



BRIEFING THREE

JUSTICE FOR ALL AND THE SOCIAL CONTRACT IN PERIL



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Justice in a Pandemic - Briefing Three

Justice for All and the Social Contract in Peril

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“The anger feeding two recent social movements reflects utter disillusionment with the status quo. Women everywhere have called time on one of the most egregious examples of gender inequality: violence perpetrated by powerful men against women who are simply trying to do their jobs. The anti-racism movement that has spread from the United States around the world in the aftermath of George Floyd’s killing is one more sign that people have had enough: enough of inequality and discrimination that treats people as criminals on the basis of their skin color; enough of the structural racism and systematic injustice that deny people their fundamental human rights.”

António Guterres, United Nations Secretary-General

Introduction

While some countries may be beginning to recover from the immediate health and economic shocks triggered by COVID-19, the social and political repercussions of the pandemic are likely to unfold over a generation or more. Actions taken now can have consequences that will be felt for decades into the future. If governments fail to involve all sections of society in recoveries – or, worse, if they allow existing social exclusion to become entrenched and create new routes towards marginalization – they will be storing up problems that can erupt into unrest or conflict at any moment.

Justice sectors are at the forefront of responses to the crisis. If justice institutions aggravate rather than alleviate social tensions, the social contract - the agreement of people to consent to state authority and follow rules in return for security, public services, and the ability to “articulate their interests, exercise their rights, and mediate their differences”¹ - will come apart. Conversely, if justice actors are seen to be defenders of fairness and inclusiveness, they

can help build trust and give societies the cohesion needed for peaceful and prosperous recoveries.

Justice for All and the Social Contract in Peril is the third briefing in a series examining the role of justice sectors in responding to the COVID-19 pandemic.

The first briefing, *Justice for All and the Public Health Emergency*, looks at the role of justice actors in mitigating the immediate impacts of the coronavirus. It highlights the need to protect the justice workforce from the disease while finding ways to continue to provide justice services and to enforce emergency measures fairly.²

The second briefing, *Justice for All and the Economic Crisis*, assesses how justice sectors can contribute as governments and communities grapple with stalled economies, rising job losses and bankruptcies, and increases in debt and poverty. To meet rising demand, it argues that the justice sector should prioritize non-court solutions and invest in personal contact; work with non-justice partners such as unions, employers' federations, and debt advisers; and use justice systems strategically, collaborating with other sectors to help rebuild economies.³

Justice is a critical sector in the relationship between states, communities and people. Justice systems that work well can help strengthen trust in state institutions and give governments a license to steer recoveries. On the other hand, abuses by justice actors or a failure to provide the services and basic fairness that people need in their daily lives can lead to social breakdown, violent conflict and a loss of trust that will render governments' job impossible and quash any dreams of social and economic progress.

1-2 years

Public health crisis

5-10 years

Economic, employment,
and financial crisis

**A generation
or longer**

Political, social, and
cultural dislocation

One

Justice and the Social Crisis

The social and political dislocations caused by the COVID-19 pandemic are now coming into focus. How governments respond to these dislocations will determine whether they seize the opportunity to build trust and enhance the social contract between the state, communities and people. Justice systems have too often been responsible for fueling distrust and weakening relations between state and society. But by adopting a people-centered approach to justice, they can play a central role in the recovery from the pandemic, helping their societies to rebuild in a fair, inclusive and sustainable way.

An Urgent Need for Justice

In dealing with the COVID-19 pandemic, governments have placed a heavy responsibility on justice actors. Both formal and informal justice systems have been called upon to deal with health-related repercussions of COVID-19 such as increased domestic violence and emergency virus containment measures.⁴ They have also played a key role in responding to the economic impacts of the pandemic, including increases in debt, evictions, job losses, bankruptcies, and disputes over wills as the number of deaths soars.⁵ In some settings, justice actors have been subjected to violent attacks as they work to extend justice provision more widely.

