

JUSTICE FOR ALL AND THE ECONOMIC CRISIS



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Justice in a Pandemic – Briefing Two

Justice for All and the Economic Crisis

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Introduction

The Fire Court

Just over 350 years ago, a city already ravaged by plague was hit by a devastating fire. The devastation of London was recorded by member of Parliament and diarist, Samuel Pepys, as people threw their possessions into the river or stayed in their houses until it was almost too late. It was “a most horrid malicious bloody flame,” he wrote, “not like the fine flame of an ordinary fire.”¹

In today’s money, the fire caused nearly \$2 billion of damage. It also created a seemingly intractable web of justice problems. The law at that time made tenants – and not their landlords – liable for rebuilding the buildings they lived or worked in. They were also required to keep paying rent, even for properties that had been burned to the ground.

With most of the city destroyed, reconstruction and the economic recovery that depended on it could not proceed on these terms. Even if they could afford it, tenants had no incentive to rebuild if they were on short leases. Landlords had no way to force them to meet their obligations, other than by flooding dysfunctional courts with litigation.

The potential consequences were severe.² The homeless – many living in the streets – could not be rehoused. Investors – among them charities, churches, and widows – had no income at a time when the economy was already suffering. The government could not collect taxes. And all this at a time when the pressure was on to build back better, with more expensive brick houses that would protect the city from future fires.

The solution was a bold piece of justice innovation, as an emergency “Fire Court” was established. Where normal courts were slow, it was quick, resolving three or four cases each day. Where they were adversarial, it settled most cases by mediation and mutual agreement.³ And whereas justice was normally expensive, inequitable, and corrupt, the Fire Court offered a cheap way for parties to solve their problems, using plain language rather than legal jargon, and with judges barred from charging fees for their work.

In its nine years of existence, the Fire Court proved highly effective, clearing the way for London to be reconstructed. But it was also fair. A principle for judges when deciding who should foot the bill was parties’ respective ability to pay. As the legislation that set up the court put it, “*it is just that every one concerned should beare a proportionable share of the losse according to their severall Interests.*”⁴

“it is just that every one concerned should beare a proportionable share of the losse according to their severall Interests.”

An Economic Crisis

The COVID-19 pandemic creates similar demands for justice innovation to protect livelihoods, prevent cascading economic damage, and provide a foundation for economic renewal that is fair and equitable.

This is an emergency with three layers:

- A public health emergency that will last until a vaccine is produced and distributed or until sufficient people have been infected that societies acquire herd immunity.
- An economic crisis that will take years fully to unfold and which could last for much of this decade.
- A broader political, social, and cultural dislocation that will transform societies over a generation, fueled by the pandemic exposing stark inequalities, and which risks weakening our capacity to work together to solve current and future problems.

Each of these layers has a justice dimension. In our first briefing – *Justice for All and the Public Health Emergency* – we set out recommendations for how justice systems and actors should respond to the health impacts of the pandemic (see page 5).

This second briefing explores the justice implications of what the World Bank has forecast will be the worst economic depression in eighty years.⁵ The Bank has warned countries to expect “staggering” impacts, but we cannot yet know how serious the damage will be or how effectively government policies will mitigate them.

In any scenario, however, the need for justice will continue to change and increase. Many businesses – and possibly whole industries – face insolvency.⁶ Large numbers of people will lose their jobs or be pushed into the informal sector.⁷ Food insecurity will increase and levels of poverty will soar.⁸ The scars could be lasting, as investment falls, supply chains are damaged, and skills are lost.

This will create demand for economic justice from systems that have seen their already inadequate capacity further eroded by the pandemic. This briefing aims to help justice leaders find innovative ways to meet this demand, while also exploring how justice can catalyze the recovery, give people a fair chance in the economy, and help societies build back better.

The Need for Justice

The first section explores the implications of the economic downturn for common justice problems that have an economic dimension – disputes over housing and land, conflict at work, problems with debt, disputes within families, or trouble obtaining access to public services. We also explore the interaction between economies and crime.

1-2 years
Public health crisis

5-10 years
**Economic, employment
and financial crisis**

A generation
or longer
**Political, social, and
cultural dislocation**

In each of these areas, the challenge is to put people and their needs at the center, while averting the risk of justice systems becoming overwhelmed in an environment where resources will become scarcer.

In the second section, we explore how justice systems can assist recovery by anticipating changing patterns of demand and using this knowledge to solve problems in ways that de-escalate disputes, reduce conflict, and allow people to get on with their lives.

Given the scale of potential demand, justice problems must be prevented from occurring wherever possible, while an honest assessment is needed of the role that justice systems can play in exacerbating disputes. Justice leaders can also use justice systems strategically, collaborating with other sectors and making them a platform for rebuilding and renewing economies.

Justice leaders have at their disposal four levers which will help drive change: the data and evidence they need to set a direction; innovation of the kind that helped London recover from its Great Fire; smarter financing strategies to make the best use of scarce resources; and more diverse partnerships that stretch beyond traditional institutions and structures. Recommendations on actions justice leaders can take, are set out in part three.

Justice leaders are most likely to be effective if they work together, sharing experiences and best practice, making the case for justice and fairness in the economic recovery, and building the global movement for justice for all.

It is time for a commitment to justice in its broadest sense – as a system that protects those who need it most, that promotes fairness in the economy, and that strengthens the bonds which bring us together as a society.

Justice in a Pandemic

As the world confronts the COVID-19 pandemic, the justice sector is on the frontline. The Pathfinders for Peaceful, Just and Inclusive Societies is working with an alliance of justice partners to explore how people-centered justice can help societies manage the fallout from the pandemic and build more just societies for the future.



