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Technical assistance and capacity-building

Central role of the State in responding to pandemics and other health emergencies, and the socioeconomic consequences thereof, in advancing sustainable development and the realization of all human rights

Report of the Office of the United Nations High Commissioner for Human Rights*

Summary

The central role of the State during pandemics and other health emergencies is to mount a robust health response while upholding human rights. This involves respecting, protecting and fulfilling economic, social and cultural rights, paying particular attention to universal health coverage and universal social protection as fixed pillars in all response, preparedness and recovery efforts. At the same time, it also requires upholding civil and political rights such as the rights to participate in public affairs, freedom of expression and freedom of association.

The resilience of health systems and national economies has been undermined, to a great extent, by the failure to adequately invest in meeting human rights obligations. States should step up investment in health and social protection systems backed by multilateral, joined-up approaches based on solidarity. These steps require renewed political will and leadership to honour the commitments made by States under human rights law and the 2030 Agenda for Sustainable Development.

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I. Introduction

1. In its resolution 44/2, the Human Rights Council requested the United Nations High Commissioner for Human Rights, working within existing efforts across the United Nations system, and in consultation with States, to conduct a needs assessment, in particular for developing countries, to support their efforts to promote and protect human rights and fundamental freedoms in responding to pandemics and other health emergencies, and the socioeconomic consequences thereof, in advancing sustainable development and the realization of all human rights. The Council also requested the High Commissioner to submit a report thereon to the Council at its forty-seventh session.

2. For the preparation of the report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) invited stakeholders, including Member States, United Nations agencies, national human rights institutions and civil society organizations, to submit contributions. [1] The information received indicates the need for urgent human rights interventions across numerous areas. For the purposes of the present report, the assessment of needs has focused on economic, social and cultural rights; good governance; protecting the right to health; data collection; people on the margins; equality and non-discrimination; and human rights in health emergency preparedness, response and recovery.

II. Situation of economic, social and cultural rights

A. Overview

3. More than one year after the World Health Organization declared the coronavirus disease (COVID-19) outbreak a pandemic, there have been over 150 million confirmed cases of infection and just over 3.2 million deaths globally.[2] States have responded to the pandemic with a variety of measures, including restrictions on movement and on social gatherings of various kinds. Lockdowns have involved, for instance, the periodic closure of businesses deemed to be non-essential, the closure of schools and prohibitions on cultural, religious and sporting activities. Several States have taken more stringent steps, imposing curfews and restrictions on cross-border travel in response to the evolving situation.

4. Challenging the capacities of even the wealthiest countries to deal with soaring infection rates and ensure continuity of other essential health services, the COVID-19 pandemic unfolded against the backdrop of a human rights landscape marked by chronic neglect of economic, social and cultural rights, a situation which reached a low point with the global economic downturn in 2008. Many countries resorted to fiscal consolidation, adjustment or constriction measures, incorporating reductions in social sector spending, labour market and pension reforms, regressive taxation policies and the privatization of many public services, including health services.[3] Their cumulative effect on people in danger of falling into poverty or already living in poverty was to increase deprivation and reinforce existing social and economic inequalities, including gender-based inequality.

5. Today, the COVID-19 pandemic poses an extraordinary threat to societies worldwide. Although it began as a public health emergency, the crisis has had far-reaching socioeconomic consequences. The equivalent of 255 million jobs were lost during 2020, nearly four times more than had been lost in the global economic crisis in 2008, with women more severely affected than men in all regions and income groups.[4] As of October 2020, the COVID-19 pandemic was estimated to have pushed between 88 million and 115 million

[1] The submissions received are available from www.ohchr.org/EN/Issues/ESCR/Pages/COVID-19-pandemic.aspx.

[2] See https://covid19.who.int/.

[3] Isabel Ortiz and Matthew Cummings, “Global austerity alert: looming budget cuts in 2021–25 and alternative pathways”, working paper April 2021, pp. 4–5.

[4] International Labour Organization “ILO Monitor: COVID-19 and the world of work (seventh edition) – updated estimates and analysis”, 25 January 2021, pp. 5 and 7.

people into extreme poverty; the number could reach 150 million by 2021.[5] South Asia and sub-Saharan Africa are projected to add 32 million and 26 million people, respectively, to those living below the international poverty line.[6] Constituting just over 60 per cent of the global workforce, informal sector workers, most of whom are women, are expected to have lost 60 per cent of their income in the first month of the crisis, and up to 81 per cent in some regions.[7] Worldwide, hunger too is on the rise, with 132 million more people having become vulnerable to undernourishment in 2020.[8] Overall, progress on achieving many of the Sustainable Development Goals, including Goal 3 (to ensure healthy lives and promote well-being for all at all ages) has been disrupted or reversed.[9]

6. If radical steps are not taken to protect economic, social and cultural rights and support low-income countries, the outlook remains bleak. More than 40 Governments, including countries with pressing development needs, are expected to reduce their budgets by an average of 12 per cent during 2021/22 compared with 2018/19.[10] Despite its impact on economic, social and cultural rights, austerity is likely to affect around 85 per cent of the global population by 2022, and over three quarters of all people may still be living under such conditions in 2025.[11] Already in debt distress or at high risk of developing it, low-income countries have seen their ability to respond effectively to the pandemic and its impacts hamstrung by severe fiscal limitations. Consequently, for the developing world, there is a twofold challenge: "a balance of payments and debt crisis that may upend development progress, and a development crisis that could erupt into a debt crisis as the state of the economy deteriorates".[12]