As their role has expanded, so has justice sectors' visibility. Where justice actors are seen to be treating people fairly and inclusively and helping to reduce the inequalities and marginalization on which the pandemic has thrived, confidence in the fairness of states' response to the pandemic has increased.⁶

Too often, however, the opposite has been the case. Heavy-handed enforcement of containment measures, especially when combined with racial or other forms of often-systemic discrimination, has proved a recipe for unrest.⁷ Corruption that goes unpunished intensifies the frustration of those who abide by the law.⁸ And where judiciaries have been complicit in government efforts to use the pandemic to stifle dissent, postpone or illegally influence elections, and close civic space, they have helped to foster grievances that could erupt into conflict in the years to come.⁹

The murder by police of George Floyd in the United States, repression of political opposition in Myanmar, Belarus and Hong Kong, and the human rights infringements perpetrated with impunity by Nigeria's Special Anti-Robbery Squad (SARS) are recent examples of how abuses by justice actors can spark national or even international protests.¹⁰

“No justice, no peace” was the rallying cry behind the 2020 Black Lives Matter demonstrations, and the injustices meted out by justice sector actors to people from ethnic minorities and marginalized communities are the most visible symptoms of the broader failure of states to respect the rights of all and to include all sections of society in the pursuit of economic and social goals.

Even before the pandemic hit, there was a massive unmet need for justice. At any one time, 1.5 billion people had a civil, administrative or criminal justice problem they were unable to solve, and 253 million lived in extreme conditions of injustice with no legal protection. At least 4.5 billion, meanwhile, lacked access to the opportunities the law provides – to marry, own property, secure employment, set up businesses, or access public services.¹¹

The added stresses caused by the pandemic make it more urgent than ever that the justice sector scales up its capacity to provide justice in people’s lives. In many of the recent protests, the economic misery caused by COVID-19 was the trigger for pre-existing resentments to burst into the open. Justice actors need to demonstrate how they will correct rather than perpetuate structural injustices and inequalities. It is not only their own legitimacy that is at stake, but also the trust between people and governments and the bonds that hold our societies together.¹²

The Social Impacts of the Pandemic

From the outset of the COVID-19 pandemic, it was clear that the impacts were spreading beyond the harm to individuals’ health. As virus containment measures were imposed across the world, economic activity ground to a halt, resulting in business closures, mass layoffs of workers,¹³ and soaring individual and national debt.¹⁴ Confining people to their homes led to increases in domestic violence, with a particular impact on women and children, and reduced the recourses available to its victims.¹⁵ Hundreds of thousands of children have been orphaned by the pandemic, with long-term consequences for them and their communities.¹⁶ And as agricultural production and distribution were curtailed, rising food prices increased food insecurity and plunged hundreds of millions into – or deeper into - poverty.¹⁷

There have been successes in the world’s response to the virus. Some governments managed to contain infections and limit the number of deaths, often by imposing draconian public health measures. Others limited the economic fallout by borrowing to support laid-off workers or insolvent small business owners, learning from the failures of the 2008 financial crisis and targeting individuals and small firms rather than banks with financial assistance programs.¹⁸ Vaccines for COVID-19 were developed



with unprecedented speed following a global collaborative research effort, and wealthy countries have been able to immunize majorities of their populations.

Few societies, however, have managed to prevent the virus from affecting some population groups more seriously than others. In both high- and lower-income countries, individuals and communities that were already experiencing exclusion and discrimination have borne the brunt of its effects.¹⁹ People from ethnic minority communities, refugees and other migrants, and those living in poverty have suffered higher infection rates, increased morbidity and mortality, and more significant income losses.²⁰

Virus containment policies, too, have fallen more heavily on those with less influence and power over how society is run. Children and young people have been denied access to education and employment even though they are at low risk of serious illness.²¹ Confinement measures have frequently targeted urban areas where people from ethnic minority or poor communities make up large proportions of the population.²² New rules have been more vigorously enforced in marginalized than in wealthy areas, with the powerful often apparently unaffected by the restrictions faced by wider society.²³

This unequal distribution of impacts is entrenching existing patterns of exclusion. COVID-19 is estimated to have increased the number of people living in extreme poverty by more than 115 million in 2020 – the largest increase in history.²⁴ Low-income countries are experiencing a significantly larger economic contraction than advanced economies.²⁵ Around the world, people from ethnic and racial minorities are much more likely to have

experienced food insecurity as a result of the pandemic.²⁶ As schools have been forced to close and move teaching online, the digital divide is exacerbating educational inequalities between children both within and between countries.²⁷ As well as having to cope with a surge in gender-based violence, women have been hit harder than men by the economic impacts of the crisis, which have reversed decades of progress in reducing gender inequality.²⁸

