



THE CRIMINALIZATION OF A PANDEMIC

A CROSS-REGIONAL
FEMINIST ANALYSIS



FEMINISTAS





F E M I N I S T A S



RESURJ - Realizing Sexual and Reproductive Justice
Vecinas Feministas por la Justicia Sexual y Reproductiva en América Latina.

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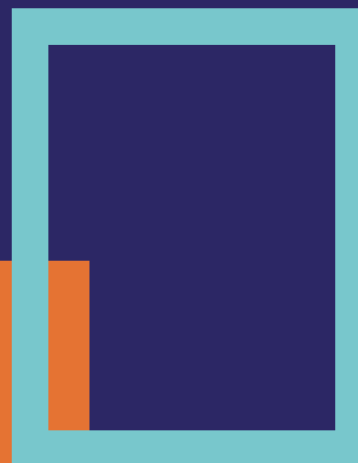
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I. EXECUTIVE SUMMARY

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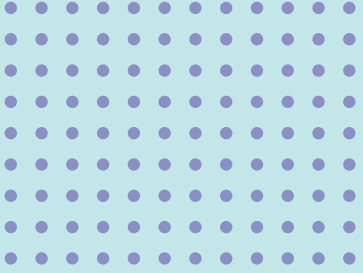
In March 2020, as the world struggled to address the rising spread and impact of the COVID-19 pandemic, the [Vecinas Feministas por la Justicia Sexual y Reproductiva en América Latina](#) and [RESURJ](#) began the process of building a feminist mapping and analysis of the myriad of measures adopted across the world to halt the spread of COVID-19. The impetus for this emerged from our concerns on observing a worrisome trend of governments turning to punitive and criminalization measures in the name of public health. We used a multi-method approach that combined a survey, qualitative interviews with key informants, and a desk review of media coverage.

Vecinas Feministas and RESURJ co-developed a survey which sought to collect information on the various containment efforts applied around the world, and to understand the use of criminalizing measures in the context of COVID-19 in various regions. This mapping effort also recognized the many health, social, economic, and governance challenges that were arising, and that existing inequalities were being unveiled and exacerbated with devastating impact on historically marginalized groups. The survey intended to capture the different health and sanitary measures, such as social distancing, isolation, curfew and quarantine, to prevent COVID-19 as well as provide evidence to analyze their impacts on particular groups and communities. This is closely linked to “RESURJ and Vecinas Feministas” commitment to analyze the limitations of criminalization and punitive responses as tools to address social challenges.

While our research shows regional differences, there are various cross-cutting key trends in the ways in which governments have confronted the pandemic. Of note is the tendency towards the use of criminal, punitive, and penal measures and restrictions related to social contact, exposure, transmission, movement—including travel and curfew—and the use of masks amongst many others, as a way to address the pandemic. The disproportionate use of measures, often against the most marginalized communities, for failing to comply with sanitary orders is also present across the regions.

The findings and analysis also highlight the existing structures of power that reinforce and deepen inequalities, and how they have been used to address the pandemic, such as the use of existing criminal law related to public health to introduce fines and penalties, and imprisonment. In many countries, police powers have significantly increased, and the police and the military have been put at the forefront of executing or monitoring the implementation of measures adopted for the containment of COVID-19; implementing fines, court summons, and arresting those who do not comply with them, from mandatory mask wearing to quarantine.

The police have often been given unprecedented power through revised or new legislation and decrees that significantly reinforce their power, and that has led to an arbitrary (ab)use and a significant rise in reports of police violence and brutality across the world.



For example, in Angola, police forces have killed at least five people while enforcing COVID-19 measures since March. In Egypt, the pandemic was used by authorities as rationale for stricter measures related to prison visitations, through the pausing of visitations and communications between prisoners and the outside world for extended periods of time. Similarly in Bolivia, the de facto government (in place since the political crisis of November 2019), has found in the health emergency an excuse to politically persecute its adversaries.

Many marginalized communities in Europe have faced significant risks and have been impacted by both the pandemic, and the criminalized and penal response to the pandemic. Migrants, asylum seekers, and refugees have shouldered a substantial impact from restrictions of movement, closure of borders to non-nationals, non extensions to visas, and in countries such as Greece, where restrictions were imposed on the movement of refugees within camps. Sex workers globally have faced the dilemma of whether to open service to clients or not, because they work in contexts where they can not access social support and protection, making them at risk in some countries of both criminalized sex work, and criminalized social contact. In Malawi for example, as recreational and entertainment venues were the second to close after educational institutions, it became quite difficult for sex workers to operate business as usual. Women experiencing violence face significant challenges in accessing domestic violence services, and in Chile for example, women were arrested for breaching quarantine measures on their way to the police to report violence.

In some countries, the use of punitive measures against those seen as to be putting others at risk through potential or actual transmission of COVID-19, echoes the problematic (historic and existing) laws and policies that regulate, control and punish people living with HIV based on their HIV-positive status. These responses have been widely criticized as they do not respond to public health or human rights norms. Once again, a public health crisis is met with criminal and punitive responses that disproportionately impact the most marginalized, stigmatised, and already criminalised people and communities in society. The Nuevo León Congress in Mexico passed a reform to the Penal code this year, on top of 33 existing criminal codes at state and federal level that criminalize people with serious illness that put others at risk of contagion, adding that, *“If someone knows that they suffer a serious and contagious illness, and willfully puts the health of another in danger of contagion, three months to three years in prison and a fine of one hundred to four hundred salary payments will be applied”*.

Furthermore, another worrisome trend identified through this research is the rise of political opportunism across all regions. Lawmakers in various countries have pushed for the enactment and adoption of laws and measures, in the guise of an urgent or vital response to the pandemic, that in reality are neither urgent nor related to the need to respond to the pandemic. As the government defends measures like these from the objective of containing COVID-19, it can be difficult to tell what the true intentions are. The crisis thus creates a grey area between measures which are in fact intended to control the virus and those that are aimed at tightening control over the population.



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This political opportunism witnessed across all regions, reinforces and strengthens existing structures of power, shrinks and closes space for civil society, hinders citizen's ability to hold governments to account, further ostracizes marginalized communities, and prioritizes profit over people and communities. Specifically, key democratic conversations such as police actions, privacy and data, LGBT rights, the right to protest, and sex work have been hastily discussed or regulated amidst a global pandemic and in a context of none or minimal opportunity for dialogue. For example, Uruguay adopted a 400-article law--the Urgent Consideration Law or LUC--that among other things expands police power and limits the right to political association. In Lebanon, with the pandemic sweeping in the middle of a revolution and a major economic crisis, protestors were removed on the first night the curfew was introduced. According to Dom Hunt, a Lebanon-based staff member of Concern Worldwide, the removal of the protestors was an indication that the government was using the crisis as an excuse to tighten its control.

Amidst the above mentioned measures, some progress has been made in an effort to alleviate the underlying conditions that affect those more at risk in the pandemic. Early release of prisoners due to the pandemic, funds made available for social protection measures including those related to homelessness, and access to healthcare. While these are welcomed positive steps, they also go to show that social movements' demands for justice are achievable and within reach, and

that many of these measures could have been implemented earlier. For example in the UK, at the start of the pandemic, the practical overnight housing of rough sleepers/ street homeless, a ban on evictions, and increased budgets to local authorities to address homelessness, proved that previous excuses of lack of political will and budgetary constraints, were surmountable. Similarly in many countries, the early or conditional release of prisoners and detainees as a way to minimize the risk of COVID-19 transmission in prisons and detention facilities, raises questions of the need for detention and imprisonment of those deemed suitable to be released into the community. In Rwanda, authorities released over 5000 prisoners on conditional release to mitigate the spread of COVID-19, including 50 women who had been imprisoned for having abortions and waited release from prison after presidential pardon. In Malawi, pregnant women, women with children, and sick and elderly prisoners and detainees were also pardoned.

While differences across regions exist, our research tells a shared story. The pandemic has come to unveil the deeply entrenched inequalities that exist within and among our countries. It has not only exposed these inequalities, but also exacerbated them. Across our regions, historically marginalized communities are disproportionately affected by the virus and the measures taken by the governments. Furthermore, political opportunism has taken hold in many contexts with governments taking advantage of the crisis to further restrict human rights or cement their power.





II. METHODOLOGY

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The survey was disseminated in English, Spanish, French, and Arabic and collected 108 responses from various actors in 58 countries in Africa, Asia, Southwest Asia and North Africa, Latin America and the Caribbean, and Europe. RESURJ and Vecinas Feministas members led this analysis, compiled responses to the surveys, carried out interviews with key informants, and engaged in supplemental desk research on regional analysis, media coverage, and testimonies as a way to validate the information collected through the survey. After the data collection process was finalized, RESURJ and Vecinas Feministas analyzed the data and categorized it in common themes and critically reflected on the results.

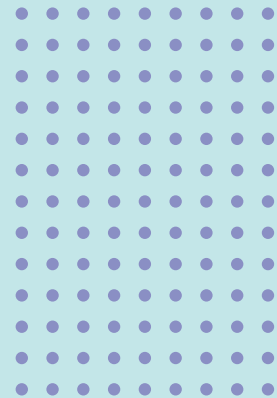
The regional briefs and analysis herein provide a detailed overview of the measures introduced in a number of countries in Africa, Southwest Asia and North Africa, Europe, and Latin America, over the period of February 2020 to July 2020; and analysis of the impact of various measures in each region. A regional brief for Asia and the Pacific is forthcoming, as further research and evidence gathering and validation is required. Country-specific briefs from the Africa and SWANA regions will be available at RESURJ's website.

Our research was limited by various factors; (a) the availability and reliability of data, (b) the ever-evolving nature of the virus and subsequently the rapid adoption, change or reversal of the measures adopted by the government, and (c) the temporal scope of our data collection.

Throughout the initial stages of the pandemic, changes, introduction, and adaptation of measures happened regularly in many countries. The regional briefs developed capture the measures at the time of the survey dissemination in March/April 2020, and some subsequent measures introduced during the timespan of further research. While more research is needed, we believe this brief gives a clear overview of the measures adopted and can be used as a basis to build more analytical efforts and/or to draw thematic comparisons across regions.

The data collected for each of the regions were analyzed using a thematic lens and the findings are organized in six different sections as follows:

- 1. An overview of each of the regions we received information from.**
- 2. Analysis of the use of punitive and criminal measures in the context of tackling the spread of COVID-19.**
- 3. Situations in Prison and COVID-19**
- 4. Citizens/Community led initiatives**
- 5. Social control measures exacerbating gender, race and class discrimination**
- 6. Reflections and considerations**



Our work across the regions shows the widespread use of criminalization, punitivism, and militarization as responses to this global public health crisis. This pervasive trend fits within a much broader approach that envisages criminal law as a tool to address social and political challenges. As feminists from the South, this report represents our effort to understand, map and problematize the use of these tools in the context of the COVID-19 pandemic. **We remain vigilant.**



III. LATIN AMERICA REGIONAL ANALYSIS

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1. Introduction

The global COVID-19 pandemic has posed a serious challenge for Latin American countries and the world. What appears at first glance as a public health crisis reveals another series of existing crises and further exacerbates the inequalities and governance problems that already characterized many of the countries in the region.

This report is based on a survey conducted by Vecinas Feministas and RESURJ during March-April 2020 that sought to understand the use of criminal law in the context of COVID-19 around the world. We reflect here on the results of that survey, interviews with key informants from the countries where the survey was filled, and press coverage research.

