

RULE OF LAW AND COVID-19 POLICY BRIEF



IN FOCUS

The COVID-19 pandemic has affected every part of the world. The effectiveness of government measures to contain the virus and *Build Back Better* depends upon the capacity of public institutions and their leadership to provide transparent, effective, and accountable actions, in adherence with the rule of law.

With its emphasis on rule of law as an enabler of peace, justice and inclusion, Sustainable Development Goal (SDG) 16 of the 2030 Agenda for Sustainable Development can help promote stronger institutions, more successful government action and reduced inequalities for preventing and mitigating disease outbreaks such as COVID-19. The values and principles enshrined in SDG 16 and Agenda 2030 remain highly relevant to overcome the ongoing crisis and ensure a just, equitable and sustainable recovery for all.

16 PEACE, JUSTICE
AND STRONG
INSTITUTIONS



SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

Target 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all.

Three key elements are central to a rule of law-based response to the pandemic:

- Strengthening the legal and policy frameworks for managing COVID-19 response and recovery and preparing for future global health emergencies;
- Mitigating the impact of the crisis on justice systems and justice seekers with a specific focus on those most vulnerable, women, girls, and marginalized groups, ensuring that no one is left behind; and
- Supporting and investing in a culture of justice to protect the rights and dignity of people everywhere.



Peace, Justice, Equality and Inclusion

Fair laws and policies



Effective, accessible, and accountable institutions



Empowered people and groups realize their rights



Focusing on the justice needs of people and on fair and effective institutional responses to such needs, the rule of law is a precondition for security, justice, and equality. It safeguards human rights standards and an independent judiciary, and it protects procedural rights by guaranteeing legal certainty, due process, and predictability.

By ensuring that laws and policies are fair, institutions are accessible and accountable, and people and groups are empowered to realize their rights, the rule of law enables good governance, constrains the arbitrary exercise of power and safeguards legitimate justice processes and outcomes, for the benefit of all.

Defining the rule of law

The “rule of law” (...) refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

Source: United Nations, Report of the Secretary-General, [The rule of law and transitional justice in conflict and post-conflict societies](#) [2004]

RULE OF LAW ACTIONS

The following rule of law actions can help support an effective response to the COVID-19 pandemic, while furthering development goals, sustainable recovery and long-term responsiveness, resilience and modernization of the justice sector:

1 Foster participation, involve and empower individuals in decision-making processes

Public health measures and recovery efforts must be understood and supported to be successful and this requires participation by individuals in decisions related to their lives and health at local, national and international levels. It is especially important that the perspectives and voices of women and marginalized groups are present in government and incorporated in the COVID-19 response.

2 Ensure that emergency restrictions are anchored in the rule of law

Emergency measures must be clearly defined in national law and in line with international human rights standards, without ambiguity or misinterpretation by officials enforcing the law, thus preventing the arbitrary or excessive use of power.

3 Promote fair laws and policies for recovery

The adoption of just and equitable legislative measures in line with state obligations to progress economic, social and cultural rights such as essential primary health care, is an essential step to support recovery and help build resiliency for the next global health emergency.

4 Invest in justice services and expand legal aid

Where rights violations occur, individuals must be able to access remedies and receive redress through an independent judiciary or other justice mechanism. Expanded legal aid helps protect the rights of vulnerable and marginalized groups, empowering their actions while achieving high benefit relative to cost. It is important to support justice institutions and services with adequate and sustained financial investment.

5 Foster equitable justice innovation

The value that technology and innovation can offer is clear, streamlining justice sector operations and improving the efficiency, timeliness, and transparency of justice. Ethical challenges must be addressed however, to ensure fair and equitable access to technology and mitigate the digital divide that risks leaving the most vulnerable groups behind.

6 Engage with alternative dispute resolution and customary and informal justice in line with international standards

Justice stakeholders must evaluate possibilities to enhance service delivery for justice seekers, whether individuals or businesses. To ensure access to justice for all, justice systems must meet justice needs in appropriate ways, including through alternate justice services, provided safeguards are in place to uphold basic rights.

7 Enhance justice for women and girls

Exacerbated risks of gender-based violence, including domestic violence and intimate partner violence, require effective prevention and response. Discriminatory laws must be repealed and response strategies must provide access to survivor-centered social, psycho-social, economic, as well as legal services.

8 Promote a renewed spirit of multilateralism in alignment with the SDGs

Effectively addressing pressing global challenges requires international cooperation, support and solidarity. The SDGs incorporate a strong emphasis on the rule of law and human rights and provide a universally accepted framework to foster global collaboration, including technical assistance and exchanges of information and good practices. Agenda 2030 can help promote renewed multilateralism and a framework for the international community to work collectively to tackle shared challenges, build resilience to common threats, and achieve global goals towards peace and development.

Read more

[Statement](#) by the Director-General of IDLO, Jan Beagle: A Rule of Law Based Response to the COVID-19 Pandemic.

[Key Lessons](#) from [Advancing the right to health: The vital role of law](#) (2017) and [Update and Summary Guide](#) (2018), co-published by the World Health Organization, IDLO, the O’Neill Institute for National and Global Health Law at Georgetown University, and the University of Sydney.

[Justice for Women Amidst COVID-19](#) documents the major challenges to women’s access to justice in light of the COVID-19 pandemic and details recommendations to accelerate action and address threats to progress. It builds on the 2019 [Justice for Women](#) report, jointly produced by the High-level Group on Justice for Women, which was co-convened by UN Women, IDLO, the World Bank, and the Pathfinders.