

A review of key trends in relation to SRHR in Geneva-based human rights spaces in 2020

When the woman who founded a reproductive health centre in the United States in 1971, two years before abortion was legalized, calls COVID-19 one of the “most, most challenging”¹ times she’s faced, we should perhaps be alerted to the potential, extent, and reach of the changes to access to sexual and reproductive health (SRH) services that have either already taken place or been attempted in the past year. It took half a century for the analysis contained in the claim “the personal is political” to gain mainstream recognition; it took six months for the gains signaled by the slogan to be demeaned and deprioritized in many parts of the world. If we ever needed a reminder of the interconnectedness of social justice struggles, we could not ask for a better (or more horrific) one than the national and global effects of the decades-long devastation of public, social, and political resources and rights carried out by rightwing governments, opportunistic corporations, conservative religious leaders, and corrupt politicians and local elites. If we are in any doubt that these changes are considered desirable, and even long overdue, by the few who benefit from them materially, politically, and ideologically, we need look no further than the pronouncements of anti-immigration proponents of strict borders and unilateralism.²

At SRI, we believe that it would be foolish to treat COVID-19 as a temporary hiccup in a generally progressivist tale of the inevitable triumph of sexual and reproductive health and rights (SRHR) as universally upheld human rights. Experience teaches us to always prepare to have SRHR gains be stalled, coopted, or deprioritized in a crisis, any crisis. The SRHR priority going forward must, therefore, be a refusal to accept “the new normal” – the normal of denial, deprivation, and discrimination – and recognize that the “war” that has been declared on the virus masks another war, one on fundamental and interconnected human rights. The further disempowerment of the impoverished, the unhoused, of gender and sexuality minorities, women in rural areas seeking abortion, adolescents in need of comprehensive sexuality education, sex workers, and women forced into marriage and childbearing – particularly in low-income countries and in low-income communities in wealthy countries – will be written off as the collateral damage of this war. Accepting the war analogy and the discourse of securitization³ that accompanies it means acceding to the logic of the necessary sacrifice of “foot soldiers” (frontline workers, in this case) and of the weak and most vulnerable among us, and provides a convenient distraction from the impact of the prioritization of military spending and of neoliberal policies of austerity and privatization on

¹ Quoted in <https://womensenews.org/2020/08/covid-19-an-opportunistic-attack-on-reproductive-health/>.

² See <https://www.opendemocracy.net/en/5050/whos-happy-about-coronavirus/>.

³ See https://www.e-ir.info/2019/12/04/the-dangers-of-securitizing-health/#_ftnref3, https://www.isglobal.org/en/healthisglobal/-/custom-blog-portlet/is-the-gradual-securitization-of-most-health-issues-a-positive-or-a-negative-development-for-effective-global-health-governanc-1/5083982/9003?_customblogportlet_WAR_customblogportlet_entryId=6298737, and <https://www.internationalhealthpolicies.org/featured-article/indias-health-securitisation-under-the-covid-19-pandemic/>.

health systems and social security nets worldwide that have led us to this crisis.⁴ Research from different parts of the world clearly shows that there needs to be a joint, speedy, and concerted effort to catch the backsliding on women's rights, including SRHR,⁵ and we can expect that economic recession will be used to justify what the nationalist warcry might fail to.

The extent and speed of COVID-19 related initiatives – by governments, international institutions such as the IMF, and multinational corporations – have, at least, made them starkly visible, and people all over the world are not only aware of but also attempting to rise in protest against various rights violations following from or built into such initiatives. At institutional levels too, there is widespread alarm at the actual and potential consequences of allowing human rights to suffer in the name of public health or national security.

1. Overview of key trends

The OHCHR has repeatedly noted the importance of treating access to sexual and reproductive health services as a human right under all circumstances. As early as May 2020, 59 countries issued a wide-ranging statement on the need to protect SRHR and promote a gender sensitive response to COVID-19, including through the implementation of universal health coverage and maintaining robust healthcare systems,⁶ even as the first global meeting of Generation Equality to mark the 25th anniversary of the Beijing Platform for Action was cancelled due to COVID-19. The World Health Organization has come out strongly to stress the need for ensuring that human rights are not sacrificed during the pandemic. Numerous human rights research and advocacy organizations, regional human rights mechanisms, and intergovernmental bodies are echoing this call and pointing to existing evidence from other epidemics and emergent data from this one to urge the protection of human rights, including, specifically, those pertaining to SRHR.

