



Submission to Ms. Dubravka Šimonović, the United Nations Special Rapporteur on Violence against Women: Implications of the Coronavirus Disease (COVID-19) on Gender Based Violence and Domestic Violence in Southern Africa

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1. Introduction

This is a joint submission made by the Federation of Women Lawyers, Lesotho (FIDA); Women and Law Southern Africa Trust, Lesotho (WLSA Lesotho), The Mission of Beneficence Agriculture of Kubango, Inclusion, Technology and Environment, Angola (MBAKITA), Women and Law Southern Africa Trust, eSwatini (WLSA eSwatini) and the Advancing Rights in Southern Africa Programme (ARISA).¹ This submission is in response to a call by the United Nations Special Rapporteur on Violence Against Women regarding gender based violence (GBV) and domestic violence in the context of Covid-19.

ARISA is a regional programme that seeks to improve the recognition, awareness, and enforcement of human rights in the Southern Africa Development Community (SADC), including the protection of the region's most vulnerable and marginalized groups. ARISA has particularly identified the thematic areas of women's customary land rights and the rights of indigenous populations as crucial for the promotion of human rights in Southern Africa. FIDA, WLSA eSwatini, WLSA Lesotho and MBAKITA are national civil society organizations working in the thematic areas of women's customary land rights and indigenous peoples' rights in the SADC region. To this effect, this joint submission documents the GBV and domestic violence experiences of indigenous women in Angola and rural women in eSwatini and Lesotho during COVID-19.

This submission will provide background information on the human rights situation of indigenous women in Angola and rural women in eSwatini and Lesotho. The submission will show how COVID-19 lockdown regulations have increased the vulnerability of indigenous women and rural women. These women have limited and/or no access to radio, television and cellphone services and as a result have been left in precarious positions with little knowledge

¹ With support from USAID, the PROGRESS Consortium is currently implementing the Advancing Rights in Southern Africa (ARISA) Programme to improve the recognition, awareness, and enforcement of human rights in the region, including protection of the region's most vulnerable and marginalized groups. The Progress Consortium is made up of Freedom House, the American Bar Association (ABA), Internews and PACT. The ARISA Programme will run for a period of five (5) years with a focus on the following thematic issues which have been identified as crucial for the promotion of human rights in Southern Africa:

- Women's customary land rights;
- Rights of indigenous populations;
- Media freedom and digital rights; and
- The rights of human rights defenders as a cross-cutting theme.

of available resources or access to effective remedies for resolving GBV and domestic violence incidents experienced during COVID-19. They are located in remote areas which are usually a long distance from police stations, court systems, shelters and healthcare facilities. Furthermore, they usually do not have the financial resources to seek the necessary assistance. This submission has also identified that official data relating to indigenous women and rural women is limited and that Governments have not adequately responded to their needs during COVID-19. This submission will show that there is a need to closely consult with rural and indigenous women through their representative organizations, including CSOs to develop gender appropriate responses that are specific to their respective needs. Governments should involve women in the formulation of restrictive measures, particularly those which affect the informal sector, as women are largely represented within this sector and are disproportionately affected by the restrictive measures. This submission further advocates for Governments to recognize the unique and precarious position indigenous and rural women are currently in and urges them to develop effective responses to their specific needs.

2. Background Information

Human Rights Situation of Indigenous Women in Angola

Indigenous people may be defined as “living descendants of pre-invasion inhabitants of lands now dominated by others. They are culturally distinct groups that find themselves engulfed by other settler societies born of forces of empire and conquest.”² Many indigenous people in Angola still live as hunter-gatherers, in remote and inaccessible areas with little or no access to basic resources.³ Majority live in underdeveloped shelters, and homesteads surrounded by Bantu people.⁴ Angola’s San population are estimated to account for 0.1% of the national population (approximately 25 000 people).⁵ There are no references to indigenous people in the Angolan Constitution, or the domestic law.⁶ This minority group is in an exceptionally vulnerable position because the Angolan Government does not recognize the concept of indigenous people as declared in international law.⁷

² S. James Anaya, *Indigenous Peoples in International Law*, 2nd ed., Oxford University press, 2004, p. 3; James Anaya is the Former United Nations Special Rapporteur on the Rights of Indigenous Peoples.