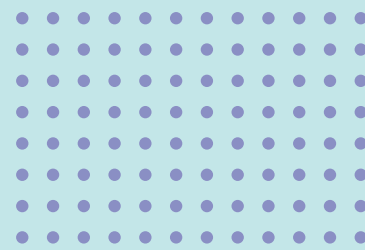
This report is divided in six sections. After this brief introduction, we present an overview of the region, an analysis of the use of criminal law in the context of the COVID19 pandemic and a mapping of the punitive measures used during this period (Feb - June 2020). Subsequently we will present some citizen initiatives and reflect on social control and discrimination. Finally, we formulate some discussions and reflections.

2. Overview

The continent presents a very unequal overview both in relation to the impact and the responses to the pandemic.

Despite being the first country in Latin America to register a case of COVID-19 on February 26, the Brazilian government has been one of the countries with the least restrictive measures to face the pandemic. The measures taken in the country have been decided by state governors and not by the National Executive. The president has attended mass events without a mask, giving hugs and kisses to people in the audience. Disagreements between the president and sectors of the government seeking to apply restrictive measures ended with the resignation and removal of two health ministers in less than 30 days.

The Nicaraguan national government has not taken preventive measures to treat the pandemic. At the beginning of the crisis in March, the national executive convened a march called “Love in the times of COVID-19” to “face the coronavirus.” The Ministry of Health prepared a Protocol of Preparation and Response to the Risk of Introduction of Coronavirus, and warned that in six months COVID-19 could infect 32,500 people and cause 813 deaths in Nicaragua. However, access to the protocol was restricted and after the statements, the government fired the minister of health.



Along with Brazil, Nicaragua is one of the countries that most concerns the PAHO (Pan American Health Organization) due to the high and exponential rate of contagion in recent days and the respective inaction of governments.

Other countries, like Argentina, have taken measures of social isolation, preventive and compulsory since early on. Reports and daily press conferences are held informing the population of the situation regarding the pandemic. The president, together with the governor of the province of Buenos Aires -PBA- (the largest in size and population) and the Autonomous City of Buenos Aires -CABA- (capital of the country) dictate national channels to make announcements about progress and challenges pending to face the crisis. After several weeks, the president made mention of the situation that children and adolescents are going through, as well as the head of government of CABA about the situation of women in relation to the overload in domestic and care tasks and the importance of co-responsibility. In the regions of the country with low or no transmission levels, restrictions have been relaxed, but in CABA and PBA they are slower because the contagion and death curve is maintained in some cities or decreases slowly.

On the other hand, other countries stand out in the region for having managed to control the consequences of the pandemic. [In Uruguay, for example, compulsory social isolation was not established, the use of a mask and respect for social distancing were recommended, but there was no curfew or sanctions for non-compliance with quarantine.](#) The government appealed to citizen responsibility. The country has begun with the economic reopening of non-essential activities.

In Peru, the COVID-19 pandemic has caused the death of more than ten thousand people and to date there are around more than three hundred thousand infections. In the month of March 2020, through [Supreme Decree 044-2020-PCM](#), the state of national emergency and mandatory social isolation (quarantine) for 15 days were established in order to contain the spread of COVID-19. Due to the increase in cases, the state of emergency was then extended until July 30 ([Supreme Decree 116-2020-PCM](#)). As a complementary measure, on March 18, through the [Supreme Decree 046-2020-PCM](#), social immobilization was ordered from 8:00 p.m. to 5:00 a.m. the next day, nationwide. As of July 1, the immobilization applies between 10 p.m. and 4 a.m. the next day in some cities of the country, including Lima. These measures imply the limitation of the fundamental rights of liberty and personal security, the inviolability of the home and the freedom of assembly and movement in the national territory (article 2, paragraph 24, paragraph 9 and paragraph 11 of the Constitution), which meant, at first, that citizens had to stay at home, being able to leave only to seek for food, purchase medicines, transfer to health facilities, among other activities considered essential. In the following months, the activities considered essential were expanded and the operation of productive and commercial activities was allowed by July, permitting the circulation of a greater number of people, who must comply with specific preventive measures.

In Honduras, more than 30,000 cases have already been [detected and](#) the precarious public health system has begun to collapse. Many hospitals are [over capacity](#), which results in people lying in the hallways and sharing essentials like oxygen.

Colombia reports around [249,000 confirmed cases](#), ranking fifth in Latin America for confirmed cases. Although health measures have been taken, [the health system](#), as in many countries in the region, is fragile and many cases have been detected among health personnel, which further complicates the situation. At the same time, in the middle of the quarantine, the government established a “[day without VAT](#) (value added tax)” in order to support economic recovery. This measure was widely criticized for promoting the crowding of people in shops.

Bolivia is in a worrying situation, due to the weakness of the health system. The country has more than [38,000](#) confirmed cases. In important cities like Cochabamba, [bodies were found abandoned](#) in the streets and [social protests](#) are growing.

Paraguay was one of the first countries to take health quarantine measures, just days after the first case was detected, assuming the weakness of the health system, which would easily collapse in the face of a major outbreak of cases. At the end of July, [just over 4,600](#) cases and 45 deaths had been registered. In any case, health measures were applied in order to “prepare” the health system with equipment, but these [processes were unsuccessful](#) due to reported cases of corruption.

3. The use of punitive and other types of measures to address the pandemic.

Despite the disparities in the region in relation to health measures, all countries report the use of punitive measures during the pandemic. From the use of existing criminal provisions to the creation of new criminal offenses, the region has seen a problematic inflation of punitive mechanisms to deal with the pandemic.

Several countries have crimes against public health in their Penal Codes and have used these provisions to punish those who fail to comply with the measures.

In Brazil, for example, no mandatory national quarantine was imposed and only partial measures were taken by decision of states. In March, the Ministry of Justice, supported by the Minister of Health, announced prison sentences of up to two years for non-compliance with mandatory quarantine based on Article 268 of the Criminal Code of 1940, which recognizes the power of the authorities to prevent the spread of contagious diseases, with penalties ranging from one month to one year in prison and a fine. In reaction, the president called and attended marches against the Ministry of Justice and dismissed the Minister of Health.



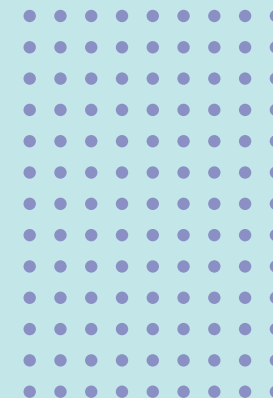
Pecuniary penalties are also anticipated at the state level. For example, in the case of Rio de Janeiro, [there are fines of up to 200 USD \(1065 reals\)](#) for those who do not wear a face mask in public areas.


Similarly, in Argentina, those who do not comply with isolation are subject to penalties already present in the Criminal Code as articles 205 and 239: *“Anyone who violates the measures adopted by the competent authorities to prevent the introduction or spread of an epidemic shall be punished with imprisonment from six months to two years,”* explains Article 205. [Article 239 states that “anyone who resists or disobeys a public official in the legitimate exercise of his or her functions shall be sentenced to imprisonment for a term of fifteen days to one year”.](#) [Several people have been arrested for these crimes,](#) increasing the chance of contagion and overloading the judicial system.

In El Salvador, “containment centers” (sports grounds, soccer fields, gyms) were set up to take people arrested for failing to comply with mandatory isolation measures. There have been protests and complaints about police abuses and lack of hygiene. [Many people reported being detained without information on when they would be released and without knowing the results of the tests carried out for COVID-19 when they were arrested.](#) “From now on, with all legal power, if you break the quarantine you will be taken to a place where you will be examined by a doctor and if that doctor determines that you have been exposed to a possible contagion you will be referred to a quarantine center,” the president announced on national television on May 6. Since then, police have carried out arrests throughout the country. The Supreme

Court of Justice issued a decision declaring the preventive detention measure illegal for those who do not comply with the quarantine, asking the security forces to refrain from continuing the arrests. However, the president rejected the measure: *“Just as I would not abide by a resolution ordering me to kill Salvadorans, I cannot abide by a resolution ordering me to let them die,”* Bukele said on social media.

In Peru, according to information provided by Mónica Coronado, a lesbian feminist lawyer, in April, [Legislative Decree No. 1458](#) established administrative penalties for non-compliance with government regulations. The National Police is responsible for monitoring violations and imposing penalties (fines) for violating the quarantine. This is without prejudice to civil and criminal liability that may arise from the actions or omissions that constitute the administrative offense (Article 4 of Supreme Decree 006-2020-IN). These provisions leave open the possibility of criminal punishment for persons who willfully fail to comply with the health measures imposed by the government. Among the criminal measures applicable in the case of those who violate the sanitary measures provided for in the framework of the pandemic, is Article 292 of the Penal Code, on violation of health measures, which provides for a prison sentence of not less than six or more than three years and 180 days fine, for those who violate the measures of the government before the spread of a disease. To this end, and in accordance with the protocol ([Final Provision 7.2](#)) available to the Peruvian police, when an offender is identified, he is notified in advance so that he does not again incur the offense detected. In the event of a repeat offense, the person is arrested and reported to the District Attorney’s Office for the offense of violation of health measures referred to in





Article 292 of the Criminal Code. Since the beginning of the quarantine, arrests for non-compliance with health measures imposed by the government have been repeated. [During the first week of the beginning of the quarantine, about 16,000 arrests were](#) made for non-compliance with the mandatory social isolation measure, in some cases violent actions by the police were identified at the time of the intervention. At the end of March [33 thousand arrests were](#) made. Measures on administrative sanctions and criminal complaints to date remain in force.

In Honduras, [an absolute curfew was declared](#), the failure of which is punishable by a fine. Likewise, The Penal Code also provides for a [custodial sentence](#) of 6 months to 2 years for non-compliance with health measures. In April, it was reported that thousands [of people were fined](#) for non-compliance with the curfew.

In Venezuela , [a state of alarm](#) was declared and mandatory quarantine health measures were introduced. While there are no explicit criminal penalties for non-compliance with quarantine, in the case of [an upper-class party](#) , persons caught breaching quarantine were prosecuted for “[biological terrorism](#)” under [the Law Against Organized Crime](#). In addition, a university residence is being evicted to be converted into an accommodation for asymptomatic COVID-19 patients. Students living there denounced the attempted eviction. They claimed that the threat included being labeled as “[bioterrorists](#)”

Bolivia imposed restrictive measures that include departures by ID termination number and time restrictions for circulating, among others. The [decree establishing the measures](#) imposed fines for non-compliance with the measures, without prejudice to the application of [The Criminal Law on Offenses Against Public Health](#) . These offenses are punishable by 1 to 10 years of imprisonment.

In Paraguay, in March, the Ministry of Public Health and Social Welfare (MSPBS) declared a “health quarantine”, which authorized the application of [the law 716/96](#), Article 10 of which penalizes non-compliance with health quarantine with fines or custodial sentences. On March 20, [the all-hours movement restriction](#) was extended and a list of exceptions was established, including the provision for basic services and the purchase of food and medicines. This social isolation was extended for several weeks until the progressive lifting of measures, called “[intelligent quarantine](#)”, [began in May](#). As this report was being written, this strategy continues to be implemented, without the date of its total lifting being certain.

In Costa Rica, although [the law provides criminal penalties](#) of up to 3 years of deprivation of liberty for violating health measures, according to Laura Valenciano, feminist activist, there have been many cases reported of the [application of fines for violating the vehicle restrictions](#), and driving while intoxicated. Fines of about USD 4,500 have been imposed. According to the information collected, there is a security protocol for initial arrests and people are detained in separate cells to prevent contagion, before being sent home with alternative exits.



In Colombia, although [there are measures to punish](#) non-compliance with health measures, [their application and effectiveness](#) is questioned by the legal community. According to one human rights activist, the legal scope is not entirely clear and they are currently gathering more information on the subject. However, the [punitive discourse of the state](#) is being heavily criticized.

