**; and the Subordinate Courts—**390**. Various Heads of Courts and Tribunals will, at Court Station level, issue directions on delivery of Judgments and Rulings in cases where parties and/or their advocates have not provided their email addresses.

ii. Video conferencing technology has been adopted to deliver some of these judgments as was evident in Mombasa, Malindi and Eldoret in the past two weeks. More courts will deliver judgments in this manner in the days ahead.

iii. Judges and Magistrates shall continue to utilize this period of working from home to write pending Judgments and Rulings. Details of Judgments and Rulings that are ready for delivery shall be published weekly in the Judiciary, Kenya Law Reports and LSK websites.

C. Execution

- i. Execution of warrants of arrest, court decrees and orders made prior to March 15, 2020 is suspended until further notice. The Police, Court Bailiffs and Auctioneers are, in the circumstances, instructed not to carry out execution of warrants, orders or decrees issued before March 15, 2020.
- ii. Orders and directives of a conservative nature and mandatory injunctions issued during the scaling-down period starting March 15, 2020 will, however, be executed.
- iv. The LSK will continue to communicate to its members on the essential services being offered by the courts and the resolutions above.

3. SAFETY OF STAFF AND LITIGANTS

As the justice sector actors continue to offer scaled-down operations, efforts continue to be made by all the agencies to provide protective gear and maintain the necessary social distance. For the safety of the public attending court proceedings, some proceedings may be held in open places within the court premises in order to maintain the required social distance.

4. CONCLUSION

Even in the difficult and unprecedented times we find ourselves in, the National Council on Administration of Justice is determined to ensure that the wheels of justice do not grind to a halt.

As a sector, we are determined to work together to adopt online processes and embrace technological solutions in accordance with the recently-gazetted Practice Directions on Electronic Case Management.

The NCAJ will constantly review the situation and update the nation

from time to time.

This communique supersedes all other communication regarding the different matters.

**HON. JUSTICE DAVID K. MARAGA, EGH,
CHIEF JUSTICE AND CHAIRMAN, NATIONAL COUNCIL ON
THE ADMINISTRATION OF JUSTICE**

Achieng Orero

Sex predators on the rampage amid curfew

26

June

20

Nairobi

By [ALLAN MUNGAI](#) | April 18th 2020 at 00:00:00 GMT +0300

KENYA

Sexual offences constitute 35.8 per cent of criminal matters since order to stay home in March

Cases of sexual violence have soared since Kenya recorded the first case of coronavirus on March 12 and started enforcing measures such as the closure of schools to curb the spread of the virus.

Sexual offences have overtaken other crimes as the country restricts movement.

This has prompted the Ministry of Health to call for more protection of those vulnerable to sexual and gender violence.

"We remind everyone that the law has not been suspended and that it will catch up with those who mete violence on others during this period," said Health Chief Administrative Secretary Dr Mercy Mwangangi.

[SEE ALSO: After failed bid to become a nun, now I rescue girls](#)

The ministry's reaction follows reports by the Gender Violence Recovery Centre (GVRC), the Director of Public Prosecution and the National Council on Administration of Justice (NCAJ) on increase in sexual offences cases.

Data showing the cases the Director of Public Prosecutions has registered in court indicate the sexual offences are disproportionately high, suggesting a correlation between measures instituted to curb coronavirus and the spike in sexual abuse.

Sexual offences such as defilement and rape make up 41 per cent of the cases recorded in court since March 16. Out of the 265 cases registered for prosecution during the last two weeks, sexual offences were 95. There have been 37 robberies and 19 murders in the same period.

Majority of the sexual abuse cases were reported in Nairobi (13), Mombasa (11), and Uasin Gishu County (10).

Last month, the cases reported to the gender-based violence (GBV) hotline, 1195, were 115 compared to the 86 that were reported in February, representing an increase of 33.7 per cent.

[SEE ALSO: How I became a mother of two by the age of 16](#)

Comparatively, 106 women and girls reported being either physically or sexually violated while nine men and boys reported the same. Nairobi reported the highest cases of GBV.

Closure of schools and the curfew has forced millions of children to stay indoors making them vulnerable to abuse.