Justice for All and the Public Health Emergency

This briefing explores the role of justice systems in designing and enforcing public health restrictions, and in responding to rising levels of domestic violence, insecurity, and human rights abuses. It sets out seven key strategies for promoting justice for all in the public health emergency:

- Enforce emergency measures fairly
- Protect people from violence
- Make people partners in tackling the pandemic
- Reduce demand on justice systems via prevention of injustice
- Increase smart working by moving services online
- Protect frontline justice workers
- Prepare for future phases of the efforts to contain the disease

Justice for Women Amidst COVID-19 and Domestic Violence and the COVID-19 Pandemic

This report documents major threats to women's lives and livelihoods during the COVID-19 pandemic, and calls for increased action to prevent and respond to intimate partner violence, address legal and other disadvantages for poor and marginalized women, and support collective action by women and women's organizations. A companion piece shares innovative solutions from around the world developed in response to the spike in domestic violence during the coronavirus pandemic.



Grassroots Justice in a Pandemic: Ensuring a Just Response and Recovery



This brief focuses on grassroots justice defenders, who play a critical part in the pandemic response and recovery, from disseminating public messaging and supporting people to access healthcare to monitoring human rights abuses and other injustices during lockdowns.

www.justice.sdg16.plus/justice-in-a-pandemic

One

The Role of Justice in Tackling the Economic Emergency

The world faces its most threatening economic crisis in almost 100 years. We are already experiencing mass job losses and bankruptcies as part of a sharp economic downturn, and a prolonged global depression is likely as at least 170 countries see their economies shrink.⁹

Previous financial crises and natural disasters triggered demand spikes and compounded existing problems in six key justice areas: crime, housing and land, family disputes, unemployment and bankruptcy, money and debt, and access to services.¹⁰ In a survey of 270 justice leaders from 20 countries, employment problems, debt, and bankruptcy were expected to account for the largest increases in justice problems as a result of the COVID-19 virus.¹¹

It will be difficult for justice systems to meet the increased demand.¹² Even before the pandemic, 1.5 billion people had justice problems they were unable to resolve.¹³ Now, with many formal and informal justice providers suspending services because of the health emergency and likely to face a surge in demand when they reopen, the burden on them will be unprecedented.

In this section of the report, we assess what the pandemic means for justice problems with an economic dimension and make suggestions for how justice actors can help mitigate its negative impacts and speed recovery.



Crime



Housing, land, neighbors



Family disputes



Problems at work



Money, debt,
consumer problems



Access to public
services



Crime

Where we were

Globally, 21 percent of justice problems are related to crime and violence, many of which have an economic dimension.¹⁴ These include burglary and theft, scams and fraud, organized crime, and various forms of exploitation of women and children.¹⁵ Nearly half of businesses experienced fraud in a two-year period, including fraud by customers, cybercrime, asset misappropriation, and bribery and corruption.¹⁶

Almost one-third of consumers in India have been or know someone who has been a victim of card or digital payments fraud.¹⁷ In the United States, following the 2008 financial crisis, insider trading profitability increased dramatically, as politically-connected insiders benefited from advance knowledge of economic relief programs.¹⁸

What's changed

With millions confined to their homes, online fraud and identity theft have increased.¹⁹ The spike in violence against women is often linked to their economic marginalization. Hoaxes involving masks, hand sanitizers, and testing kits have proliferated.²⁰ Burglaries and other economic crimes may increase after lockdowns are lifted.²¹ Growing numbers of informal sector workers are vulnerable to corruption, extortion, and abuse.

In March and April 2020, \$22 million were lost to scams in Australia, a 47 percent increase on the same period in 2019.²² In Tunisia, an anti-corruption investigation was launched after a contract for providing citizens with facemasks was awarded to a parliamentary deputy.²³

What it means

Economic empowerment can help protect women from domestic violence. Fighting cybercrime demands new skills and expertise and international cooperation as it proliferates across borders. Victims of online crime and scams will require support and possibly compensation. Corruption related to economic rescue efforts risks hampering containment, reducing trust in institutions, and destabilizing societies.

In Panama, as well as other countries, citizens struggling to survive during lockdowns have resorted to looting.²⁴ Wealthy individuals in the United States have exploited loopholes by setting up limited liability companies to benefit from emergency government-backed loans.²⁵

How to respond

The millions of people who do not report non-violent crimes require safer and better publicized reporting systems, more user-friendly processes, and confidence that a report will be acted on.²⁶ Preventing online crime relies on public education, anonymous hotlines, and training of businesses to develop anti-fraud plans. Corruption can be exposed if there is a free press and support for on-the-ground advocacy, particularly in marginalized communities.

South Africa's Banking Risk Information Centre warns customers about the increased risks of phishing scams during the pandemic.²⁷ In Liberia, advocacy by women's groups established to give women a space to discuss the war has resulted in the firing of corrupt politicians.²⁸

People

Increased vulnerability to online fraud and other economic crimes.

Economies

Corruption and diversion of bailout and relief funds. Crime delays recovery and raises the costs of rebuilding.

Societies

Corruption and fraud erode trust in government and, between citizens, increase risk of unrest. Displacement of government by non-state actors if security forces' salaries go unpaid.



Housing, land, and neighbors

Where we were

The *Justice for All* report showed that 22 percent of justice problems people had experienced in the previous two years related to housing, land or neighbors. These included disputes over boundaries, noise, land use, and livestock, as well as disputes between landlords and tenants and between lenders and mortgage-holders.²⁹ Land grabs are a further widespread problem, reflecting power imbalances that prevent marginalized communities from claiming their rights.

