



World Justice
Project

The COVID-19 Pandemic and the Global Justice Gap

October 2020

In 2015, UN member states adopted the 17 Sustainable Development Goals (SDGs), committing to measurable progress by 2030 on poverty, inequality, health, environmental degradation, and other global challenges. States recognized good governance as a key element of this agenda, promising in Goal 16 to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels.”

On the eve of what was dubbed “the decade of action” to reach these goals by 2030, the COVID-19 pandemic has both set this agenda back and driven home just how fundamental justice is to achieving all of the other goals. The crisis has laid bare significant inequities, taking its greatest toll on those who have been traditionally excluded and plunging more people into this plight.

This policy brief explores various dimensions of this “justice gap” and how the pandemic is affecting those who fall in it. While the pandemic has created new challenges for reaching “justice for all” by 2030, it has also revealed the importance of doing so. As this brief highlights, promising strategies are emerging for building back better by closing the justice gap.



The Pre-COVID-19 Justice Gap

The pandemic is significantly worsening an already serious global gap in access to justice. In 2019, prior to the pandemic, the Task Force on Justice, led by the governments of Argentina, the Netherlands, and Sierra Leone and supported with research from the World Justice Project (WJP), estimated that 5.1 billion people globally have unmet justice needs.¹ This global justice gap comprises those excluded from the opportunity the law provides, such as those without legal identity or proof of land and housing rights; those living in conditions of extreme injustice, such as victims of modern slavery and residents of conflict-ridden states; and those whom the law and legal institutions do not serve. It includes 2.1 billion people employed in the informal economy, 2.3 billion who lack proof of housing or land tenure, 1.1 billion people who lack proof of legal identity, and 1.4 billion people with unmet civil or administrative justice needs.²

Data underscores how our laws and legal institutions are failing people in the justice gap and the implications for their lives. In 2017 and 2018, WJP undertook an extensive global household survey of peoples' everyday legal needs in 101 countries. Nearly half (49%) reported they had a legal problem in the past two years.³ The prevalence and severity of problems varied by country, but worldwide the most common problems related to consumer issues, housing, financial issues, and debt. Courts and other government institutions established to help people solve such problems are missing the mark. Globally, fewer than a third sought any assistance in resolving their problem and only 17% turned to formal authorities or institutions to mediate or adjudicate their problem. More than half reported their problem was ongoing and 17% indicated they had given up seeking a solution.

Unmet legal needs have profound consequences in peoples' lives. Nearly half (43%) reported that their legal problem adversely affected their life, with 1 in 4 reporting a physical or stress-related health consequence and 1 in 5 reporting that they lost their job or had to relocate as a result of the problem. All of this is worse for minorities and other people in marginalized groups: they are more likely to have unmet legal needs, less likely to obtain help from the justice system, and more likely to suffer negative consequences.

1. Pathfinders for Peaceful, Just, and Inclusive Societies, *Justice for All: Final Report of the Task Force on Justice*, April 2020. https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/90b3d6_746fc8e4f9404abeb994928d3fe85c9e.pdf

2. World Justice Project. *Measuring the Justice Gap: A People-Centered Assessment of Unmet Justice Needs Around the World*, 2019. <https://worldjusticeproject.org/our-work/research-and-data/access-justice/measuring-justice-gap>

3. World Justice Project. *Global Insights on Access to Justice*, 2019. <https://worldjusticeproject.org/our-work/publications/special-reports/global-insights-access-justice-2019>



The Toll of the Pandemic on Those in the Justice Gap

As the pandemic has rippled across the globe, the toll that it and the associated economic crisis are taking is in many countries particularly severe for four groups who fall in the justice gap: those lacking legal identity or with uncertain migration status; those without secure land tenure or housing rights; those working in the informal economy; and victims of discrimination in their societies, particularly women, minorities, and migrants. These impacts are still unfolding and more research will be required to fully evaluate the effects of the pandemic, but early evidence, outlined below, indicates that it is particularly devastating for these disadvantaged cohorts. Moreover, the pandemic is widening key dimensions of the justice gap as the economic crisis and massive unemployment push millions more into the informal sector and threaten their housing security.

The importance of “legal identity for all” has been driven home by the pandemic, as those without legal identity cannot, in many countries, access emergency social protection benefits or life-saving and pandemic-curbing health care services.

People Without Legal Identity

“Everyone has the right to recognition everywhere as a person before the law.”⁴ This simple, seemingly straightforward entitlement, set forth in the Universal Declaration of Human Rights in 1948, remains illusory for the more than 1 billion people globally whom the World Bank estimates lack proof of legal identity.⁵ In low-income countries, 45% of women and 30% of men lack such documentation.⁶ Without proof of legal identity, people struggle to enjoy many other rights, benefits, and opportunities, and they are particularly vulnerable to exploitation and abuse. For this reason, closing this dimension of the justice gap and meeting the SDG 16.9 target of “legal identity for all” has been a particular priority for the World Bank and the UN.

The importance of “legal identity for all” has been driven home by the pandemic, as those without legal identity cannot, in many countries, access emergency social protection benefits or life-saving and pandemic-curbing health care services. An April-May 2020 survey of 189 people who were stateless or lacked identity documents in Ukraine is illustrative of the cascading hardship that those without legal identity are confronting during the pandemic. Ninety-two percent of those surveyed reported they did not have a family doctor, with 43% having been denied registration with a physician due to their lack of legal identification. Although most indicated they could access emergency care for COVID-19, their lack of access to primary care and to treatment for chronic disease puts them at heightened risk from the virus.