7. Although most States are making genuine efforts to minimize the socioeconomic impact of the crisis, critical gaps remain. Perhaps most egregious is the exclusion of women from COVID-19-related policymaking and decision-making, which has led to policies that fail, generally, to adequately address the gendered social and economic consequences of the pandemic.[13] The impact on older persons, persons with disabilities, persons in detention, lesbian, gay, bisexual, transgender and intersex persons and other populations and groups has been severe; there are also other areas, including climate change and the environment, business and human rights, and international and unilateral sanctions, that must be addressed in any effort to build back better. Due to space limitations, the present report incorporates by reference the guidance produced by OHCHR on the protection of human rights in all these contexts.[14]

B. Economic, social and cultural rights

8. States parties to the International Covenant on Economic, Social and Cultural Rights are required to use the maximum of their available resources for the progressive realization of economic, social and cultural rights. The progressive element of this obligation recognizes the need for time and resources; nevertheless, States must still take deliberate, concrete and targeted steps to achieve these rights – and deliver immediately on minimum requirements such as the protection of rights without discrimination. The cost of implementing economic, social and cultural rights, contrasted with civil and political rights, has frequently been advanced as a justification for slow progress in their realization. However, this is a faulty premise, as civil and political rights also require significant resource outlays. More

[5] See www.worldbank.org/en/news/press-release/2020/10/07/covid-19-to-add-as-many-as-150-million-extreme-poor-by-2021.

[6] *The Sustainable Development Goals Report 2020* (United Nations publication, 2020), p. 24.

[7] Ibid., p. 41.

[8] Ibid., p. 26.

[9] Ibid., pp. 28–31.

[10] Isabel Ortiz and Matthew Cummings, "Global austerity alert", p. 4.

[11] Ibid.

[12] See www.brookings.edu/research/debt-distress-and-development-distress-twin-crises-of-2021.

[13] United Nations Development Programme (UNDP) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), "COVID-19 global gender response tracker: global factsheet" (22 March 2021).

[14] See www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx.

importantly, making progress on one front requires progress on the other, given the interrelatedness of human rights. The crisis caused by the COVID-19 pandemic has shown that the lack of investment in economic, social and cultural rights and in the implementation of the 2030 Agenda for Sustainable Development left societies insufficiently prepared for the pandemic and led to great human suffering and economic losses.

9. As the socioeconomic impact of the response to the COVID-19 pandemic reverberates around the world, some States have sought to mitigate it by, for example, adopting moratoriums on evictions, broadening access to health care and essential services and, crucially, introducing economic stimulus packages. Running into the tens of trillions of dollars collectively, these packages were generally designed to stimulate short-term demand and foster long-term growth. They included social protection benefits, support for businesses and tax cuts. The poorest countries, however, have spent only 2 per cent of their gross domestic product (GDP) on stimulus packages, while industrialized countries have spent up to 20 per cent of their GDP on them. Faced with collapsing trade, falling remittances, capital flight, currency depreciation and insufficient international development assistance, many poor countries have been forced to choose between providing basic services for their people or servicing their debts.

10. States' responses under the pressure of the crisis have confirmed that economic, social and cultural rights can be prioritized and must be upheld both as a matter of principle and to provide protection in the event of pandemics and other health emergencies. The COVID-19 crisis and its socioeconomic consequences call for political leadership, including at the highest levels, to reverse the marginalization of economic, social and cultural rights, which are binding obligations, and prioritize their realization.

C. Key actions

11. States and other stakeholders should use the maximum of their available resources, including resources available through international cooperation, for the progressive realization of economic, social and cultural rights. This involves:

(a) Prioritizing spending on economic, social and cultural rights and establishing participatory and gender- and disability-transformative budget formulation and review processes with the meaningful participation of all stakeholders, including women and marginalized groups and populations;

(b) Assessing the measures required to protect economic, social and cultural rights during health emergencies, using disaggregated data to identify priorities, disparities in and barriers to access to health care, social protection and other economic, social and cultural rights, patterns of discrimination, underserved areas and populations or groups facing persistent discrimination and marginalization;

(c) Developing fully costed strategies and plans of action to address the gaps identified in the above-mentioned assessments, or making appropriate adjustments to existing ones, paying particular attention to the rights to health, social protection, food, water and sanitation, education and work and ensuring provision of sufficient resources for the protection of women and groups most at risk of being disproportionately affected by the pandemic or any other health emergency;

(d) Addressing corruption, implementing progressive taxes, tackling tax abuse and strengthening the capacity to collect taxes, including financial transaction taxes;[15]

(e) Extending new allocations of special drawing rights to middle-income countries in need of liquidity; cancelling or restructuring debt or reaching agreements on debt standstills, including from private creditors; and recommitting to the target of allocating 0.7 per cent of gross national income to official development assistance to ensure that low- and middle-income countries have the fiscal space necessary to navigate the crisis;

[15] Centre for Economic and Social Rights, *Assessing Austerity: Monitoring the Human Rights Impacts of Fiscal Consolidation* (February 2018), p. 6.

(f) Implementing a holistic approach to debt management and restructuring, with the participation of all actors. In the short term, the Debt Service Suspension Initiative and the Common Framework for Debt Treatments should review their criteria to ensure inclusion of those low- and middle-income countries that are currently excluded;

(g) Basing debt sustainability and debt management policies, as well as economic policy reforms, on the outcome of human rights impact assessments.

III. Persisting democratic deficit

A. Context

12. Democratic values and related human rights across the world have been under sustained pressure for some time. Against a backdrop of democratic backsliding in several countries, the pandemic has acted as a catalyst for the further erosion of democracy.[16] With emergency measures and restrictions on a swathe of rights becoming the norm as States have moved to curb the spread of the virus responsible for COVID-19, the human rights situation has worsened in many parts of the world. During the early days of the pandemic, for example, as reports began to emerge of the gravity of the situation, medics and other front-line health workers were targeted and silenced by Governments, which not only violated their rights to freedom of expression but also denied the public crucial information.[17] Access to accurate, up-to-date health information is essential for the exercise of the right to health and the right to enjoy the benefits of scientific progress and its applications. Protecting these rights becomes even more urgent during pandemics and other health emergencies.