In Panama, new penal rules were created to punish non-compliance with health measures. According to decree 504, promulgated on March 23 and bearing the signature of President Laurentino Cortizo, on the first violation of the order of isolation, a fine of 50 thousand dollars will be imposed. [In the event of a repeat offense, the amount can reach 100,000 dollars, according to the Ministry of Health.](#)

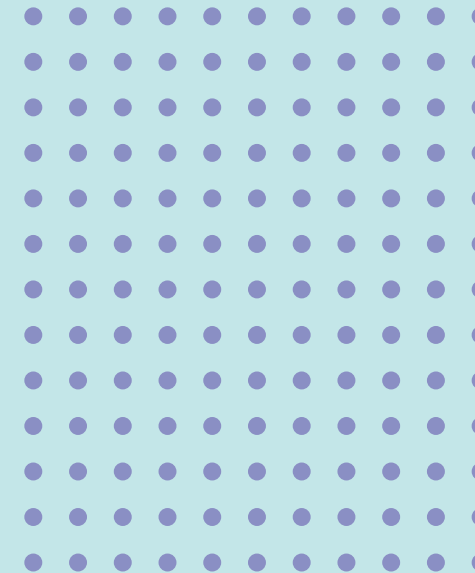
Up to April 2020 alone in Mexico, [20 initiatives](#) had been introduced in the various Congresses to introduce punitive measures in response to the pandemic for the imprisonment of: (1) people who discriminate against or attack health workers and public officials or, where appropriate, increasing custodial sentences for these behaviors; (2) people with serious or venereal diseases that put the health of others at risk; (3) people who steal medicines; (4) people who raise or change the sales price of essential consumer goods or medicines; (5) and people who gather, hide or refuse to sell essential products during the health emergency or other natural disasters, among others. Mexico has 33 Criminal Codes (for each state and one federal) in which 28 had already criminalized people with serious illnesses that put others at risk of contagion before the pandemic. Moreover the Nuevo León Congress passed a [reform to the Penal code](#), adding on June 29th of

this year article 337 bis: If someone knows that they suffer a serious and contagious illness, and willfully puts the health of another in danger of contagion, three months to three years in prison and a fine of one hundred to four hundred payments will be applied. *“ If it is an incurable disease or one that causes permanent serious damage, the sanction will be increased a little more. This crime will be prosecuted by complaint of the victim or offended.”*

In Ecuador, [Executive Decree No. 1017](#) declares a State of Exception due to public calamity throughout the national territory, due to the number of confirmed coronavirus cases and the high risk of contagion for all citizens, in order to control the health emergency that the country is experiencing. [On March 26, a fine of 1000 dollars was established for those who did not comply with the curfew, with aggravation if they repeat the crime.](#)

In Chile, the parliament [approved a bill](#) to punish with prison sentences those who do not comply with home quarantines as a measure to prevent the spread of the coronavirus. The bill establishes penalties of up to 5 years in prison for those who *“in time of pandemic, epidemic or contagion, knowingly generate the risk of spreading pathological agents in violation of an order from the health authority”*.

Political opportunism for the adoption of punitive measures not related to the pandemic [In Uruguay, the recently elected government accelerated the adoption of an Urgent Consideration Law with an article of more than 400 provisions.](#)



The law, which was adopted in the pandemic framework with little possibility of social mobilization, proposes a series of changes on various issues that have nothing to do with the pandemic and do not have a real urgency. For example, article 49 regulates the supposed *“presumption of legitimacy of police action”*, which establishes: *“Unless proven otherwise, it is presumed that the actions of police personnel in the exercise of their functions, are in accordance with the constitutional, legal provisions and current regulations”*. This provision, among others, was severely criticized by three special rapporteurs of the United Nations Organization who argue that *“this provision broadens the possibility of presuming legitimate defense when dealing with the use of force by police or military officials and it gives considerable laxity to the principles and rules that should govern this conduct”*. [The rapporteurs consider the law to be incompatible with the obligations signed by Uruguay in the International Covenant on Civil and Political Rights.](#)

In Bolivia, according to Andrea Terceros Hans, a Bolivian feminist activist and member of Feminist Neighbors (Vecinas Feministas)

The political polarization of Bolivia since the conflicts that arose after the general elections in October 2019 and the subsequent coup in November has aggravated the outlook in this pandemic situation. The de facto government has found in the health emergency an excuse to politically persecute its adversaries. An example of this is the arrest of a person accused of sedition for organizing groups of denunciation against the Añizta regime in social networks. He [was arrested and sent to jail on the charge of “sedition”](#).

Likewise, [the government reported](#) the prosecution and conviction of opponents of the government for “destabilization” with highly stigmatizing language. Also, people who protested asking for better social assistance were [criminally prosecuted](#).

4. Situation in prisons and COVID-19

Given the overcrowding of prisons in most countries and the high risk of contagion, several countries have chosen to adopt measures of release, or early or conditional release.

In Guatemala, no parole has been granted to prisoners for the pandemic, even though those convicted of crimes against humanity have tried to obtain house arrest, without success. Safety and health protocols were established in the prisons and protective equipment has been insufficient. In the women’s prison, special kits for pregnant women were provided for possible transfers or medical check-ups outside the prison; the kits include gowns, masks, gloves, alcohol gel and boots.

In Nicaragua, 1,700 common prisoners of the Penitentiary System (SPN) were released due to the risk of contagion in prisons. However, [none of those released would be political prisoners jailed during demonstrations against the Ortega government](#). This response against the pandemic is used for political and discriminatory purposes.

In Brazil, the National Council of Justice issued recommendations and by June there had been around [32,000 releases](#). There is [news of riots and violent repression](#).

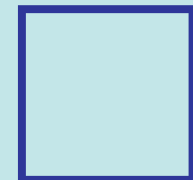
In Panama, [modular clinics were installed to reinforce the monitoring of inmates](#). But there is no information on inmates who have been given parole. Some inmates from the Santiago prison were transferred to the Institute for Training and Use of Human Resources (Ifarhu) in order to prevent the virus from continuing to spread within the prison.

In Mexico, a law was approved [to allow the temporary release and house arrest of people who have been prosecuted or have received a final sentence before federal courts](#), those who are not repeat offenders with respect to the crime they are convicted of, and who have committed crimes before of the date of entry into force of this law will also be contemplated. The cases in which the amnesty will apply is for the crime of abortion in any of its forms, crimes against health that have been committed by people in situations of poverty or extreme vulnerability due to having a permanent disability. It will also apply to those people who have committed simple and non-violent robbery, belonging to indigenous peoples and communities and who during their process have not fully accessed the jurisdiction of the State, because the right to have interpreters or defenders who have knowledge of their language and culture was not guaranteed. In practice: according to newspaper articles in the CDMX, 250 people were released. Most of the news in relation to the amnesty law are estimates.

In Paraguay, in March, at the beginning of the health measures, [the prisons took measures such as preventing visits to avoid contagion](#), considering that 14 of the 18 penitentiaries in the country are overcrowded. Even so, [important outbreaks were detected in prisons](#) such as Ciudad del Este, on the border with Brazil. These outbreaks affected prisoners and prison staff, with fatal outcomes in many cases.

5. Community-led initiatives

The lack of transparency in data matters has led to the organization of COVID observatories in several countries in order to provide reliable information to the general population . For example, Nicaragua created the “COVID-19 Citizen Observatory”, a network made up of experts and professionals that keeps a count of cases in parallel to the official figures published by the national government. The Association of Producers and Exporters of Nicaragua (APEN) and independent doctors demanded that the Government be “transparent” about the risks of COVID-19, and that it take actions to mitigate its impact. The Civic Alliance warned that the arrival of COVID-19 in Nicaragua “is imminent” and, given the relative silence of the Government, decided to issue a series of suggestions to avoid the transmission of the coronavirus, based on the WHO recommendations. In a list of 15 recommendations, the opposition Alliance suggested avoiding crowds, distancing oneself from people, taking care of personal hygiene, or avoiding going out if necessary.



Some Nicaraguans organized themselves into groups, to share health recommendations on their own on social media, given the apparent scarcity of information issued by the government.

6. Social control measures: gender, race, and class discrimination in the context of covid prevention

In addition to the measures discussed above, there are other measures that have no logical basis in public health but are used as tools of social control.

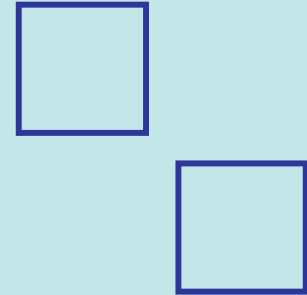
In many cases delving into pre-existing social problems. For example, in Panama the mandatory national quarantine was established [such that permission to go out was divided by gender](#). Women may go out from Monday to Wednesday, men on Thursday to Saturday, and movement in the street is prohibited on Sunday. Trans people must adhere to the identity noted in their identification. As a consequence of reports of mistreatment and violence against trans people and subsequent requests from international organizations to the president to take action in the matter, as of June 1st there will be no further quarantine by gender, and a curfew for the entire population will be established from 7 p.m. until 5 a.m.

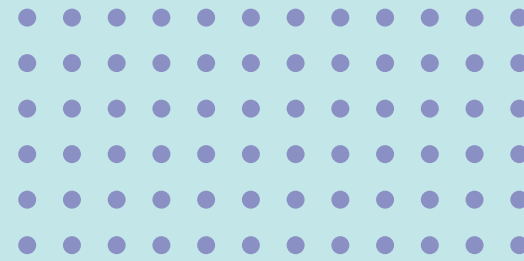
Several countries have declared the suspension of the distribution, sale, and production of alcoholic beverages. For example, [Mexico, Guatemala](#), and [Panama](#) have adopted these measures. These measures promote the proliferation of illicit commerce, increase the risk of contagion of COVID-19 (given that the points of sale are not obligated to comply with preventative measures) and maintaining dry laws obligates security forces to ensure compliance, lessening their capacity to deal with the health crisis.

These measures have had differentiated impact and have exposed prejudices, stigmas, and discrimination against certain groups of people. Said prejudices are anchored in a heteropatriarchal, racist, and classist base.

In Mexico, in the metropolitan area of Guadalajara, [police detained Giovanni Lopez \(builder\) for not wearing a mask in public](#). While arresting him, at least one shot was fired, and a beating was delivered that ultimately cost him his life hours after being detained. [In the video, the police can also be heard saying “fag”](#) among the insults that are used against Giovanni’s brother for resisting and recording the arrest.

In Peru, according to Monica Coronado, on social networks and in the media, complaints were made regarding disproportionate and violent interventions, mostly against women, residents of poor neighborhoods, and trans women. The case of Claudia Montalvo, who was violently detained for taking her dog out, and was further humiliated, along with her girlfriend, in the police station, is a clear signal of the excesses that police interventions have reached.





[The testimony](#) of the victim details the level to which abuse can rise when confronting a woman at night a few steps away from her home. In the case of the trans women, they were detained and harassed repeatedly by police personnel. During the [measure known as “gender restriction”](#) that lasted one week and that permitted only women to go out on some days and men on others, several cases of discrimination against trans women were noted. They were detained arbitrarily, humiliated, and even subjected to corporal punishments. The urgent need for a gender identity law was evident during police interventions: they were stripped of their National Identity Card or were referred to by the name and biological sex given in that document, which constitutes a serious violation of their right to dignity and identity. These measures were originally established in order to avoid propagation of COVID-19 infections. President Martin Vizcarra stated on more than one occasion that there should be no abusive or discriminatory interventions, going so far as to sanction police personnel who were responsible for the illegal humiliating interventions reported by the victims. What followed in practice was the desire to discipline those people who, under the heteropatriarchal prejudices that exist among the population and police personnel, were transgressing the mandate to be heterosexual, cisgender women and men. The restrictions of fundamental freedoms and freedom of movement decreed during the pandemic were an excuse to repress and violate fundamental rights.