4. Universal Declaration of Human Rights, Article 6, (1948) <https://www.un.org/en/universal-declaration-human-rights/>; see also International Covenant on Civil and Political Rights, Article 16 (1976) <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

5. The World Bank, ID4D Annual Report (2019) <http://documents1.worldbank.org/curated/en/566431581578116247/pdf/Identification-for-Development-ID4D-2019-Annual-Report.pdf>

6. Vyjayanti T. Desai, Anna Diofasi, Jing Lu, “The Global Identification Challenge: Who are the 1 billion without proof of legal identity?” The World Bank Blog, 25 April 2018 <https://blogs.worldbank.org/voices/global-identification-challenge-who-are-1-billion-people-without-proof-identity>



They also reported economic hardship in the face of the pandemic. As in many countries, those without legal identity in Ukraine are employable only in relatively insecure positions in the informal economy; 57% of those who reported they had been employed before the pandemic said they had lost their jobs since quarantine measures had been imposed. Seventy-three percent of those surveyed indicated that they required humanitarian assistance, with a majority expressing need of medicine or medical supplies, food, or hygiene supplies.⁷ As governments seek to cushion the economic impact of the pandemic with emergency benefits, those without legal identity are often ineligible and risk falling through the cracks.⁸

People Without Secure Land Tenure or Housing Rights

As noted above, an estimated 2.3 billion people globally lack proof of land tenure or housing rights. The pandemic poses particular challenges for people living under these conditions and risks swelling their number.

In this cohort are those living in substandard housing, temporary congregate shelters, and informal settlements, where cramped conditions and inadequate sanitation can create fertile ground for viral spread. Reports across the globe have highlighted a disproportionate incidence of COVID-19 in crowded living environments, from foreign worker dormitories in Singapore to the slums of Mumbai and migrant farmworker communities in Napa Valley, California.⁹ The risks are compounded by the fact that essential workers are also often disproportionately represented among those living in such overcrowded settings. A California study of its essential workers found them more likely to live in cramped housing. Thirty-one percent of farmworkers, 29% of those in food preparation and service, and 20% of healthcare providers lived in overcrowded housing, as compared to just 12% of non-essential workers.¹⁰

The estimated 100 million homeless people worldwide represent the most extreme cases of housing and land insecurity and are particularly vulnerable to COVID-19. Crowded shelters make social distancing nearly impossible and have been the sites of outbreak clusters. In some countries, including the United States, the homeless tend to be older and suffer underlying conditions that further increase the risk of COVID-19.¹¹

7. Right to Protection, "Access of Stateless Persons to Medical Care During the COVID-19 and Assessment of the Economic and Social Impact of the Lockdown Measures" (2020) https://r2p.org.ua/wp-content/uploads/2020/05/covid-19_report_eng.pdf

8. Eric Garcetti, Yvonne Aki-Sawyer, Bruno Covas, "Migrants and Refugees are Being Forgotten in the COVID-19 Response. This Has to Change." World Economic Forum, The European Sting, 13 August 2020 <https://europeansting.com/2020/08/13/migrants-and-refugees-are-being-forgotten-in-the-covid-19-response-this-has-to-change/>

9. See, e.g., Rina Chandran, "Packed like Sardines': Coronavirus Exposes Cramped Migrant Housing," Thomson Reuters Foundation News, 21 April 2020, <https://news.trust.org/item/20200421084715-xvwde/>; Julia Hollingsworth, Esha Mitra, "More than Half of India's Mumbai Slum Residents May Have Been Infected with COVID-19, Study Suggests," CNN, Danielle Echeverria, 29 July 2020, <https://www.cnn.com/2020/07/29/asia/india-mumbai-slum-coronavirus-intl-hnk/index.html>; "In Wine Country, Coronavirus Cases Rise in Cramped Farmworker Housing," S.F. Chronicle, 16 July 2020 <https://napagrowers.org/storage/app/media/PDFs%20for%20Newsroom%20Articles/2020/in-wine-country-coronavirus-cases-rise-in-cramped-farmworker-housing-sfchronicle-7162020.pdf>; see also Mahendra Sethi and Shilpi Mittal, "Improvised Rental Housing to Make Cities COVID Safe in India," Elsevier Public Health Emergency Collection, 9 September 2020 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7480975/>

10. Marisol Cuellar Mejia, Paulette Cha, "Overcrowded Housing and COVID-19 Risk Among Essential Workers," Public Policy Institute of California, 12 May 2020 <https://www.ppic.org/blog/overcrowded-housing-and-covid-19-risk-among-essential-workers/>

11. See e.g., Centers for Disease Control and Prevention (CDC), "Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters – Four U.S. Cities, March 27–April 15, 2020," May 1, 2020 <https://www.cdc.gov/mmwr/volumes/69/wr/mm6917e1.htm>



In addition to the risk of COVID-19 infection, the pandemic and the associated economic crisis have brought those without secure housing and land rights a heightened threat of dispossession and exploitation, with particular vulnerabilities for women and indigenous people. According to the World Bank, 40% of economies restrict women's property rights, and in many countries, women's access to land and housing is dependent on their relationship to male relatives.¹² Under such circumstances, women and girls whose male relatives succumb to the virus risk disinheritance and land-grabbing by relatives, as has occurred during previous epidemics and post-conflict situations.¹³ These challenges are compounded by the closure of land administration offices and courts to which women might otherwise turn to adjudicate and secure their rights.