The Social Contract in Peril

These inequalities and injustices have already sparked protest. As early as August 2020, the majority of the world's countries had experienced some level of disorder as a result of the disease or responses to it.²⁹

In the early months these demonstrations focused on governments' failure to contain the pandemic and its economic impacts. Soon, however, they "evolved into a continuation of the social movements that had begun prior to the crisis."³⁰ Overall, the number of demonstrations increased in 2020 compared with 2019, which itself had been a "particularly strong year" for protests.³¹

The largest protest movements of recent years – Black Lives Matter, the EndSARS protests in Nigeria, the #MeToo movement, the Arab Spring – were rooted in structural injustices which, after simmering for years, triggered sudden unrest. Systemic racism and discrimination against poorer and marginalized communities left communities with few options to address injustices other than to take to the streets in protest.

The increasing intensity of these movements – in countries from all regions and income groups – demonstrates how the social contract between the state, communities and people is fraying. Peaceful protest can be a sign of an effective social contract, but disengagement by protesters from state institutions or protests that turn violent or are met with violence at the hands of the state are reflective of a social contract that is in peril.³²

COVID-19 is the biggest social and financial shock many countries have faced for a generation or more, and the enormous toll in terms of deaths and economic disruption has placed strains on the relationship between states, communities and people. Blunt measures were implemented to slow the virus's spread, often under conditions of great uncertainty, which had immediate and serious negative impacts on people's daily lives. Government services were at once inundated with demands and severely hampered in their capacity to respond to people's needs.

The strain has been made more acute – and the risk to the social contract heightened – by corruption, silencing and harassment of critics and political opposition, and other misuses of power



on the part of state actors.³³ One politician after another flouted rules that they themselves had imposed.³⁴ Cronyism in the distribution of financial support packages or contracts for personal protective equipment has deepened mistrust in states' willingness to abide by their agreement with their people.³⁵ In some places, enforcement of pandemic regulations was unnecessarily heavy-handed, with aggressive police responses to mostly peaceful protests adding fuel to the fire.³⁶

If legitimate grievances are allowed to fester and peaceful protests are met with repression, the social contract will unravel. Protests in Colombia that began in response to tax reforms that the government argued were needed to pay for the COVID-19 response have broadened in their demands as brutality perpetrated by the security forces has caused the death of dozens of protesters.³⁷ While a strong social contract depends on many factors – including a fair economy, effective rules and regulations, and the opportunity for people to influence decision-making – a surefire way of weakening it is to abuse or neglect large sections of society.

A breakdown in the social contract comes at tremendous cost. Where grievances are so acute that demonstrations turn violent, not only is the burden on already-overstretched health systems increased, but the revival of social and economic activity as lockdowns are eased can be curtailed.³⁸ The #EndSARS protests against police brutality in Nigeria, for example, were estimated to have cost the country \$1.8 billion in just 12 days in October 2020.³⁹ The annual US\$13.6 trillion cost of containing violence worldwide equates to 13% of global GDP, or US\$1,876 per person per year.⁴⁰

If societies are to rebound from shocks such as the COVID-19 pandemic, a robust social contract based on trust is essential. Without trust between people, societies cannot thrive and economies cannot function. Without the explicit or tacit assent of a majority, it will be impossible for states to persuade people of the benefits of mask-wearing or vaccination, for example, or to put in place the building blocks for economic recovery in the wake of the crisis. Reducing the risk of the violence and conflict that is so damaging to social and economic development requires both addressing the drivers of mistrust in state institutions and making those institutions more inclusive, responsive and accountable.⁴¹

Putting People at the Center of Justice

The demand for justice is increasing. People around the world are calling for social justice, racial justice, gender justice, climate justice, economic justice, and an end to violence and corruption.

Recent years have seen the rise of a growing movement for justice that places people's need for fairness at its heart. The Task Force on Justice brought together justice leaders from around the world to advocate for people-centered justice.⁴² The principles of people-centered justice were endorsed in The Hague Declaration on Equal Access to Justice for All by 2030, as well as in the Buenos Aires Declaration and the Joint Action Plan adopted by Ministers of the G7+.

