



## TOPIC EIGHT | GOVERNMENTS' OBLIGATION TO ENSURE SUBSTANTIVE GENDER EQUALITY

### Main Takeaways

- Women are bearing the brunt of the economic catastrophe resulting from the COVID-19 pandemic.
- Governments have an obligation to guarantee substantive equality in all areas of women's lives. This means equal enjoyment of socioeconomic rights, taking into account intersectional forms of discrimination and the historical disadvantages and unequal power relations faced by women.
- Economic policies directly affect women's human rights and gender equality. Governments must raise, allocate, and spend resources for COVID-19 relief and recovery in a manner directed towards substantive equality.

### How is the norm of substantive equality relevant to COVID-19?

As with any crisis, the impacts of the COVID-19 pandemic depend on who you are. Women and men are affected differently, for example. More men are getting infected and dying from COVID-19. But women seem to be bearing the brunt of the economic catastrophe. This is due to their entrenched disadvantage — in the job market, in the global economy, in society, and in the home.

Women are more concentrated in low-paid “essential” jobs, including in the healthcare sector where 70% of workers are women. So, they are exposed to bigger risks by not being able to “work from home” and working in jobs that care for the sick. At the same time, McKinsey has estimated that jobs performed by women are 1.8 times more vulnerable to this crisis than those performed by men. Women make up 39% of global employment but 54% of overall job losses.

Women are also more likely to be in informal work (see [Topic 7](#)). These workers' livelihoods have been hit particularly hard by the economic impacts of the virus. Because they are typically excluded from social insurance schemes, they often have no formal “safety net” to fall back on.

Unpaid care work is a major factor disadvantaging women in the pandemic. With schools and childcare centers closed, women tend to be the ones taking up the slack. Many are being forced out of the paid workforce because they're unable to combine paid work with increasingly intense burdens of unpaid domestic and care work. Some women's earnings will never recover. The pandemic has not created this burden. But it has worsened it by relying on and reinforcing gender stereotypes that shape the kinds

of work women are expected to do, the conditions of that work, and how that work is valued.

Lockdowns and other pandemic restrictions also hit women harder. People experiencing domestic violence (of whom the vast majority are women) are suddenly confined with their abusers and unable to access the usual services or shelters. Sexual and reproductive healthcare is also harder to access, with, in some cases, funds for these services being redirected to pandemic responses.

### What does this obligation involve?

Most of the world's governments have signed up to binding international treaties that commit them to taking concrete steps to guarantee the socioeconomic rights of all. Ensuring that rights are enjoyed equally, without discrimination, is a core commitment under these treaties. When it comes to ensuring women's human rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is especially relevant.

Sometimes “equality” is understood narrowly as being only about equal treatment, or equality of opportunity: the idea that as long as everyone can in theory compete on a “level playing field” in an open competition, justice is served. But of course, no playing field is level and everyone has different starting points and obstacles. Under human rights law, equality means *substantive equality*. Women must be able to enjoy their rights equally with men in practice (*de facto*), not just on paper (*de jure*), taking into account the real circumstances and unequal power relations women face.

The actions governments must take to guarantee substantive equality have been clarified through the work of national courts and United Nations experts,

tasked with interpreting these treaties (particularly CEDAW). These include:

- taking positive steps to put in place laws, policies and other measures that make substantive equality possible – including in the economic sphere;
- removing hurdles (including gender stereotypes) that hinder women from obtaining equal outcomes;
- addressing discrimination that is both direct and indirect (i.e., gender neutral on paper, but discriminatory in practice);
- where necessary, enact “temporary special measures” or “affirmative action” to accelerate equality and redress historical disadvantage.

This means that laws and policies don’t have to be “neutral” with regard to gender. Different treatment may be necessary to achieve equality in practice. In particular, policies must address “intersectional” discrimination – the way that women’s multiple identities overlap to compound their disadvantage. A poor Black woman will likely experience more discrimination in the workplace than a wealthy white woman, for example; a trans woman is more likely to experience violence than a cis woman.

Redressing women’s socioeconomic disadvantage is one of the key fronts for progress towards substantive equality. Economic policies directly affect women’s human rights. This makes the obligation that governments have to progressively realize rights using the *maximum of their available resources* (see [Topic 1](#)) extremely important for achieving substantive equality. Governments must raise, allocate and spend resources on the goods and services crucial for guaranteeing rights. They must do so in a way which is directed towards the goal of substantive equality. Fiscal policy can either reduce or reproduce gender inequality: for example, austerity has been proven to have especially negative impacts on women.

Governments also have *extra-territorial obligations* (see [Topic 2](#)). So, they should refrain from actions that impact negatively on women in other countries (e.g., by regulating how their companies operate abroad) or that interfere with the ability of other governments to guarantee women’s human rights (e.g., reviewing tax/financial laws to ensure they don’t facilitate money outflows from other countries).

## What actions should governments take to meet this obligation?

In line with governments’ human rights obligations, economic relief and recovery packages must be gender-responsive. They must move societies towards, not away from, substantive gender

equality. They should explicitly seek to realize women’s human rights and address the disproportionate impact that the pandemic has had on women. A number of feminist recovery plans have been proposed, and in some cases, adopted. Core components include:

Ensuring policies are sensitive to women’s disproportionate burden of **unpaid care work**, e.g.:

- Prioritizing services in the “care economy” in stimulus or bailouts for particular industries, or in decisions about “reopening.”
- Ensuring emergency income support reaches all who need it, including informal workers and those providing care in the home (see [Topic 7](#)).
- Implementing universal child benefits (payments to all households with children).

Supporting women’s **decent employment and equal pay**, e.g.:

- Ensuring essential workers are guaranteed PPE and safe working conditions.
- Conditioning business bailouts on closing the gender pay gap (see [Topic 5](#)).

Investing in quality, accessible, gender-sensitive **public services**, including:

- Improving water and sanitation infrastructure, including clean piped water and soap.
- Ensuring sexual and reproductive health services are accessible to all (including LBTIQ women) and provided for free.
- Preserving domestic violence services.
- Investing in safe reopening of schools.
- Taking steps towards universal, free childcare as a fundamental public service.

In the long-term, a gender-just recovery means avoiding a return to austerity. Women shouldn’t be expected to shoulder the burden and pay the costs of the recovery. Instead, it should be financed through measures based on ability to pay, e.g., more progressive taxation (see [Topic 3](#)).

### Critical Questions

- ▶ What is the gender pay gap in your country? What is the disaggregated unemployment rate for men and women currently? How have they been impacted by COVID-19?
- ▶ What industries has the government prioritized for re-opening? Are they industries which primarily employ men or women? Are the necessary safety measures in place?
- ▶ What social protection measures are in place to respond to COVID? Do they cover informal workers & caregivers?
- ▶ What is the government’s plan for investing in universal care infrastructure and services?
- ▶ How is the government raising money to fund pandemic responses? Have gender impact assessments been conducted?