Apart from Kisii which has had one case of defilement, Siaya had two and Nyamira three, while Kisumu, Migori and Homa Bay counties each recorded six cases of sexual offences.

In North Rift, Trans Nzoia had three defilement cases. Central had one sexual abuse case prosecuted in Kirinyaga while Kakamega had five cases.

Embu had one sexual offence case and four murder cases.

Chief Justice David Maraga said the sexual offences constituted 35.8 per cent of the criminal matters reported during the period since orders to stay home were enforced.

"These are people who are supposed to take care of the young girls, but instead of taking care, they are preying on them," he said.

Affidavit of Achieng Orero

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Feedback

Achieng Orero

26 June 20
Nairobi[hrw.org](https://www.hrw.org)

Tackling Kenya's Domestic Violence Amid COVID-19 Crisis | Human Rights Watch

3 minutes

For 4 days, Juliet M., a 16-year-old Kenyan, was held captive by a man and sexually assaulted. She was rescued by neighbors and is now being cared for in a safe house in Nairobi. The attacker reportedly said he kidnapped her because he needed female company to get through the government-imposed COVID-19 lockdown.

The Kenya government has adopted strict measures to counter the spread of the COVID-19 virus. But these measures, as necessary as they are, are having particular impact on women and girls, including elevating the risk of gender-based violence. Last week, [the National Council on Administration of Justice reported “a significant spike in sexual offences](#) in many parts of the country in the past two weeks.” They noted that “in some cases, the perpetrators are close relatives, guardians and/or persons living with the victims.” The report pledged that “the courts will consider giving directions on early hearing dates in such cases.”

Violence is a daily reality for women and girls across Kenya. According to [government data, 45 percent of women and girls](#) aged 15 to 49 have experienced physical violence and 14 percent have

experienced sexual violence. Many cases are not reported to authorities and few women get justice or receive medical care.

The restrictions imposed in response to the COVID-19 pandemic are likely to make it harder for survivors to report abuse and seek help and for service providers to respond efficiently. Sexual and other forms of violence against women have devastating consequences including injuries and serious physical, mental, sexual, and reproductive health problems, including sexually transmitted infections, HIV, and unplanned pregnancies.

The Kenya government should urgently protect women and girls against violence during this crisis. Its public awareness campaigns should highlight this risk and give detailed information on how victims, including those infected with COVID-19, can access services. It should treat services for women who experience violence as essential, ensure these services have the resources they need, and make alternative accommodation available when the current limited shelters are full. Violence against women and girls is a crime, and they have a right to be protected even when the government is preoccupied with a pandemic.



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Pregnant Mother Bleeds to Death During Curfew

By **MANYIBE EZRA** on 10 April 2020 - 10:28 am



People mill outside Kibwezi Sub-County Hospital in Makueni County on February 28, 2019. DAILY NATION



A pregnant woman bled to death in Makueni County for fear of flouting the nationwide dusk to dawn curfew and the fear of harassment by the police.

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KTN News on Thursday, April 9 reported that Lydia Mueni, a mother of seven, endured a whole night of labour pains, with her family also afraid to go outside.

"She told me she would not go out at that time. She told me to go out if I wanted a beating. So we agreed to wait until around 4 a.m in the morning," Matty Nyamai told the media house.

Pregnant woman bleeds to death in t...



It wasn't until 5 a.m at the end of the curfew that the family got assistance from someone who helped them to Kibwezi Sub-county hospital. She had lost her child the dead of night and later bled to death at the facility.

Mueni was buried forty eight hours after she had passed on as directed by the national government in the wake of the Covid-19 pandemic. She had become an indirect casualty of the virus.

Makueni County Referral Hospital has been greatly affected by the pandemic, recording 15 maternal deaths in 2019, but has since registered four deaths in one week, owing to the pandemic.

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10 **Alfred Mutua's Promise After Alarming Teenage Pregnancies**

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Health Director-General Patrick Amoth while addressing the media from Afya House on Thursday, April 9, had directed that counties designate Covid-19 hospitals, and the others carry on with their normal routine.