Concerns about land grabs targeting indigenous lands have also grown during the pandemic. In Brazil, for example, both governmental regulators and indigenous people have been forced by the pandemic to restrict their land patrols, raising fears of illegal land seizures.¹⁴ The government's National Institute of Space Research real-time deforestation monitoring system reported deforestation up 34% between August 2019 and July 2020 compared with the previous year, and advocates say indigenous lands have been particularly vulnerable to illegal exploitation since the pandemic started.¹⁵ According to the UN Special Rapporteur on the rights of indigenous peoples, José Francisco Calí Tzay, his office has received numerous reports that the pandemic has been used to suspend consultations with indigenous peoples and to cut short environmental impact assessments in order to rush through land deals to exploit lands without appropriate checks and balances.¹⁶

The sustained economic impact of the pandemic threatens a significant expansion of those with insecure land and housing rights. Many jurisdictions imposed eviction moratoriums and other relief for tenants and mortgage holders during the early months of the pandemic.¹⁷ Such interventions have provided important short-term relief from threatened housing loss, and transition away from these emergency measures raises new concerns. Lifting eviction moratoriums before economies have recovered could put millions at risk of eviction and uncertain future housing. In the United States, for example, weekly Census Bureau data collected in late July indicated that 18.3% of renters were unable to pay their July rent on time and 33% had slight or no confidence they would be able to make timely August payments. Experts estimate that 30-40 million Americans could be evicted by year's end without additional relief.¹⁸ At the same time,

12. See generally, The World Bank, Women, Business, and Law, January 2020 <https://openknowledge.worldbank.org/bitstream/handle/10986/32639/9781464815324.pdf>

13. Victoria Stanley and Paul Prettitore, "How COVID-19 Puts Women's Land, Housing, and Property Rights at Risk," The World Bank Blog, 5 May 2020, <https://blogs.worldbank.org/sustainablecities/how-covid-19-puts-womens-housing-land-and-property-rights-risk>

14. Richard Pearshouse & Jurema Werneck, "Land Seizures and COVID-19: The Twin Threats to Brazil's Indigenous Peoples," 6 April 2020 <https://www.amnesty.org/en/latest/news/2020/04/land-seizures-and-covid-19-the-twin-threats-to-brazils-indigenous-peoples/>

15. Herton Escobar, "Illegal deforestation in Brazil soars amid climate of impunity," Science, 5 August 2020 <https://www.sciencemag.org/news/2020/08/illegal-deforestation-brazil-soars-amid-climate-impunity> (citing government DETER project data available at <http://terrabrasilis.dpi.inpe.br/app/dashboard/alerts/legal/amazon/aggregated/>); The Brazilian Report, "Deforestation and Land-Grabbing in the Amazon During COVID-19," Wilson Center, 23 June 2020 <https://www.wilsoncenter.org/blog-post/deforestation-and-land-grabbing-ama-zon-during-covid-19>.

16. Office of the High Commissioner for Human Rights, "COVID-19 is devastating indigenous communities worldwide, and it's not only about health—UN expert warns," Press Release, 18 May 2020 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25893&LangID=E>

17. OECD, "Housing Amid COVID-19: Policy Responses and Challenges," 22 July 2020 https://read.oecd-ilibrary.org/view/?ref=135_135322-lju8yj5sib&title=Housing-Amid-Covid-19-Policy-Responses-and-Challenges

18. Emily Benfer, David Bloom Robinson, Stacy Butler, Lavar Edmonds, Sam Gilman, Lucas McKay, Zach Neumann, Lisa Owens, Neil Steinkamp, Diane Yentel, "The COVID Eviction Crisis," 7 August 2020 https://nlihc.org/sites/default/files/The_Eviction_Crisis_080720.pdf



economists caution that over the longer term, tenant protection measures such as eviction moratoriums and rent control could distort the housing market, restrict housing supply, increase housing costs, and, as a result, exacerbate housing insecurity.¹⁹

People Working in the Informal Economy

The COVID-19 pandemic has underscored the governance challenges posed by the informal economy, where the majority (62%) of workers globally are employed. The rate of informal employment is highest in low-income (90%) and middle-income countries (67%) but also significantly prevalent in high-income countries (18%). As with those who lack legal identity or secure land and housing rights, the risks the pandemic poses to those working in the informal economy are both health-related and economic.²⁰

Of the 2 billion informal workers globally, an estimated 1.6 billion workers may lose their livelihoods because of the COVID-19 crisis.²²

Informal workers are at greater risk of COVID-19 infection because much of their work cannot be done remotely, and most must work to sustain themselves.²¹ Those employed in farmwork, food preparation, sales, delivery, and care-giving, for example, have been deemed essential workers. On the job, informal workers enjoy weaker occupational safety protections and have limited capacity to insist on appropriate social distancing or personal protective equipment in the workplace. Where health insurance is employer-provided or requires legal identity, informal workers, who are often undocumented, are excluded from protection and struggle to obtain care if they become ill.

