

Forum on Democracy, Human Rights, and the Rule of Law 2022

Strengthening democracies to build back better: challenges and opportunities

UNODC input

Criminal justice institutions and actors have a key role to play in supporting and maintaining democracy, human rights, and the rule of law. Consistent with Goal 16 of the 2030 Agenda, the creation of effective, accountable, and inclusive institutions, at all levels, is essential for achieving sustainable development and ensuring equal access to justice for all.

Human rights based approaches to the development and exercise of legal, institutional and operational functions in the field of criminal justice is crucial for recognizing and redressing the structural inequalities and pervasive forms of discrimination that may prevent marginalised groups from accessing justice and equal protection under the law. The realisation of key human rights principles of equal human dignity, and non-discrimination, are essential to meeting the needs are rights of the most marginalised – to ensure that no-one is left behind.

The rule of law is predicated on ensuring equality before the law - which means that all are subject to the law, and all enjoy the equal protection of the law. Realising these core rule of law goals requires that non-discrimination and accountability for corruption are guaranteed, both in legislation and in practice. Core components of our work, at UNODC, involve strengthening the capacity of criminal justice institutions and actors to uphold the international standards and norms in crime prevention and criminal justice. Key issues, within this work, include establishing and maintaining strong accountability and oversight mechanisms, in criminal justice institutions, to ensure the treatment of victims, witnesses, suspects, accused persons, and prisoners in a manner that is consistent with internationally agreed minimum standards.

UNODC supports Member States in establishing and strengthening effective, accountable and transparent institutions and processes that represent and serve all members of society. This includes the establishment and maintenance of a strong and non-discriminatory legal, policy and institutional framework to criminalize and effectively prosecute acts that undermine human rights and a culture of lawfulness, as well as ensuring that justice is both fair and accessible to all.

The following areas outline key areas of UNODC work that are of relevance to the conference.

I. Human rights-based and gender-sensitive police reform

Despite the density of justice needs globally, individuals very often face challenges in accessing justice, or they endure harm as a result of their contact with justice systems. The various challenges that lead to compromised justice processes and outcomes include: lack of services; poverty; inequality; corruption; the criminalization of victims; deficiencies (or discrimination) in law or procedure; undue delays or overly expedient processes; overreliance on punitive approaches; and harmful stereotypes or social norms that bear discriminatory effects.

The human rights of individuals in contact with the police and/or the criminal justice system may be breached in situations where there are deficits in oversight and accountability; where corruption is prevalent; where structural elements imperil wellbeing; or where statutory or discretionary mechanisms result in punishments that constitute torture or cruel, inhuman or degrading treatment.

To uphold human rights, and to facilitate equal access to justice for all, the actions of criminal justice actors must be in accordance with the law. This includes ensuring that the exercise of their function accords with internationally agreed rules, minimum standards, and accountability mechanisms (for example, with respect to the use of force and firearms).

UNODC has longstanding experience in working to support nationally owned strategic police reform processes informed by the international legal framework, and the international evidence base on effectiveness. UNODC promotes policing approaches that involve local communities and support the systematic use of partnerships and problem-solving techniques to proactively address crime in support of safe, inclusive and sustainable communities. This includes an emphasis on supporting with the development and strengthening of oversight and accountability mechanisms, non-discrimination, and the establishment of inclusive and gender-diverse workforce that reflects, and represents, the diversity of the communities served. In the context of building back better, it is also important to note the importance of human rights-based and gender-sensitive approaches to capacity-building and institutional support for police, to ensure their readiness to serve communities in the context of public emergencies, the exercise of public assemblies, and instances in which individuals experience distress or mental health crisis.

II. Anti-corruption

Corruption disrupts democracies and sustainable development, and hinders implementation of human rights, and the rule of law.

UNODC provides technical assistance to Member States on prevention of corruption, in line with Chapter II of the United Nations Convention against Corruption, specifically on integrity in the public sector, corruption risks assessment and mitigation methodology, codes of professional conduct and similar.