However, the problem of protecting, respecting, and fulfilling human rights obligations is beset by two problems. On the one hand, human rights violations are interpreted narrowly so that certain egregious phenomena, such as trafficking, are recognized as violations while the underlying and longstanding causes or enabling conditions are left untouched; this partial approach necessarily yields problematic results without addressing the core problem.⁷ On the other hand, respecting, protecting, and fulfilling human rights obligations are treated primarily or exclusively as a matter of the state's will, without an acknowledgement of the ways in which states' abilities are often hamstrung by entrenched poverty and social and

⁴ For analysis on this war analogy, see for instance <https://www.wilpf.org/covid-19-militarise-or-organise/> and <https://www.wilpf.org/covid-19-waging-war-against-a-virus-is-not-what-we-need-to-be-doing/>

⁵ For one among many dozens of analyses, see <https://plan-international.org/sexual-health/how-covid-19-threatens-girls-women>.

⁶ Read the statement here: <https://www.government.se/statements/2020/05/joint-press-statement-protecting-sexual-and-reproductive-health-and-rights-and-promoting-gender-responsiveness-in-the-covid-19-crisis/>.

⁷ See Kamala Kempadoo's trenchant critique of this model of approaching exploitation <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/what-trafficking-region-built-exploitation-thoughts-caribbean/#>.

economic inequality through, for instance, their willing or coerced implementation of austerity measures demanded by the IMF in return for urgent loans. As the resistance by northern states to the resolution on eliminating inequalities between and among states shows,⁸ there is widespread unwillingness, especially among wealthy states, to acknowledge the relationship between inequality, poverty, and the fulfillment of human rights, whereas any state having to choose between repaying IMF loans and providing sanitation or education to its people can attest to the salience of this link. This archaic division between economic, social, and cultural rights, on the one hand, and civil and political rights, on the other, offers a convenient fallback for governments of wealthy countries when they wish to ignore the direct political impact of their economic policies in poorer regions.

Selective accountability

There is little acknowledgement of the structural factors underpinning global and rising economic inequality; the role of the IMF and the World Bank in promoting poverty continues to be ignored and these institutions continue to boast about their urgent work in saving lives and livelihoods. No western state has spoken up against the ravages of neoliberal economic policies despite the overwhelming evidence of their failures.⁹ Such intellectual dishonesty inevitably results in a breakdown of multilateralism, as countries prefer to form coalitions around shared economic, social, and cultural problems than around human rights concerns. For instance, a resolution led by Nepal, Pakistan and South Africa that expressed concern about the persistence of inequalities within and among countries, and its exacerbation by the COVID-19 pandemic, was met with a lot of resistance, especially from the Western European and Others Group, who refused to acknowledge that economic inequalities and the denial of the right to development jeopardize all other human rights.¹⁰ Similarly, during the urgent debate and resolution negotiations on systemic racism and police brutality in the US, many Northern states opposed the creation of a commission of inquiry focusing on the US, and pushed for a generic resolution instead¹¹. This, combined with diplomatic pressure from the US administration, led to a watered down version of the resolution stripped of almost all references to the US and replacing the creation of a commission of inquiry by a request to the High Commissioner for Human Rights to produce a report.

The problem with accountability also applies to governments of poorer nations as they pit the demands of economic development and growth against their obligations to uphold human rights. States' unwillingness to acknowledge the political nature of economic conditions and policies results in a partial story and, therefore, in ineffective and disingenuous responses.

⁸ See the full text here: <https://undocs.org/en/A/HRC/45/L.37>.

⁹ See, for example, the critiques offered by economist and proponent of progressive capitalism Joseph Stiglitz in any of his works since 2002.

¹⁰ Eliminating inequality within and among States for the realization of human rights - [A/HRC/45/L.37](#)

¹¹ The promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers - [A/HRC/43/L.50](#)

In addition to acts of omission, states in the global north and the south have also consciously used the disarray caused by COVID-19 to push through harmful laws, suppress dissent, restrict access to services and information, jail activists, create hierarchies of rights, and promote business interests at the expense of poor people’s livelihoods, as the protests in Delhi, Warsaw, Moscow, London, and Tunis attest. Thus, states need to be held accountable for their own rights violations even as they support each other in upholding the human rights of all going forward. Women’s rights to sexual and reproductive wellbeing and autonomy, in particular, will only be respected in societies that are not held hostage either by international financial institutions or their own corrupt and opportunistic politicians.