2.3 billion people worldwide lack proof of housing or land tenure.³⁰ In a 2019 survey in 33 countries, one in four people reported feeling insecure about their land and property.³¹

What's changed

The economic crisis is making it harder for tenants and mortgage-holders to meet their financial obligations. In the UK, 2.6 million private renters have missed or expect to miss rental payments because of the virus.³² Foreclosures on mortgages are projected to spike within six months,³³ while there have been reports of land-grabbing and plundering of natural resources in developing countries during lockdowns.³⁴

India's most populous state, Uttar Pradesh, has seen a 400 percent increase in formal disputes over land and property as migrant workers have returned from cities to their villages.³⁵ Evictions have gone ahead in countries such as China, Kenya, and the United States despite moratoria.³⁶

What it means

Without a sustained and effective policy response, as moratoria and emergency relief programs end, justice systems will face a sharp increase in disputes over evictions, foreclosures and, potentially, land-related conflict. Balancing the rights of landlords and tenants, lenders and mortgage-holders, and land-based industries and local people will be critical to ensuring the virus does not further exacerbate poverty, marginalization, and public anger. Short-term financial difficulties among homeowners, moreover, could lead to shifts in ownership of real estate that augment inequality.³⁷

Germany has banned evictions and terminations of rental contracts until April 2021 – while landlords can go to court to attempt to reclaim debts, they cannot eject tenants.³⁸ South Africa banned evictions for the duration of the country's lockdown.³⁹

How to respond

Justice systems need better data on why land, housing, and neighborly disputes arise. The financial burden of the housing crisis should be shared equitably across society.⁴⁰ Courts could prioritize cases in the most marginalized areas to limit harms caused by delays. Moratoria on evictions provide an opportunity to bring together landlords' and tenants' associations to set principles for fairer eviction processes. Investing in legal empowerment and recognizing community land rights for housing and land disputes will lead to more equitable outcomes.⁴¹

New York City's guarantee of free legal representation to low-income residents facing eviction cut evictions by 5 percent in a year and results in significant savings in social spending.⁴² The UK government is to build 6,000 housing units that will provide long-term housing for homeless people who have been in temporary accommodation during lockdown.⁴³

People

Increased evictions and mortgage foreclosures, increased homelessness, food insecurity, and economic hardship.

Economies

Property market price volatility. Food shortages. Changing patterns of demand (especially for commercial property). Mortgage providers at risk.

Societies

Increased grievances as communities lose access to housing, land, natural resources, and livelihoods. Increased inequality. Health risks exacerbated by homelessness or overcrowding.



Family disputes

Where we were

Before the coronavirus, approximately 9 percent of legal problems people experienced were family related.⁴⁴ Disputes are linked to child support payments, divorce and separation, maintenance payments, and inheritance. In a number of countries, family laws that favor men mean millions of women face barriers to inheriting or obtaining a fair share of matrimonial property, and many risk losing their homes and livelihoods due to abandonment or the death of a partner.

Worldwide, women and children are hit hardest by the negative impacts of family disputes.⁴⁵ Seventy-five countries limit a women's right to access, own, and administer assets.⁴⁶

What's changed

With 400,000 additional deaths worldwide by June 2020, COVID-19 will increase inheritance disputes.⁴⁷ The economic crisis renders it harder for parents to maintain child support payments, and changes in income will, in many cases, require revisions of agreements.⁴⁸ Increasing divorce rates during lockdowns heighten the risk of financial disputes.⁴⁹ Investment in reproductive health and other services critical to women's economic empowerment is reduced.⁵⁰

In Helsinki, Finland, one-third more couples filed for divorce in early April compared to the same period in 2019.⁵¹ A charity in the UK has warned that thousands of children face poverty due to discontinued maintenance payments.⁵²

What it means

Increases in inheritance, divorce, maintenance, and child support cases while court services in most countries are suspended will lead to backlogs that could further weaken litigants' economic circumstances. Government measures to allow those who make maintenance payments to reduce or suspend them imperil recipients' economic security.⁵³ The increase in unexpected deaths will complicate inheritance cases where no will has been made.

Widows in Kenya have been evicted from their homes as they are seen as an unsustainable burden during lockdowns.⁵⁴ Women who depend on alimony payments in Egypt have been unable to go to court to contest their withdrawal.⁵⁵

How to respond

Justice systems must ensure women's rights are protected, and the crisis is an opportunity to scrap laws that allow husbands to limit women's economic participation or that discriminate against women over inheritance. Courts can prioritize those most in need, especially those from marginalized communities. Moving family dispute resolution online during and after the pandemic can reduce costs as well as the stress of face-to-face interaction. Online will writing and video link witnessing can reduce intestacy.

In Kenya, paralegals help hospice patients with terminal illnesses to make end-of-life legal arrangements.⁵⁶ Legal aid clinics for low-income women and children in Ecuador have helped increase the proportion of women who receive child support.⁵⁷





Problems at work, in formal and informal sectors

Where we were

In pre-coronavirus times, 8 percent of people's legal needs worldwide were related to employment or their businesses.⁵⁸ People suffer from harassment, discrimination or a lack of safety in the workplace; are denied wages, benefits or permits; are unfairly dismissed; or, for two-thirds of workers, experience problems related to working in the informal sector.⁵⁹

After the 2008 financial crisis, New York City's Legal Aid Society experienced a 30 percent increase in demand related to employment cases.⁶⁰ In developing countries, 70 percent of women's employment is in the informal sector, where labor protections and rights are absent or weak.⁶¹

What's changed

Lockdowns have denied many of the world's 2.1 billion informal sector workers their right to work, increasing their vulnerability to poverty, exploitation, and health threats.⁶² Incipient recessions have led to spikes in unemployment and bankruptcies,⁶³ with the worst impacts falling on the young and marginalized.⁶⁴ Financial support programs provide relief to some but access is often problematic. The pandemic has also increased the risks of being in the workplace for those who work in close proximity to others.