³ <https://www.iwgia.org/en/angola/742-indigenous-peoples-in-angola.html> (last accessed 19 June 2020).

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

Indigenous women in Angola contribute to their household income through picking wild berries and selling them informally on the roadside.⁸ The lockdown restrictions have prevented indigenous women from being able to trade informally.⁹ The loss of income has resulted in tensions rising between spouses within indigenous households.¹⁰ The National Directorate for Combating Crimes against persons in Angola has recorded 1743 cases of violence against women during the lockdown period.¹¹ This reflects a 19% increase from 2019.¹² However, the statistics do not show how many of these reports are specific to indigenous women.¹³ This, is a reflection of the limited focus and attention that is given to indigenous minorities generally and indigenous women in particular, despite their vulnerability.¹⁴ The lack of official information or government statistics relating to the situation of GBV and domestic violence towards indigenous women during the COVID-19 lockdown is not unique to Angola, but is a shortcoming of many countries in Southern Africa. This is a reflection of the marginalization of this population group and the limited focus on their rights and wellbeing by the Governments in the region, even in the context of a pandemic. There is therefore a need for SADC countries who have indigenous populations to place more time and resources in documenting and assessing if their policies and strategies are effectively meeting the needs of indigenous women during the outbreak of the COVID-19 pandemic.

Human Rights Situation of Rural Women in eSwatini and Lesotho

The majority of rural women in Southern Africa produce food on customary land and are responsible for their household food security. Despite the fact that mainly women utilize customary land in the region, these women are usually not afforded any rights over the land because of their gender. In many countries in the region, customary law dictates that women can only access land through a spouse, son, father or other male relative. Customary law further dictates that women cannot inherit customary land and that only a male heir can be appointed for this purpose. Through the introduction of Constitutional values and principles that guarantee the right to equality and dignity for women, there have been some progressive shifts in attitudes and practices within SADC as it pertains to women and customary land. However, there is still a large number of women who continue to face discrimination on the basis of their

⁸ Report submitted to ARISA by MBACKITA as part of this submission.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

gender as a result of customary law and practices. These customary attitudes towards women have in some instances enabled gender based violence through actions such as forced evictions and/or land grabbing. Covid-19 has worsened the pre-existing gender inequalities and vulnerability of rural women. WLSA eSwatini has noted that many people who ordinarily reside in urban areas travelled to the rural areas during the lockdown.¹⁵ This resulted in many women being evicted from their rural homes by their extended families due to competing demands over the available family land and homesteads.¹⁶

The Covid-19 regulations have imposed economic hardship for many rural women, especially those in low-wage jobs in the informal sector.¹⁷ Following the closure of manufacturing industries, including small businesses, rural women have lost their jobs and their sole source of income.¹⁸ As a result of these economic circumstances, poverty figures have increased.¹⁹ In the absence of adequate social security measures, including food aid, the livelihoods and survival of rural women has been severely affected.²⁰ Covid-19 has increased the need for access to water and sanitation as a means to prevent and reduce risk of infection.²¹ Rural women's, access to portable water is often a challenge.²² In some communities, women have to travel long distances to get water for household use, exposing themselves to greater risk of contracting the virus as well as gender-based violence.²³

With the closure of schools, women and girls have been disproportionately affected as they have been overburdened with care for their families, especially for households who have seen their extended family members return to rural areas from the urban areas.²⁴ Owing to the increased rates of poverty, coupled with the added care responsibility on women and girls, girls have lost the safe environments and food security which schools provided.²⁵ Further to this, young girls have been placed at greater risk of sexual violence including exposure to intergenerational relationships.²⁶ Due to the glaring socio-economic inequalities, rural women and girls, are unable to access education through digital and media platforms.²⁷ This challenge

¹⁵ Report submitted to ARISA by WLSA, eSwatini as part of this submission.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

is further exacerbated by the social expectation that women and girls should care for the family.²⁸ Since home-schooling has become the ‘new normal’, women and girls are unable to enjoy the same rights as their male counter-parts since they are expected to do household chores all the time.²⁹