In the light of existing and emergent challenges to SRHR, SRI identifies the following trends as needing urgent attention by both states and Civil Society Organizations in 2021.

a. Further restrictions and barriers to civil society participation

Over the course of 2020 and in response to COVID-19 restrictions, the UN had to find new modalities of work. In the first weeks of the pandemic, the HRC session was suspended and Treaty Body, UPR sessions, and country visits by special procedures were postponed. Sessions were later reconvened as either only online or mostly online with some (limited) in-person participation. The process of devising and agreeing to modalities was itself quite contested and often without sufficient opportunity or means for civil society’s engagement. While remote participation increased opportunities for engagement for activists who might otherwise be unable to participate because of their location and the cost of travel to Geneva, overall the modalities resulted in even fewer opportunities for advocacy.

Threats to CSOs exist at both national and global levels. The longstanding and systematic underfunding of the Office of the High Commissioner for Human Rights (OHCHR) and the failure of states to pay their contributions into the system have also severely undermined the ability of Geneva-based systems to fulfill their mandates, and CSOs have felt the brunt of these failures.

In 2020, the nature and extent of CSO participation in the Geneva-based human rights system was also threatened by the effects of COVID-19 in the form of the UN’s budget crisis and various reform and efficiency processes instituted primarily to save money and time. In particular, delays in finalising the dates and logistics for sessions of the Human Rights Council (HRC), the Treaty Monitoring Bodies (TMB), and Universal Periodic Reviews (UPR) and subsequent changes in the programme of work restricted the ability of CSOs to meaningfully engage in the system. The challenges had a disproportionate impact on CSOs based in different places and time zones and those with less capacity to monitor live proceedings and programme changes.¹² Despite welcome advances in remote participation modalities at the HRC, remote participation remains a challenge due to uneven internet access, time zones differences (particularly for activists in Asia Pacific and the Americas), preventable participation barriers such as the unavailability of captions and interpretations of webcasts for non-English speakers, a system-wide lack of accessibility measures for

¹² Joint statement for HRC44 virtual meeting of the HRC President with NGOs (9 July)

persons with disabilities, and an overall approach mired in bureaucracy.¹³ The overly complex and bureaucratic UN system and the failure to establish effective and meaningful communication channels with civil society has the effect of turning civil society participation into a secondary and seemingly optional aspect of the human rights system.

b. Autonomy, not protectionism

Ali Miller captured the dilemma perfectly in 2004, when the conditions accompanying the recognition of women's sexual health and rights issues as human rights concerns were starting to become visible: "We must defend against attacks on sexual rights and sexual health, even as we simultaneously critically examine the role that protection from sexual harm has played in the recognition of women's human rights."¹⁴ A predominantly protectionist approach reduces women to victims and further narrows their identity primarily to their sexual and reproductive capacities even as it treats sexual violence as inevitable. In the absence of naming the source of the violence -- naturalized but nevertheless historical gender roles and rules and their discursive and material imposition and defence equally by individuals and institutions -- and, instead, characterizing the problem as one of women's "natural" vulnerability, the perpetrator that a woman needs to be protected from can end up being the woman herself; thus, the laws requiring women and girls to seek institutional approval for all manner of matters relating to their bodies and their lives in a way in which men's lives are not interfered with, such as, still in too many parts of the world, access to contraception or to opening a bank account. Protecting (as well as respecting and fulfilling) *women's rights* instead of women would require that women be considered agential subjects entitled to making choices about their bodies and their lives instead of being treated as objectified wards of the patriarchal state or the patriarchal family.

If this sounds like an outdated description of the state of affairs, consider the following examples from the year just ended:

- Geneva Consensus: In October, the governments of Brazil, Egypt, Hungary, Indonesia, Uganda, and the United States co-sponsored the Geneva Consensus Declaration signed by 35 countries which restricts SRHR and, specifically, women's access to abortion, and uses the language of national sovereignty and protecting the family to undermine SRHR advocacy.¹⁵
- UPR recommendations: Among others, Ukraine calls upon Kenya to undertake "further measures to protect vulnerable groups, in particular women, persons with disabilities and children"¹⁶ and Brunei recommends that Kuwait set up "an institutional mechanism to protect women from all forms of social and domestic violence by establishing a national centre to combat domestic violence and to protect and support women."¹⁷

¹³ HRC45 - joint statement - item 3 General Debate.

¹⁴ Alice M. Miller, "Sexuality, Violence Against Women, and Human Rights: Women Make Demands and Ladies Get Protection" *Health and Human Rights Journal*, Vol. 7, No. 2 (2004).