13. As the number of cases around the world grew, restrictions on several human rights also intensified. The use of legislation to silence the media, journalists and human rights activists, including through strategic lawsuits against participation in public life, has been reported.[18] The pandemic has provided cover for the continuing repression, torture and killing of human rights defenders, including women human rights defenders, and political opponents.[19] Attacks on press freedom and the independence of the judiciary – key democratic safeguards – have been on the rise at a time when civic space has been steadily contracting in many parts of the world, allowing executive excesses to continue unhindered.

14. Emergency powers have been invoked and legislation promulgated, frequently with little opportunity for civil society to provide input and hold Governments to account. Of particular concern is the adoption of overly broad, vaguely worded legislative provisions in countries without checks and balances or without judicial or legislative oversight.[20] Limitations on the right to freedom of peaceful assembly have, in certain instances, had the effect of curtailing the right of people to protest their grievances.[21] In some countries, severe penalties for violations of pandemic-related restrictions have been applied, and the heavy-handed policing of quarantines, lockdowns and other restrictions has led to injury and loss of life.[22]

15. Minorities and other marginalized populations have reportedly been excluded from benefiting from measures to protect health and mitigate the socioeconomic impacts of the

[16] See www.ohchr.org/EN/Issues/CivicSpace/Pages/ProtectingCivicSpace.aspx. See also Amnesty International, *Amnesty International Report 2020/21: The State of the World's Human Rights* (London, 2021).

[17] Human Rights Watch, *World Report 2021: Events of 2020* (2021).

[18] Civil Liberties Union for Europe, *EU 2020: Demanding on Democracy – Country and Trend Reports on Democratic Records by Civil Liberties Organisations Across the European Union* (March 2021), p. 17.

[19] Freedom House, "Democracy under lockdown: the impact of COVID-19 on the global struggle for freedom" (2020).

[20] Amnesty International, "COVID-19 crackdowns: police abuse and the global pandemic" (London, 2020).

[21] *Amnesty International Report 2020/21*.

[22] Ibid.

response to the pandemic. Restrictions have, in certain instances, been applied more harshly to these groups, whose areas of residence have been singled out for tougher restrictions.[23] Discrimination against persons with disabilities, minorities and indigenous peoples has been reported in the distribution of food assistance and access to health services.[24] Minority communities have also frequently been exposed to hate speech and violence and publicly blamed, in certain instances, for spreading the virus that causes COVID-19, even as the authorities have continued to fan intercommunal tensions.[25]

16. Although the right to participate in public affairs is a fundamental human right and one of the guiding principles of the 2030 Agenda, many groups, including women and girls, continue to be denied the right to participate in the making of policies that affect them.[26] Especially during economic crises, stakeholders should be heard on how the State should raise revenue, spend public funds and ensure accountability to rights holders. The exercise of civil and political rights, including those relevant to participation in public affairs, is indispensable for the full realization of economic, social and cultural rights such as the rights to health, education, work and social protection. The uptake of health measures, for instance, is improved when communities have the opportunity to provide input, raise concerns and propose solutions.

B. Key actions

17. States should:

(a) Ensure that emergency measures that may result in restrictions on human rights are time-bound and meet the requirements of non-discrimination, legality, necessity and proportionality. During states of emergency, derogations should be avoided when the same effect can be achieved by placing restrictions on rights in a manner permitted under international law. Safeguards to protect non-derogable rights should be put in place;

(b) Strengthen the protection of the rights to freedom of expression, association, movement and peaceful assembly and refrain from criminalizing human rights defenders, journalists, political opponents and others for the exercise of these rights;

(c) Strengthen parliamentary, judicial and other oversight institutions, including in terms of their diversity and representation, with a view to ensuring government accountability and supervising the adoption, renewal and implementation of all emergency measures;

(d) Enable health professionals and experts, including scientists, to exchange information freely with each other and with the public, without fear of being subject to threats of disciplinary action or reprisals, and establish safe procedures for whistle-blowing in the health sector;[27]

(e) Ensure even-handedness in implementing lawful restrictions, include disability-sensitive exceptions, apply any penalties humanely and protect marginalized people and communities from scapegoating, violence and other abuses;

(f) Ensure accountability for human rights violations and abuses, including gender-based violence, and access to effective, gender-responsive judicial and other remedies, as appropriate;

(g) Develop the capacity of rights holders to participate and to claim their rights, including through education, awareness-raising and the narrowing of digital divides, and establish transparent, gender-responsive and accessible mechanisms for enabling stakeholders' meaningful participation and facilitating regular communication between

[23] Freedom House, "Democracy under lockdown", p. 5.
[24] Submission from Alliance Defending Freedom, March 2021.
[25] OHCHR, "COVID-19 and minority rights: overview and promising practices" (4 June 2020), pp. 1–2; Luke Kelly, "COVID-19 and the rights of members of belief minorities" (6 November 2020).
[26] A/HRC/39/28.
[27] OHCHR, "Civic space and COVID-19: guidance" (4 May 2020).

rights holders and duty bearers at the community, subnational and national levels, paying particular attention to those usually excluded and most at risk of being left behind.[28]

IV. Protecting the right to health

A. Outline of the legal framework

18. The right of everyone to the enjoyment of the highest attainable standard of physical and mental health is protected under the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child, among other instruments.[29] Pursuant to article 12 of the Covenant, States parties should take measures for the prevention, treatment and control of epidemic, endemic, occupational and other diseases and the creation of conditions which would assure medical service and attention in the event of sickness for everyone, among other steps.