Eswatini has experienced an increase in cases of violence against women.³⁰ In April 2020 alone, the police reported more than 700 cases of GBV.³¹ The Swaziland Action Group against Abuse (SWAGAA) reported that at least 40 cases were reported to the group between 30 March 2020 and 24 April 2020.³² This is double the number of cases the organization usually receives.³³ Majority of the cases that the organization received during lockdown related to emotional abuse.³⁴ From 1-14 June 2020 SWAGGA toll free hotline reported receiving 74 cases relating to GBV.³⁵ Similar to Angola, the official statistics do not reflect how many reports are specific to rural women. The Lesotho government has not released any official statistics relating to domestic violence and GBV in the context of COVID-19, but CSOs have recorded a drastic increase in reports. From 29 March 2020 to 5 June 2020, WLSA Lesotho received 4215 reports relating to violence against women during the lockdown period, of which 1300 reports related to rural women, 1200 reports were sexual abuse cases and 12 reports were femicides.³⁶ These statistics surpass the national statistics for the last three years combined.³⁷

During the lock down period CSOs were unable to travel to remote areas where rural and indigenous women are located and in certain instances were arrested by police when attempting to travel to the communities.³⁸ Many of the areas rural and indigenous women are located do not have internet and cell phone coverage. As a result, women were unable to contact hotlines or CSOs for assistance and were forced to remain isolated with their abusers. They could only rely on the limited assistance of their community leaders. Official information or government statistics relating to the situation of GBV and domestic violence towards indigenous women in Southern Africa during the COVID-19 lockdowns is limited. This is a reflection of the

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² <https://allafrica.com/stories/202005060645.html> (last accessed 24 May 2020).

³³ Ibid.

³⁴ Ibid.

³⁵ Report submitted to ARISA by WLSA, eSwatini as part of this submission

³⁶ Report submitted to ARISA by WLSA, Lesotho as part of this submission

³⁷ Ibid

³⁸ Report submitted to ARISA by MBACKITA as part of this submission.

marginalization of this population group and the limited focus on their rights and wellbeing by the Governments in the region, even in the context of a pandemic.

This reflects a major gap in governments' responses to COVID-19. Governments were primarily focused on combatting the virus and did not adequately develop and implement gender sensitive approaches that specifically catered to the needs of different categories of women, and in particular indigenous and rural women. The protection needs of women located in remote areas were not sufficiently considered. As the lockdown regulations eased and movement between cities was permitted, CSOs began to travel to remote communities and received reports of rural and indigenous women experiencing domestic violence and GBV during the lockdown.³⁹ Most of these cases were not reported to any formal institutions for various reasons including *inter alia*:

- a) Fear of encountering police and soldiers enforcing lockdown regulations when attempting to seek help;
- b) Fear of exposing oneself to the virus;
- c) Lack of knowledge surrounding the court system;
- d) Fear of being rejected at hospitals due to all resources being dedicated to treating COVID-19 patients;
- e) Being located in remote areas that are far from police stations, hospital and courts;
- f) Being physically unable to leave the abuser;
- g) Having no remote means of communication.

Evidence shows that the incidents of domestic violence and GBV directed towards women has surged during the COVID-19 country lockdowns.⁴⁰ This is mainly due to the fact that lockdown and quarantining measures have resulted in many women being confined with their abusers, and their abusers are able to easily isolate their victims. Furthermore, lockdown restrictions in the region have resulted in redundancies for both women and men in Southern Africa, leading to financial frustrations as individuals and families struggle to afford basic food and household supplies. The loss of income coupled with the frustrations of restricted movement, anxiety and fear surrounding COVID-19, has created tense and unpredictable environments that have led

³⁹ Report submitted to ARISA by WLSA eSwatini; WLSA Lesotho; FIDA and MBAKITA as part of this submission.

⁴⁰ https://www.undp.org/content/dam/undp/library/km-gap/undp-gender-GBV_and_COVID-19.pdf (last accessed 28 May 2020).

to women being exposed to volatile situations where they are subject to physical, emotional and mental abuse.