In April 2021, ministers from 16 countries agreed to form the Justice Action Coalition, which will serve as a platform for people-centered justice and work to mobilize financial and political support for justice for all.⁴³ The OECD continues its standard-setting work on people-centered justice in the context of its Global Policy Roundtable on Equal Access to Justice. IDLO has put people-centered justice at the center of its mission and new strategic plan, and the Open Government Partnership has established a Coalition on Justice to advance access to justice through national action.⁴⁴

Justice has the potential to act as a society's immune system, tackling problems before they proliferate and preventing the emergence of new problems that can damage the social fabric. By reorienting formal and informal justice systems to make them people-centered, we can solve the problems that have imperiled social cohesion, prevent disputes that will increase discontent over the long term, and use justice as a platform for an equitable and sustainable recovery.⁴⁵

In the next section of this briefing, we discuss five ways in which formal and informal justice actors can play their part in restoring the social contract and increasing societies' ability to withstand and recover from this and future crises.

Two

Justice and the Strengthening of the Social Contract

To strengthen the social contract, justice actors must understand grievances and avoid perpetrating abuses. They can increase justice by resolving more disputes and addressing more grievances, tackling structural injustices, and making the recovery from the pandemic more sustainable by providing a platform for economic and social renewal.

Understand Grievances

Protests, unrest and violence do not appear out of thin air; they are foreseeable if one knows where to look. When justice actors, both formal and informal, are impartial and independent and have people's needs at heart, their observations can serve as a barometer for tensions in society.

Justice leaders and other political leaders should make use of the local knowledge of paralegals, family support officers, legal empowerment practitioners and the police. These actors see and hear where problems occur, which are most important to people, and which can pit communities against one another. Insights they gain through their work can signal where the social contract is under pressure. This understanding is critical to avoiding further alienating sections of society in the wake of the pandemic.

Collecting and analyzing data on people's justice needs and their experience of justice processes is also important. The different layers of justice systems can use data from individual cases and complaints to form a broader picture of key grievances, pinpoint where conflict might be brewing, and intervene or provide support to defuse it.

Institutions that reflect the people they are supposed to serve - both demographically and culturally - are more approachable, more likely to empathize with people's problems, and more likely to be forgiven rather than attacked when errors are made.⁴⁷ Kenya's 2010 constitution, for example, commits to fair representation in the judiciary of women and men and of all the country's ethnic groups.⁴⁸ In Georgia, a new police patrol that brought police closer to communities and encouraged them to work with citizens' advisory groups to listen to people's problems led to increased trust in the police and a greater willingness of people to report incidents of corruption.⁴⁹

After finding out that 25% of people thought seeking legal help was a waste of time or did not know where to look for it, Statistics South Africa added a civil justice module to its surveys. This survey aims to determine the most common justice problems that people face and to find out how people went about resolving them. The results are used to inform the policies of the legal aid agency and those of the government as a whole.⁴⁶

In Mexico, the NGO Mujeres en Frecuencia uses radio programs to support access to justice for women, victims of gender-based violence, and other vulnerable communities. The emissions have reached millions of people and are followed up by volunteers working in remote and indigenous communities.⁵⁰



Do No Harm

Abuses by justice actors are among the most effective ways to destroy the social contract. They are associated with higher risk of conflict and increased intensity of conflicts and are an important driver of violent extremism.⁵¹

Action in three areas can help curb abuses. First, bringing abusers to justice is vital if justice systems are to show that their commitment to reform is serious. The protesters in Sudan's 2019 uprising were still waiting for justice two years after 200 of them were gunned down by security forces at a sit-in in Khartoum. The frustration fueled by the delay to the investigation led to further widespread protests in 2021, disrupting economic activity and hindering the country's response to the COVID-19 pandemic.⁵² Opening up justice institutions and actors to independent scrutiny, creating oversight and complaints mechanisms, taking victims' needs seriously, and engaging with community groups can help ensure that abuses are addressed and prevented.

Second, systemic problems of racial and gender discrimination in and by justice institutions, coupled with their failure to provide effective services for those on lower incomes, need to be tackled. This requires non-discriminatory recruitment and promotion policies; vetting of actual and potential recruits to screen for discriminatory attitudes; safe systems for justice sector workers to report discrimination; more concerted outreach into marginalized communities; and training to sensitize justice actors to the damage caused by racism, sexism and other forms of discrimination.