Beyond the health risks to informal workers and their families, the pandemic has dramatically exposed their precarious economic position, as hundreds of millions have lost their jobs and livelihoods. Of the 2 billion informal workers globally, an estimated 1.6 billion workers may lose their livelihoods because of the COVID-19 crisis.²² According to an International Labour Organization study, 55 million domestic workers, 76% of them employed informally, lost their jobs or saw reduced working hours in the first three months of the pandemic.²³ In South Africa alone, the government has identified 6 to 8 million informal workers, more than 10% of the population, as earning no income due to the impact of COVID-19 and related lockdown measures during the first months of the pandemic.²⁴ Furthermore, most countries have

19. OECD, "Housing Amid COVID-19: Policy Responses and Challenges," 22 July 2020 https://read.oecd-ilibrary.org/view/?ref=135_135322-lju8yj5sib&title=Housing-Amid-Covid-19-Policy-Responses-and-Challenges

20. International Labour Organization, "COVID-19 Crisis and the Informal Economy," May 2020 https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/briefingnote/wcms_743623.pdf

21. Anders Gerdin, Alexandre Kolev, "Why Protecting Informal Economy Workers is So Critical in Time of COVID-19," OECD Development Matters, 17 April 2020 <https://oecd-development-matters.org/2020/04/17/why-protecting-informal-economy-workers-is-so-critical-in-time-of-covid-19>

22. CGAP, "Relief for Informal Workers: Falling through the Cracks in COVID-19." Research & Analysis Publication. August 2020. <https://www.cgap.org/research/publication/relief-informal-workers-falling-through-cracks-covid-19>

23. International Labour Organization, "Factsheet: Impact of the Covid-19 on loss of jobs and hours among domestic workers," 15 June 2020. https://www.ilo.org/global/topics/domestic-workers/publications/factsheets/WCMS_747961/lang--en/index.htm

24. CGAP, "Relief for Informal Workers: Falling through the Cracks in COVID-19." Research & Analysis Publication. August 2020. <https://www.cgap.org/research/publication/relief-informal-workers-falling-through-cracks-covid-19>



excluded informal sectors in their economic relief programs, exacerbating the economic impact on these vulnerable households. Others, such as Bangladesh, Egypt, Brazil, and Peru, have implemented legislation to extend social safety nets and implement cash transfers to informal workers. Nonetheless, insufficient information about the target populations and inadequate delivery mechanisms mean that even aid intended for informal workers often misses the mark.²⁵

Many of these overlapping injustices are experienced disproportionately by women, minorities, migrants, refugees, and other disadvantaged populations, and these groups have also been affected particularly acutely by the pandemic.

Given that 34% of informal workers already live in poorer households, the combination of this loss of income and inadequate access to benefits will result in increased food insecurity and poverty.²⁶ In fact, recent World Bank estimates predict that between 71 and 110 million people will be pushed into extreme poverty, with regions that have large informal economies, such as Sub-Saharan Africa and South Asia, hit the hardest.²⁷ Proper protection for informal workers and targeted economic support must be key components of pandemic recovery plans.

Women, Migrants, Refugees, and Minorities

As the foregoing discussion suggests, many who fall in the justice gap experience overlapping or cascading injustices. For example, those without legal identity often struggle to secure their land or housing rights and generally can find work only in the informal sector. Many of these overlapping injustices are experienced disproportionately by women, minorities, migrants, refugees, and other disadvantaged populations, and these groups have also been affected particularly acutely by the pandemic.

Women are disproportionately represented among those without proof of legal identity or secure land or housing rights, and they are particularly vulnerable to the impacts of the pandemic outlined above. Globally, more men work in the informal sector than do women. In a majority of countries, however, and in most countries in Sub-Saharan Africa, South Asia, and Latin America, more women than men work in the informal sector, struggling during the pandemic with heightened risk of the virus and dramatic unemployment and loss of income.²⁸ In many countries, women are disproportionately represented in health care and other care-giving jobs, putting them on the COVID-19 front lines.²⁹

25. Ibid.

26. Anders Gerdin and Alexandre Kolev. "Why protecting informal economy workers is so critical in time of COVID-19," Organisation for Economic Cooperation and Development Blog, 17 April 2020. <https://oecd-development-matters.org/2020/04/17/why-protecting-informal-economy-workers-is-so-critical-in-time-of-covid-19/>

27. Daniel Gerszon Mahler, Christoph Lakner, R. Andres Castaneda Aguilar, and Haoyu Wu. "Updated estimates of the impact of COVID-19 on global poverty," World Bank Data Blog, 8 June 2020. <https://blogs.worldbank.org/opendata/updated-estimates-impact-covid-19-global-poverty>

28. International Labour Organization, "Women and Men in the Informal Economy: A Statistical Picture," p.20 (2018) https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf

29. Alisha Haridasani Gupta, "Why Women May Face a Greater Risk of Catching Coronavirus," The New York Times, 12 March 2020. <https://www.nytimes.com/2020/03/12/us/women-coronavirus-greater-risk.html>



The economic crisis and job losses are also hitting women hard. In the United States, Canada, the UK, and Spain, for example, in contrast to past recessions when men experienced disproportionate unemployment, the pandemic recession has especially affected women, who are more likely to be employed in retail, personal services, and tourism jobs impacted by quarantine orders.³⁰ How persistent this unemployment is and whether it pushes more women into the informal economy remains to be seen.

Compounding women's hardship during the pandemic, many are facing heightened vulnerability to gender-based violence. Prior to the pandemic, globally about 1 in 3 women experienced some form of violence in their lifetime.³¹ Now the situation is exacerbated by increased financial stress, confinement in crowded living spaces, and isolation. From the first weeks of the pandemic, jurisdictions across the globe began to see domestic violence reports surge by 25% or more. Colombia saw calls to its national domestic violence hotline jump 153% between March 25 and June 11.³² With shelters and courts at reduced capacity and first responders stretched thin, the growing number of domestic violence victims have had limited recourse for protection during the pandemic.