19. The right to health is an inclusive right that requires the timely and appropriate delivery of health services, as well as attention to the underlying determinants of health. In addition to accountability and stakeholder participation, the following elements are essential:

(a) Availability, which requires functioning public health facilities, goods and services to be available in sufficient quantities within the State;

(b) Accessibility, which requires health facilities, goods and services to be affordable and physically accessible to all on the basis of non-discrimination;

(c) Acceptability, which requires health facilities, goods and services to be gender-sensitive, culturally, scientifically and medically appropriate and respectful of medical ethics;

(d) Quality, which requires health facilities, goods and services to be scientifically and medically appropriate.

20. States have the duty to ensure the satisfaction, at the very least, of a minimum essential level of the right to health, including by ensuring access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups, and providing essential drugs. Immunization against the major infectious diseases occurring in the community, education and access to health-related information and human rights training for health personnel enjoy comparable priority. The political commitments in the 2030 Agenda have complemented this framework, with Sustainable Development Goal 3 incorporating several targets relevant to health emergencies.[30]

B. Impact of the COVID-19 pandemic on health

21. The pace at which the COVID-19 pandemic gained ground has left many Governments unable to respond adequately. The high demand for health services quickly outstripped supply, leading, for example, to severe pressure on intensive care facilities and to shortages of vital equipment and supplies such as ventilators and oxygen. Although vaccines might offer an important route to controlling the pandemic, new variants of the virus responsible for COVID-19 have already begun to complicate efforts to reduce transmission at the community and global levels. It is likely, however, that the stronger determinant of whether and how soon control is achieved is the universal and equitable distribution of vaccines. The dominant approach taken by some wealthy countries has been to favour the protection of their own populations as opposed to privileging a more coordinated response

[28] See www.ohchr.org/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf.

[29] The Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.

[30] See targets 3.3 and 3.b–3.d.

that would ideally target vulnerable groups in all countries first and follow evidence-based guidance for a subsequent roll-out.[31] Access to vaccines is not only an important component of the right to health, it is a requirement that engages the immediate responsibility of States.

22. The availability and accessibility of good quality health facilities, goods and services on the basis of non-discrimination remains a challenge, especially in developing countries. Structural and societal discrimination, the marginalization of entire communities, groups and populations, prohibitive health-care costs and the failure to address other underlying determinants of health have driven much of this deficit and pose a serious challenge to achieving universal health coverage by 2030.[32] The COVID-19 pandemic has also highlighted the resource constraints under which many health systems have been operating, particularly in developing countries, which have tended to bear the highest burden of disease. In 2020, more than half of the global population still lacked access to adequate essential health care. There are wide disparities between regions and among populations: 56 per cent of the global rural population, compared to 22 per cent of the global urban population, lacks health coverage. As many as 18 million health workers are needed to address the global shortage of personnel.[33]

23. Occupational conditions for health workers have deteriorated dramatically since the onset of the pandemic. The shortage of good quality personal protective equipment, particularly at the beginning of the pandemic, exposed thousands of health workers, most of whom are women, to infection, with many falling ill and others dying. When crucial decisions needed to be made to respond to the pandemic and protect health workers, the poor representation of women among decision makers meant that the gender dimensions of the crisis and of the response were not adequately mainstreamed into key health workforce policies. Inordinately long working hours, the pressure of having to make difficult triage decisions due to limited resources and exposure to violence in the workplace and to stigma in the community have all contributed to high levels of psychological stress among health personnel.[34] The mental health crisis among health personnel mirrors an ongoing one in the broader population.

24. The pandemic has had a catastrophic effect on other health services, many of which have been limited or suspended altogether while the response to COVID-19 has been prioritized. There have been serious disruptions, for instance, to the provision of sexual and reproductive health services and treatments for non-communicable diseases, all with grave repercussions for the future health of millions of people. Some 24 million people in 21 low-income countries risk missing out on vaccines against polio, measles, typhoid, yellow fever, cholera and other diseases. Critical mental health services have been suspended in 93 per cent of all countries at a time when States are, on average, spending less than 2 per cent of their health budgets on mental health.[35]

C. Key actions

25. States should:

(a) Adopt and resource national plans and strategies for the progressive realization of the rights to health and to social security that mainstream universal health coverage in both the health and social security sectors with a view to ensuring comprehensive coverage for all;

(b) Cooperate to strengthen the capacity of all countries, in particular developing countries, for early warning systems, risk reduction and the management of national and

[31] Human Rights Watch, “Future choices: charting an equitable exit from the COVID-19 pandemic” (4 March 2020).

[32] Target 3.8 of the Sustainable Development Goals.

[33] *The Sustainable Development Goals Report 2020*, p. 31.

[34] “COVID-19: protecting health-care workers”, *The Lancet*, vol. 395, No. 10228 (21 March 2020), p. 922.

[35] See www.who.int/news/item/05-10-2020-covid-19-disrupting-mental-health-services-in-most-countries-who-survey.

global health risks, as well as to strengthen other public health capacities as required under the International Health Regulations (2005) and norms on the right to health;[36]

(c) Ensure availability and accessibility of essential medicines and vaccines. To that end, States should protect the primacy of public health over private profit, in line with their commitments to support research and development of vaccines and medicines, as well as preventive measures and treatments for communicable diseases, especially those that have a disproportionate impact on developing countries;[37]

(d) Continue, during health emergencies, to ensure that other health services, such as essential care for acute, life-threatening conditions, treatments for non-communicable diseases and sexual and reproductive health services, remain available and accessible to everyone on a disability-responsive, gender-responsive and non-discriminatory basis and remove all barriers, including any additional barriers that have arisen due to COVID-19;