Third, confrontational justice procedures and legal processes that contribute to escalation of conflicts should be reformed.⁵³ Alternative dispute resolution mechanisms, mediation and ombuds schemes can be more effective than courts in resolving justice problems and restoring underlying relationships. Alternative sentencing can keep people out of jail and limit the damage to their and their families' lives. Victims of conflict frequently favor reconciliation or other reparations over draconian punishment of perpetrators, and reconciliation and reintegration of offenders into communities can promote stability and reduce risks of further violence.⁵⁴ The state can support and provide reliable frameworks for these mechanisms, with provisions that protect the most vulnerable parties to disputes from being compelled to accept unjust solutions.⁵⁵

Resolve Disputes and Address Grievances

Peacefully resolving disputes and conflicts is the purpose of any justice system and justice leaders should ensure that they make good on that objective.

By increasing their responsiveness, relevance and speed, justice actors have the potential to resolve disputes before they become serious and to prevent grievances from building up.⁵⁸ With 1.5 billion unsolved civil, administrative or criminal justice problems, justice service providers must demonstrate that they can reach more justice seekers and guarantee service delivery during the recovery from the pandemic.

Resilient societies manage conflicts constructively and innovate in the face of a crisis. Taking justice into the communities that need it most is critical. Paralegals, for example, live with and understand local people, including remote and marginalized populations, and help people know, use, and shape the law. They and other justice defenders can support communities and act as trusted intermediaries in disputes with powerful state and private sector interests, empowering people to use the law to protect themselves from exploitation.⁵⁹

In Somalia, the Baidoa District Administration suspended evictions during the COVID-19 pandemic, reducing the potential for increased resentment among vulnerable populations.

In Uganda, where evictions were banned during lockdowns, land registries were closed to ensure that no transactions could take place.⁵⁶

In New York State, following a campaign by grassroots organizations including the Bronx Freedom Fund, cash bail and pretrial detention were eliminated for all but the most serious charges. The reform alleviates grievances and reduces costs for the state.⁵⁷



Technology is opening up new, lower-cost ways of resolving disputes. Social movements have found safe spaces online where none existed in the offline world.⁶⁰ Online platforms give people the tools to make legally binding contracts at low cost,⁶¹ access information that protects them from exploitation,⁶² give advice on and mediate family disputes,⁶³ or make wills without paying for a solicitor. An improved, more flexible regulatory environment that encourages rather than stifles innovation is needed to help a broader range of service providers to deliver justice at lower cost to more people.⁶⁴ If technology is not to widen inequality, moreover, intensified efforts are needed to reach those who lack access to online services.

Approaches to de-escalating grievances and preventing violence work best when they are multi-sectoral, bringing in actors from different parts of the justice sector, from the health system, from finance and other ministries, and from the private and non-governmental sectors. One-stop shops such as Latin America's *Casas de Justicia*, for example, provide a holistic service by bringing together lawyers, psychologists, social workers, and police officers under one roof. Their guiding principle is that people with justice problems often face problems in other areas at the same time, and attending to these problems at an early stage can help prevent their escalation.⁶⁵

The Multi-Door Courthouse in Lagos, Nigeria uses mediation to resolve disputes at an early stage. The time to resolve cases is less than one-tenth the time it takes in Nigerian courts, and since the method is less confrontational, conflicts are less likely to become serious.⁶⁶

Local peace committees which operated in South Africa between 1991 and 1994 brought together local government officials, the police, traditional authorities, religious leaders, opposition political parties, business representatives and civil society groups to address growing violence and the challenges in stakeholders' own communities. They bolstered local dialogue and problem-solving processes, preventing violence, and saving lives in the country's transition to democracy.⁶⁷



Tackle Structural Injustices

Justice actors have a key role to play in addressing structural injustices, both by reforming their own practices and by empowering people and communities to correct long-term inequities. Investments in the justice sector are too often directed towards prisons, courts, and the police, but a healthy community has less need for punitive mechanisms because it has high levels of employment and social capital and low levels of inequality.