3. Gender based Violence and Domestic Violence during COVID-19 in Southern Africa

3.1. Case of Angola

On 27 March 2020, the Angolan government declared a state of emergency as a result of COVID-19. This resulted in a nationwide lockdown and individuals who were not essential workers were only permitted to leave their homes for the purposes of receiving medical attention and/or purchasing essential goods.

Many indigenous women reside in remote areas in Angola that are far removed from institutions such as Courts, police stations and hospitals. These women are in an extremely vulnerable position because of the fact that they cannot easily seek assistance in instances where they are subjected to GBV and domestic violence. There are no helplines for GBV in Angola despite recommendations by CSOs. Despite the increased need and importance of helplines in the context of COVID-19, the government has still not provided hotlines. The harsh reality is that even if the government had set up helplines they would be of very little use to indigenous women because the areas they reside in do not have cellphone coverage and most indigenous women do not own cellphones. There is therefore a need for the Government to design a response that is specific to the GBV and domestic violence needs of indigenous women because of their unique circumstances. Should this not be done, indigenous women will remain invisible and their stories and voices unheard during the pandemic.

MBAKITA, has received reports of 31 cases of GBV and domestic violence during the lockdown period.⁴¹ These cases were recorded in the Mbundo, Jamba Cueio and Ntopa communities.⁴² San women accounted for 10 of the reported cases.⁴³ San women reported being physically assaulted by their intimate partners, being evicted from their homes by their spouses and being attacked and having their food taken by neighboring Bantu people.⁴⁴ These cases

⁴¹ Report submitted to ARISA by MBAKITA as part of this submission.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

were recorded and referred to MBAKITA by San community leaders, who travelled to the CSO after the lockdown travel restrictions were eased in Angola.⁴⁵

One of the main issues facing indigenous communities in Southern Africa during the COVID-19 pandemic is the lack of food supply.⁴⁶ Prior to the lockdown restrictions, indigenous women in Angola would sustain their families by picking wild berries and selling them together with other crops by the side of the road.⁴⁷ They rely heavily on the informal sector. However, due to travel restrictions indigenous women are no longer able to make money and provide their families with food.⁴⁸ The loss of income and lack of adequate food supply has resulted in increased frustrations and tensions within households which have spiked the rate of domestic violence and GBV within indigenous communities.⁴⁹ Unfortunately, the Angolan Government has not published any information relating to the situation of indigenous women during COVID-19.⁵⁰ It is therefore difficult to assess and determine the rate of increase in GBV and domestic violence towards indigenous women in Angola during the lockdown period, other than through the information that is provided by CSOs such as MBAKITA.

There are currently no shelters that cater for the needs of vulnerable communities such as indigenous women.⁵¹ This is a serious problem that will inevitably result in many indigenous women opting to stay with their abusers.⁵²

The Court system in Angola continues to operate albeit in a limited manner. Prior to the pandemic access to justice was a big challenge for indigenous women because of the costs involved and the distances between their locations and the Courts. These challenges have continued throughout the pandemic and there are no known cases where San women have managed to approach a Court and obtain a court order related to GBV and domestic violence during the COVID-19 lockdown.⁵³

The health care system in Angola is in a fragile state.⁵⁴ This drastically limits the country's ability to respond to COVID-19, let alone assisting GBV and domestic violence victims during

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

the pandemic.⁵⁵ There is a need to channel resources to the ailing health care system in order to fulfill Angolan citizens' right to access healthcare.⁵⁶ Indigenous women usually reside in isolated remote villages which do not have any public services. As a result of limited resources, indigenous women can barely afford to travel to towns where hospitals are located. Some indigenous women have reported that they have never been attended to by a doctor during their lifetime.⁵⁷ The mortality rate of indigenous people in Angola is high because there are no clinics in the areas where they are located. There is a need for the Angolan Government to expand the healthcare system in order to adequately address the health care needs of indigenous people.