"We have directed all the 47 counties to identify and designate a Covid-19 hospital so that the other hospitals continue offering the normal services, immunisation, maternal-child health,

"We are also in constant dialogue with the security apparatus to ensure that there is the unfettered movement of those who need to seek services at any given time," Amoth stated.

On Wednesday, April 7, Dr, Jemimah Kariuki, a Resident in Obstetrics and Gynaecology based in Nairobi, tweeted that she would aid pregnant women in times of emergency, after she was informed of a scenario where an expectant mother perished, leaving behind an infant, a story that touched her.

"Any lady during this [curfew and Covid-19 crisis](#) who feels they are unable to reach the hospital and they are in labour or have an emergency, kindly reach out and I will do my best to intervene," Kariuki stated as she further detailed to [Kenyans.co.ke](#) her plan which she hopes will rope in different stakeholders in the country.

The health worker who is listed as an essential service provider disclosed that there was an

increased rate of pregnant related issues such as haemorrhage and infections after women have been in labour for long, stating that she was out to offer any help, ranging from advice and guidance to connecting the patients to emergency service providers.

"First of all, even before we discuss how they can be assisted, these patients are embroiled in fear and anxiety. Remember birth pains can go up to 13 hours and anxiety and expectancy do not go hand in hand," Kariuki stated.

According to the medical practitioner, more efforts would be realised if the police service is also incorporated in the plan as they would be notified of special cases, or they themselves would assess a scenario and judge carefully, hence saving lives.

"Our police should be informed that they can give leeway to allow people to go to the hospital, either by seeing a letter of admission or by the pain a patient is undergoing. However, in some cases, one cannot see blood. For example like in a first-semester miscarriage.

"Women should also be aware of danger signs such as the baby not moving or water breaking and should avail themselves at a facility. They should be prepared by having their bathing kits ready, their NHIF, ID cards available and should pack baby clothes to be shown to police officers," Kariuki detailed.



Achieng Orero

26

June 20

Nairobi

[globalcitizen.org](https://www.globalcitizen.org)

Pregnant Women in Rural Kenya Are Struggling to Access Health Care Amid COVID-19

By Leah Rodriguez April 15, 2020

8-10 minutes

Doris, social mobilizer at Child.org in Kenya, meeting Regina, new mom to twins.

Courtesy of Child.org

[Health](#)

We spoke to NGO Child.org about the impact coronavirus is having on the women it supports.

Why Global Citizens Should Care

When women and girls have access to reproductive and maternal health care, they lead healthier lives, are more likely to stay in school, and contribute to their communities. We must continue to provide women with adequate health resources and information amid global health crises. You can take action on this issue [here](#).

Resources are [often diverted](#) away from maternal health care during crises, and the [COVID-19](#) pandemic is making it increasingly difficult to provide adequate maternal care worldwide.

Although Kenya does not have [many](#) confirmed positive COVID-19 cases, the organization Child.org is starting to face obstacles as it tries to continue to support mothers through its maternal care program in the country.

Kenya has one of the world's [highest](#) maternal mortality rates and one in 26 babies [die](#) before they reach their first birthday. But studies show that exposure to women's groups in low-income countries can reduce neonatal mortality by [20%](#).

Let's Help Our Communities During Coronavirus — Spread the Word

15,207 / 20,000 actions taken

Communities are stepping up to help vulnerable people during the ongoing COVID-19 pandemic.



As the health crisis deepens, some of us are at extra risk from social isolation and instability.



Follow our tips on what you can do to help those around you and share with others to spread the word!

Child.org's Pregnant Women's Groups in Meru, Kenya help equip expectant mothers in the rural area with the information and resources they need to keep themselves and their babies safe and healthy.

Martina Gant, head of programming at Child.org, shared with Global Citizen how the COVID-19 pandemic is affecting the organization's ability to continue crucial initiatives with limited resources.

Global Citizen: How has the COVID-19 coronavirus impacted Child.org's maternal health project in Meru, Kenya?

Martina Gant: The biggest impact that the COVID-19 outbreak has had is that we can't run our groups. We are not able to get the women together anymore and haven't been for a few weeks now. We don't have a full lockdown here in Kenya. The government is doing what it can to prevent the spread. [But] getting people together in groups is not a sensible activity right now.