The selective enforcement of measures according to social class has also been identified in several countries. In Peru and Paraguay, police control measures have been very disparate, being very strict in poor areas or neighborhoods while in contrast, being very lax in middle- and high-class areas. In Peru, there was a case in which children were playing soccer in a poor neighborhood. The police officer called him, the boy answered and [the officer slapped him](#) and, among other things, told him not to be a faggot. In comparison, in middle- and high-class neighborhoods, people were seen going out to surf, practically with police escorts. Similar incidents have happened in Paraguay and [Costa Rica](#), where [activities in poor neighborhoods](#) were rapidly dispersed by police, while weddings in middle- and upper-class neighbourhoods were not interfered with until after [massive backlash on social networks](#).

Measures regarding internal movement and return of people from abroad are also linked with class. In [Bolivia](#), differences have been noted in the treatment of returning nationals and residents, in which it is seen that those who are returning overland, who are generally poorer migrants, experience different treatment upon arriving at the border than those who arrive on humanitarian flights. In Peru, many internal migrants were stranded in Lima at the beginning of the pandemic. Many of them lost their jobs and did not have resources to sustain themselves in the capital. Due to the health measures limiting public transport, they were impeded in returning to their communities. After some weeks, many of them began [to walk back to their communities](#), being reprimanded by the police for not complying with health measures. Among these people were adults, boys, girls, and even newborn babies.

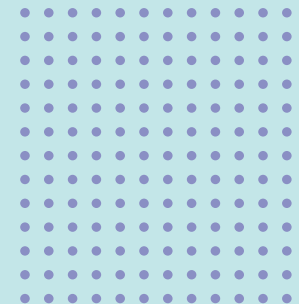
In Venezuela, xenophobia affected migrant Venezuelans in their host countries and those who returned to Venezuela. According to a Venezuelan feminist activist:

There has been a great tendency in recent years in Venezuela to migrate. Most recently, not only the rich leave, but the poor as well; they go overland, under suboptimal conditions. They often do not arrive in Peru, Colombia, and Ecuador in good condition. They don't find work, there is an epidemic of xenophobia against Venezuelans in these countries, and further, with COVID, many of these countries are quickly overflowing. For Venezuelans who have migrated, they have no other option but to return. Upon returning, many have COVID, and on television and in the interviews with the Minister of Communications, who is the one providing warnings about COVID (not the Minister of Health, as in many other countries) there has always been a great deal of emphasis on which were cases from the community and which were imported cases. For a long time, the imported cases were the majority, and the community cases were those that were passed by people who had gone abroad who had been declared healthy, because these people had not been quarantining upon arriving in their states. There were mandatory quarantines at defined points along the border. In a certain way, this emphasis on community cases versus imported cases sent a message of hate towards returning migrants. At the moment, community cases have exceeded imported cases.

In Costa Rica, an increase in xenophobia is also perceived. According to Laura Valeciano, a feminist activist.

The Ortega government (in Nicaragua) has not taken a single measure to protect the population, and most recently, there have been many conflicts along the border. The most recent is refusing entry to Nicaraguan nationals seeking to enter the country from Panama. They were simply denied entry, and Costa Rica welcomed them. One big issue has been migration. The economy depends on tourism and the borders have been closed since March 18th. Costa Rica is a host country for migrants, particularly Nicaraguans, and xenophobia is an extremely serious cultural problem. There has been a larger police presence along the northern border than I ever remember. This mission has been led by Vice President Epsy Campbell. There was an important case involving a pregnant Nicaraguan minor with COVID-19 symptoms who crossed the border after its closure and garnered all the hatred of the population. However, the first two cases in Costa Rica were Americans, and the social reactions were never so violent. The clear position of the Health Minister and the Executive President of the Costa Rican Social Security Fund was that medical care here is universal and no one is turned away, but the population is another story.

In the case of indigenous people, racism and discrimination increased. In Peru, according to lawyer and indigenous people's human rights defender Daniel Sumalavia, Amazonian communities had no access to medicines nor to tests. That's why the communities themselves decided to close to stop the "arrival" of the virus.



In Guatemala, the President declared a state of prevention in 6 municipalities of the Department of Izabal and Alta Verapaz with a Mayan Q'eqchi' population under the argument of having indication of criminal groups' operations in this region. These measures have not had significant success, and instead promote the criminalization of indigenous peoples.

In Chile, the criminal regulations to repress non-compliance with health measures [have also been used to repress citizen's protests](#).

In Paraguay, the Emergency Health [Law](#) established economic support for people who had lost their job due to the pandemic. The Regulatory Presidential [Decree](#), without any explanation, left out foreign residents by establishing Paraguayan nationality as a requirement. This provision is a form of discrimination based on nationality.

7. Discussion and considerations

This report intends to present a regional overview on the use of punitive measures in the context of the COVID-19 pandemic. Despite reporting profound differences in the response to the pandemic, the region recorded a generalized use of punitive mechanisms and criminalization. The inflation in the criminal system is not a new issue in Latin America or around the world. However, it is important to notice that transmissible diseases are a matter of public health, not criminal problems.

In March of this year, [UN Human Rights experts said that](#) *“the emergency declarations based on the outbreak of COVID-19 should not be used as an excuse to attack groups, minorities or particular individuals. They shouldn't be used as a cover-up for repressive actions under the guise of protecting health (...) and they shouldn't be used to simply stifle dissent.”*

The gravity of the COVID-19 pandemic threatens public health globally and could justify the restriction on certain rights, like those resulting from the imposition of quarantine or isolation or that limit the freedom of movement. However, it is clear that the use of punitive measures exacerbates social inequalities, overloads a collapsed penitentiary system and generates stigma and discrimination. The limitation of rights must satisfy the five criteria of the [Siracusa Principles](#), in addition to having a limited duration and being subject to revision

and appeal. That is, the restrictions have to be carried out in accordance with the law, in the interest of a legitimate objective of general interest, and have to be strictly necessary in a democratic society to reach a goal; there has to be no other less intrusive and restrictive way available to reach the same goal; they have to be based on scientific evidence and not be imposed arbitrarily, that is to say, in an irrational or discriminatory manner.

In several countries, the application of punitive measures has given rise to abuses of every kind, like the discriminatory, racist and classist use of the criminal laws that reinforced social inequalities. At the same time, the application of health quarantines resulted in social repression or political persecution, like the passing of opportunistic laws or measures capitalizing on the centrality of the topic of COVID in almost every country of the region. These measures not only worsen the position of groups of people with disadvantages, but also show that the regressive agenda doesn't stop even in a context such as that of a global crisis.

The public health crisis is undoubtedly accompanied by an economic crisis that disproportionately affects certain social sectors. The use of coercive measures increases the stigma associated with COVID-19 as well. People who are not at home or look like they're breaching quarantine are labeled as irresponsible or selfish, without taking into consideration personal situations. Stigma generates fear and delays or hesitation in consulting health centers, which worsens the contagion. For many people staying at home is not a viable option, because they are the only source of income and they are responsible for their families' support. Health workers or

supermarket workers in Mexico have been [assaulted](#) and discriminated against for being perceived as a source of contagion.

For people and families whose livelihood depends on the informal economy and conduct activities that are unfeasible - and subject to criminal provisions - under the current work and mobility restrictions, informal work stands at 53% and exceeds 60% in countries especially affected by the pandemic, like Ecuador or Peru. In its report '[The Opportunities of Digitalization in Latin America during COVID-19](#)', ECLAC warns about how "segments that are vulnerable in themselves (...) will be excluded from the actions adopted with regard to employment which use digital technologies as a tool". The statistics speak for themselves: in countries like Peru, Bolivia or El Salvador about 85% of the citizens pertaining to the lowest wealth quintile do not use the Internet. At the same time, the criminalization of non-compliance with confinement or quarantine measures takes little account of the situation of homeless people, which corresponds to a criminalization of poverty. For example, Argentina has a housing deficit of 4 million units, both quantitatively and qualitatively. In urban areas, 16% of the houses have no access to drinking water and 45% have no access to sanitation.

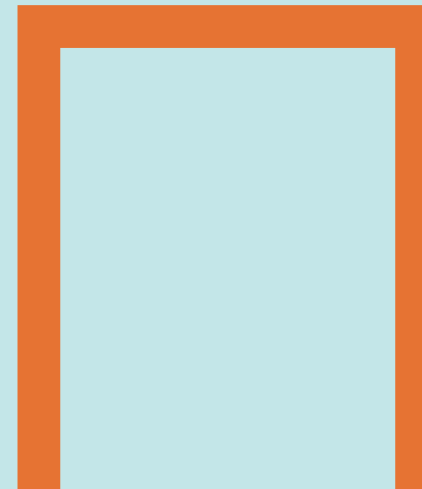
Even though confinement and quarantines are essential to reduce COVID-19, for many women [staying at home means dealing with violence](#), which means that for women we are looking at a double pandemic: COVID-19 and violence. In the vast majority of countries an increase in violence against women and domestic violence has been registered, to which the countries have responded in different ways. For example,



in a country like Chile, where the Ministry of Women and Gender Equity [reported a 70 percent increase in the calls made by women on domestic violence helpline, women who are victims of violence are arrested for curfew violations on their way to press charges](#). LGBTIQ+ people [are also confined with their abusers](#). For example, at Casa Rara in Costa Rica, the demand for care for LGBTIQ+ adolescents due to violence in the family environment increased 200% since the beginning of the pandemic.

It is still uncertain how the pandemic will end and what the consequences are going to be in the medium and long term for countries and for society. These months have shown that responses have been inconsistent and in many cases have deepened social disparities. That's why punitive measures have been the main protagonists, especially in societies where the "strong hand" culture is still very present.

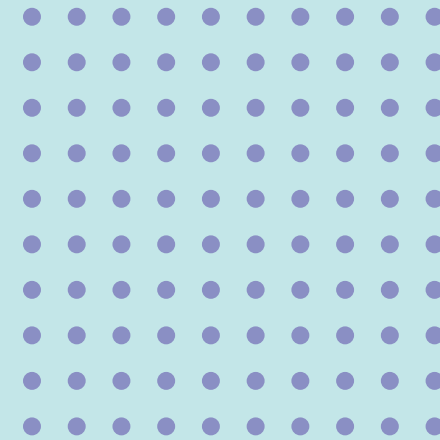
The region has become the global epicenter of the pandemic. [According to the figures of John Hopkins University in the US, updated to June 17th, four of the 15 countries with the highest number of confirmed cases are Latin American countries: Brazil, Peru, Chile and Mexico](#). Latin America, which is nearing 130,000 deaths from COVID-19, has become [the most affected area in the world](#), surpassing the US and Europe for number of infected people, with around 3 million cases, which represents more than 50 percent of the American continent and 26 percent of the whole world. As shown in this report, the crisis caused by COVID-19 is much more than a public health crisis. The COVID-19 illness has created a series of devastating social, economical and political crises that are going to leave profound scars and that have an unequal impact on historically marginalized people.