One in ten Indians are estimated to have lost their jobs.⁶⁵ COVID containment measures have reduced informal worker income by more than 50 percent in low-income contexts.⁶⁶

What it means

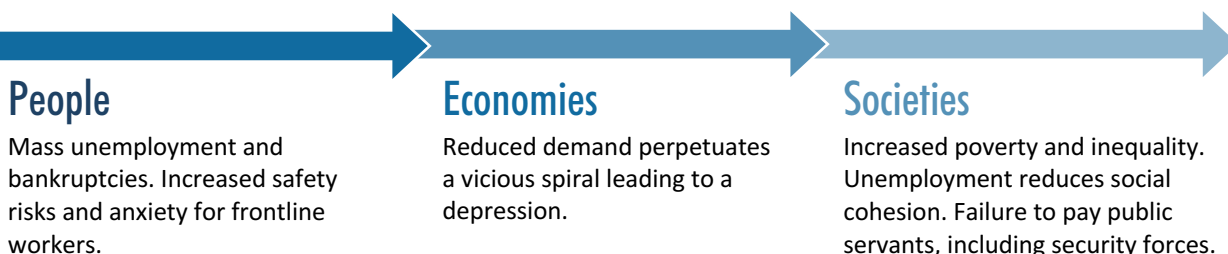
A growing informal sector will increase the number of workers unprotected by law.⁶⁷ Challenges with agriculture are leading to food price increases.⁶⁸ Justice sectors will experience increasing demand for assistance related to benefit claims, bankruptcies, and employment disputes, including those related to safety in the context of COVID-19. Mass unemployment will increase demand for legal aid. Abuse and exploitation of workers desperate to cling to their jobs may increase.

Seventy-one percent of Americans who filed for unemployment benefits in March 2020 had not received them by late April.⁶⁹ In South Africa, bus drivers have gone on strike over a failure to provide them with protective equipment and testing.⁷⁰

How to respond

Governments can expand access to legal aid for employment-related problems, extend subsidies and facilitate registration for informal workers and businesses.⁷¹ NGO or trade union hotlines can help workers anonymously report safety issues. New social and legal protections need to be negotiated collectively to protect workers' health and shield them from exploitation and abuse.⁷² Justice sectors can prevent bankruptcies by changing insolvency laws to assist firms facing temporary cashflow crises.⁷³ Simplifying registration for new businesses and legal advice to entrepreneurs can help laid-off workers to get back on their feet.⁷⁴

Expansion of legal aid programs in China has helped migrant workers recover millions of dollars in defaulted wages and unpaid compensation.⁷⁵ Training judges in Pakistan to speed case-flow led to reduced delays and increases in new business registrations and applications for business loans.⁷⁶





Money, debt, and consumer problems

Where we were

Thirty percent of the legal problems people had experienced in the two years prior to 2019 related to money and debt, or consumer issues.⁷⁷ As buyers, they had problems paying money they owed, being threatened by debt collectors, accessing utilities, or obtaining recompense for faulty consumer goods or services. As sellers, they had difficulties recovering their dues.

Debt makes up 25 percent of cases in United States' civil courts, with most people unrepresented.⁷⁸ The Citizens Mediation Centre in Lagos, Nigeria, resolved 58 percent of debt cases amicably.⁷⁹

What's changed

By increasing unemployment and causing mass bankruptcies, the COVID-19 pandemic threatens the financial security of hundreds of millions of people, as contracts are broken, bills go unpaid, and loan payments lapse. Public debt burdens are increasing and the population may be forced to turn to private debt for basic livelihoods. Corporate abuses, such as price gouging,⁸⁰ usurious interest rates, and refusing to pay refunds are increasing.⁸¹ Social protection payments intended to help people cope with coronavirus impacts have been captured by creditors.⁸²

Consumer debt in China has grown by 10 percent in a year.⁸³ In the UK, one in five people faces a severe penalty because they cannot pay a bill.⁸⁴

What it means

Justice systems will see a sharp increase in debt-related cases and with courts closed the backlog will grow rapidly.⁸⁵ Delays in resolving disputes may tip people and businesses into bankruptcy. Aggressive debt collection will push people into vicious spirals of poverty,⁸⁶ increased debt, and heightened stress.⁸⁷ If corporations are bailed out and people are not, popular anger is inevitable.

In the UK, waiting times to hear court cases are projected to increase by more than 70 percent post-lockdown.⁸⁸ Indian banks are expected to see a doubling of their bad debt.⁸⁹

How to respond

Governments need to regulate lending practices, consider debt relief programs for individuals, and work with business organizations to reduce people's debt burden. Alternatives to court, including through use of technology, are better ways to deal with small debts, with low-cost legal support provided to people with more complex cases.⁹⁰ Predatory debt collection practices should be banned,⁹¹ and criminal sanctions for debt abolished.

Bulgaria has suspended repossessions and evictions and will reschedule repayments without additional charges.⁹² Courts in the United States have stopped creditors from seizing coronavirus relief payments.⁹³





Access to and quality of public services

Where we were

Approximately 19 percent of the justice problems people report worldwide concern difficulties accessing quality public services. These include healthcare, education, water and sanitation, electricity, and benefit payments, as well as the documents people need to prove citizenship or residency status.⁹⁴ Marginalized individuals and those experiencing poverty are at greatest risk of lacking documentation and being unable to access services.

132 million girls worldwide are out of school.⁹⁵ In the United States, only 15 percent of migrant farmworkers have regular access to healthcare.⁹⁶

What's changed

Responses to the coronavirus have included school closures and neglect of other health problems.⁹⁷ Access to water has become more important given the need to wash hands regularly, while health inequalities have become apparent as the wealthy secure healthcare denied to most.⁹⁸ Economic relief programs are increasing the burden on bureaucracies while diverting funds from other public services. Closed courts mean justice services themselves are struggling to respond to demand.

In southern France, residents of an exclusive gated community were given access to antibody testing even while hospitals lacked capacity to test urgent cases.⁹⁹ In the United States, large businesses have captured stimulus payments while smaller firms miss out.¹⁰⁰

What it means

After the 2008 financial crisis, demand in New York City for legal services related to access to healthcare increased by 40 percent in a year – with a crisis *caused by* ill health, demand is likely to spike even higher.¹⁰¹ Demand for access to vital services such as water is likely to increase, even while some services are cut off due to unpaid bills or providers becoming insolvent. Claims for more generous financial assistance will require new expertise of legal systems, government finance departments, and trade unions.¹⁰²

Three-quarters of UK barristers believe the public cannot access “an acceptable level of justice” during the pandemic.¹⁰³ Governments in countries including India and the UK are facing legal challenges over their failure to provide protective equipment and hospital beds.¹⁰⁴

How to respond

For social protection payments to reach their targets without being captured by powerful interests, justice actors will need to apprise marginalized recipients of their rights and help them to access them. These rights should be extended to those living in situations of informality.¹⁰⁵ The epidemic is an opportunity to entrench service provision – where emergency measures are rooted in law, it will be difficult for governments to withdraw them. People should be supported to advocate for rights to services where these have been denied.