3.2. Case of eSwatini

On 17 March 2020 eSwatini declared a state of emergency in response to the COVID-19 outbreak. The state of emergency resulted in a nationwide lockdown where the restriction of movement was imposed. Civil society organizations in eSwatini began witnessing an increase in violence against women, including amongst those living in rural areas.⁵⁸ The number of gender based violence cases was reported to have increased during the lockdown period.⁵⁹ Furthermore, the demand for legal services in matters relating to gender based violence directed towards women increased as a result of women and children spending more time at home with their abusers due to the closing of schools, loss of jobs and lock-down movement restrictions.⁶⁰ There have also been reports of women being denied access to and usage of customary land by their male relatives who are taking advantage of the lockdown restrictions.⁶¹ From 30 March 2020 -30 May 2020, WLSA eSwatini recorded a total of 182 cases relating to GBV and domestic violence. These cases were received on the organization's 24hrs hotline. WLSA eSwatini also received a total of 108 cases relating to GBV and domestic violence from walk-in clients.

The organization has received reports of widows and orphaned children being dispossessed of customary land during the lockdown period. Since most people have moved back to the rural areas during lockdown there have been reports of male relatives colluding with traditional leaders in order to dispossess widows of their customary land.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Report submitted to ARISA by WLSA, eSwatini as part of this submission.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Report submitted to ARISA by eSwatini Rural Women's Assembly as part of this submission.

In one specific case, elders of a family were selling customary land belonging to three orphaned girls. The elders of the family claim that the girls do not need the land since they will have to get married and become part of another family.

WLSA eSwatini also received a report of a rural woman being beaten by her spouse who was demanding food. As a result of the lockdown, she could not continue selling at the market and was unable to provide food for her family. The lack of income has caused tension within her household. Her husband was abusive prior to the lockdown, but has reportedly become more abusive as a result of the economic frustrations and confinement the lockdown has brought. WLSA eSwatini has also received a report of a rural woman being raped. The woman had returned home because of the closure of universities. Her home was broken into by an unknown man and she was subsequently sexually abused. It is suspected that the perpetrator knew that she was back home as a result of the closure of the universities.

The eSwatini Rural Women's Assembly has also received reports of women being denied access to and usage of customary land by their male relatives who are taking advantage of the lockdown restrictions.⁶² In one reported case, a widow in the Lubombo region is facing a situation of forced eviction from the customary land she resides on, at the hands of her brother in law.⁶³ The COVID-19 lockdown restrictions therefore pose the risk of rural women being dispossessed of their right to use and reside on customary land, with abusers taking advantage of the absence of the support and protection services that women usually receive from the courts and women's rights civil society organizations.

One of the biggest challenges facing eSwatini is the lack of shelters. The eSwatini Government does not have shelters for GBV victims.⁶⁴ Ordinarily victims of domestic violence and GBV utilize their work premises or a relative's home as a means of shelter.⁶⁵ With the current lockdown restrictions victims are left with no other option but to remain in isolation with their abuser.⁶⁶ Rural women face the added difficulty of being located in remote places that are far from basic services.⁶⁷ It therefore makes it difficult for a victim to easily travel to a police station or a healthcare facility. The travel restrictions have had a negative impact on rural

⁶² Report submitted to ARISA by eSwatini Rural Women's Assembly as part of these submissions.

⁶³ Ibid.

⁶⁴ Report submitted to ARISA by WLSA, eSwatini as part of this submission.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

women's access to health care services because of limited transport services to take them to hospitals, which are situated in urban areas.⁶⁸

The government and civil society organizations have set up toll free hotlines for victims of GBV and domestic violence to contact them when in need of assistance.⁶⁹ The eSwatini Government is running a toll free help line where women can report cases to the police.⁷⁰ In addition to this, the SWAGAA is also running a toll free line that provides assistance to women who are subjected to gender based violence and domestic violence.⁷¹ WLSA eSwatini has also been providing affected women with free legal advice and support through its hotline service.⁷² The organization has received reports from rural women *albeit* limited reports because most rural women do not have access to telephone and internet services.⁷³ Emergency helplines are therefore not the most practical reporting channel for rural women.

The eSwatini Courts are currently operating during the lockdown and some victims have been able to successfully obtain court orders. However, this service is limited to the population that can travel to the Courts and have permits to enter urban areas, where the courts are located.⁷⁴ This leaves rural women in the unfavorable positions where they have to negotiate and convince the police to permit them to travel into the towns where Courts are allocated. It is submitted that women should not have to endure this added burden when seeking justice and that the eSwatini government should ensure that police officials are trained adequately in assisting and supporting rural women as they seek to travel to urban areas for purposes of approaching a Court.