Migrants, refugees, and forcibly displaced persons make up another cohort of the justice gap that is particularly vulnerable to the COVID-19 pandemic. As previously noted, economic migrants often live in temporary, cramped, or substandard accommodations, lack documentation, and work in the informal economy, thus facing risk from the pandemic on the multiple fronts outlined above. They are more likely to live and work under conditions that expose them to the virus, less likely to have access to health care if they get sick, and more likely to lose their jobs.³⁴

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30. Titan Alon, Matthias Doepke, Jane Olmstead-Rumsey and Michèle Tertilt, "Impact of the COVID-19 Crisis on Women's Employment," *Econofact*, 27 August 2020 <https://econofact.org/impact-of-the-covid-19-crisis-on-womens-employment#:~:text=During%20the%20Covid%2D19%20recession,increase%20of%209.9%20percentage%20points>; World Trade Organization, "Information Note: The Economic Impact of COVID-19 on Women in Vulnerable Sectors and Economies," 3 August 2020 https://www.wto.org/english/news_e/news20_e/info_note_covid_05aug20_e.pdf

31. World Health Organization, Department of Reproductive Health and Research, London School of Hygiene and Tropical Medicine, South African Medical Research Council, *Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence*, (2013).

32. UN Women, "The Impact of COVID-19 on Women," 9 April 2020 <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=5029>; UN Women, "COVID-19 and Ending Violence Against Women and Girls," 2020. <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf?la=en&vs=5006>

33. United Nations, "Global Humanitarian Response Plan: COVID-19," Annexes, July Update, p.16, July 2020 https://www.unocha.org/sites/unocha/files/GHRP-COVID19_Annexes_July_update.pdf

34. United Nations, "Policy Brief: COVID-19 and People on the Move," June 2020 <https://unsdg.un.org/sites/default/files/2020-06/SG-Policy-Brief-on-People-on-the-Move.pdf>

35. International Organization for Migration, Statement: COVID-19 and Mobility, 29 May 2020 https://www.iom.int/sites/default/files/institutional_statement_covid19_28052020.pdf

36. Lorenzo Guadagno, "Migration and the COVID-19 Pandemic: An Initial Analysis," IOM Migration Policy Series No. 60, p. 11 (2020) <https://publications.iom.int/system/files/pdf/mrs-60.pdf>



Moreover, pandemic-related border closures, travel restrictions, and lockdowns have left many migrant workers stranded. Migrants thus forced to overstay their authorization, as well as those whose residency was tied to a job they have lost, have been thrust into an undocumented status, further increasing their vulnerability.³⁵ Some jurisdictions have given undocumented migrants temporary status to facilitate their access to benefits and health care, while others have released undocumented migrants from detention to reduce infection risk.³⁶ Nonetheless, some jurisdictions continue to detain undocumented migrants in cramped and unsanitary conditions with inadequate testing and health care, significantly exacerbating viral spread. In the United States, for example, Immigration and Customs Enforcement detention centers were reported to have a 20% test positivity rate among detainees held between February and July 2020, three times higher than in the general population.³⁷

Like migrants, the nearly 70 million asylum seekers, refugees, and others forcibly displaced across the globe face threats to their health and well-being from the pandemic. Humanitarian agencies have warned of the risk of infection in the cramped conditions that prevail in many refugee camps and other temporary accommodations, but fortunately, as of late September 2020, there had been no major outbreaks among refugees. The greater concern has been the impact of the economic crisis on displaced people's already precarious access to food, shelter, and health care. The Office of the UN High Commissioner for Refugees (UNHCR) has described COVID-19 as "a force multiplier," making the needs of people it serves more acute at a time when humanitarian resources are stretched thin.³⁸ In addition to these humanitarian concerns, rights groups have reported discriminatory policing and restrictions on movement applied to refugees and asylum seekers as well as xenophobic scapegoating of refugees for spreading the virus.³⁹ Border closures and limitations on governments' capacity to register and adjudicate asylum claims have created significant obstacles to the right to seek asylum among those fleeing persecution and conflict.⁴⁰

More generally, minority communities throughout the world have suffered disproportionately from the pandemic. The coronavirus crisis has held a mirror up to our societies, reflecting the effects of discrimination against religious, ethnic, and racial minorities as these communities suffer a disproportionate share of virus cases and

37. International Rescue Committee, "COVID-19 escalating in ICE detention centers as states hit highest daily records - and ICE deportation flights into Northern Triangle continue," 3 August 2020 <https://www.rescue.org/press-release/covid-19-escalating-ice-detention-centers-states-hit-highest-daily-records-and-ice>

38. UNHCR, "Consequences of Underfunding in 2020," September 2020 <https://www.unhcr.org/underfunding-2020/wp-content/uploads/sites/107/2020/09/Underfunding-2020-Full-Report.pdf>