The government of Argentina has forbidden utility providers from cutting off customers during the pandemic.¹⁰⁶ The Black Sash, a South African NGO, has a memorandum of understanding where its volunteers report to local and national government on the effectiveness of local service delivery. The data is used to identify trends and problem hotspots.¹⁰⁷

People

Inequitable access to services for marginalized groups. Inability to pay for healthcare, education, utilities.

Economies

Failure of social protection systems deepens economic downturn and widens societal inequities.

Societies

Lost access to water and healthcare exacerbates the public health threat. Reduced confidence in government ability to deliver services.

The “All” in Justice for All

“No justice, no peace” is the rallying cry that has driven hundreds of thousands to the street as the Black Lives Matter protests in the United States spread across the globe.

This wave of unrest was triggered by police brutality and is far from unique. Many other countries have experienced protests and insecurity as existing inequalities and patterns of structural discrimination are exacerbated by the health impacts of the pandemic and the measures that have been taken to restrict its spread.

Economic impacts will fall hardest on non-dominant groups, exacerbating pressure on groups already denied economic and social opportunities.¹⁰⁸ Instead of further entrenching discrimination, justice systems must actively reach those who are furthest behind.

The following strategies will support this shift:

- Justice systems should redirect funding from coercive criminal justice approaches towards people-centered services that address the need for justice in housing, employment, and public services.
- Justice policies should be assessed to gauge their impacts on groups who are marginalized due to race, ethnicity, caste, migration status, disability, poverty, gender identity, and age.¹⁰⁹ Those found to exacerbate disadvantage should be reformed or scrapped.
- Justice leaders should use justice systems to empower women economically, by ensuring all women have the documentation needed to participate in economic life, abolishing laws that discriminate against women, and supporting marginalized women to secure their economic rights.¹¹⁰
- A renewed focus is needed on the younger generation, whose economic futures are disproportionately imperiled by the pandemic. Young people who are in conflict with the law should be rehabilitated via diversion or restorative justice schemes and provided with the skills needed to seize economic opportunities.¹¹¹
- Justice leaders can work with the private sector to strengthen their role in preventing abuses, promoting reforms, and making economic justice part of the success of their businesses and the resilience of their supply chains.¹¹²
- Communities should be empowered to use the law to protect their economic rights and their access to public services. Legal empowerment actors, including community organizing groups, that help identify and combat structural injustices should be provided with increased funding and protection.
- Justice must be brought closer to people and communities. Establishing community justice centers in marginalized areas that can address economic and other justice problems and route people to government services will solve problems more effectively and reduce exclusion.
- Justice leaders must urgently address the role the justice sector plays in impoverishing people and widening inequality. Policies such as locking up breadwinners for minor crimes, abuse of licensing regulations and other attacks on informal or undocumented workers, overuse of fines, and excessive bail and court fees, discriminate against the marginalized and entrench poverty.

Two

How Justice Systems Can Assist Recovery

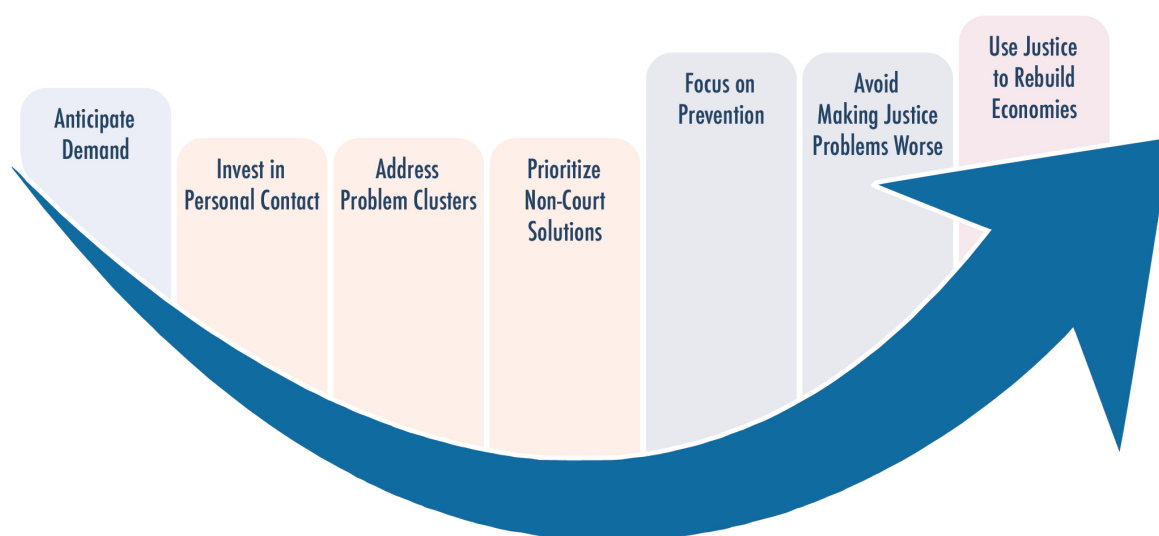
Even before the coronavirus pandemic hit, justice institutions were overstretched, underfunded, slow, and distant from those they are supposed to serve.¹¹³

Without drastic change, the economic impacts of COVID-19 will trigger demand that could overwhelm systems at a time when societies need them to be most effective.

This is a chance to think differently about justice systems, recognizing that many institutions and sectors can play a role in preventing and resolving justice problems.