¹⁵ See <https://www.hhs.gov/about/agencies/oga/global-health-diplomacy/protecting-life-global-health-policy/geneva-declaration.html>.

¹⁶ See <https://undocs.org/A/HRC/44/9> (Recommendation 142.256, page 22).

¹⁷ See <https://undocs.org/A/HRC/44/17> (Recommendation 157.219, page 21).

- A statement issued by a number of experts (including the special mechanisms on health, SOGI, and racism) on preventing slavery speaks of the direct connection between socio-economic vulnerability and “trafficking in persons and sexual exploitation” – risking, again, the possibility of conflating trafficking with sex work, though the statement elsewhere only mentions trafficking and slavery.¹⁸
- General Recommendation No. 38 on Trafficking: This recommendation uses the language of intersectionality but it often mentions trafficking, “exploitation of prostitution,” and “sexual exploitation” in the same breath, which conflates these terms and has the effect of equating prostitution and sex work with trafficking. While offering a nuanced understanding of the causes of the impoverishment of women (including imposed austerity measures), it nevertheless asks states to end demand and to protect the victims of trafficking (instead of protecting their rights).¹⁹

The alternative and antidote to the ideology and practice of protectionism is the emergent discourse and practice of bodily autonomy; this is an approach to women's human rights premised on the principle that every person has the absolute and inviolable right under all conditions to make decisions that affect their bodily integrity, capacity, and functions. We are starting to see some progression in this direction in international SRHR discourse:

- The July HRC Resolution on Elimination of All Forms of Discrimination against Women and Girls advocates an intersectional approach to eliminating discrimination against women and girls and promoting the right to bodily autonomy as well as universal access to sexual and reproductive health services. This is the second assertion of bodily autonomy as a right by the Council,²⁰ and one of two mentions of bodily autonomy at the Council this year; the other was in the [withdrawn] resolution on discrimination against women and girls in sport.²¹ The resolution, which calls on states to repeal all laws that disproportionately criminalize the actions of girls and women and calls for the recognition of comprehensive sexuality education as a human right, is also the first resolution on women's rights at the Council to not contain sovereignty clauses that allow states to ignore rights claims that run counter to national laws. That this resolution was adopted by consensus is a significant step towards maintaining the spirit of multilateralism and establishing the universality of women's rights as human rights. (However, it is important to note the dissociations registered against the paragraphs containing SRHR matters.)

¹⁸ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26552&LangID=E>.

¹⁹ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/38&Lang=en. For a feminist analysis of the General Recommendation, see <https://www.youtube.com/watch?v=nY1QNwojwZc>

²⁰ The first was in HRC Resolution 40/5: Elimination of discrimination against women and girls in sport (2019) which called upon states to repeal rules, policies and practices that negate women and girl athletes' rights to bodily integrity and autonomy ([A/HRC/RES/40/5](https://www.ohchr.org/EN/HRBodies/HRC/Resolutions/40/5.aspx), OP3).

²¹ The failure of the resolution on the elimination of discrimination against women and girls in sport is a reminder that there is robust resistance within the world of elite international sports to dismantling colonialist racist ideas of femininity and femaleness. It is important to not allow the political intent of this resolution to be narrowed to an identity group.

- The Working Group on Discrimination against Women and Girls also links women and girls' right to sexual and reproductive health information so that they may exercise autonomy in decision.²²
- The Special Rapporteur on Freedom of Religion or Belief emphasizes the importance of "individual autonomy" and non-discrimination for women and members of the LGBT+ community.²³

c. Promoting the politics of intersectionality beyond the limits of identity politics

A forty-year-old feminist intervention that sought legal recognition of the fact that people have multiple, evolving, and sometimes shifting and conflicting identities and positionalities is beginning to enter mainstream international discourse of human rights. Because the law has traditionally shied away from multiplicity and the overlapping threads that constitute the tapestry of a person's life and identity, preferring instead to see rights claimants as featureless, "universal" legal entities, this recognition is to be nurtured even as its cooptation and dilution are to be anticipated and countered. The increasing use of an intersectional lens is evident in the following developments at the HRC in 2020:

- Joint statement by Civil Society Organizations (CSO) on the need for taking an intersectional approach to address discrimination against and SRHR needs of youth and adolescents.²⁴
- The report of the UNHCHR on the intersection of race and gender in discrimination in sport clearly identifies race as a significant factor in discrimination faced by female athletes, specifically in the context of "gender testing" of elite athletes, by pointing out that the majority of athletes subjected to intrusive, humiliating, and medically unnecessary procedures to test their level of femininity have been athletes of colour.²⁵
- CEDAW and CRPD issued a joint statement (along with UN Women) which speaks of the intersection of gender and disability.²⁶
- In its General Recommendation No. 36, CERD noted the importance of paying attention to intersecting ("double or multiple discrimination") forms of oppression when responding to the issue of racial profiling.²⁷
- CESCR noted in a statement in April that healthcare systems and social programmes have been "weakened by decades of underinvestment in public health services" and mentions COVID-19's threat to deepening gender inequalities.²⁸

²² <https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WomenChangingWorldofWork.aspx>

²³ See <https://undocs.org/A/HRC/43/48>.

²⁴ <https://www.sexualrightsinitiative.com/resources/hrc-45-joint-statement-youth-srhr>

²⁵ See <https://undocs.org/en/A/HRC/44/26>.

²⁶ See <https://www.unwomen.org/en/news/stories/2020/10/statement-joint-un-women-cedaw-and-crpd>.

²⁷ See

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/1_Global/CERD_C_GC_36_9291_E.pdf.

²⁸ See <https://undocs.org/E/C.12/2020/1>.

- Panel discussion on the integration of a gender perspective throughout the work of the Human Rights Council and that of its mechanisms, focusing this year on “Gender and diversity: strengthening the intersectional perspective in the work of the Council.” However, as noted by Dr Joia Crear Perry in her closing remarks,²⁹ many states did not mention racism in their statements, continuing the trend of depoliticizing intersectionality at the Council and obscuring its Black feminist origins and critique of white supremacy, patriarchy, and other systems of oppression.³⁰

However, the importance of an intersectional perspective in naming a problem adequately in order to be able to effectively address it is also demonstrated in the following failures:

- The watering down of the intent and content of the urgent debate on police violence against African Americans and other black people in the United States, the refusal by western states to insist on a commission of inquiry and the re-articulation of the problem from the specific one of state sponsored violence against black people in the United States to the abstraction of systemic racism as a global problem.³¹
- Intersection of race and gender discrimination in sport – Report of the United Nations High Commissioner for Human Rights³²: The report fails to substantially and concretely locate discrimination in sports based on race and gender in the colonial, racist and patriarchal histories of northern states which continue in this neo-liberal, post-colonial world. Black women and women of colour athletes continue to bear the brunt of racist and sexist policies and practices in sport. Many of these laws, policies and practices echo and reinforce colonial era ideas about 'womanhood' and 'beauty' which were always raced, classed and able-bodied; and the need to police, discipline and erase blackness. In the process the inherent racial injustice is tokenized and a competing set of priorities are created.
- The Mexico-led resolution on the elimination of discrimination against women and girls³³ initially was intended to draw attention to the multiple and intersecting forms of discrimination faced by girls and women. However, the term “intersectional” was removed almost everywhere during negotiations, as several states (particularly OIC states) interpret “intersectionality” as referring to sexual orientation and gender identity.

²⁹ See <http://webtv.un.org/search/panel-discussion-on-gender-perspective-24th-meeting-45th-regular-session-human-rights-council/6195343025001/?term=strengthening%20the%20intersectional%20perspective&cat=Meetings%2FEvents&sort=date&page=8>

³⁰ For more analysis on the workings of race and gender in the UN human rights system, see SRI's webinar Race Matters: <https://www.youtube.com/watch?v=r0ovlgwIAFw>

³¹ See <http://www.cal.org.za/2020/06/26/press-release-un-human-rights-council-resolution-on-racial-discrimination-and-police-brutality/>

³² <https://undocs.org/en/A/HRC/44/26>

³³ See <https://undocs.org/en/A/HRC/RES/44/17>.

2. Developments in specific human rights mechanisms

a. The Human Rights Council

In addition to the affirmation of intersectionality (albeit in restricted terms), the assertion of bodily autonomy and of sexual and reproductive health as human rights, and to repeated calls on states to ensure universal access to comprehensive sexuality education, there were several important firsts at the Council.

