

Gender Equality and COVID-19

The Oxford Human Rights Hub

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Executive Summary

In responding to Covid-19, it is imperative that Government heed its duties to ensure that all Convention rights are enjoyed without discrimination on grounds of gender and other status. It must also have due regard to the need to eliminate unlawful discrimination and advance equality of opportunity between women and men (s.149 Equality Act 2010). To fulfil these obligations, especially for women with intersecting identities, we propose specific attention be paid in three key areas:

(i) **Internet access:** The ECHR has recognized that the internet is a key aspect of the right to freedom of information in Article 10. Article 14 requires the Government to ensure that this right is enjoyed without discrimination on grounds of gender. Yet women, particularly older women and rural women have demonstrably less internet access. Government should immediately make non-digital alternatives more available. In the long-term, it should ensure that both digital infrastructure and capability are provided without discrimination.

(ii) **Gender-based Violence (GBV):** The ECHR has recognized GBV as a breach of Article 14 with Articles 2 and 3. Home isolation places women at higher risk of domestic violence, potentially trapping them with an abuser. Government should develop mechanisms so women can safely contact protection services during lockdown.

(iii) **Housing:** Article 14 with Article 8 requires Government policies on homelessness and precarious housing to be secured without discrimination. Current interventions do not take account of the specific vulnerability of women who sleep rough, are in precarious housing, or have precarious earnings. To comply with its obligations, Government must develop policies that recognize women's patterns of homelessness and ensure post-lockdown rent arrangements account for gender power hierarchies.

Governments' Legal Obligations

Under Article 14 ECHR, the State must ensure that all Convention rights are enjoyed without discrimination on the grounds of, *inter alia*, race, sex and any other status. In addition, under s 149 Equality Act 2010 (PSED), public authorities, in the exercise of their public functions, should have due regard to the need to eliminate discrimination and promote equality of opportunity between persons who share a relevant protected characteristic and those who do not. While the government has taken many positive steps to assist those affected by the lockdown, we submit that due regard has not been paid to the effects on protected groups, particularly women with intersecting identities, such as women with disabilities, poor women, migrant women, single mothers with children etc. Nor has the government fulfilled its obligations under Article 14.

Internet Access

It is more crucial than ever to close the digital divide during a physical lockdown.¹ Internet access is helping people work from home and overcome loneliness. Healthcare interventions are moving online to protect healthcare workers and alleviate burdens on the NHS. However, communications technologies will not guarantee the right to information, employment, education, or life for nearly 5 million adults who have never used or have limited access to the internet.² Limited or non-existent access to the internet compounds other forms of income, gender, and geographic inequality, as the following statistics show:

¹ Human Rights Watch, 'Closing the 'Digital Divide Critical COVID 19'
<<https://www.hrw.org/news/2020/03/25/closing-digital-divide-critical-covid-19-response>>
accessed 2 April 2020.

² Office for National Statistics, 'Internet Users, UK: 2019' (Office for National Statistics 2019)
<<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2019#main-points>> accessed 2 April 2020.

- According to ONS, women over 75 are 13% less likely to use the internet than men over 75. Women are slightly more likely to have never used the internet than men;
- People earning below the median UK income are most likely to not use the internet. For some, their only internet-enabled device is a mobile phone. This has serious implications for working and schooling from home. Because women disproportionately occupy part-time and low-paid jobs, they are at higher risk of digital exclusion due to poverty;
- 68% of people use Wi-Fi outside home and women are somewhat more likely to use public spaces like libraries.³

The ECtHR has recognized that “the Internet has now become one of the principal means by which individuals exercise their right to freedom to receive and impart information and ideas, providing as it does essential tools for participation in activities and discussions, ... enhancing the public’s access to news and facilitating the dissemination of information in general.”⁴ Since internet access falls within the ambit of Article 10, the government is breaching Article 14 if it does not ensure access to the internet without discrimination. Similarly, the PSED requires the government to have due regard for women who lack access to communications technologies, especially when compounded by age, marital status, disability, poverty or rural location.

Recommendations

For women to access their freedom of expression rights without discrimination, immediate priority should be given to:

- Ensuring that internet bill forgiveness or deferment policies, and low-cost mobile and internet plans are clearly communicated and remain in place after the crisis. Plans need to include protections for women, so they are not disadvantaged by high costs and lack of connectivity after the crisis.
- Creating non-digital content for radio and TV to convey important information and facilitate other forms of social connectivity.

³ Grant Blank, William Dutton with Julia Lefkowitz, ‘Perceived Threats to Privacy Online: The Internet in Britain’ (2019) Oxford Internet Surveys < <https://oxis.oii.ox.ac.uk/wp-content/uploads/sites/43/2019/09/OxIS-report-2019-final-digital-PDFA.pdf>> accessed 2 April 2020.

⁴ *Cengiz v Turkey* (2011) Application No 16192/06 (ECtHR).

- Using ordinary telephone communication for public library staff to help women access information by phone.