It is also an opportunity to rethink the benefits that investment in justice provides – for individuals with justice problems, for how we generate and share prosperity, for the way public services are delivered, and for how we live together in our communities and societies.

In this section, we put forward seven strategies that will allow justice systems to rise to the challenge, rapidly expanding solutions to the most urgent problems, finding ways to prevent problems from spiraling, and empowering people and affected communities to steer the recovery.



How Justice Systems Can Assist Recovery

1. Anticipate demand

Justice systems are facing significant delays due to the impacts of the pandemic.¹¹⁴ As backlogs accrue, it will be important for justice leaders to analyze and understand the actual and likely caseload. Anticipating what lies ahead and identifying patterns will enable them to get organized and adapt their way of working.

As the economic crisis hits home, those most in need of social protection and benefits often encounter the greatest difficulty in accessing it. Combining information from legal needs surveys with data on previous financial or natural disasters can help justice policymakers predict what justice problems will occur, where and for whom.¹¹⁵

Previous experiences with economic deterioration show how legal needs are interconnected.¹¹⁶ Projections of problems and their interconnections can spur early intervention to avoid compounding legal problems and setting off vicious spirals.¹¹⁷ Adapting justice providers' own operations and triage can help resolve cases more efficiently, reduce backlogs, and prevent systems from being overwhelmed.

Canada's Community Advocacy & Legal Center created a three-minute survey to ask clients and intermediaries about their justice problems and information needs during the pandemic and what services they required.¹¹⁸

In Pakistan, a program that aimed to improve the performance of justice institutions taught case-flow management techniques to judges. The program helped judges to get through 25 percent more cases than before.¹¹⁹

The Mortgage Hardship Service in New South Wales, Australia, identifies people and communities at risk of mortgage default and reaches out at the earliest possible stage with financial counselling and legal advice. This has resulted in reduced risk of matters reaching court and significant increases in the number of people who keep their homes.¹²⁰

2. Invest in personal contact

Formal justice institutions are often complex and intimidating, and most people prefer personal contact over written exchanges. Although face-to-face interaction is limited in almost all countries due to the pandemic, it is still possible to have direct exchanges by phone or online.

Justice providers typically rely on documents and written exchanges but dealing with justice problems via direct personal exchanges can lead to more flexible and faster problem-solving.¹²¹ Reaching out by phone before sending out written communications has proven to reduce the number of appeals procedures.¹²² In dealing with the fallout from the pandemic, justice systems which invest in phone or online interactions can reduce their workload.

Understanding procedures allows people to consider their options and better resolve their problem. Trusted intermediaries including civil society groups and independent advisors also have a central role to play in providing user-friendly legal information to those likely to need it.¹²³

The Municipality of Lima, Peru is conducting outreach by telephone to economically vulnerable elderly and disabled people in the city. The program offers medical, psychological, and legal support and helps them access the government's coronavirus subsidy for poor households.¹²⁴

The National Ombudsman in the Netherlands shifted all written procedures to personal contact by phone, increasing satisfaction with the process, efficiency in handling cases, and durability of solutions.¹²⁵

When health workers in Japan reported an increase in workplace harassment related to the coronavirus, the Ministry of Justice created a webpage linking users to hotlines on bullying and harassment.¹²⁶

3. Address problem clusters

Justice problems often come in clusters. A health problem that is exacerbated by being unable to access services may cause problems at work or lead to discrimination during recruitment.¹²⁷ Unemployment can cause spiraling debts and financial worries may increase domestic based violence. Such violence can weaken women's economic participation and harm a child's education and career prospects.¹²⁸

Early interventions can break vicious cycles, especially if people's problems are addressed holistically, for example by bundling legal, health, and employment services. Putting people at the center and empowering them to express their needs, as opposed to relying on an institutional structure and its standardized approaches, can strengthen networks and build capability for lasting change.¹²⁹

Non-dominant groups are more likely to experience clusters of legal and other problems.¹³⁰ Targeting marginalized communities with integrated approaches can be particularly effective. To help cope with the immediate economic crisis, justice services can be linked to existing community services.

In **Argentina**, more than 90 Access to Justice Centers provide legal, social, and psychological support to people in vulnerable communities. The multidisciplinary approach involves lawyers, social workers, and psychologists working together.¹³¹

In **Kenya**, the Legal Aid Centre of Eldoret partners with a healthcare facility to provide a one-stop center for medical treatment and legal advice. It provides holistic support for people affected by HIV as well as survivors of sexual and gender-based violence.¹³²

The **UK's** Citizens Advice service releases regular data that shows how requests for its advice signal evolving justice needs across multiple, often-interconnected areas.¹³³

4. Prioritize non-court solutions

The formality, complexity, and rigidity of traditional, court-based legal procedures render them unsuitable for dealing with many of the justice problems arising from a fast-moving economic crisis. With backlogs increasing, courts and other justice actors can respond by encouraging dispute resolution through other channels.¹³⁴

Alternative dispute resolution, negotiation, mediation, diversionary sentencing, community justice centers, and small claims courts can all reduce the burden on formal systems while providing more satisfactory processes and outcomes to users.¹³⁵

Large numbers of comparable cases are likely to occur when major shifts take place, such as large-scale layoffs, mass evictions, or when systems to apply for benefits crash. As in healthcare, standards of treatment can be applied, and justice seekers can be routed to the approach that is most likely to resolve their case. Such direct problem-solving can come in addition to regular procedures and must not limit rights and entitlements.

In **India**, the legal empowerment organization Haqdarshak works with government, civil society, and corporate partners on a mobile app and web portal that provides information to citizens on coronavirus relief programs.¹³⁶

Chile is working to avert breach of contract disputes during the pandemic by offering free mediation services to the first 1,000 applicants via the Santiago Chamber of Commerce's Arbitration and Mediation Center.¹³⁷

Welfare rights advice services in Glasgow, **Scotland** have been found to boost the incomes of low-income households and create jobs, by apprising people of their rights to entitlements and helping them overcome obstacles to accessing them.¹³⁸

5. Focus on prevention

If people can prevent justice problems from arising or reduce their impact when they do arise, the burden on justice systems as a result of the economic crisis will be eased. This will allow justice providers to focus on the most intractable problems, while freeing up people's time to concentrate on economic recovery.