Rigorous, people-centered data collection and analysis is required to understand the needs of those who face the greatest structural injustices. People who have historically been discriminated against due to aspects such as their race, ethnicity, gender identification, religion, migration or refugee status, or poverty are more likely to be imprisoned, to be searched, fined or killed by police, or to lose civil justice cases without just cause.⁶⁸ They are also less likely to be employed in the justice sector or to fill senior roles within it. Identifying these inequities is an important first step to rectifying them.

Reaching out to groups that have hitherto been neglected or excluded should be a priority. Measures are needed to ensure stronger representation in the justice workforce of people from communities experiencing structural injustices, and to provide marginalized groups with meaningful pathways to justice via systems that they trust. Placing justice services in remote or marginalized communities can improve access to justice. Community policing aims to build ties with community leaders and local volunteers so that the police are seen as partners in improving living standards.⁶⁹ For the groups that have suffered the worst discrimination, concerted reconciliation efforts will need to be made, allowing justice actors and community members to air their grievances and address past and present harms, and to develop new ways to work together.⁷⁰

Alaska Legal Services helps more than 170 low-income Alaskan communities every year to resolve their legal problems via free face-to-face, online and telephone support. Nine in ten of the communities are not on the road system. The organization aims to provide a “legal inoculation” for people, helping them to understand and enforce their rights so that abuses are less likely to occur.⁷¹

y the justice sector that discriminates and excludes. Inequality is made more acute by unfair housing or eviction policies, for example, or by the unequal access to healthcare that has been so evident during the COVID-19 pandemic. Justice actors can work with other sectors to ensure access to healthcare, social security payments, and other services, and they can help those who are excluded to seek redress. Legal empowerment organizations have an important role, too, in working with marginalized communities to identify and raise awareness of structural injustices and to use and shape laws in order to protect their rights.

Other sectors, in turn, can contribute to remedying structural injustices that have been exacerbated by the justice sector. Youth employability, arts and sports programs have been shown to reduce crime and violence in inner-city areas.⁷² Social workers, mental health workers and counsellors can help keep people from excluded groups out of prison. Drug rehabilitation schemes are more effective than lengthy prison sentences in preventing reoffending and promoting offenders' peaceful reintegration into communities.⁷³

Accelerate Recovery

The justice sector's role goes beyond firefighting. Justice actors can provide a platform for economic and social renewal as societies emerge from the pandemic.

During the COVID-19 crisis, most countries have implemented new social protection programs and many of these have reached communities that had never before been included.⁷⁵ For these programs to be effective in reducing marginalization over the long term, people need gateway rights – the legal identity, work-related or residency documents without which they will be unable to participate fully in the recovery from the crisis.⁷⁶ Countries that already had such systems in place prior to the pandemic were much better placed to act quickly to respond to it with health and economic interventions.⁷⁷

Worldwide, 1.1 billion people lack legal identity.⁷⁸ Without this basic tool for participation in society, it is more difficult to access education, justice and other public services, to register a business or access employment, or to buy property. The absence of basic documentation also leaves people more vulnerable to abuse and exploitation by employers and state actors. Efforts to close these gaps can be assisted by biometric and other technologies such as those that helped Pakistan register 90 million people in a decade.⁷⁹ Provided they are accompanied by rigorous safeguards against misuse

During the COVID-19 pandemic, Bangladesh developed a system of virtual courts and electronic bail applications to help reduce overcrowding in prisons. In one ten-day period during the country's lockdown, 33,000 bail applications were heard by the justice system and 21,000 people in pretrial detention were released on bail. The prison population was reduced by one-third in five months.⁷⁴

of personal data, such technologies are a cost-effective mechanism for promoting inclusion.⁸⁰ To help ensure that implementation is fair and that anyone not included has somewhere to go for help, accessible complaints procedures are vital.⁸¹

There is scope for justice actors to help create labor markets that promote opportunity for all. The 2.1 billion people worldwide who work in the informal sector – and the billions in future generations who will inevitably follow them - would benefit from protection against abuse at the hands of the authorities and against coercive approaches to encourage them to formalize. Obtaining licenses and permits could be made easier as part of an incremental journey towards full participation,⁸² while unionization can help informal workers advocate for their rights. How to regulate the informal sector effectively is an unsolved question that justice actors can assist in answering – national commissions on the future of work, for example, can bring in a multiplicity of actors to consider long-term approaches to the problem.