- The HRC explicitly mentioned post-abortion care as part of sexual and reproductive health services and reiterated that these include safe abortion “where not against national law.”³⁴ This is an important development, given the role of post-abortion care in combating mortality and morbidity related to unsafe abortions, with abortion complications accounting for close to 10% of maternal deaths worldwide as well as resulting in severe morbidity.³⁵ (A joint civil society statement³⁶ on abortion, signed by 354 organizations and 643 individuals, emphasized the essential nature of access to abortion “during and outside of crises” and also noted, amidst the adverse changes, the signs of hope in the form of states extending the legal time limits for medical abortion.)
- The same resolution, on the elimination of all forms of discrimination against women and girls, also recognized the increased burden of unpaid care work and the economic impact of COVID-19 on women’s and girls’ livelihoods, and the boost that the pandemic had given to patriarchy, racism, xenophobia, and socio-economic inequalities,³⁷ and urged states to prevent and respond to the increase in violence against women and girls.³⁸ This crucial recognition of some of the wide-ranging gendered impacts of the pandemic are intended to pave the way for the 2021 resolution on violence against women and girls.
- The Council explicitly linked children’s sexual and reproductive health to the environment and the need to combat exposure to pollution and hazardous substances.³⁹ This follows a 2019 recommendation to “safeguard [women’s] reproductive health from unsafe exposure to hazardous substances at work”⁴⁰ and is an important step towards the recognition of the intersection of gender and climate justice in multilateral spaces.

³⁴ HRC Res. 44/17: Elimination of all forms of discrimination against women and girls, A/HRC/RES/44/17, PP12.

³⁵ [https://www.thelancet.com/journals/langlo/article/PIIS2214-109X\(18\)30542-4/fulltext](https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(18)30542-4/fulltext)

³⁶ <https://sexualrightsinitiative.com/resources/hrc-45-joint-civil-society-statement-abortion>

³⁷ HRC Res. 44/17: Elimination of all forms of discrimination against women and girls, A/HRC/RES/44/17, PP13, PP14, OP4(c).

³⁸ HRC Res. 44/17: Elimination of all forms of discrimination against women and girls, A/HRC/RES/44/17, OP5.

³⁹ HRC Res. 45/30: Rights of the child: realizing the rights of the child through a healthy environment [A/HRC/RES/45/30](https://www.unhcr.org/refugees/45/30), OP5.

⁴⁰ HRC Resolution 42/21: Protection of the rights of workers exposed to hazardous substances and wastes, A/HRC/RES/42/21, OP7.

- The Council also referred to ableism for the first time in one of its resolutions and called on states to “[review] laws and policies that perpetuate the outdated understanding of disability present in charity and medical models and ableism, and [incorporate] a human rights-based approach to disability.”⁴¹

While acknowledging the significance of maintaining and furthering these advances, it is critical to note that they were accompanied by several amendments of and dissociations from selected SRHR and gender-related paragraphs, as well as pushes for a protectionist approach to girls’ rights and a denial of their autonomy. This continues a trend emerging over the past few years of a steady increase of amendments and dissociations related to sexual rights and bodily autonomy.

In 2020, there were five amendments on the resolution on discrimination against women and girls, 15 amendments on the resolution on promoting, protecting, and respecting women’s and girls’ full enjoyment of human rights in humanitarian situations (all of which were withdrawn following last-minute oral revisions), and eight amendments on the resolution on the rights of the child (six of which were withdrawn following oral revisions), many of which sought to weaken language relating to sexual and reproductive health, gender, and/or to add qualifiers on “parental guidance” to recommendations on women’s and girls’ meaningful participation and access to justice.

Nine states disassociated from consensus on SRHR and gender-related paragraphs in the resolution on discrimination against women and girls in 2020, compared to 12 in 2019 and seven in 2018. In 2019, there were 15 disassociations from the entire resolution on discrimination against women and girls in sport, and 11 from selected paragraphs in the resolution on violence against women and girls, compared to six in 2018. There were also 12 dissociations from paragraphs in the resolution on child, early, and forced marriage in 2019 compared to none in both 2017 and 2015.⁴²

This alarming increase in distancing by states from specific rights language related to gender and sexuality rights of girls and women threatens to establish a climate of polarization rather than one of consensus building; unless actively challenged, this tendency will harden into ideological camps within the human rights system, undermining both the universal nature of human rights and the spirit of multilateralism that legitimizes the system.

⁴¹ HRC resolution 43/23: Awareness-raising on the rights of persons with disabilities, and habilitation and rehabilitation, OP4(b).