IV. AFRICA REGIONAL ANALYSIS

IV. AFRICA REGIONAL ANALYSIS



1. Introduction

This abbreviated regional brief is intended to give a panoramic view of the impact of preventive and precautionary measures in various settings to contain COVID-19. The countries listed are based on received survey responses. Some of the reflections captured in this regional brief cover measures taking place from February through June 2020. *“In this brief, insights from survey respondents are incorporated with national reports and journalistic coverage, to help capture the reality of preventive and precautionary measures unfolding in different localities. Overall, governments”* responses were heavily influenced by politics as was the case in Malawi, with a patriotic tone as it sounded in Nigeria, and offering religious directions as was the case in Uganda *“Go home my people and lock your doors! Hide yourselves for a little while until the lord’s anger has passed.”*

2. Overview

In this brief, insights from survey respondents are incorporated with national reports and journalistic coverage, to help capture the reality of preventive and precautionary measures unfolding¹ in different localities. This regional brief intends to give a panoramic view of how the novel coronavirus sheds a light on the interwoven systems of oppression we live through and are affected disproportionately. An overall impression stayed through researching the novel coronavirus measures, they primarily offered blanket solutions overlooking the unbalanced distribution of power and resources. In best case scenarios, national responses addressed people’s needs solely to mitigate a virus spread, instead of responding to people’s needs holistically.

1. Total responses received was 18 for African subregions except for Egypt, which is listed in the SWANA brief. This report brings together insights from; Angola, Burkina Faso, Côte d’Ivoire, Democratic Republic of the Congo, Malawi, Mozambique, Nigeria, Rwanda, South Africa, and Uganda.

3. Use of (Punitive) measures and other types of measures

In most countries, preventive measures were updated on a bi-weekly basis, this has to do with the unpredictable nature of the virus. Precautionary measures were set at the economic, social, and political levels as they were carrying a sense of urgency that seemingly made them non-negotiable in the majority of cases. Overall measures were overly strict in March and started easing down in May on the grounds of ‘saving-the-economy’. All surveyed countries closed their borders only letting returnees and essential workers in. The term ‘essential’ became a new qualifier for workers and services under coronavirus conditions, provoking collective thinking around who gets to deem a service or a sector essential, and on what qualifies a service to essentiality.

The moment the virus was declared a pandemic on 11 March 2020 by the World Health Organization, some states started responding by imposing preventive measures and encouraging precautionary practices, for example; starting with the voluntary wearing of face masks, which later became mandatory in public, as what became commonly known as ‘gradual reopening’. In other words, some strict measures were eased down such as ‘Lockdown’ and other flexible measures such as mask wearing became mandatory, by the time the economy was reopening. For example, school in-person classes

were [resumed](#) by grade levels in Mozambique.

National mitigation packages differed from one place to the other, however, an underlying commonality was seen in how cabinets and task forces overlooked the linkage between enforcing preventive measures without complementary economic measures. For instance, wearing a mask to comply with set measures would be unaffordable for a gig worker who lost their job due to the novel coronavirus. In Uganda, demands for economic coverage circulated via a [petition](#) asking for face masks at no cost for everyone in addition to food distribution.

Some economic measures were unprecedented such as the two-month supply of water and electricity provided by the DRC cabinet at no cost. Other economic measures were set out for the poorest yet excluding gig workers. For example, the Government of Rwanda attempted to capitalize on its well-established decentralized structures to enact the Social Protection response, however, a classification for poverty levels was charted for food distribution, leaving many gig workers starving under the lockdown. Similarly in Malawi, the fear of hunger outweighed fear of the virus, according to a [survey](#) conducted by the Institute of Public Opinion and Research. This widespread fear of hunger is also contextual, crops were washed away by the floods of the previous year.

“Just having a conversation with my employees, maid, and guard, I realized not everyone has access to information. State’s communication of COVID is insufficient in addressing specific communities, as was the case with sex workers”.
(Malawi)

In Nigeria, people complied with preventive measures by passing down facemasks in bank queues. The government followed up on public discussions around the [N-Power](#) scheme held in February 2020 and led by the Ministry of Humanitarian Affairs to effectuate the monthly stipend addressing unemployment (N30,000). Another measure that was ineffective; some of the participants in that program had not received their payments during lockdown as per our conversation with Zainab Sulaiman founder of [OhLeSe](#), who also reflected further on what money could not fix;

“If you had the money to stock up on food, you might not have stable electricity to keep perishable items long enough.”
(Nigeria)

The South African liquor [ban](#) included sale, dispensing, distribution, and transportation (except where alcohol is required for industries producing hand sanitizers, disinfectants, soap, alcohol for industrial use, household cleaning products, and liquor for export purposes. People have reported church [gatherings](#), joggers and weddings to the police. A minister was suspended after having an image of her going to lunch at a friends house posted on social media.

In Uganda, [essential workers and services](#) were defined as the army, the police, healthworkers, electricity, water and telephone workers, while all government workers were allowed to stay home. Whereas in Nigeria, [essential services](#) translated into; medical, food retail, food delivery services, financial institutions, logistics and transportation, accommodation, government and public utilities, places of worship, aviation, legal and security, agriculture, manufacturing, communications,

and diplomatic missions and international development partners. In Rwanda, over [90%](#) of health workers are women, with schools and daycares closing down, care work was not seen as an essential service. It became more challenging with the hold on public transportation resulting in women health workers relied on designated transportation with specific schedules, affecting caring for their children.

While in Mozambique, the government has prioritized COVID-19 over other health services; some services are not maintaining quality or inaccessible such as maternal and [child services](#). In Rwanda, neighbours are being vigilant; there was a case of a woman who had converted her home into a bar and she was positive with COVID -19 and was reported to the police by her neighbors.
Punishment

The Ugandan president ordered the police force to arrest all opportunistic politicians gaining traction over distributing goods, as a precautionary measures with a potential charge of attempted murder. About 4000 were [arrested](#) for breaking COVID-rules, a group of them were arrested for protesting COVID measures benefitting solely the [economically](#) abled.

In Angola, since March, police forces have killed at least five people while enforcing coronavirus measures. The following month, almost 300 people were [arrested](#) within 24-hours for violating coronavirus prevention measures, for instance, by overloading passenger vehicles. The violations included overloading vehicles, violation of borders, disobedience, and unnecessary circulation. Moreover, in his statement on 28 June,

“There was a lot of misinterpretation of lockdown rules. This resulted in the use of force by the police for very minor offences, the Nigerian Police Force was unprepared for these lockdowns and that resulted in misuse of power, [overenforcement](#) of curfew directives, and more.” (Nigeria)

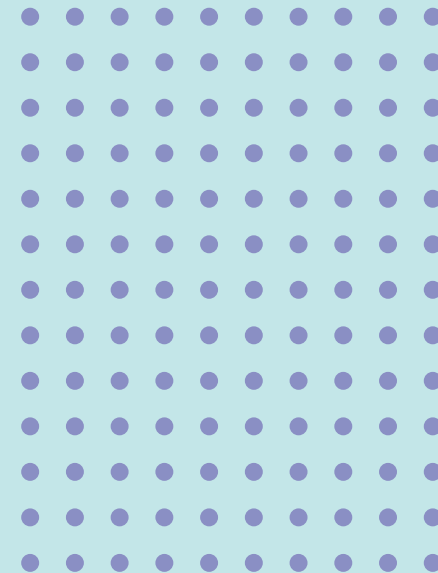
On the other hand, South Africa activated the Disaster Management [Act](#) State of Emergency, which [entailed](#) it was illegal for a person to hide their COVID-19 status; otherwise it could be punishable with a fine or imprisonment. A person who intentionally exposes someone else to COVID-19 could also be charged with assault, attempted murder or murder. It is also illegal for anyone to intentionally spread fake news about those infected, or government efforts in addressing the virus.

Moreover, Burkina Faso reported no specific law or policy that punishes non-compliance, however, there have been cases of [caning](#). On the other hand in Mozambique, for many, to ‘stay home’ meant being [unable](#) to feed themselves and their families; violating those restrictions became a matter of survival. The government had not provided any material support to compensate for people’s loss of incomes. Instead, [the police](#) have been arresting and physically punishing those who attempt to circumvent the lockdown restrictions. In Rwanda, during the transition from lockdown regulations to curfew hours, some people would maximize their daily income by running business till the last minute; Chantal Umuhoza states staying five minutes beyond curfew time, could potentially result in detention for a night or more and a fine of up to \$20.

“The lack of understanding of structural oppression is still present in covid measures as before”. (Rwanda)

4. Situation in prisons and COVID-19

Prison and detention sites decongestion came about as a win despite COVID’s firm grip. It has also raised more questions on carceral responses to misdemeanours. In April, Rwandan authorities [released](#) over 1500 prisoners in an effort to mitigate contagion. The following month, Kigali had granted 3,600 prisoners “[conditional release](#)” to reduce the number of inmates to prevent the spread of the coronavirus. The Rwandan government in April temporarily released detainees of minor offenses at different police stations whose cases were yet to be ruled on by courts, as part of efforts to contain the spread of COVID-19. [50 women](#) imprisoned for having abortions were pardoned after issuing a law that says abortion is allowed in cases such as rape, forced marriage, incest or instances where the pregnancy poses a health risk. While in Malawi, those who were [pardoned](#) were pregnant women, women with children, sick people and people over 60 year. Whereas in Angola, food [parcels](#) and visitations were suspended as a precautionary measure. However, plans were [announced](#) to address the needs of people living with HIV, the elderly, women especially mothers held in detention.



In Nigeria, prison [riots](#) erupted twice between March and April at Kaduna prison over visitation suspension and parcel delivery, resulting in guards shooting and beating protesting prisoners and two inmates were claimed dead by an external [observer](#) despite the penal administration denying death incidences.

5. Community-led initiatives

In Malawi, the former president tried to use COVID-19 to postpone the presidential elections, however, excitement was building up for the elections. In March, when the former president [imposed precautionary measures including a lockdown](#), it was contested by civil society and citizens, to be later barred by the High Court of Malawi until further notice. Political campaigning contradictory messages on excessive hygiene and barring voting rights by discussing postponing the elections, and politicians not wearing masks.

6. Social control measures: gender, race, and class discrimination in the context of covid prevention

In Mozambique, the state targeted [migrant sex workers](#), amid the closure of visa services and borders. Likewise in Burkina Faso, the curfew and the obligatory face mask affected [sex work](#) given the strict religious environment. Due to the imposed curfew, sex workers changed their working hours accordingly and began working during daytime. Leading to exposing them to more social pressure and scrutiny given the highly conservative and strict religious environment, in a country where the majority of the population is Muslim.

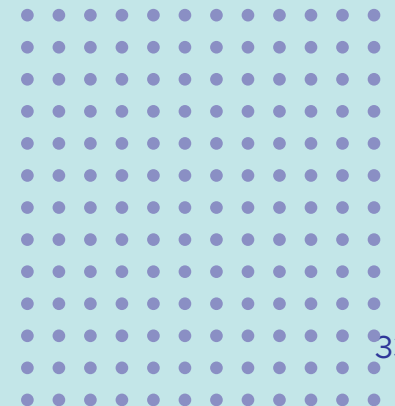
“They lived through an ordeal with the curfew since it is only during the night that they have customers. A week after the introduction of the curfew, they could no longer afford it economically and therefore decided to work during the day. But with the local mentality, it was difficult, we were helping them. The start of Ramadan worsened their economic situation”.
(Burkina Faso)

By law amendments in South Africa marked [homelessness](#) as a “health risk” and homeless people were advised to move to local camps. As part of the minor amendments law enforcement officers became able to enter and inspect a premises or vehicle if there are “reasonable grounds” of suspicion, or an “allegation” a provision of the bylaw has been contravened.