In addition to the above challenges, quite often, women do not approach the courts for redress as they cannot afford to do so. Eswatini does not provide legal aid to its citizens. The country has a Legal Aid Bill that has not been enacted for many years. The lack of legal aid undeniably results in the violation of many individuals' right to access justice. Despite having the necessary constitutional rights and protective legislation in place, there are still many gaps that exist within eSwatini's response to GBV and domestic violence towards rural women and these gaps have become glaring in the face of COVID-19.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

3.3. Case of Lesotho

On 15 April 2020, Lesotho declared a state of emergency as a result of COVID-19. This meant that there were travel restrictions throughout the country and only essential workers were permitted to travel. Individuals were to be confined to their homes unless they were purchasing essential goods and obtaining medical assistance. During the lockdown period there have been reports of GBV and domestic violence in rural and urban areas within Lesotho.⁷⁵ However, the government has not issued any official national statistics relating to this.⁷⁶ According to Senior Inspector Malebohang Nepo from the Child and Gender Protection Unit, Lesotho has experienced an increase in sexual assaults, including rape, since the lockdown and eighteen cases of sexual assault were recorded in the country within the first two weeks of the lockdown which is unusually high.⁷⁷

During the initial 21 days lockdown period FIDA received reports of 7 domestic violence cases and 2 land grabbing cases.⁷⁸ In one of the domestic violence cases, the affected woman reported that she had reported the case late because she lives in a remote area and had to travel to a place with network coverage to report her case.⁷⁹

In another reported case, a Basotho woman was disinherited of customary land that belonged to her deceased father in favor of a man who claimed to be the male heir of the land.⁸⁰ The woman has been unable to bring witnesses before the elders to support and defend her claim that she is the biological daughter of the deceased and is therefore the rightful heir to the customary land.⁸¹ This is because her witnesses reside in South Africa and have been unable to travel to Lesotho as a result of the border closures in response to COVID-19.⁸² Her witnesses are also unable to appear before the elders virtually because there is limited internet connection in rural Lesotho.⁸³ The woman in question was therefore denied her right to inherit and access customary land during the lockdown.

⁷⁵ Report submitted to ARISA by FIDA as part of this submission.

⁷⁶ Ibid.

⁷⁷ <https://lesotho.unfpa.org/en/news/covid-19-lock-down-exacerbates-gender-based-violence-cases-lesotho> (last accessed 28 May 2020).

⁷⁸ Report submitted to ARISA by FIDA as part of this submission.

⁷⁹ Report submitted to ARISA by FIDA as part of this submission.

⁸⁰ Ibid. Supra note 30.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Ibid.

After the 21days lock down period, FIDA conducted a socio economic empowerment of women workshop in Butha-Buthe district.⁸⁴ During this workshop it became apparent that a significant amount of rural women had been subjected to GBV and domestic violence during the lockdown.⁸⁵ The workshop was attended by eighteen women and they all reported having been abused during the lockdown period.⁸⁶ The workshop provided an opportunity for rural women to open up about their experiences in the context of COVID-19.⁸⁷ Rural women reported that they were afraid to leave their homes to report their abusers because of the presence of soldiers, and the fear of being attacked for breaking the movement restrictions.⁸⁸ Some women reported that they were reluctant to go to the hospitals to have their injuries treated because they had initially attempted to get chronic medication for diabetes and HIV and were turned away and told that the hospitals were only focusing on COVID-19.⁸⁹ This prior rejection made them feel like the hospitals would turn them away again.⁹⁰ During this workshop, FIDA received a report of a woman who was evicted from her home by her husband.⁹¹ The chief and councilors intervened in the matter and mediated between the spouses which resulted in the husband subsequently agreeing for the woman to return home.⁹² The workshop highlighted that women in the Butha-Buthe community do not know they have the right to obtain protection orders nor do they know how to navigate the legal system to apply for the same. ⁹³ They are unable to report beyond the Chief.⁹⁴ Intervention beyond the Chief is a foreign concept to them.⁹⁵ In certain instances, the Chief and his councilors have proven to be effective in protecting rural women.⁹⁶ However, there is a need for chiefs to receive gender sensitive training in order for them to adopt a gendered approach that coordinates with hospitals and police.⁹⁷ It is also important for women to be made aware of the fact that that they can seek justice beyond the traditional/customary law systems, especially in situations where they feel dissatisfied with the work of the customary courts.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