Legal empowerment can help the most vulnerable to understand, use, and shape the law and to access services. Online tools can simplify processes such as will writing, obtaining identity documents, and registering a new business. Public information initiatives can help people to identify scams and other fraud attempts.

Ombuds' institutes and other complaints bodies can advocate for structural reforms. Collective bargaining can produce temporary solutions or compensations and social contracts on recovery packages may smooth the recovery and prevent justice problems. Addressing the root causes of economic injustices, with justice actors collaborating to identify problems and develop solutions, can help countries build back better after the pandemic.

Kenyan paralegals support communities to use national laws to protect their land. They help them to document and register land and strengthen participatory management of natural resources.¹³⁹

In the **United States**, Pro Bono Net educates people about changes in workers' rights and eviction laws. Its LawHelp website includes a live chat, and answers people's COVID-related questions on topics including debt, eviction, child support, benefit payments, and workers' rights.¹⁴⁰

In the **Republic of North Macedonia**, the Association for legal education and transparency is scaling up online and phone-based legal assistance to Roma communities.¹⁴¹ **Portugal** has given full citizenship rights to all non-citizens so that they can access public services during the pandemic.¹⁴²

6. Avoid making justice problems worse

Justice actors and legal procedures can inadvertently intensify conflicts, leading to destructive emotions and actions.¹⁴³ This can further deepen disagreements and delay resolution, increasing the burden on an already stretched justice sector as well as on the parties involved and slowing economic recovery.

Analysis of where problems are arising during the pandemic can highlight where legal and procedural reforms are most needed. Preventing or mitigating the impact of emerging disputes can be facilitated by amending insolvency laws, suspending evictions or utility cuts, creating debt rescheduling mechanisms, and making it easier to register a business.

Bringing a range of justice actors together to make laws and procedures less adversarial, faster, and less likely to end up in court and then to monitor their success in reducing disputes can help justice systems and individuals in the short and long term. Addressing underlying conflicts is critical to the effective resolution of justice problems.

In **Serbia**, the public utility company Infostan has suspended enforcement of debt claims for 90 days – the duration of the country's state of emergency.¹⁴⁴ Countries such as **Ireland, Singapore, and South Korea** have helped self-employed people who fall sick during the pandemic by allowing them to claim sick pay.¹⁴⁵

A diversion program for adolescents in **Peru** drastically reduced the case load for judicial systems, resulting in savings of more than \$300 per adolescent per month compared with state-run detention facilities, as well as improving young people's job prospects.¹⁴⁶

The **Slovak Republic** has extended the time limit in which firms are required to file for bankruptcy and allowed entrepreneurs to ask courts for temporary moratoriums on insolvency proceedings.¹⁴⁷

7. Use justice to rebuild economies

Building more equitable economic systems begins, as in London's Great Fire, with ensuring that the losses resulting from the crisis are fairly distributed. Rapid and fair resolution of bankruptcies, landlord-tenant disputes, and eviction proceedings contributes to economic recovery.

Justice systems also need to oversee the fair distribution of stimulus funds while delivering practical legal support to those facing the greatest economic hardship. Such support can contribute to longer term goals of providing people with identity documents and helping businesses by easing registration processes and other legal matters.

Justice systems can play an important role in supporting efforts to extend protections to people working in the informal sector. To create economic opportunities for all, they can help to protect people's land and property rights, promote equal pay for men and women and ensure that laws on economic participation do not discriminate.

In the **United States**, the non-profit Lawyers for Good Government Foundation has established a Small Business Remote Legal Clinic, through which law firms in more than 30 cities offer *pro bono* advice to small businesses to help them access the stimulus packages and grants available during the COVID-19 crisis.¹⁴⁸

In **Canada**, self-represented individuals who are unfamiliar with digital technology are assisted by individuals who talk them through processes over the phone. **Portugal** delivers remote support through ordinary phones as well as smartphones.¹⁴⁹

The World Bank's Identification for Development (ID4D) program is accelerating its efforts to provide identification documents for all in order to help ensure that financial support schemes in **Africa** during the pandemic reach those most in need.¹⁵⁰

Justice Leaders and the Economic Crisis

A survey by HiIL of 270 justice leaders¹⁵¹ in 20 countries has revealed strong awareness of the likely justice impacts of the economic crisis.¹⁵² Among its key findings are:

- More than 70 percent of respondents think problems related to debt, employment and business survival will increase greatly in the wake of the pandemic.
- Forty-four percent expect family problems to greatly increase, 40 percent problems in accessing welfare benefits, and 33 percent housing problems.
- More than three-quarters of respondents expect the legal problems that result from COVID-19 to lead to lost income, lost jobs, and business closures.
- The majority believe justice problems for individuals and small and medium enterprises will not only escalate as a result of the pandemic, but also be resolved less quickly. Forty-five percent believe fewer cases will be resolved fairly.
- When asked about resolving justice problems, provision of information and advice, prevention efforts, mediation, and negotiation are seen as offering much more promise than adjudication or punitive measures.
- Community justice services are considered more likely to be effective as delivery models than traditional legal services provided by lawyers. Legal apps and one-stop-shops are also thought worthy of prioritizing.

Three

Actions for Justice Leaders

During this economic emergency, justice leaders must prevent and resolve a wave of new justice problems, while helping people and businesses get back on their feet.

But this is also an opportunity to reshape justice systems and to use them to support more inclusive, sustainable, and resilient patterns of growth.

Justice leaders need data and evidence to shape their response to the economic crisis, a renewed commitment to innovation and smarter approaches to financing, and the willingness to forge new types of partnership, including with the private sector as well as community justice providers that have the capacity to confront the scale of unmet demand.