39. See e.g., International Center for Transitional Justice, "Special Report on COVID-19: Keeping Justice In Sight," 19 May 2020 <https://www.ictj.org/news/special-report-covid-19-keeping-justice-sight>; Freedom House, "Democracy under Lockdown - The Impact of Covid-19 on Global Freedom," 2 October 2020. https://freedomhouse.org/sites/default/files/2020-10/COVID-19_Special_Report_Final_.pdf; Helen Dempster, Thomas Ginn, Jimmy Graham, Martha Guerrero Ble, Daphne Jayasinghe, and Barri Shorey, "Locked down and left behind: the impact of covid-19 on refugees' economic inclusion" Center for Global Development, Refugees International and International Rescue Committee. 8 July 2020. <https://www.refugeesinternational.org/reports/2020/7/6/locked-down-and-left-behind-the-impact-of-covid-19-on-refugees-economic-inclusion>; Amnesty International, "Europe: COVID-19 lockdowns expose racial bias and discrimination within police," 24 June 2020. <https://www.amnesty.org/en/latest/news/2020/06/europe-covid19-lockdowns-expose-racial-bias-and-discrimination-within-police/>

40. See generally, UNHCR COVID-19 Platform: "Temporary Measures and Impact on Protection" (data on national measures updated bi-weekly, last visited October 4, 2020) <https://data2.unhcr.org/en/dataviz/127?sv=44&geo=0>. For a more detailed discussion of violations of the rights of refugees and asylum-seekers and other threats to fundamental rights during the pandemic, see World Justice Project, "Fundamental Rights and the COVID-19 Pandemic," September 2020 <https://worldjusticeproject.org/sites/default/files/documents/fundamental-rights-v4.pdf>



deaths in many countries around the world.⁴¹ The result of deep-seated inequities in housing, labor, health, and education systems, the vulnerability of our minority communities poses a serious challenge to efforts to contain the COVID-19 pandemic.

Minorities are more likely to work in frontline essential jobs in groceries, public transport, trucking and delivery, and health care. Moreover, like women and migrants, minorities are more likely to work in the informal sector or in low-wage jobs that do not come with paid sick leave, so when they get sick they cannot afford to stay home. Even if they could stay home, housing discrimination means many minority populations are more likely to live in cramped and substandard housing where social distancing is difficult to achieve and the virus can readily spread. For example, UK government data indicates that while just 2% of white British households live in overcrowded conditions, the numbers are starkly higher for Bangladeshis (24%),

*The coronavirus crisis has held a mirror up to our societies, reflecting the effects of discrimination against religious, ethnic, and racial minorities as these communities suffer a disproportionate share of virus cases and deaths in many countries around the world.*⁴¹

Pakistanis (18%), Black Africans (16%), and Arabs (14%).⁴²

Minorities who get sick may also face discrimination in the health system and struggle to access care. In a 2019 survey of public health professionals carried out by the World Justice Project in 128 countries, 23% said that ethnic minorities were “likely” or “very likely” to receive lower quality health care from a public clinic. The Council of Europe has cautioned against discrimination in the context of the COVID-19 crisis “compromising the human rights of Roma and hampering their equitable access to the provision of basic public services, most importantly health care, sanitation, and even fresh water.” In the United States, the Center for Disease Control has also issued guidance to health care professionals to guard against bias and other barriers to equitable care. Past experience may make many minorities distrustful or fearful of public health institutions. Others may have been denied a basic education, and their illiteracy may impede public health messages reaching them.

These various aspects of discrimination have the cumulative impact of dramatically higher death rates for COVID-19 for ethnic and racial minorities. For example, data from the first three months of the pandemic showed African Americans in the United

41. See generally Johns Hopkins Medicine, “Coronavirus in African Americans and Other People of Color,” (Interview with Sherita Hill Golden, M.D., M.H.S.) <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/covid19-racial-disparities>; Catherine Powell, “Color of COVID: The Racial Justice Paradox of Our New Stay-at-home Economy,” CNN Opinion, 18 April 2020 <https://www.cnn.com/2020/04/10/opinions/covid-19-people-of-color-labor-market-disparities-powell/index.html>

42. Gov.UK, “Overcrowded households,” 9 September 2020 <https://www.ethnicity-facts-figures.service.gov.uk/housing/housing-conditions/overcrowded-households/latest>

43. World Justice Project, Data collected through the WJP Rule of Law Index Qualified Respondents Questionnaire in 2019, on file with author.

44. Council of Europe, “Joint Statement by Marija Pejčinović Burić, Council of Europe Secretary General, and Helena Dalli, European Commissioner for Equality,” 7 April 2020 <https://www.coe.int/en/web/portal/-/8-april-international-roma-day-step-up-human-rights-protection-for-roma-and-guarantee-their-access-to-vital-services-during-covid-19-pandemic>

45. Center for Disease Control, “COVID19 and Racial and Ethnic Minority Groups,” 22 April 2020. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>



States more than twice as likely as other Americans to die from the virus, while in England and Wales, death rates for Black, Pakistani, and Bangladeshi people were almost twice the rates for white people.⁴⁶

Over the longer term, the socio-economic impact of the pandemic risks reinforcing inequality for minorities in many countries, as they experience disproportionate unemployment, housing and food insecurity, and disruptions in education.

Justice Systems Stretched to the Brink

Prior to the pandemic, justice systems the world over, in developing and developed countries alike, were already failing to meet people's everyday legal needs. As the COVID-19 crisis pushes hundreds of millions more out of housing and jobs and into debt, the challenge of unmet legal needs is exploding and overwhelming courts and legal service providers.