(e) Proactively include people in situations of vulnerability or marginalization, such as older persons, women and girls, minorities, persons in detention, people living in institutionalized settings, indigenous peoples, persons with disabilities and migrants, irrespective of immigration status, in any vaccination campaigns;[38]

(f) Adopt comprehensive, multisectoral strategies underpinned by a human rights-compliant legal and policy framework to identify and address the legal, administrative, social and other determinants of health, paying particular attention to women and marginalized populations and groups;

(g) Take urgent steps to ensure the following forms of protection for all health and care workers and auxiliary personnel, particularly those involved in the COVID-19 response: safe and healthy conditions of work, including through the distribution of adequate amounts of good quality personal protective equipment; the availability of and free access to mental health support services; and ready access to judicial and other mechanisms for the protection of rights at work, including the right of health workers to remove themselves from situations that pose a serious danger to life or health;[39]

(h) Deploy additional resources for mental health services and the protection of the rights of persons with mental health conditions, including, specifically, by ensuring the availability and accessibility of human rights-based mental health services on a non-discriminatory basis, remote mental health services where feasible and in the interests of mental health service users, community-based mental health services and emergency mental health services.[40]

V. Data

A. Context

26. Comprehensive, good quality and up-to-date data is essential for evidence-based planning, policy design, monitoring and accountability. Disaggregating data by income, age, sexual orientation, gender identity, race, ethnicity, wealth quintile and other distinctions, as locally relevant, helps to identify inequalities and to understand why they exist.[41] Consequently, key information should emerge, including on the identity and size of populations and groups that have been or are at an increased risk of being left behind in the COVID-19 response and the barriers they face in realizing their economic, social and cultural rights, as well as in equally benefiting from development efforts. Currently, data is not consistently disaggregated, in particular by sex and gender, and in low-income countries in

[36] See also target 3.d of the Sustainable Development Goals.
[37] Addis Ababa Action Agenda of the Third International Conference on Financing for Development, para. 121.
[38] OHCHR, “Human rights and access to COVID-19 vaccines” (17 December 2020).
[39] See WHO-2019-nCov-HCWadvice-2020.2-eng.pdf.
[40] A/HRC/34/32.
[41] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 20.

particular, data on infection and deaths linked to COVID-19 are even less likely to be disaggregated by sex.[42]

27. Routine operations such as censuses, surveys and other data programmes have been disrupted throughout the global data and statistical system, multiplying the impact of existing problems such as the lack of basic health, social and economic data.[43] Nine in 10 national statistical offices in low- and lower-middle-income countries have lost funding, while a majority of countries in Latin America and the Caribbean have signalled challenges in fulfilling international data reporting requirements.[44] This substantial loss of capacity has implications across most, if not all, areas relevant for mounting an effective response to health emergencies and for the ability to assess excess mortality due to COVID-19 and prepare for future health emergencies.

B. Key actions

28. States should:

(a) Allocate resources to institutionalize and augment capacity for data collection and data management, particularly in developing countries, including for training in human rights-based methods of data collection and for innovative approaches to responding to emergency conditions;[45]

(b) Ensure the free, active and meaningful participation of all stakeholders, in particular women, persons with disabilities and other marginalized populations and groups, throughout the entire data-collection process, including in strategic planning, in the selection and testing of appropriate data-collection methodologies and in data storage, dissemination, analysis and interpretation;[46]

(c) Analyse, disseminate and use disaggregated data when formulating policies, conducting impact assessments, carrying out advocacy activities, reporting to human rights mechanisms, assessing progress made on the 2030 Agenda, programming and sharing information on good practices, while also ensuring that the rights of marginalized populations and groups are protected;

(d) If they have the capacity to assist, urgently support national statistical offices and other data-collection authorities in other countries, especially through technical assistance, capacity-building and the provision of financial aid and software for remote data collection;

(e) Facilitate the forging of partnerships between national statistical offices and international or public sector and other partners, including national human rights institutions, in order to bridge the data gaps created by the pandemic.[47]

VI. People on the margins

A. Women and girls

29. The pandemic has set back progress on women's rights in a number of significant ways exerting, in addition, a differential impact on groups of women based on race, disability, income, age and other grounds, revealing clear inequalities.[48] Across the board, some of the

[42] Sarah Hawkes and others, "Recorded but not revealed: exploring the relationship between sex and gender, country income level, and COVID-19", *The Lancet* (April 2021), p. 1.

[43] *Sustainable Development Goals Report 2020*, p. 4.

[44] Ibid.

[45] OHCHR, "A human rights-based approach to data: leaving no one behind in the 2030 Agenda for Sustainable Development" (2018), p. 9.

[46] Ibid., p. 3.

[47] Committee for the Coordination of Statistical Activities, *How COVID-19 is Changing the World: A Statistical Perspective – Volume III* (2021), p. 10.

[48] UNDP and UN-Women, "COVID-19 global response tracker".

greatest setbacks relate to livelihood. Women workers are disproportionately represented in poorly paid and informal sector jobs, where access to adequate social protection is lacking. During the pandemic, many women have been unable to work remotely or at all due to the nature of their work. Others have remained at home to give priority to the income of male family members, which tends to be higher because of structural discrimination at work. With the closure of schools, the responsibility of caring for children has been borne mostly by women, who have also assumed a greater share of the caring responsibilities for sick and older relatives.[49]

30. Other groups of women who have been severely affected by the COVID-19 crisis include women living in poverty, single mothers, essential workers, adolescent girls, women with disabilities, women who belong to minority racial and ethnic groups and women living in rural areas with limited access to time- and labour-saving equipment, public services and infrastructure.[50] The exclusion of women from financial assistance schemes and delays in disbursements have also been reported in some areas while, in parallel, socioeconomic responses to the pandemic have failed to adequately address women's economic security or the unequal and excess burden of unpaid care work on women and girls.[51]