Many economic threats have a cross-border dimension, due to the globalization of supply chains and of both licit and illicit financial flows. Tackling these will require international cooperation. Justice leaders can also learn from what works in other countries and reshape their sector by working with other reformers with a commitment to people-centered justice.

Collaborating at a global level will make justice leaders more effective. They can influence international economic policy responses to COVID-19, work with finance ministers and international financial institutions, and build links between Sustainable Development Goal (SDG) targets for justice and those for inclusive, resilient, and sustainable economic growth.



Use data and evidence to guide the response

- Undertake rapid assessments to understand how the economic emergency is creating new demand for justice.
- Commission research into new problems, justice bottlenecks, and the needs of marginalized and disadvantaged groups using a broad array of methodological and analytical approaches.
- Create a mechanism for online and phone-based justice providers to share anonymized data to gain insights into emerging challenges.

Scale up justice innovation

- Create spaces for justice professionals and entrepreneurs to develop, prototype, and scale responses to the economic emergency.

- Remove or suspend regulatory barriers that exclude new service providers who offer fair outcomes.
- Develop new budget lines for investment in innovation and public-private partnerships in justice-related areas such as employment, housing, and consumer protection.

Develop strategies for smarter financing

- Devote a proportion of emergency economic support packages to people-centered justice services.
- Develop a business case to demonstrate how justice approaches can maximize public investment in other sectors.
- Create rapid funding mechanisms so that grassroots justice providers can reach and support more people more effectively.

Build new types of partnership

- Form a working group with ministries (finance, planning, labor, etc.) that are leading the economic response to the pandemic to “justice proof” bailout and recovery measures.
- Develop problem-solving partnerships with a range of actors, including from the private sector, to design and implement solutions for emerging economic challenges.
- Look beyond traditional partners to trade unions, employers’ federations, debt advisers, and social service providers, to set recovery on a collaborative path, while enabling justice defenders to support communities where economic injustice is increasing.

Take it global

- Bring together justice leaders at a virtual justice summit and at regional and sub-regional forums to develop shared strategies for tackling the economic crisis.
- Link the movement for justice for all to those working on SDG targets for inclusive growth, decent jobs for all, and the economic empowerment of women.
- Influence international financial institutions, G20 finance ministers, and other platforms for international economic policymaking to put justice at the heart of the global response and recovery.

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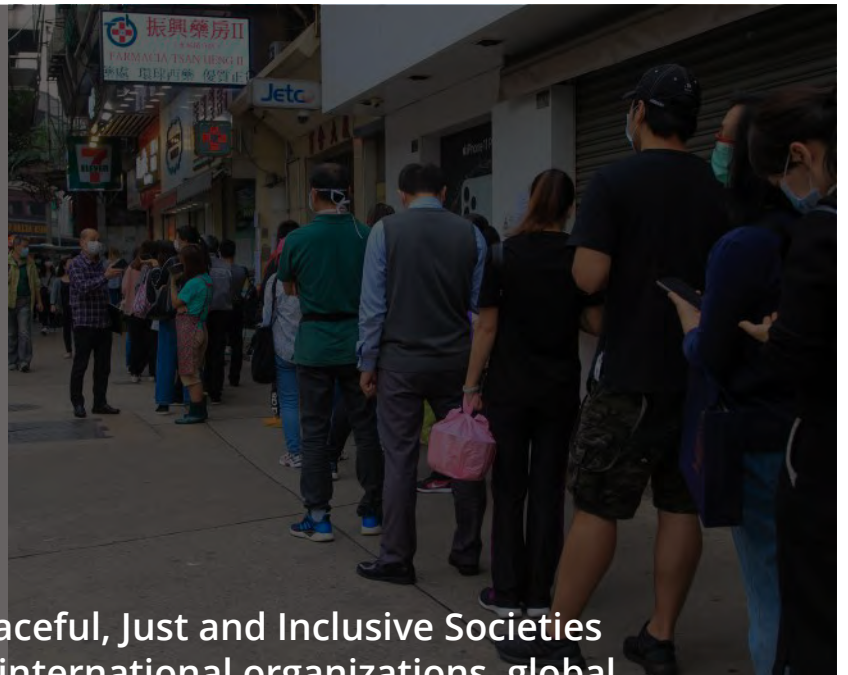
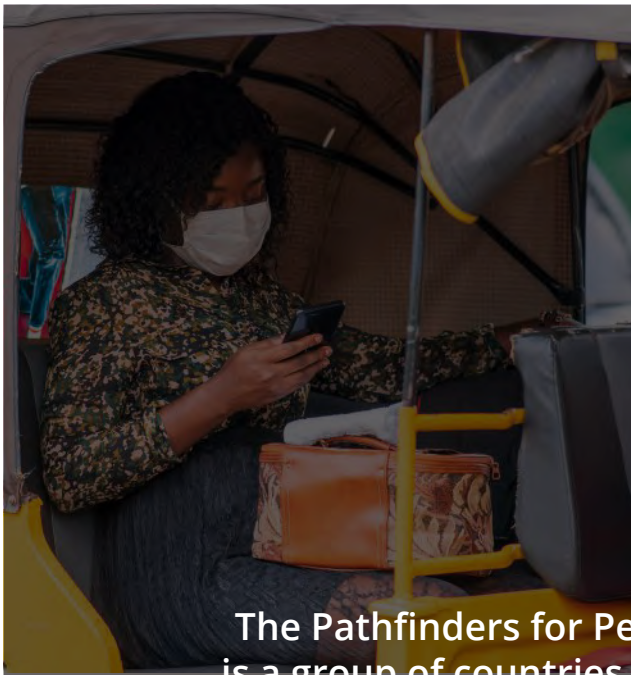
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The Pathfinders for Peaceful, Just and Inclusive Societies is a group of countries, international organizations, global partnerships, civil society, and the private sector that work to accelerate the delivery of the SDG targets for peace, justice and 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.

<https://www.justice.sdg16.plus/>