In many jurisdictions, the requirements of social distancing have shuttered courts and the offices of lawyers and legal assistance agencies, dramatically reducing services just at the time when needs are growing.⁴⁷ Many institutions are innovating, shifting to online or telephonic services, and enabling justice systems to meet some urgent

Solving these justice problems as part of the pandemic response and recovery is essential to rebuilding more resilient and just societies and making progress on the 2030 Agenda.

needs, but those who lack access to such technology will remain underserved. The combination of significant growth in need and overstretched justice institutions means that WJP's 2019 estimate of 1.4 billion people globally who have unmet civil legal needs will dramatically expand over the course of the COVID-19 crisis and beyond—unless new ways of thinking are brought to bear on efforts to deliver justice.⁴⁸

Priorities for a Just Recovery

As detailed above, the pandemic has underscored the magnitude and significance of the justice gap. The COVID-19 crisis and its disproportionate impact on those in the justice gap highlight the sheer number of people with unmet justice needs and how the injustices they suffer affect their individual health and well-being and that

46. "Address 'Appalling Impact' of COVID-19 on Minorities, UN Rights Chief Urges," UN News, Statement of UN High Commissioner for Human Rights Michelle Bachelet, 2 June 2020 <https://news.un.org/en/story/2020/06/1065272>

47. See e.g., European Commission for the Efficiency of Justice (CEPEJ), Council of Europe, "National Judiciaries COVID-19 Emergency Measures of COE Member States," https://www.coe.int/en/web/cepej/national-judiciaries-covid-19-emergency-measures-of-coe-member-states/-/blogs/test-blog-cepej?_33_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcepej%2Fnational-judiciaries-covid-19-emergency-measures-of-coe-member-states%3Fp_p_id%3D33%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_pos%3D2%26p_p_col_count%3D3

48. For a thorough survey of the challenges posed to justice systems by the pandemic and the associated economic crisis, as well as promising policy responses, see Pathfinders for Peaceful, Just, and Inclusive Societies, "Justice for All and the Public Health Emergency," April 2020 https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/6c192f_1e8d8e91cfec4098b7b26db9cd296d30.pdf; Pathfinders for Peaceful, Just, and Inclusive Societies, "Justice for All and the Economic Crisis," July 2020 https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/6c192f_0658a70ae607408098643815ab855a65.pdf



of society as a whole. Solving these justice problems as part of the pandemic

response and recovery is essential to rebuilding more resilient and just societies and making progress on the 2030 Agenda.

Bridging the justice gap in the midst of the pandemic is daunting, but already we can differentiate between societies that are doing relatively well and those that are struggling. Promising strategies are emerging, and the pandemic has brought urgency to supporting and scaling them. As outlined below, immediate steps are required to address the acute impact of the crisis on those in the justice gap. Over the longer term, the recovery effort must be designed with a particular focus on addressing the systemic injustices that the pandemic has revealed and reinforced.

Meeting Immediate Term Needs

As communities continue to reel from successive waves of the virus and its economic impacts, special attention should be paid to the needs of those in the justice gap who might otherwise fall through social safety nets.

Governments should take steps to **extend emergency benefits to those who might otherwise be excluded due to lack of legal identity, permanent housing, or formal employment**. A number of jurisdictions are stretching to meet these needs, but challenges remain in identifying and reaching populations that are often invisible to social services. **Particular attention should be paid to providing health information and access to COVID-19 health care for traditionally excluded groups.**⁴⁹ Failure to do so puts affected populations and the broader community at risk from the pandemic.⁵⁰ **Moratoriums on evictions have played an important role in cushioning the economic blow and staving off a housing crisis in many localities.** In the short term, these should be extended, transitioning over time to other forms of social support for housing for those in need.⁵¹

Temporary protected status is recommended to support access of migrants to vital services and protection. Jurisdictions should consider releasing undocumented migrants from detention where necessary to relieve overcrowding and reduce infection risk among detainees.

Governments should focus on the particular justice needs of women in the context of the pandemic, including taking emergency steps to make information, resources, and shelter available to victims of domestic violence. Interventions should also take into account women's particular vulnerabilities to unemployment and to dispossession of land, housing, and inheritance rights in the context of the pandemic.

49. See generally, UN High Commissioner for Refugees (UNHCR), *The Impact of COVID-19 on Stateless Populations: Policy Recommendations and Good Practices*, 11 May 2020, available at: <https://www.refworld.org/docid/5eb2a72f4.html>

50. World Health Organization (WHO), "WHO interim guidance note Health system response to COVID-19 in the context of internally displaced persons, refugees, migrants and returnees in the Eastern Mediterranean Region," 7 April 2020 <https://applications.emro.who.int/docs/EMCSR279E.pdf?ua=1&ua=1>

51. OECD, "Housing Amid COVID-19: Policy Responses and Challenges," 22 July 2020 https://read.oecd-ilibrary.org/view/?ref=135_135322-lju8y-j5sib&title=Housing-Amid-Covid-19-Policy-Responses-and-Challenges; United Nations, Office of the High Commissioner for Human Rights, "Ban Evictions During COVID-19, UN Expert Urges," 18 August 2020 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26170&LangID=E>



Governments should take measures to support people registering vital events, obtaining legal identification, and maintaining residency and work authorizations notwithstanding the disruption of the pandemic. Recommended practices include maintaining birth and death registration and other identification services as “essential services,” exempting relevant offices from lockdown; relaxing documentation requirements and deadlines; and leveraging new digital technologies for remote registration of vital events.⁵²

Courts and law offices should maintain services, leveraging technology to provide legal services online and by telephone, as well as in person. Innovative approaches should be embraced to meet surging demand for legal services and adjudication, particularly for matters relating to housing, debt, access to social services and benefits, and family disputes expected to rise as a result of the pandemic.⁵³

Tackling the Root Causes of Injustice

Over the longer term, as societies rebuild following the pandemic, addressing the systemic injustices and legal exclusion at the heart of the justice gap must be a priority.