7. Discussion and Considerations

Overall, some of these measures are [not entirely new](#), some paved the way for more social policing, and others are conversation starters on carceral responses to socio-economic and gendered misdemeanors. From a historically racial liquor ban, to exposing religiously frowned upon professions such as sex work, to raising questionins around jailing “minor violations” for undergoing abortion. It is a familiar route for decision makers to draft and announce ambitious plans and programs that lack monitoring mechanisms, in relation to economic mitigation measures, this time issued in light of COVID-19. Through our discussions with feminists validating gathered data for this regional brief, they reassured such economic blankets have left gig workers and refugees uncovered.

In piecing this regional brief, some of the wins gained on prison systems fronts, should be seized for organizing during and post COVID. The coronavirus measures have brought us more thinking and working to do in imagining the world we want, and as importantly, the ruling terms of the world we have lived through. How such vocalized speculations around the COVID impact on mental health due to social and physical distancing in the outside world were not instantly extended to prison and detention sites, in reference to parcel and visitation suspension in other settings. Prevention measures exacerbated the lack of social justice framing of State responses transnationally.





V. SWANA REGIONAL ANALYSIS

V. SWANA REGIONAL ANALYSIS

How can we guarantee the body's wellness when oppression kills? [Sanaa Seif](#), political prisoner.

1. Introduction

This abbreviated regional brief intends to give a panoramic view of the impact of preventive and precautionary measures in various settings to contain the spread of COVID-19. The countries listed are based on received survey responses. A full country brief for each of the five South West Asia and North Africa, SWANA² countries can be found in the appendices. The majority of the reflections captured in this regional brief cover measures taking place from February through June 2020. In this brief, insights from survey respondents are incorporated with national reports and journalistic coverage, to help capture the reality of preventive and precautionary measures unfolding³ in different localities.

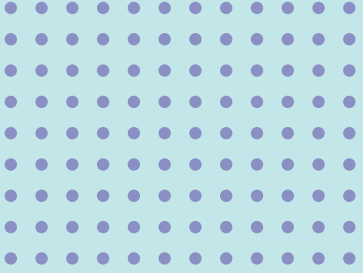
In this regional brief we looked out for political, health, and economic measures set to mitigate the virus spread. In the five mapped countries, namely: Egypt, Iraq, Lebanon, Syria, Yemen, tailored stimulant packages were issued to people in marginalized settings that were difficult to track, as they were not an integrated component in national responses.

2. Overview

The novel coronavirus vesseled social and political restraints into our lives the moment it was declared a pandemic. Despite contextual differences, the five SWANA countries have lived through political conflict disproportionately over the past decades. What is seemingly an apolitical matter such as COVID-19, has yielded more power into the hands of authoritarian, interim, and warring regimes in the region. Restrictions on COVID data circulation have put outspoken individuals at risk in [Egypt](#) and [Syria](#). State surveillance increased on-ground and online, scanning for critiquing voices to national coronavirus response that lacked protective gear, and are notorious for weakened health and social infrastructure. Paving the way for state surveillance to be justified in the name of fighting 'false news.' Some of the preceding struggles soured because of preventive measures. For example, the political and economic struggles in [Lebanon](#) worsened by the pandemic clouding over after months of political unrest and a failing economy.

2. South West Asia and North Africa

3. Total responses received was five origin countries from SWANA region namely; Egypt, Iraq, Lebanon, Syria, Yemen



3. Use of (Punitive) and other types of Measures

Depending on the location, each sub-region charted by conflict in Syria has its own set of measures. For example, the Kurdish-led Autonomous Administration of North and East of Syria (AANES) announced a curfew that would last indefinitely in the region under its control to prevent the spread of the coronavirus. Even under the precautionary measures, Syria's [health system](#) as well as the energy, water, and sanitation infrastructure have been largely destroyed in the nine-year war, particularly in former and current rebel-held areas. According to the UN, at the [outbreak](#) of the pandemic, only 57 hospitals and clinics were fully operational in Syria.

After confirming the first covid case in Yemen, the prime minister urged citizens to stay home as much as possible, refrain from gathering in large groups, and to avoid direct contact with others. However, internal displacement due to conflict [escalations](#) make it impossible to practice physical distancing measures. Over one third of the population live in camps and informal settlements that lack proper and reliable access to sanitation.

The Egyptian Cabinet issued [Decree 719/2010](#) permitting state administrative and public-sector workers to work from home if feasible, while allowing remaining workers to rotate

shifts on a daily or weekly basis, with exceptions for essential workers in transport, paramedics, hospitals, and water, sanitation, and electricity services. The decree also gave state workers, who are chronically ill, pregnant women, and women workers caring for a child under the age of 12 or a child living with disability of any age, paid leave that would not be deducted from their legally mandated leave time or impact their financial benefits. Such measures were not obligatory to the private sector, which affected mother employees especially with suspending daycares last March.

In Iraq, [the curfew excluded](#) pharmacies, medicine stores, food stores, bakeries and petrol stations. It also excluded medical, security and media personnel, and staff of internet service providers (ISPs), employees of the Central Bank of Iraq, state and private banks and e-payment companies.

Under the lockdown in Lebanon, people were asked not to leave their houses unless it is an emergency. All the state bodies, municipalities, private sectors, private and public universities and nurseries were closed. Ministries of Defence and Interior, State security and civil defence were not included in the lockdown. In addition to the Ministry of Health and all the related agencies, electricity, oil and water agencies to be also excluded. Also Lebanon Bank (Banque du Liban), currency exchange and transaction companies were among the essential categories. All private sector companies, stores and self-employed were included in the lockdown decision (unless it is an urgent situation). Bakeries and food production and distribution industries are categorized as [essential groups](#).

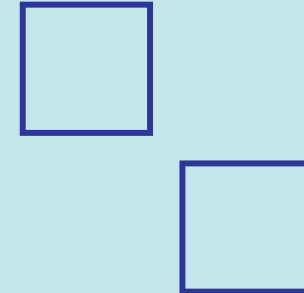
Within the AANES governance, the [ban on movement](#) prevented transportation between cities of the region. All restaurants, cafes, shopping centers, private clinics, wedding halls, and funeral tents were shut down. The order excluded hospitals, public clinics, pharmacies, sterilization teams, cleaners, bakeries, food stores, vehicles for transporting food and infant formula, fuel tankers, and international organizations such as the International Committee of the Red Cross (ICRC) and Kurdish Red Crescent (KRC). However under the Syrian governance, the curfew excluded all the related events that guarantee that hospitals, service providers, production, humanitarian work, essential needs (food, oil) were still running. *“In April, the ministerial committee agreed to the opening of all popular markets and all commercial industrial enterprises and services firms,”* said the government statement adding that the opening hours were restricted between 8 am to 5 pm. *“All enterprises and shops must stick to public safety and disinfecting their shops.”*

At large, economic measures have been streamlined through cash transfer programs in place, by relying on established databases of participants across countries. For instance, the Iraqi ministry of labor and social affairs launched on April 7, 2020 a [program](#) ‘1,000,000 Food Basket For Poor’ to alleviate the effect of the Covid 19 crises. The aid targets poor households registered in the main Cash Transfers Program database. The estimated cost of each basket is about 15\$. On the other hand, despite the presidential package for economic mitigation in Egypt, the Central Agency for Public Mobilization and Statistics (CAPMAS) published a [study](#) tracing the coronavirus impact on household income and consumption based on data collected from February through May 2020.

The data relayed a household reliance on family and friends for borrowing money 50% overlooking gender segregation, while the grave impacts were harsher on rural areas compared to urban ones. Economic hardships affected households disproportionately based on educational background and literacy, employment status, and family size. Meanwhile, 50% of the presidential economic package was allocated to the tourism sector, whereas the 500 EGP [payment](#) dispersed over a period of three months to informal workers, has only reached 5.4% of households.

In Yemen, unstable electricity and lack of money transfers from abroad, have highlighted the role of cash transferring in mitigating a wider famine crisis. [Economic](#) measures are not feasible because of cutting funds or not making them available.

In Iraq, public transport vehicles carrying more than 4 passengers would be fined an amount of 50,000 dinars, and the same applies to private cars carrying more than 3 passengers. Individuals not [wearing](#) a face mask in public would be fined an amount of 10,000 dinars. Some reported breaching coronavirus measures resulted in [verbal](#) warnings. Since declaring the state of emergency, in Egypt, breaching any of the set rules implied a fine of 4000 EGP and reaching arrest and detention. There have been reports of a massive arrest wave in April reaching [2100](#) arrests in Qalyubia governorate.





According to [article 604](#) in Lebanon, any individual who is negligent and does not abide by laws and regulations during the spread of an epidemic disease will face imprisonment for up to 6 months. Any individual who knowingly refuses to take caution will be sentenced to prison for one to three years. Within 4 or 5 days during the beginning of the lockdown, the police filed 1286 reports against people breaking the lockdown or against stores that are not permitted to work.

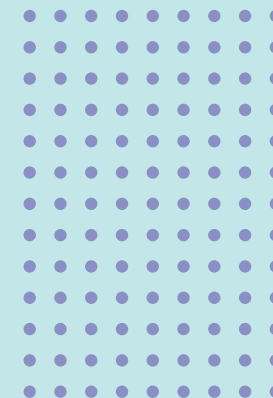
4. Situation in prisons and COVID-19

Decongesting prison sites translated into pardons as a precautionary measure to address the spread of the coronavirus, which were non-gender sensitive, non inclusive of political prisoners, and only limited to a number of crimes. In Lebanon, prisoners with “less serious” charges such as stealing, got released. In order to contain pressure and fear among prisoners revolting against their detention in the middle of a pandemic, the United Nation Office on Crime and Drugs provided cell phone lines for the prisoners to contact their families.

Over 60,000 people are detained by Iraqi authorities in prisons that do not meet the minimum requirements guaranteed by international conventions. These prisons are overcrowded and unhealthy. Last June, Euro-Med Monitor launched a petition signed by 30 human rights organizations, calling on the authorities to put an end to enforced disappearance and arbitrary detention.

5. Community-led initiatives

Shrinking civic spaces have allowed no room for civil society organizations to meaningfully take part in containing the virus spread in the five responding countries. Contextually, this systemic and systematic shutting down of all platforms to engage with gendered and political matters have resulted in a mostly standstill reaction from non-governmental actors, except for scattered charity responses, instead of coming together in an attempt to offer a communal and collective “work around”. The health aspect of this virus spread, has made it exclusive to personnel at the top to provide a one-size-fit-all solution in mostly strained and war-torn settings, and for the people to stay at the receiving end.



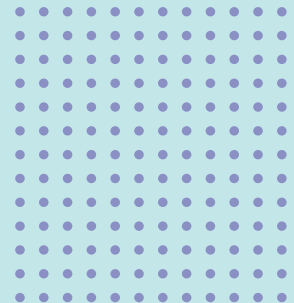
6. Social control measures: gender, race, and class discrimination in the context of covid prevention

Some of the preventive measures set in place to mitigate the spread of the novel coronavirus could be thought of as shortfalls and other measures acknowledged systematically marginalized groups. The extraordinary measures that are needed to contain COVID-19 can easily function as a gateway to the abuse of power, as states may use the measures to opportunistically pursue their own interests. That some of the measures by the Lebanese government fall into that category, especially with [the pandemic sweeping in the middle of a revolution](#) and a major economic crisis. It became clear on the first night of curfew (March 21st), when security forces forcibly removed protesters's tents from Beirut's Martyr Square.

4. Survey response from Lebanon.

According to Dom Hunt, a Lebanon-based staff member of Concern Worldwide, the removal of the protests is an indication that the government is using the crisis as an excuse to tighten its control. As the government defends measures like these from the objective of containing COVID-19, it can be difficult to tell what the true intentions are. The crisis thus creates a grey area between measures which are in fact intended to control the virus and those that are aimed at tightening control over the population. In Lebanon, social policing was embodied through filming individuals' non-compliance with preventive measures, which in some cases was aired via scrutinizing media⁴.