In the longer term, it is crucial for government to explicitly recognize that Article 10 includes the right to access the internet. Where government makes provision for internet access, it needs to do so without discrimination. This crisis may not be the last of this kind, and permanent solutions, including extending affordable internet connectivity to underserved areas and groups, including women, are crucial.

Inter-Partner and Domestic Violence

Home isolation places women and children at higher risk of domestic violence, potentially trapping them with an abuser, without access to necessary services.⁵ Rates of inter-partner and domestic violence, including sexual abuse, have spiked in countries in lockdown, including the UK. Women and children with disabilities, undocumented migrant women, refugees and asylum seekers, poor women, rough sleepers, and victims of trafficking are particularly vulnerable.⁶

GBV has been recognized by the ECtHR as a breach of Article 2 (right to life), Article 3 (inhuman treatment and punishment) and Article 14.⁷ A failure to protect women against GBV, even if unintentional, breaches their right to equal protection.⁸ The state must take all appropriate measures to protect women, particularly vulnerable groups, at risk of GBV.⁹ Due diligence obligations include the duty to support women experiencing violence through providing shelters, social care and access to legal services. These obligations remain in place in situations of disaster, including this pandemic.¹⁰

Recommendations

⁵ Human Rights Watch, 'Human Rights Dimensions of Covid Response' <<https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>> accessed 2 April 2020

⁶ Office of the High Commissioner of Human Rights, 'States must combat domestic violence in the context of COVID-19 lockdowns' <<https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=25749&LangID=E>> accessed 2 April 2020.

⁷ *Opuz v Turkey* (2009) Application No 33401/02 (ECtHR).

⁸ *Ibid* [191].

⁹ The Joint Council for Welfare of Immigrants, 'Protecting Migrants from COVID-19' <<https://www.jcwi.org.uk/protecting-migrants-from-covid-19>> accessed 2 April 2020.

¹⁰ CEDAW Committee, 'General Recommendation No 37' (2018) CEDAW/C/GC/37 [55]-[57].

Though Government has said victims may leave home to seek help and that support services remain open,¹¹ the UK must immediately ensure:

- Restraining orders remain available;
- Temporary protection orders are extended;
- A National Domestic Abuse Hotline remains well-resourced, with hotline operators and caseworkers working remotely;
- A dedicated helpline number for women to alert police with a missed call;
- Increased police presence so women can contact them when out for essential shopping/daily exercise;
- Phone facilities at grocery/essential stores for women to alert police, if abusive partners have removed their phones or are inaccessible;
- Adequate emergency housing, including paying for hotel rooms and pop-up and online counselling centres;¹²
- Ensuring no one is excluded from such services because of their immigration status or limited access to digital resources, and creating a protective firewall between healthcare providers and the Home Office.
- Introducing public awareness campaigns addressing how people can access services for themselves, relatives and neighbours.

Homelessness and Housing Security

Although Article 8 does not require governments to provide housing, Article 14 with Article 8 means that where the government does provide housing, it should do so without discrimination on a protected ground. The government

¹¹ UK Home Office, 'Coronavirus (COVID-19): support for victims of domestic abuse' <<https://www.gov.uk/government/publications/coronavirus-covid-19-and-domestic-abuse/coronavirus-covid-19-support-for-victims-of-domestic-abuse>> accessed 2 April 2020.

¹² Elena Berton, 'France to put domestic abuse victims in hotels after jump in numbers' *Thomson Reuters* (Paris, 30 March 2020) <<https://www.reuters.com/article/us-health-coronavirus-women-abuse-trfn/france-to-put-domestic-abuse-victims-in-hotels-after-jump-in-numbers-idUSKBN21H37P>> accessed 2 April 2020.

has taken steps to provide support for rough sleepers and alleviate the burden of mortgage and rent payments. However, these interventions do not take account of the specific vulnerability of women who sleep rough, are at risk of rough sleeping, or in precarious housing. They also fail to account for the fact that, because women are disproportionately engaged in precarious, low paid jobs, they are more likely to default on rent and housing-related expenses. This is particularly so for black and minority women, migrant women, disabled women and single mothers.

Recommendations

- Women are less likely to sleep rough and more likely to be living in hidden and marginalised homelessness.¹³ These women must have access to shelter during the crisis, and to more sustained housing thereafter.
- Government must ensure women have access to shelters where they feel safe from violence and abuse, including women-only shelters. Women should not have to choose between their health relating to COVID-19, and security.
- After the three-month protection from evictions, landlords and tenants are expected to work together to establish affordable repayment plans. Taking into account the unequal gendered power relations in contractual negotiations, unreasonable terms should not be enforceable even if apparently consented to by women and other tenants in vulnerable positions.

¹³ Homeless Link, 'Supporting Women Who are Homeless'
<https://www.homeless.org.uk/sites/default/files/site-attachments/Supporting%20women%20who%20are%20homeless%20March%202017_0.pdf> accessed 2 April 2020.