31. Lockdowns and other restrictions on movement have exposed many women and girls to gender-based violence in the home.[52] Women and girls already in abusive situations are more exposed to increased control and restrictions by their abusers, with little or no recourse to support. With the widespread closure of schools and increased economic insecurity of families, hundreds of girls have been rendered vulnerable to giving up their education, getting married and becoming subject to other harmful survival strategies. In addition to being a violation of human rights, child marriage is also a strong determinant of lifelong disadvantage and deprivation in all areas of life.[53]

B. Key actions

32. States should:

(a) Ensure that economic incentives and social safety nets are gender-sensitive, take into account women's unequal burden of unpaid care work through their life cycle and reach and empower all women and girls, including by establishing or scaling up cash transfer programmes, family leave policies, unemployment benefits, partial unemployment or short-time work benefits, pensions and child grants and by providing humanitarian cash transfers that reach both women and men.[54] In low- and medium-income countries in particular, States should extend social protection to single-parent households, essential workers and informal sector workers;[55]

(b) Promote gender-equal caregiving responsibilities for all parents, caregivers and guardians and flexible, family-friendly work practices, including by investing in public care services to reduce the excess burden of private care responsibilities, such as childcare and care for other family members;

(c) Raise awareness of gender-based violence in accessible formats, provide information through different media about available avenues for assistance and ensure immediate and proactive action by law enforcement and the judiciary to remove abusers from the home and protect victims;[56]

[49] Kate Grantham and others, "Evidence review of the global childcare crisis and the road for post-COVID-19 recovery and resilience" (2021), p. 5.

[50] Ibid.

[51] See https://data.undp.org/gendertracker/. See also the submission by the Equal Rights Trust.

[52] See www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures and the submission by the International Alliance for Peace and Development, which focuses on the situation in the Sudan.

[53] OHCHR, "COVID-19 and women's human rights: guidance" (15 April 2020).

[54] Ibid.

[55] Kate Grantham and others, "Evidence review of the global childcare crisis", p. 6.

[56] OHCHR, "COVID-19 and women's human rights: guidance".

(d) Protect equal access to education for all children, including girls and children with diverse gender identities and those with disabilities, and reduce inequality in access to quality education.

C. Minorities

33. It is well known that the poverty, structural discrimination and exclusion faced by minorities result in diminished life opportunities and restricted access to resources. These experiences affect access to education, health, work, food and other determinants of health. Disparities in the enjoyment of economic, social and cultural rights, among other rights, reflect the pervasiveness of the structural discrimination that minorities experience.[57] Indicators on numerous health issues, including COVID-19-related morbidity and mortality rates, signal consistently worse outcomes for persons belonging to minorities compared with the general population.[58] Moreover, the risks of COVID-19-related mortality are cumulative, reflecting lifetime experiences and multiple and intersecting forms of marginalization.[59] Minorities have also largely been left behind in the design of the health responses to the COVID-19 pandemic and, already, vaccination rates among minority communities are lower than among others.[60]

34. In addition to breeding social marginalization and economic deprivation, systemic discrimination, institutional invisibility and structural racism are at least partly responsible for the differential access of persons belonging to minorities to health care and other essential services and for differences in the quality of the care they receive. The disproportionate impact of COVID-19 on minorities is a result, in part, of their limited access to health care and social protection, inadequate living conditions, high representation in poorly paid, precarious jobs considered "essential" and often inadequate occupational conditions.

D. Key actions

35. States should:

(a) Collect and publish comprehensive data disaggregated by sex, age, disability, race, ethnicity, mobility, economic or other status, as nationally relevant, to identify persons belonging to minorities facing discrimination and marginalization, particularly in relation to the exercise of their rights to health, social protection, an adequate standard of living, education and work. The collection of such data should be based on the principles of participation, informed consent and self-identification. The data should identify:

(i) Structural and other barriers to the enjoyment of economic, social and cultural rights;

(ii) Which groups are furthest behind and which communities and groups experience multiple and intersecting forms of discrimination, as well as disparities in the realization of economic, social and cultural rights between them and the general population;

(b) Develop and resource evidence-based policies, strategies and plans to address the discrimination and marginalization identified and protect the economic, social and cultural rights of minorities, adopting special measures where necessary to promote equality;

[57] See A/HRC/45/44/Add.2, para. 55.

[58] See, for example, Michael Marmot and others, *Build Back Fairer: The COVID-19 Marmot Review – The Pandemic, Socioeconomic and Health Inequalities in England* (London, Institute of Health Equity), p. 7. See also Public Health England, *Beyond the Data: Understanding the Impact of COVID-19 on BAME Groups* (London, June 2020).

[59] See, for example, Michael Marmot and others, *Build Back Fairer*, p. 14.

[60] See www.news-medical.net/news/20210302/Ethnic-minorities-have-less-access-to-COVID-19-vaccines-finds-study.aspx.

(c) Take targeted measures, including social protection measures, to ensure that minorities are included in socioeconomic response plans and are assured access to vaccines and health facilities, goods and services;

(d) Ensure that political and legal institutions are inclusive and ensure also the meaningful participation of minorities in decision-making, implement education, information and awareness-raising programmes and campaigns to challenge discrimination and harmful social norms, and highlight messages promoting social cohesion, solidarity and inclusion.

E. Migrants

36. The COVID-19 crisis has revealed structural inequalities and aggravated many of the human rights challenges already experienced by migrants in vulnerable situations, such as lack of decent work and social protection, inadequate living conditions and restrictions on movement. Access to health care is adversely affected by language and cultural barriers, cost, lack of information and the impact of xenophobic attitudes and behaviours, and migrants in an irregular situation may be unable or unwilling to access health care or provide information on their health status when they fear or risk detention, deportation and penalties because of their immigration status. Migrants risk falling behind in vaccination rates relative to others and being excluded from national vaccination programmes on the basis of their irregular migration status.