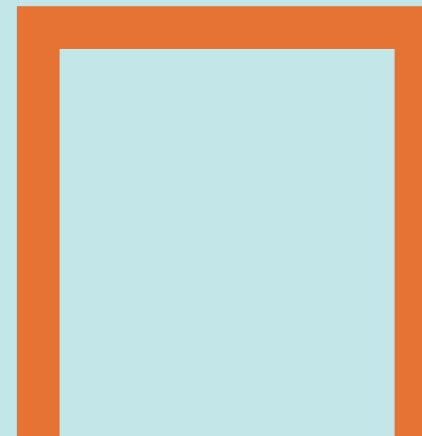
A [record](#) has been built up of individual targeting, under the charge of spreading rumors through online personal commentaries addressing the state response to the virus in Egypt. In Syria, Alkoutami and Fahim report a U.S.-based cybersecurity firm uncovered that Syrian authorities have planted spyware in citizens' cell phones through a coronavirus prevention application. This new application, called "[Covid19](#)," is a digital thermometer that serves as a decoy while the encrypted AndoServer malware spies on the user. On the other hand in Yemen, there has been a growing [anticipation](#) of how all parties involved in conflict would be using humanitarian and preventive measures in their favor. For example, and despite [censorship](#) familiarity, in the Houthi captured areas, doctors and health workers were threatened to disclose information regarding the novel coronavirus, as they deem information sharing, an act of [treason](#). The Houthis confiscated health workers' phones to ensure no videos of health facilities or COVID situation would make it out to the public.



On the other hand, last March, the Egyptian National Council for Women published a disability sensitive protocol to guide service providers in diagnosing and providing services to people living with disabilities. This protocol offers an opportunity to push further for the rights of people living with disabilities to be integrated and streamlined into health provision protocols across health provision points.

7. Discussion and Considerations

This regional brief, however, is incomprehensive of the historical aspects and political turmoils contributing to the real impact of the coronavirus measures. In other words, this regional brief does not do justice to the ongoing war in [Yemen](#), or the political geography of the sub-regions ripped up by conflict in Syria. However, this regional brief is an attempt to provoke feminist readers to delv deeper, or all of us to start a real conversation on what social, political, and economic violations we have co-lived through, that COVID-19 highlights.





VI. EUROPE REGIONAL ANALYSIS

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1. Introduction

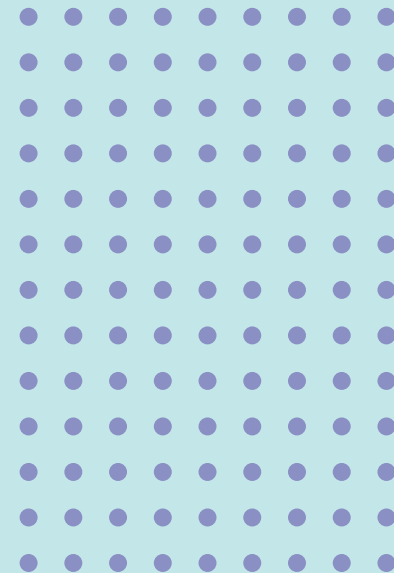
By March 2020, the [WHO had declared](#) Europe the ‘epicentre’ of the COVID-19 pandemic, having in the region by that point, more cases of COVID-19 than the rest of the world combined. Governments across the region [took varied measures](#) to address the pandemic, with many focusing on the use of criminal law, including both existing as well as new emergency laws and [state of emergency measures](#), to contain the spread of COVID-19.

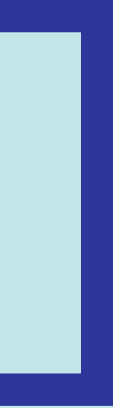
The survey results provided an overview from countries in different European regions, of the types of measures that had been introduced or used between March and July 2020, as part of governments’ response to the pandemic. The survey responses were from Germany, Russia, Turkey, the UK, Belgium, France, Sweden, and Serbia, and supplemented by further research and analysis from Hungary, Ireland, Albania, Spain, Bosnia and Herzegovina, and Poland, providing more examples and details on the ways in which various governments responded to the pandemic.

2. Overview

Throughout the first few months of the pandemic, [many governments in Europe prioritised a criminalized and penal response](#) to the public health crisis, and countries witnessed a significant expansion of existing powers held by the police, surveillance, immigration authorities, and others. Emergency powers and decrees, as well as the use of existing measures and laws related to health, movement, and social controls, were seen across the region. The most significant number of measures taken by governments in the region were those related to movement, social contact, public gatherings, and sanitary measures such as mask wearing. The approach to the breach of these measures were majority punitive, ranging from dispersal of groups, on the spot fines for individuals, significant fines for both individuals and businesses, court summons, prosecution, to detention and arrest.

In many countries in the region, the measures that were changed, adapted, ended, and revived in the period, were mostly those related to social contact, sanitary measures, and movement. In some countries these measures and rules changed regularly, monthly and weekly in some cases depending on the rate of transmission at the time, whilst other countries remained with a steady set of measures and rules throughout.





Some laws, measures, and rules lasted only days or weeks as they were challenged through constitutional law, human rights, or public pressure. In the region, the political opportunism from many governments was seen in various ways, from significant restrictions placed on sharing of information, protesting, online activity, immigration, and freedom of movement between countries in particular related to foreign visitors and non-residents, violations of rights to privacy, and unprecedented increases in police and surveillance powers in many countries.

3. Use of Punitive Measures and Other Types of Measures

The survey responses and further research detailed [the emergency and new laws and emergency measures](#) that had been introduced in a number of European countries, with other countries introducing measures in response to the pandemic, through presidential decrees and government communiques.

In the UK, [the Coronavirus Act 2020](#) saw the largest expansion of executive power since peacetime in the country, giving the government emergency legal powers for various measures, including restrictions and bans on public gathering, mass surveillance powers, and the power to detain ‘potentially infectious people’.

The Act also includes seemingly unrelated extensions of power, such as the extension of time limits for retaining fingerprints and DNA.

Two laws were introduced in Belgium in March 2020 allowing the King of Belgium (government) to adopt new measures to control the spread of COVID-19 for a period of 3 months; laws that both allowed the government to protect public health and support the economy, as well as determine civil and criminal sanctions for breaches of measures. The laws are allowed to be retroactive (up to March 1 2020), and cannot for example undermine existing social protections measures. Through decrees since the establishment of the emergency powers, the government has closed down schools, restaurants, and implemented social distancing measures. In Spain, a Royal Decree issued by the Council of Ministers brought in a ‘State of Alarm’ to manage the crisis, including significant restrictions on movement, initially for 15 days, then extended, giving police and other authorities the power to carry out checks and controls and persons, goods, and vehicles.

A number of countries in the region did not enact specific states of emergency related to the pandemic, but instead used or enhanced existing laws and measures, mostly related to public health. For example, in Germany, the government did not enact emergency powers in response to the pandemic, instead centralizing the Infection Protection Act from 2001 with the characterisation of an ‘epidemic outbreak of national importance’, that gives various powers to prevent, control, and combat a pandemic.

Similarly, in Poland no constitutional emergency was enacted, and the measures introduced to respond to the pandemic were based on existing legislation related to the prevention and combat of contagious diseases, recognizing a 'state of epidemic' and introducing a 'special solutions' COVID act linked to the existing law, that was adopted specifically for the pandemic.

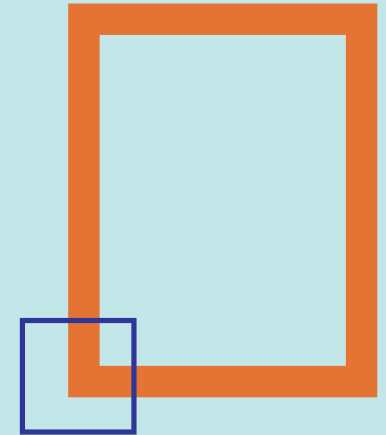
The European Commission also took a number of emergency measures including a [Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak](#) to support financial institutions and the implementation of member states' aid obligations, and [paused plans](#) that could lead to market disruptions for medical equipment.

Public and social gathering bans were widespread under new and using existing laws across Europe, a number remaining in place by July 2020, with many implementing significant restrictions on public and social gatherings. One of the measures brought in by most governments across Europe that has continuously changed throughout the pandemic, are the laws and rules around the movement of individuals. In a number of cases, fines, penalties, restrictions, and prosecutions, implemented through emergency laws and the use of existing laws to curtail and contain the movement of people during the pandemic, have been overturned, ended, or significantly lessened since the initial measures were introduced. In Ireland the Garda Síochána (police) were given emergency and additional powers, including arrest without warrant, for offences under the new act including organising an indoor event for more than 50 people, or opening certain businesses.

Freedom of movement on specific groups, such as over 65s and under 18s was introduced in Bosnia Herzegovina following public pressure and a ruling by the constitutional court that the restrictions violated the rights of those groups, the measures were changed to allow over 65s to go out in the morning and under 18s to travel in a car, then further to specific days each group could leave their home. In Kosovo, the constitutional court also considered the restrictions around movement and public gatherings, as unconstitutional.

Following significant bans and restrictions on movement in Spain, by mid-March over 1000 individuals had been arrested for violating rules on movement. In the UK, over 200 early prosecutions implemented through the emergency COVID-19 law, mostly related to the violations of rules around movement, [were overturned by the Crown Prosecution Service](#) on the basis of them being 'incorrect'. Prosecutions implemented later in the pandemic, through both the Coronavirus Act, and health protection regulations related to coronavirus, 17 out of 93 prosecutions were considered to be erroneous because there was no evidence that they applied to "potentially infectious people" - four of the overturned cases were related to homeless people.

In the UK, the coronavirus legislation Coronavirus Act 2020 [gives powers](#) to police, public health officials and immigration officers to detain and isolate in facilities, "potentially infectious persons". The powers under these measures include enforcement of testing, and fines/ penalties for those not adhering to testing procedures. In France individuals deemed to be violating quarantine rules have been charged with "endangering the lives of others", facing fines of up to 15,000 Euro and life imprisonment.



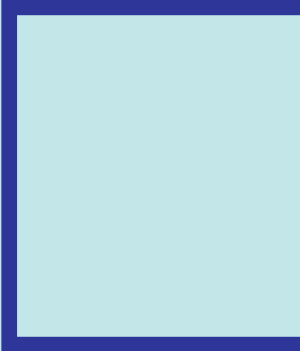
As in other regions, the use of criminal law to punish or restrict the sharing of information related to the pandemic, [was implemented in a number of countries](#) and met with strong resistance by journalists and media. The use of criminal law to address online freedom of expression related to information sharing on Covid-19, included some worrying trends. In Bosnia and Herzegovina, investigations were conducted into individuals sharing information on social media, and in Turkey 1,105 social media users were investigated by the Cyber Crimes Unit of the Interior Ministry for ‘making propaganda for a terrorist organization’ by ‘sharing Coronavirus posts’ 510 were detained for questioning.

As part of a wider grab for power in the face of the pandemic, Hungary’s government introduced a new law, with penalties of up to five years in prison, criminalizing the spread of ‘false’ or ‘distorted’ information on the pandemic and COVID-19. [In Serbia](#), the government attempted to implement rules that information related to Covid-19 was only allowed to be shared via the Government’s crisis management unit, revoked later due the pushback from human rights defenders. The decision however had already led to the detention of a journalist who had written about poor medical conditions and facilities. In Romania, an emergency decree with excessive criminal penalties allowed for take down notices for websites and news reporting ‘fake news’ related to the pandemic, and in Moldova there was a short-lived emergency decree against ‘personal opinions’ on the pandemic.