⁴² In 2017, there were three amendments, including an oral amendment, on the resolution on discrimination against women, two on violence against women, and no amendments on child, early, and forced marriage. In 2018 there was one amendment on the resolution on maternal mortality and morbidity, five on the resolution on discrimination against women and girls (three of which were withdrawn), and two on violence against women and girls. In 2019, there were three amendments on the resolution on discrimination against women and girls, three on the resolution on violence against women and girls, and four on the resolution on child, early, and forced marriage, but none on the resolutions on the rights of the child and on discrimination against women and girls in sport.

Last year was the first since 2007 in which the Council did not carry a resolution on violence against women, following Canada's decision in 2019 to biannualize the resolution.⁴³ Similarly, 2021 will be the first year since 2011 without the annual resolution on discrimination against women and girls, which has also been biannualized. These are the results of the Council's drive for efficiency and for rationalizing its programme of work; such seemingly neutral measures are often used to justify reducing initiatives on thematic human rights, including those related to gender, disability, racism, or economic justice, despite widespread and, arguably, increased violations rooted in structural inequalities. Claims of efficiency have also been used to justify reducing avenues and time for civil society participation at the Council, which has had a disproportionate impact on feminists and women human rights defenders, especially on those from the Global South.⁴⁴

b. Special Procedures

Special Procedures drafted and submitted many statements and guidelines that highlight the need for a human rights based approach in dealing with the pandemic.⁴⁵ Many of these documents address not only the immediate effects of the pandemic and consequent measures initiated by states but also the underlying social and other determinants of health that resulted in exacerbated impact on racial and ethnic minorities, the poor, and other marginalised groups. Yet, the past year saw renewed attempts by states to undermine the independence of Special Procedures. The statements by China and Russia and their reluctance to answer questions on human rights violations are illustrative of states' treatment of the work of the mandates.⁴⁶ In addition to simply ignoring or rejecting it, states also seek to actively undermine the legitimacy of the Special Procedures. For example, states accuse Special Procedures of being "biased" and "not objective" because of their use of social media and what states call "unverified data," which is often information provided to the mandates by human rights organizations. Thus, dismissing or belittling the work of the Special Procedures also further mutes CSO voices at the global level. There were various iterations of the resolutions to reduce the independence of Special Procedure and one such [draft resolution](#) to further regulate the code of conduct of Special Procedure mandate holders at different sessions of the Council in 2020.

In addition to these restrictions and trends at the level of the global human rights system, CSOs also face severe and worsening challenges at national levels. States openly suppress civil society within their borders and just as openly reject multilateral measures that seek to empower civil society against state repression. For example, it is not implausible to trace a direct link between the historical objection of countries such as India, China, and Russia, among others, to attempts at the Council to promote and protect human rights in the context of peaceful protests⁴⁷ and their repression of civil society at home. Through a consistent

⁴³ Before that, apart from the transition from the Commission to the Council in 2006-2007, this resolution had been run every year since 1995.

⁴⁴ <https://www.sexualrightsinitiative.com/news/2020-dec/joint-statement-informal-conversation-implementation-hrc-efficiency-measures>

⁴⁵ See <https://www.ohchr.org/EN/HRBodies/SP/Pages/COVID-19-and-Special-Procedures.aspx>

⁴⁶ <http://webtv.un.org/search/item5-general-debate-23rd-meeting-42nd-regular-session-human-rights-council/6087721516001/?term=&lan=english&cat=Human%20Rights%20Council&sort=date&page=2#player>

⁴⁷ See <https://www.ohchr.org/Documents/Issues/Executions/A-HRC-RES-25-38.pdf>.

rejection, on the one hand, of attempts at the global level to empower and protect civil society and the unabashed use, on the other hand, of repressive tactics locally, nationally, or regionally, states normalize the impunity with which they may overlook and violate human rights of residents and citizens while remaining party to human rights conventions and treaties.

The status and functioning of the Special Procedures also requires attention when speaking of CSO participation, as the mandate holders are often active members of civil society whose deep knowledge and engagement equips them for the role. However, and ironically, it is precisely their suitability for holding the mandate that is used to undermine the legitimacy of their work.

c. UPR

As the pandemic affected the ability of states to travel in early 2020, the 35th session of the UPR was adopted over Human Rights Council sessions 44 and 45. This UPR session had the least number of SRHR recommendations in comparison to all the other sessions in the 3rd cycle.

Despite the disruption of UPR events as well as some trends for recommendations made by states, overall, the 3rd cycle, 2017-2020, generated more SRHR-related recommendations than previous cycles. Most recommendations made were on broad themes of women's rights, gender equality, and violence against women. These also continue to be the recommendations most likely to be accepted by states under review. However, as noted above, the rhetoric of protectionism and criminalization continues to be pervasive in UPR recommendations.