37. Migrants compelled to live in segregated neighbourhoods, overcrowded dormitories, informal settlements or in other inadequate conditions are at greater risk of being infected with the virus responsible for COVID-19, a situation that is further complicated by their reduced access to treatment. Those confined in immigration detention centres and otherwise deprived of liberty remain at a more elevated risk. Loss of employment and wages as a result of the pandemic and containment measures have led to further economic hardship for migrants. While many European countries depend heavily on women migrant workers to perform care work, many of these workers have lost their income or jobs in the crisis. Many migrant workers, particularly those who are undocumented or work in low-skilled jobs and in the informal sector, have been unable to gain access to basic social protections and have been left destitute as a result. At the same time, many migrants have played key roles as essential workers throughout the pandemic, often without sufficient support or social protection.

F. Key actions

38. States should:

(a) Ensure that migrants have access to COVID-19 vaccines and other health facilities, goods and services, including by removing legal, administrative and practical barriers, addressing discrimination and monitoring the distribution of vaccines;

(b) Implement “firewalls” to separate immigration enforcement activities from the provision of health care, COVID-19 vaccinations and other basic services;

(c) Institute a presumption against immigration detention and implement human rights-based alternatives to ensure that detention is exceptional;

(d) Include migrants in social protection systems, regardless of their migration status.

VII. Equality and non-discrimination

A. Overview

39. The 2030 Agenda was conceived as a plan of action for people, planet and prosperity. In it, States pledged to leave no one behind and to endeavour to reach those furthest behind

first. Sustainable Development Goal 10 is to reduce inequality within and among countries. The positive vision that the 2030 Agenda paints lies in sharp contrast to the current reality, where the COVID-19 pandemic and the accompanying socioeconomic crisis have aggravated existing inequalities between and among countries, added tens of millions to the count of those already left behind and undermined progress towards achieving the 2030 Agenda as a whole and its Sustainable Development Goals specifically.

40. The socioeconomic crisis has devastated businesses, industries and livelihoods. It has exposed the flaws of the existing political, economic and social system and, once more, the burden of hardship has not been evenly borne. Following the pandemic, in 2020 hundreds of millions of workers lost around 3.7 trillion dollars in earnings, while some of the world's richest individuals increased their wealth by an estimated 1.9 trillion dollars.[61] Populations and groups already subjected to poverty and marginalization and to multiple and intersecting forms of discrimination on grounds such as income, gender, location, race, religion and age continue to sink deeper into deprivation. Although social protection systems help prevent and reduce poverty, nearly three quarters of the global population is either not covered or only partially covered by social security systems. Only 22 per cent of unemployed persons receive unemployment benefits and only 35 per cent of children worldwide enjoy effective access to social protection.[62]

41. Inequalities in the distribution of essential infrastructure and services persist. Only 54 per cent of the global population uses the Internet, and the lowest rates of Internet use are in developing countries, where cost and the lack of the necessary skills are important barriers. This has undermined the right to education, particularly in developing countries, many of which still lack basic infrastructure and facilities for effective learning. In sub-Saharan Africa, at the primary and lower-secondary levels, less than half of schools have access to electricity, the Internet or computers. Over 190 countries closed schools in response to the pandemic and, although distance learning was made available in most countries, 500 million children were unable to access it.[63] Uneven access to technology, computers and the Internet, as well as inadequate computer-related skills, have reinforced the marginalization of already disadvantaged learners.[64] More broadly, the global digital divide undermines access to accurate health and other information, which is critical during pandemics and other health emergencies.

42. Vaccines have become the newest frontier in the struggle for equality, demonstrating that the divide between rich and poor countries remains as stark as ever. With several vaccines cleared for use by regulators in several countries, a handful of wealthy countries have received more than 87 per cent of all vaccine doses while developing countries have received 0.2 per cent.[65] This situation not only undermines the solidarity and cooperation that must underpin an effective and responsive multilateral system primed for the optimal protection of human rights, it is also inefficient in the context of a global pandemic.[66]

B. Key actions

43. States should:[67]

(a) Provide human rights-based models of universal health coverage that protect the right to health of marginalized communities, groups and populations in emergency preparedness, response and recovery plans and that are reinforced by legal and policy frameworks that address the underlying determinants of health;[68]

[61] See www.hrw.org/news/2021/03/04/unequal-crisis.

[62] International Labour Organization and United Nations Children's Fund (UNICEF), *Towards Universal Social Protection for Children: Achieving SDG 1.3* (2019), p. 2.

[63] *Sustainable Development Goals Report 2020*, p. 32.

[64] Ibid.

[65] https://news.un.org/en/story/2021/04/1089392.

[66] OHCHR, "Human rights and access to COVID-19 vaccines".

[67] See also www.un.org/en/coronavirus/tackling-inequality-new-social-contract-new-era.

[68] E/2019/52.

(b) Integrate universal social protection, including a basic minimum income, into COVID-19 and other emergency preparedness, response and recovery measures, to contribute to gender equality and protect marginalized groups.[69] These measures should be developed and implemented through a participatory process that respects the right of individuals to seek, receive and impart information on all social security entitlements in a clear and transparent manner;

(c) Prioritize, in the immediate term, domestic and international support for at-risk workers, small and medium-sized enterprises, small-scale farmers, informal sector workers and precarious and "gig economy" workers through, for instance, wage subsidies and support for businesses, particularly smaller enterprises;[70]

(d) Develop and implement whole-of-government and whole-of-society strategies to address the underlying determinants of marginalization and discrimination, such as discriminatory laws, policies and practices, harmful cultural, religious, gender and other societal norms, and poverty. Such strategies should focus on the intersections of marginalization and vulnerability for various populations and groups.