Two billion people worldwide lack proof of housing or land tenure. This leaves them at risk of exploitation or mistreatment by landlords, neighbors or governments, and also makes it more difficult to borrow money to set up or expand businesses.⁸³ Strengthening land rights has a significant positive impact on economic growth. Given that those most likely to lack proof of tenure are often the most marginalized, including women and indigenous communities,⁸⁴ it can help renew the social contract and prevent future unrest.⁸⁵ Here, too, any formalization process requires ironclad guarantees for access to justice to ensure equity and fairness in its implementation.⁸⁶

Tackling corruption is essential if all groups are to participate fairly in the recovery. Allowing graft to proliferate can undermine progress in all areas and store up problems for governments that will take years to resolve. Justice systems are needed to ensure that economic stimulus packages are fairly distributed rather than appropriated by the well-connected. Oversight bodies such as anti-corruption agencies, audit institutions and ombuds institutes need sufficient funding to monitor and expose abuses as well as the independence to hold the powerful to account.⁸⁸ Whistleblowers, journalists and others risking their well-being to uncover corruption and take on powerful players should be protected and rewarded rather than harassed or subjected to violence.⁸⁹

The nationwide, imagery-based land tenure registration program launched in Rwanda in 2010 delivered 6.7 million new land titles in three years at a cost of \$5 per registration. The program was found to have greatly improved perceived land tenure security.⁸⁷

The government of Ukraine has made the details of public contracts available online and given people the power to report violations. The measure has led to a 50% increase in the number of new companies bidding for contracts.⁹⁰

Three

The Justice Vaccine?

Justice systems both formal and informal need greater, not reduced investment if they are to play a full part in the recovery from the pandemic. But investment also needs to be smarter, targeting less confrontational mechanisms that are proven to prevent and reduce conflict. By resolving more problems more fairly, empowering marginalized groups to participate fully and equitably in their communities and economies, and working with stakeholders from other sectors and other countries to develop innovative solutions to injustice, justice leaders can help reinforce the bonds that hold societies together.

Learning from Previous Crises

A study of multiple countries in the years following the 2008 financial crisis found that the austerity policies imposed by many countries, which cut public services and slimmed public sector workforces and salaries while raising taxes, had greatly increased polarization and weakened the social contract.⁹¹

Many governments appear to have learned from this and made efforts to distribute the losses caused by the COVID-19 pandemic more fairly. One in four workers in OECD countries kept their jobs as a result of job retention schemes bolstered by government support to employers, with ten times more workers supported than after 2008. Numerous small businesses and workers who lost their jobs also received significant assistance.⁹²

In most countries around the world, the justice sector is underfunded. Often, moreover, investments are not used efficiently to promote justice or are funding injustice. In many countries, the austerity programs of recent years have hit justice sectors hard, with cuts to legal aid and other parts of the sector dramatically reducing access to justice.⁹³ Reductions in foreign aid by countries such as the United Kingdom, justified by governments as being needed to pay for the damage caused by COVID-19, have further imperiled access to justice - and therefore the prospects of development - in the world's poorest regions.⁹⁴

For the justice sector to play its part in the recovery from the pandemic, it will be critical for governments to invest in smarter strategies to resolve and prevent justice problems and to divert funding away from repressive approaches. The costs of a breakdown in the social contract will dwarf any savings from further cuts to justice, and with the impact of budget cuts falling hardest on those who are already disadvantaged, slimming down justice provision is likely to increase such risks.⁹⁵

Justice Systems Need to Catch Up

Justice institutions need to step up. The disruption of the pandemic is an opportunity to slough off traditional institutional structures and bring the sector into the 21st century. This requires justice systems to refocus on people and their needs. Procedures need to become less adversarial, less formalistic, more inclusive and more efficient.

Justice is too important and far-reaching to leave to the justice sector alone, and working across sectors can be transformative. All parts of the justice sector can benefit from building partnerships and networks with those delivering social services, employment programs, healthcare, education, and environmental protection, as well as with non-traditional justice providers including advice services, paralegals, legal empowerment organizations, trade unions, women's rights organizations, community and religious leaders, and technology companies. Such partnerships can provide more holistic solutions to people's justice problems as well as addressing the root causes that allow justice problems to emerge and multiply.