There is a concerning trend of anti-bodily autonomy recommendations being made as part of efforts aimed at the "protection of the family" as a natural and fundamental unit of society, particularly by Egypt. In order to protect the "traditional" family unit, these recommendations allow states (and other actors) to place restrictions on what individuals can do with their own bodies. Comprehensive sexuality education, maternal mortality and morbidity, and sex work continue to be underrepresented themes, requiring particular attention in 2021 and beyond, due to the likely exacerbation by COVID-19 of already existing challenges facing advancement on these issues.

d. TMBs

Sessions of the treaty monitoring bodies only took place between January and mid-March last year, as the Swiss government banned all public gatherings in March; the 128th session of the Human Rights Committee was suspended two weeks after it opened. The OHCHR postponed all treaty body meetings, including online ones, to the end of May, and some meetings originally planned for June were also postponed. For the remainder of 2020, committees held sessions remotely, working on Lists of Issues, individual communications and other procedures related to Optional Protocols, as well as General Comments and Recommendations.

It is difficult to gauge trends from the recommendations, when only a few state reviews took place, but the following recommendations related to SRHR are nevertheless worth noting:

- CSE recommendations phrased as education on sexual and reproductive health and rights are more common than recommendations on other SRHR issues.
- The Committee on the Rights of the Child (CRC), the Committee on Economic, Social, and Cultural Rights (CESCR), and the Committee on the Elimination of Discrimination against Women (CEDAW) are most active on SRHR, with the CRC issuing consistent and progressive recommendations on the decriminalization of abortion.
- CEDAW's recommendations and concerns highlighting women with disabilities is a consolidating trend.
- The Committee on Elimination of Racial Discrimination (CERD) expressed its concern to Colombia on the "multiple forms of discrimination faced by indigenous women and women of African descent in comparison with women in the rest of the population, especially with regard to access to work, education and health services, including sexual and reproductive health services."⁴⁸

As has happened in previous years, committees adopted final decisions under the individual communications procedure that advanced their views on the scope and implementation of the different treaties.

- CEDAW adopted for the first time a decision in a case related to obstetric violence, recommending Spain to respect "women's autonomy and their capacity to make informed decisions about their reproductive health."⁴⁹
- The Committee on the Rights of Persons with Disabilities (CRPD) issued a landmark decision on inclusive education.⁵⁰
- The Human Rights Committee (HRC) issued its first decision on states' obligations to protect children from statelessness, as children have a right to a nationality.⁵¹

3. CONCLUSION

The COVID-19 crisis presents devastating and costly moments of national and global reckoning. Despite calls - and in some cases commitments - to 'build back better' by state and non-state actors, it is clear that there isn't agreement on what 'better' is. Building back better ought to mean not "back" to the business of relentless growth regardless of the planet's capacity, back to the "better" objectification of workers into resources, the commodification of every relationship, and the "creative destruction" that characterizes neoliberalism.

⁴⁸ Committee on Elimination of Racial Discrimination. *Concluding Observations to Colombia*, para. 24, CERD/C/COL/CO/17-19 (2020)

⁴⁹ Committee on the Elimination of Discrimination against Women. *Decision adopted by the Committee under article 4 (2) (c) of the Optional Protocol, concerning communication No. 138/2018 (S.F.M. v. Spain)*, para. 8(b)(i), CEDAW/C/75/D/138/2018 (2020).

⁵⁰ *Rubén Calleja Loma and Alejandro Calleja Lucas v. Spain*

⁵¹ *Danny Zhao v. The Netherlands*

The full picture continues to emerge; will governments heed the widespread call, such as in Oxfam International's open letter,⁵² to make the vaccine available to all, free of charge, everywhere? The economic gap between the global north and the south is being reproduced in access to vaccines; restrictions on civil liberties continue to be justified by appeals to national security and as public health measures; "vaccine passports" are in the offing, and are likely to serve as another legitimised measure to restrict the movement of economic and climate refugees.

The effect on sexual and reproductive health and rights in the long term may well be far worse than the dire predictions of global institutions, as states turn inwards, multilateralism is sacrificed for national or ethnic benefit, and social justice struggles face an unprecedented setback. While our analysis too will continue to evolve, the trends and events in the fields of SRHR, both heartening and alarming, require immediate attention.

⁵² See <https://medium.com/@Oxfam/uniting-behind-a-peoples-vaccine-against-covid-19-87eec640976>.