We've also got the issue around the overall costs and impact to the organization. We are relying on income from UK festivals and festivals in Europe, and many of those are not going to go ahead. We also are heavily reliant on fundraising events. If we're not able to run those on top of all of the damage to other activities, we are set to lose between 50 and 80% of our income.

Related Stories April 2, 2020 [3 Ways COVID-19 Lockdowns and Curfews Risk Increasing Already Existing Inequalities in Africa](#)

How are these women at risk when the groups aren't happening?

We ran some surveys in Nairobi with some of our participants from a previous project.

We've been in contact with those women and they were telling us that they are not going to clinics or they're scared to go to clinics because of the potential risk of infection.

Just in the papers this week, we learned that in-hospital delivery rates are down by over 50%, while immunization clinics are down by over two-thirds.

In Mombasa, healthcare workers are being moved from maternity

to critical care. We're seeing the same in Meru.

This isn't just Meru, but health care workers haven't been provided with the PPE (personal protective equipment) that they were expecting, meaning that they're not feeling safe.

If there's a suspected case, there have been multiple cases of healthcare workers fleeing health facilities because they're worried about the risk of infection to themselves and the families. On top of an already strained health system, we're seeing that access to services is becoming more challenging, and the quality of care if patients do seek those services is reduced.

Community health volunteers in the past couple of days have been visiting 100 women who delivered their babies since the suspension came in and running surveys with them, but also providing them with the government COVID-19 health and sanitation updates.

We provided the community health volunteers with their own PPE as well, because as far as we've seen, that hasn't been provided outside of the immediate first response to the COVID-19 crisis. There's an additional risk to mom and baby and to the health worker in terms of transmission.

Really good work has been done across Kenya and across the world, to improve the maternal mortality rates and neonatal mortality rates. But [the current situation] is really concerning for any of us working in this field. We've got the direct impacts of COVID-19 but the secondary impact is really concerning.

Related Stories March 25, 2020 [Why COVID-19 Response Efforts Need to Consider That Pandemics Hit Women and Girls the Hardest](#)

Can you tell me how you're using the Mama Tips SMS platform to keep providing pregnant women with resources in a safe way?

It allows women to ask questions and puts them directly in touch with their frontline health workers. We can encourage them to take themselves to medical centers, but also we can follow up and we can do home visits with our community health volunteers.

This is going to allow us to continue contact with women and also to recruit women on to the project so that when we are able to get groups back together, we can do this kickoff very quickly.

How would your organization like support from the international community to continue ensuring that pregnant women have access to the resources they need during the COVID-19 pandemic?

We need support, we need the global community to recognize the value that organizations like ours have.

This is a really tough situation around, for everyone...for people in isolation across the globe.

In the vast majority of countries, there is food available. There's economic support, there's a recognition from the government that further assistance is needed. But for communities like those that we're working with, there isn't that, and very soon people are going to start to go hungry. It's going to become really challenging to support themselves and their families without putting them themselves and their health at risk.

It's just really important to recognize that despite how hard this is for those of us from countries like the UK and the US, we are lucky

in terms of what we still have, and to not forget those people in those countries where those pullbacks and those welfare systems are not in place.

We got to the point with this project where the feedback from women was incredible.

There's real misinformation and myths surrounding maternal health in these communities. And it's only with access to reliable information, science-based information, that we're going to be able to make real inroads with maternal deaths and neonatal deaths. It's absolutely critical that access to information doesn't stop given this crisis.

This interview has been edited and condensed for clarity.

You can find out how to take action against coronavirus through our Together At Home campaign [here](#), and you can find all of Global Citizen's COVID-19 coverage [here](#).

Related Stories

- [The First UN 'Solidarity Flight' Is Bringing Much-Needed COVID-19 Medical Supplies to Africa](#)
- [How COVID-19 Is Impacting Elderly People in Mozambique Who Are Still Recovering From Cyclone Idai](#)
- [8 Resources for Reliable Information About Coronavirus](#)

Doris, social mobilizer at Child.org in Kenya, meeting Regina, new mom to twins.

Courtesy of Child.org