The threat to the social contract is not confined within national borders. The Arab Spring, Black Lives Matter and environmental movements such as Fridays for Future and Extinction Rebellion spread rapidly across the world. To respond to people's demands, justice leaders should also work transnationally, coming together with regional and global counterparts – in justice and other sectors – to consider how to rebuild the social contract. International forums can help justice leaders to share good practices, learn from others, hold each other to account,



build movements that raise the profile of justice at home and globally, and seek support for their efforts to increase access to people-centered justice.

Justice is a make-or-break sector when it comes to the social contract. Justice actors can either continue to be part of the disease or they can become part of the cure. Justice systems have the potential to inoculate societies against violence and conflict, but only if they reach and attend equitably to the needs of all people and communities. For too long, justice systems have been mechanisms to increase exclusion, discriminating against those who are outside the mainstream of society and entrenching their poverty, insecurity, and resentment. In the wake of the pandemic, it is more urgent than ever that they reverse course and ensure justice for all.

The Justice Action Coalition

On 14 April 2021, 16 ministers came together to unite behind a call to put people at the center of justice. It was organized by the Ministry of Foreign Affairs of the Kingdom of the Netherlands, the g7+ secretariat, The Elders, and the Pathfinders for Peaceful, Just and Inclusive Societies.

In their joint letter to the United Nations Secretary-General, they agreed that it is necessary to rethink the social contract and the fundamentals of our societies. By embracing people-centered justice, they argued, we can reduce inequality and exclusion, reduce all forms of violence, revive the social contract and rebuild trust.

To reimagine the social contract and put people at the center of justice, the attending ministers emphasized the importance of the principles of people-centered justice:

1. Put people and their justice needs at the center of justice systems
2. Resolve justice problems
3. Improve justice journeys
4. Use justice for reconciliation and prevention
5. Empower people to access services and opportunities

The ministers' letter also explained how countries are committing to taking action and working together more closely. It announced the formation of a new Justice Action Coalition, which will promote people-centered justice domestically and internationally, mobilize political and financial support for justice for all, influence international strategies and priorities, and set out a common research agenda for people-centered justice.

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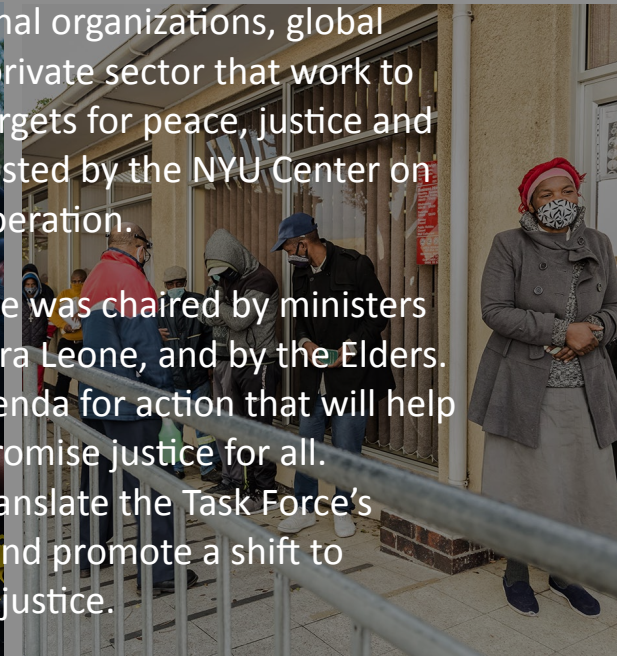
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The Pathfinders for Peaceful, Just and Inclusive Societies

is a group of countries, international organizations, global partnerships, civil society, and the private sector that work to accelerate the delivery of the SDG targets for peace, justice and inclusion (SDG16+). Pathfinders is hosted by the NYU Center on International Cooperation.



The Pathfinders' Task Force on Justice was chaired by ministers from Argentina, the Netherlands, Sierra Leone, and by the Elders. Its Justice for All report sets out an agenda for action that will help deliver the SDG targets that promise justice for all.

The Pathfinders for Justice will translate the Task Force's recommendations into action and promote a shift to people-centered justice.

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