VIII. Bringing it all together: human rights in preparedness, response and recovery

44. **The COVID-19 pandemic has shown that the failure to integrate human rights-based approaches into health emergency preparedness, response and recovery efforts has serious consequences for human rights and development. Building back better will require ensuring that human rights principles inform the implementation of the 2030 Agenda, as affirmed by the Secretary-General in "The highest aspiration: a call to action for human rights". The United Nations High Commissioner for Human Rights makes the following recommendations for building back better, in addition to the specific key actions set out elsewhere in the present report:**

(a) **Legal and policy frameworks should be reviewed with a view to creating an enabling environment for protecting the human rights of women, marginalized populations and groups and those experiencing discrimination, including all intersecting forms of discrimination:**

(i) **The process should be participatory, gender-responsive, inclusive and transparent, with stakeholder consultation throughout;**

(ii) **Laws and policies that discriminate against women and marginalized populations and groups or that create barriers to or violate the enjoyment of economic, social and cultural rights should be repealed, rescinded or amended, and new laws and policies should be adopted to respect, protect and fulfil these rights and help achieve sustainable development;**

(b) **Prior to the impending onset of a pandemic or other health emergency, the needs and rights of women, marginalized populations and groups and those in situations of potential vulnerability should be identified, with their meaningful participation at every stage. Laws and policies should explicitly identify and engage women and groups in situations of potential vulnerability and require a systematic mapping of their needs and priorities;**[71]

(c) **Human rights monitoring capacity should be enhanced at the national, subnational and global levels in order to warn early on of potential violations, track human rights concerns, as well as their gender-specificities, inform policies and**

[69] See www.social-protection.org/gimi/gess/RessourcePDF.action?id=56006.

[70] High-level Committee on Programmes inequalities task team, "COVID-19, inequalities and building back better" (2020), pp. 8–9.

[71] Elina Hammarström and Matthew Scott, *Pandemic Preparedness and Response: National COVID-19 Law and Policy in Human Rights Perspective* (Lund, Raoul Wallenberg Institute, 2021), p. 5.

facilitate any changes needed to advance the implementation of the 2030 Agenda and protect human rights, particularly those of marginalized populations and groups;

(d) **Human rights impact assessments, including equality impact assessments, should be incorporated into public health, economic and social policy responses to the crisis, and measures immediately implemented to address any human rights concerns identified by the assessments. Equality impact assessments should aim to identify the actual or potential discriminatory effects of policies and should be initiated before policies and laws are adopted or as an urgent priority where measures have already been taken;**[72]

(e) **Stimulus packages should be developed and assessed through a human rights lens and the proposed fiscal and economic reforms should be gender-transformative, address pre-existing inequalities and avoid creating new ones;**

(f) **Human rights impact assessments of debt sustainability and debt management proposals should be conducted to ensure that they do not have the unintended consequence of increasing economic inequality, particularly in the areas of health, water and sanitation and social protection. Human rights impact assessments can help identify the ways in which communities facing multiple and persistent forms of discrimination may be affected by macroeconomic policies and help facilitate the protection of their economic, social and cultural rights;**

(g) **Resources should be mobilized and socioeconomic transformations should be promoted through innovative financing, including social bonds and green bonds;**

(h) **Loans and grants from international financial institutions and donors should be monitored, with the participation and full engagement of national human rights institutions and civil society organizations, to ensure that they are used to address demonstrated needs, focusing on those most at risk of being left behind;**

(i) **Preparedness, response and recovery plans should be gender-sensitive and women and girls should participate fully, equally and meaningfully in the development of local, national and global COVID-19 policies and in decision-making. States should take positive measures to ensure that women and girls belonging to marginalized groups are provided with opportunities to participate meaningfully;**

(j) **Measures should be taken to facilitate a return to work that respects the rights to work and to fair and just conditions, as well as the needs of both workers and employers, including safe and accessible workplaces, the availability of childcare and schools, effective testing and tracing and active labour market policies (including public employment programmes) to create new jobs and remove barriers to women's participation in the formal sector;**[73]

(k) **The global approach to pandemics and other health emergencies should be coordinated and be in line with the International Health Regulations (2005), the International Covenant on Economic, Social and Cultural Rights and the 2030 Agenda. Efforts should be directed, among others, to increasing manufacturing capacity and ensuring equitable global access to COVID-19 medicines, vaccines, therapies and health technologies; pooling and sharing knowledge, intellectual property and data; participating in global initiatives aimed at supporting equitable, non-discriminatory access to health facilities, goods and services such as the COVID-19 Technology Access Pool; and strengthening health systems;**

(l) **States should adopt as best practice, irrespective of crisis situations but especially during pandemics and other health emergencies, the interpretation and implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in line with the right of World Trade Organization**

[72] Submission by the Equal Rights Trust (March 2021).

[73] High-level Committee on Programmes inequalities task team, "COVID-19, inequalities and building back better", pp. 8–9.

members to protect public health and, in particular, to promote access to medicines for all;[74]

(m) **Debt relief should be extended to all countries in need, even middle-income countries, for example by cancelling or restructuring debt or reaching agreements on debt standstills from all stakeholders, including from private creditors, in order to provide developing countries with the necessary fiscal space;**

(n) **Efforts should be redoubled to meet the target of allocating, respectively, 0.7 per cent of gross national income and 0.15 to 0.2 per cent of gross national income for official development assistance to developing and least developed countries.**

[74] Declaration on the TRIPS Agreement and Public Health adopted by the Word Trade Organization on 14 November 2001.