There are no options of alternative accommodation for women who seek to leave their abusers.⁹⁸ Similar, to eSwatini a major gap in preventing GBV and domestic violence in Lesotho is the lack of adequate shelters for victims. There is currently one shelter that is run by the Ministry of Gender.⁹⁹ This shelter is not ideal as it is barely functional and lacks adequate resources.¹⁰⁰ This shelter is located in the capital city, Maseru. This means that there are no shelters that are in close proximity to rural women in Lesotho, and rural women have the limited choices of either remaining with their abuser or finding money to travel to town in order to attempt to access the one ill-equipped shelter that is available in the country.

Lesotho currently has helplines that are run by the Ministry of Gender and civil society which victims of GBV and domestic violence can use for support.¹⁰¹ There are also a number of television and radio programs that have been designed to raise awareness around GBV and domestic violence.¹⁰² In addition to this, civil society has been innovative and created the Nokaneng computer application which provides information on GBV and domestic violence and informs victims where they can report cases and get the required support.¹⁰³ CSOs such as FIDA also communicate with women through social media platforms such as WhatsApp and Facebook.¹⁰⁴ Most rural women are unable to access these platforms because they do not have access to the internet and telephone services.¹⁰⁵ Helplines and online awareness campaigns are therefore ineffective in the context of rural women.¹⁰⁶ During the lockdown period the Lesotho Courts have remained open but with restrictions.¹⁰⁷ Only urgent matters that pose a threat to communities are given priority.¹⁰⁸ This has resulted in limiting access to vulnerable women who are unable to support or argue the urgency of their matters. Despite the Courts issuing protection orders, women may be reluctant to approach the justice system if they are eventually forced to return to their abuser since the country does not have adequate shelters for victims. Health Care Services remain open but there have been reports of women being reluctant to approach hospitals as a result of not having any protective equipment.¹⁰⁹

⁹⁸ Ibid.

⁹⁹ Report submitted to ARISA by WLSA Lesotho as part of this submission.

¹⁰⁰ Ibid.

¹⁰¹ <https://genderlinks.org.za/news/efforts-being-made-to-counter-gbv-in-covid-19-times/> (last accessed 24 May 2020).

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Report submitted to ARISA by FIDA as part of this submission.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Report submitted to ARISA by WLSA Lesotho as part of this submission.

¹⁰⁸ Ibid.

¹⁰⁹ Report submitted to ARISA by FIDA as part of this submission.

Knowledge on COVID-19 remains limited in Lesotho and many women do not access health care services as a result of being fearful of contracting the virus.¹¹⁰

The gender based violence situation in Lesotho remains precarious and has been elevated by the presence of the virus and restrictive lockdown regulations. As shown above, Lesotho does not have adequate measures in place to help GBV and domestic violence victims. This has left many women in unusually vulnerable positions, particularly during the state of emergency.

4. Conclusion

In sum, the evidence shows that rural women in Eswatini and Lesotho are being subjected to increased incidence of forced eviction and land grabbing in relation to customary land during the COVID-19 lockdown period. Equally, research conducted in the two countries confirm that greater incidence of domestic violence and GBV against indigenous women, primarily as a result of major social stress factors such as: food insecurity, loss of income within the household and the confinement over a prolonged period. This is compounded by the vulnerability and social inequality that rural and indigenous women experience in society making the situation ripe for abuse. Some of the key challenges in combating GBV and domestic violence during COVID-19 are:

- The lack of adequate shelters for victims prevents reporting of cases and perpetuates the abuse of victims. This is a major gap in eSwatini, Lesotho and Angola. As a result , victims are left with no other option but to remain with their abuser. This inevitably discourages victims from coming forward to report their cases because they know speaking out will expose them to further harm and retaliation in their households.
- The lack of emergency assistance during the pandemic. The lack of helplines in Angola and sufficient government initiatives to raise awareness on GBV and domestic violence during the nationwide lockdown is detrimental and reflects on how the government has not effectively prepared to address GBV and domestic violence in the context of COVID-19. It is submitted that an effective strategy would be for governments to work in tandem with the national human rights institutions and gender machineries in raising public awareness on GBV and domestic violence amongst rural and indigenous women. It is important for awareness raising initiatives to be designed in languages that rural and indigenous women understand and identify with. It would also be effective for

¹¹⁰ Ibid.

governments to work together with national human rights institutions and gender machineries in developing an effective method of recording the number of reported cases in order for the public to have accurate information on the situation of rural and indigenous women during COVID-19.

- The suspension of transport services has negatively affected women, particularly rural and indigenous women seeking medical treatment or wishing to approach a Court and need to travel into the urban areas to do so. A solution to this would be for governments to designate the reporting of domestic violence and GBV cases as essential and similarly designating attendant service providers as essential. Furthermore, governments should ensure that police officials are trained adequately in assisting and supporting rural and indigenous women who are seeking to travel into urban areas for the purposes of getting GBV and domestic violence related services.
- The lack of adequate legal protection for women in domestic violence situations remains a challenge in Lesotho. To date, Lesotho has not enacted the Domestic Violence Bill. In the absence of adequate legislation Lesotho will continue to grapple with domestic violence without effectively ensuring victims' right to access justice.
- The lack of adequate resources to access the Court system continues to be one of the main reasons why women do not approach Courts for assistance. It is therefore imperative for legal civil society organizations that provide free legal services to remain easily accessible to indigent litigants during the lock down period. It is also important that States provide effective and efficient Legal Aid options to their citizens. In this regard, it is submitted that the Legal Aid Bill in eSwatini should be enacted in order to realize Swazi peoples' right to access justice.

This submission has also outlined some good practices that have contributed positively in preventing and combating violence against indigenous and rural women. The good practices are:

- Chiefs and counsellors in rural areas have protected rural women during the pandemic and have played a mediatory role in instances where they were exposed to GBV and domestic violence.
- San community leaders have played a critical role in recording instances where indigenous women were exposed to GBV and domestic violence. They have also linked affected indigenous women to CSOs who provide mediatory services.

- CSOs have travelled to rural communities which do not have access to the internet and telephone services to record their stories and provide the necessary support;
- Courts are operating and dealing with cases of GBV and domestic violence;
- Governments and Civil Society Organizations are providing services through helplines; and
- Civil Society Organizations are being innovative in how they are reaching victims of GBV and domestic violence through using the radio, television and cellphone applications.

5. Recommendations

- Strengthen data collection methods to ascertain the number of women and girls who have been negatively impacted by the pandemic. In this way, the data will be disaggregated to reflect factors such as: ethnic background, region, age and disability.
- Urgently support advocacy actions and the provision of social support services including non-discriminatory food distribution programs to alleviate the poverty experienced by rural and indigenous women and girls. In particular, advocate for a fair food distribution method that will take into account the economic challenges that have been brought by the pandemic to every household in the country.
- Strengthen the provision of report centers and facilities for gender-based violence experienced by rural and indigenous women including the provision of legal support, counseling services and medical support.
- Foster genuine consultation between government and stakeholders, before adopting any restrictive measures. For example, the informal sector which feeds many families was disproportionately affected in comparison with supermarkets and other formal food outlets. Rural and indigenous women who trade informally should be supported to put in place safety measures as they practice their trade during the pandemic.
- Chiefs and community leaders should receive gender sensitive training in order for them to adopt a gendered approach that coordinates with hospitals and police.
- Governments should recognize the unique and precarious position indigenous and rural women are currently in. This will enable governments to develop an effective response that is designed to address the challenges that are faced specifically by indigenous and rural women.

- Rural and indigenous women should be provided with information about accessing justice outside of the traditional systems so that they have alternatives in situations where the traditional/customary law systems fail to provide appropriate remedies. Governments must also ensure that the legal system is simplified, particularly in relation to domestic violence and GBV complaints, such that ordinary citizens are not intimidated by the process.