Despite Turkey’s [passing of a law](#) and move to release 100,000 prisoners during the pandemic (a bill proposed before the start of the pandemic) detained journalists, human rights defenders, lawyers, and ‘criminals of thought’ were excluded from the early release measures.

Unprecedented and significant travel and border restrictions were brought in across the region, similarly the rest of the world. Many European countries have tightened rules on foreign visitors and non-residents. In Europe, these travel and border restrictions also came hand in hand with a number of penalties, fines, and criminalization. In many countries new paperwork related to the whereabouts of arrivals in countries, came with penalties of thousands of euros or imprisonment for falsely or not filling forms in correctly, for example up to six months in prison in Ireland for not filling in a [Covid-19 passenger location form](#). In Bosnia, the Ministry of Foreign Affairs began to no longer extend stays for foreign visitors, issuing fines for those staying over 90 days, Hungary planned to close its borders to all foreign citizens from September.

Across the region a number of measures were brought in around wearing of face coverings, including mandatory mask wearing on public transport, in shops, and in public. In Belgium for example, the mandatory wearing of masks was introduced for all crowded and public places, and in the UK a penalty of £100 can be issued for refusing to wear a mask in shops and on public transport.





As some countries have delegated more COVID-19 restriction decisions to local authorities, cities, and provinces, rules around mask wearing have begun to vary within countries. For example, in France where wearing a mask anywhere in public will become mandatory in Paris, but not other cities. In Italy more recently, a decree said that in evenings mask wearing is mandatory in public places.

4. Social Control of Gender and Discrimination

COVID-19-related discrimination has already occurred, as seen through the rise in coronavirus-related attacks against Asians in Europe. Like HIV-related criminalization, [it is also foreseeable that these offences may be disproportionately enforced](#) against marginalized individuals, such as people who live in informal settlements or those who are affected by homelessness.


Many marginalized communities in Europe have faced significant risk and have been impacted by both the pandemic, and the criminalized and penal response to the pandemic. Migrants, asylum seekers, and refugees have shouldered a significant impact from restrictions of movement, closure of borders to non-nationals, non-extensions to visas, and in countries such as Greece where restrictions were imposed on the movement of refugees within camps.

Sex workers [faced significant impacts](#), particularly in European countries where no legal framework exists to support sex workers, and the lack of legal status that they face. Sex workers faced opening services to clients and risking COVID-19, especially in contexts where they cannot access social support and protection, making them at risk in some countries of both criminalized sex work, and criminalized social contact. In some countries both adolescents and older people faced specific restrictions on movement and social contact, for example in Bosnia and Herzegovina where freedom of movement was restricted specifically for under 18s and over 65s, and in Serbia where curfews in place for older groups significantly affected older women, as over 65s were not allowed to leave their homes for over a month, and Roma communities and older migrant women.

Across Europe, many governments [implemented containment measures in prisons and detention centres](#), including the suspension on all visits and activities, as well as limiting the entry of prisoners and detainees and increasing exits, mostly through suspended sentences, postponement of non-custodial sentences, and temporary release, and some through the use of alternative detention.

Human Rights Defenders shared serious concerns around the adoption of laws and measures that violated the rights to privacy, including through the sharing of personal data and information as part of measures to address the pandemic. Contact tracing has become a widespread feature of government's responses to the pandemic, with phone apps, the sharing of data, and rules on mandatory information giving in public places such as restaurants and bars, prominent now in





the region. Some however have faced strong critique and push back. For example in Slovakia, a new law allowing the state to access data for contract tracing purposes, was ruled “unconstitutional” and “insufficiently clear” and “lacking in safeguards that ‘eroded the rule of law”.

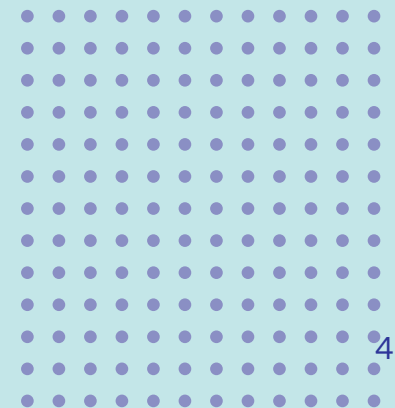
In the UK, already with the most extreme surveillance laws of any democratic state, new measures were introduced for more bodies to be able to access the data collected through the Investigatory Powers Acts. In Bosnia and Herzegovina, the government published names of individuals in voluntary and mandatory quarantine, as well as those who were breaching social isolation rules.

5. Discussion and Considerations

Like many other regions, Europe has seen a disproportionate use of existing or new criminalization measures, laws, and regulations to respond to the pandemic. In some contexts, in recent years, the erosion of rule of law has seen a sharp rise in human rights abuses, such as in Turkey. It is hard to determine the impact yet in such contexts on, for example human rights defenders who are already at such high risk of reprisals, discrimination, harassment, and attacks. However, it is clear that the pandemic response in the region, so focused on criminalizing measures, penalties, and control, has had a significant impact on the most marginalized communities.

These measures significantly outweigh the social measures that have been introduced or ramped-up across the region; social protection, furlough schemes, eviction bans, living or national wage increases, to name some. Few countries in the region focused on social protection measures as the priority in addressing the pandemic and its impacts. Similarly, the introduction of mask wearing was introduced in many countries almost instantly with a criminalized approach, compulsory in different settings, with fines, penalties, and charges risked for not adhering to the rules. Although some effort and funding in many countries was put into a mask wearing education and awareness raising approach, this was outweighed, especially later in the pandemic, with a heavily punitive, penal and criminalized approach.

Alongside this, political opportunism has been seen across the region, with governments using the crisis of the pandemic, and growing fear in their populations, as a way to shrink and close space for civil society and protests, to close borders, bolster anti-migrant and xenophobic rhetoric and policies, increase deportations, progress privatization of health services, and move forward regressive trade, aid, domestic and foreign policy. Similarly, the pandemic has exposed in the region, the ways in which existing inequalities, poverty and discrimination could have quite easily been addressed previously. Practically overnight in many countries, policies and measures were introduced as part of the response to the pandemic, measures that civil society had been calling for for years. Telemedicine, including for abortion, housing for rough sleepers/ street homeless, increased living wage, release of prisoners and detainees in particular women imprisoned for minor offences, to name a few. This exposed the reality that



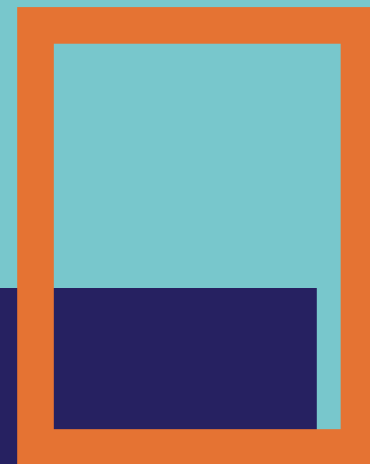
many of these measures, that have always had the potential to significantly reduce inequalities, were not constrained by budget or practicality, but instead, by political will.

The current resort to criminal laws in the face of the pandemic, to sanction COVID-19 exposure and transmission, echoes the response previously (and continued) to the HIV pandemic including the criminalization of exposure, transmission, and non-disclosure. People Living with HIV and HIV activists and organizations have voiced concerns over states' approach to the Covid-19 pandemic, with measure that similar to the HIV response, that are not in line with public health standard, human rights, and [increased the stigma and discrimination and criminalization](#) experience by PLHIV.

“The use of criminal law is likely to contribute to fear of COVID-19, increasing stigma for people with COVID-19 or those who may have symptoms associated with the illness. Upon conviction, the potential penalties associated with those offences also appear to be disproportionately harsh in light of the WHO’s advice that the vast majority of people (over 80%) will recover without any treatment. There are also concerns about the discriminatory application of COVID-19 exposure and transmission offences.” Nina Sun and Livio Zilli – COVID 19 Symposium”, [OpinioJuris](#)

The propensity of governments in the region towards a criminalized approach, has significantly impacted the lives of already marginalized groups in the region. Prisoners deprived of activities and contact with family, sex workers having to risk criminalization and COVID because of the lack of recognition and legal and social protection, migrants separated long term from family and communities, and human rights defenders facing significant impacts on their space to hold governments and other actors accountable. The trend is a concerning one, when the health and lives of the most marginalized are at risk, further pushing them into the shadows with a response that focuses heavily on punishment, and not on communities, addressing inequalities, and reducing the impacts of the pandemic on people’s lives.





VII. APPENDIX

VII. APPENDIX



A. SURVEY

1.Name (Optional)

2.Organization (In case you belong to one - Optional)

3.Email (Optional - in case you are ok with us following up)

4.Country

5.What are the measures being implemented in your country, both legal and non-legal, to contain the spread of COVID-19? Please select all that apply:

- New, emergency, or enhanced criminal laws
- New, emergency, or enhanced powers for law or immigration enforcement
- Emergency rules or measures in health, education, or social care law/ policy
- Voluntary quarantine
- Enforced quarantine
- Voluntary social isolation
- Enforced curfew
- Ban on social gatherings/ mass events
- Mandatory preventative social isolation
- Mandatory mask wearing
- Punitive or conditional health or social care measures

- New or enhanced laws / policies around surveillance or data
- Legal measures on intended/unintended contagion
- Legal measures on 'non essential business' and 'non essential work'
- 'Bodily harm' laws related to Covid transmission (spitting/ coughing at public service workers etc)
- No measures
- Other (please specify)

6.At what level of government are these measures being implemented: (Please select all that apply)

- Federal/National level
- State/Provincial level
- Local//Municipal level
- Other (please specify)



7. Are there criminal laws/policies that punish non-compliance with these measures? Yes/No

8. If yes, what do these laws say? Please describe what the law contains, and, if possible, share the text of the law.

9. Were any of these measures already part of the penal code or other legislation in your country? Yes/No

10. Are there any new proposed bills/legislation under discussion in the legislative branch? Yes/No

a. Please describe what the proposed bill/legislation contains, the duration of the law (eg if temporary emergency measures) and, if possible, share the text of it.

11. Are there any existing crimes that are being used to punish non-compliance with the new measures? I.e. pre-existing laws that criminalise “vagrancy”; homelessness, begging, loitering, knowing endangerment of contagion etc. Yes/No

a. Do you have information on the actual implementation of such criminal charges or do you know of cases where these types of laws have been applied? If possible, please include links to information.

12. Do you have any information on social control/ social policing associated with these measures (e.g. neighbors reporting people in the streets, increased surveillance, reporting street vendors, online/offline reporting platforms etc.) Yes/No

a. If yes, can you please describe and if possible include links.

13. Have any conditional / punitive measures been removed during the pandemic e.g. cash transfer conditions etc. Yes/No

14. Are there measures being taken with regards to people in prisons such as pardon/release due to the pandemic? Yes/No

a. Please describe and if you can, include specific groups i.e. pregnant women.

b. Please list the crimes being pardoned if you can.

15. Do you know of any cases/ examples of the ways in which any of the above measures and laws, or new punitive / conditional social and health policies are impacting women, adolescents, and marginalized communities? Please describe/share links if possible.

16. Have there been any good practices implemented by the government? Please select all that apply:

- Improved access to health services
- Improved access to housing
- Actions related to warrant food security
- Social awareness campaigns targeting specific audiences
- Translation to native/ indigenous languages,
- Outreach strategies towards marginalized populations,
- Supportive financial measures, labour laws or payment exceptions
- Other (please specify)

17. Any further comments/suggestions?

18. Would you like to receive information on the results of the survey and/or future communication about our strategies?