Securing legal identity for all should be a major priority, tapping the potential of new digital technologies to realize this goal. The pandemic has illustrated the difference that advanced digital infrastructure can make in meeting people’s needs and ensuring effective governance, even in a pandemic. In Thailand, Chile, and India, among other jurisdictions, governments have leveraged digital identification systems to deliver emergency pandemic assistance to informal workers, women, and other traditionally excluded groups. Effective systems require significant investment in digital infrastructure and careful design to ensure that no one is left behind. The World Bank’s Identification for Development (ID4D) Initiative is marshalling the resources and know-how to meet these challenges and deserves attention and support.⁵⁴

Secure land rights can be a powerful enabler of economic opportunity and well-being, yet in many countries much of the land remains governed by informal and customary rules, leaving landowners at risk of dispossession and exploitation. As COVID-19 and the economic crisis drive massive de-urbanization, the pressure on land and the risks of land grabs and conflict are growing. In the wake of the pandemic, **governments should redouble their efforts to undertake land reform and adopt and implement laws that clarify people’s rights** in the land on which they depend.⁵⁵

The pandemic has also highlighted the critical role of housing in health and well-be-

52. UN High Commissioner for Refugees (UNHCR), *The Impact of COVID-19 on Stateless Populations: Policy Recommendations and Good Practices*, 11 May 2020. <https://www.refworld.org/docid/5eb2a72f4.html>

53. See generally, Pathfinders for Peaceful, Just, and Inclusive Societies, “Justice for All and the Public Health Emergency,” April 2020 https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/6c192f_1e8d8e91cfec4098b7b26db9cd296d30.pdf; Pathfinders for Peaceful, Just, and Inclusive Societies, “Justice for All and the Economic Crisis,” https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/6c192f_0658a70ae607408098643815ab855a65.pdf

54. Mari Elke Pangestu, “Harnessing the Power of Digital ID,” World Bank Blogs, 20 August 2020. <https://blogs.worldbank.org/voices/harnessing-power-digital-id>



ing and the risks posed by overcrowded, substandard housing and homelessness. WJP's research highlights how vulnerable people are with respect to their housing, the prevalence of legal problems relating to housing, the failure of justice systems to solve these problems, and the significant impact on people's lives. **As governments develop plans to "build back better," priority should be given to improving people's**

access to affordable quality housing, strengthening and enforcing housing standards, and developing equitable mechanisms for the resolution of landlord-tenant disputes.

The post-pandemic period should also lend renewed urgency to efforts to address informality as a critical strategy for improving labor conditions, strengthening social protection, and combating poverty. **Governments should make good on the historic ILO Recommendation on Transition from the Informal to the Formal Economy,** adopted by the International Labour Conference in June 2015.⁵⁶

More broadly, **the pandemic must serve as an urgent call to address systemic discrimination and exclusion suffered by women, minorities, migrants, refugees, and other marginalized communities in all societies.** The Decade of Action toward achievement of the 2030 goals should begin with initiatives to address the marginalization of these populations that the pandemic has highlighted. This effort requires reform of discriminatory laws and practice in a broad range of areas, from inheritance to employment and criminal justice; educational programming; and confidence-building measures across communities. "Leave no one behind" is an empty promise if this fundamental rule of law work is not done.

Finally, creative "outside-the-box" reform of how justice systems serve people will be required. Certainly this should entail investments in expanded legal services, including pro bono efforts, and more accessible courts. But the data suggest that the scale and nature of civil justice needs are such that we cannot bridge the gap with simply more judges and lawyers. Justice systems will need to evolve to meet peoples' needs, including by expanding legal information and educational programming, tapping the capacity of trained non-lawyer assistants to help people, and harnessing artificial intelligence and technological tools to find efficient, fair, legal solutions to everyday justice problems.

The WJP is convening its [2021 World Justice Challenge](#) on a theme of "Advancing the Rule of Law in a Time of Crisis," to crowdsource and support the most effective solutions to the pressing rule of law challenges posed by the pandemic, including those outlined in this policy brief. We invite readers to nominate solutions to the Challenge competition and to share learning about the most promising strategies for a pandemic recovery that will help move the world closer to justice for all.

55. Rachel McMonagle, "Secure Land Rights: A Sustainable Solution at the Intersection of Climate Change and COVID-19," Skoll Foundation Blog, 20 September 2020 <https://skoll.org/2020/09/20/secure-land-rights-a-sustainable-solution-at-the-intersection-of-climate-change-and-covid-19/>

56. International Labour Organization, "Ways out of informality: How a new ILO standard tackles the informal economy trap," 23 June 2015 https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_377771/lang--en/index.htm

Resources

[Identification for Development \(ID4D\)](#) – The World Bank

[COVID-19 and the World of Work](#) – International Labor Organization

[COVID-19 Issue Briefs](#) – International Organization for Migration

[Justice in a Pandemic Briefings](#) – Pathfinders for Peaceful, Just, and Inclusive Societies

[Rule of Law and COVID-19 Policy Brief](#) – International Development Law Organization

[Delivering Justice in the COVID-19 Crisis](#) – Hague Institute for the Innovation of Law

[Guidance Note: Ensuring Access to Justice During COVID-19](#) – UN Office of Drugs and Crime; UN Development Programme