As regards the theme of “building back better”, [Resolution 9/1](#) of the most recent, ninth, Session of the Conference of States Parties to the United Nations Convention against

Corruption from December 2021, entitled *Sharm El-Sheikh Declaration on Strengthening International Cooperation in the Prevention of and Fight against Corruption during Times of Emergencies and Crisis Response and Recovery* is highly relevant. The Resolution highlights initiatives on safeguarding integrity in the public sector in times of crises (publications), and refers to UN technical assistance aimed at enhancing integrity in the public sector (corruption risks assessment and mitigation methodology and application of UNCAC preventive chapter).

UNODC guidance in this area includes publications¹ that address the integrity and corruption risks related to the COVID-19 pandemic and provide recommendations and ways forward in safeguarding public funds in times of crises:

- [Corruption and COVID-19: Challenges in Crisis Response and Recovery](#) (13 October 2021; PDF)
- [G20 Good Practices Compendium on Combating Corruption in the Response to COVID-19](#) (PDF; 22 October 2020)
- [COVID-19 fiscal response and the prevention of corruption](#) (PDF; 23 July 2020)

III. Access to justice

UNODC's mandate covers both (1) supporting state authorities in preventing and responding to crime and violence, as well as (2) ensuring that the rights of groups with specific needs in the criminal justice system such as women and children, victims of crime and vulnerable groups such as pre-trial detainees and prisoners, are respected and access to justice and other essential services is provided.

Due to the manner in which infection spreads, COVID-19 created the often-cited unprecedented challenges for justice systems

- to be able to ensure that the rights of victims, suspects, accused persons, witnesses and prisoners were protected;
- to overcome the challenges in relation to access to essential services that are posed by inequalities based on wealth, health or livelihood;
- to address the rise in gender-based violence caused by the lockdowns that are trapping victims with their perpetrators; and
- to continue to build capacity and tackle institutional reforms that strengthen the effectiveness of the justice systems in a radically shifted social context. Emergency measures must be based on the rule of law and protect and respect international human rights standards. Access to legal services and information is crucial for empowering persons and communities.

In May 2020, UNODC and UNDP developed the comprehensive guidance note on "[Ensuring Access to Justice in the context of COVID-19](#)"² that provides guidance for practitioners and

¹ More publications can be found here: <https://www.unodc.org/unodc/en/covid-19-policy-documents.html>

² Input was received from several partners of the UN Global Focal Point on Rule of Law: the Executive Office of the Secretary General (EOSG), the Justice and Corrections Service of the Department of Peace Operations' Office of Rule of Law and Security Institutions (DPO/OROSLI/JCS), the Office of the High Commissioner for Human

policy makers on key issues to consider in ensuring access to justice in the context of the COVID-19 crisis. It is divided into three sections, Preparation, Response and Recovery. While the note is not exhaustive and there may be chronological overlap across the different phases as states face differing dimensions of the crisis – including adjusting existing or introducing new measures when second or third wave outbreaks may occur – it aims to highlight some of the critical elements to consider enabling the justice sector to respond effectively and address the short, medium, and long-term impact of the crisis.

The note understands as “recovery”: *In contexts where the immediate public health crisis is subsiding and emergency measures are being lifted, and the broader impact of the crisis and inclusive recovery needs to be addressed, including ensuring access to justice to address civil justice concerns as part of the socio-economic impact of the crisis.*

To address in particular issues of human rights and the rule of law, some selected areas for consideration are:

1. **Addressing the backlog of cases.** Prior to COVID-19, many countries were already struggling to handle case backlog in criminal, administrative, and civil proceedings. With many cases put on hold because of the crisis, the backlog will be even greater. The justice sector will need surge capacities to be able to handle this backlog in an effective, fair, and timely manner. This can also include building on some of the ICT gains that may have been achieved during the crisis and continuing with remote court hearings and other judicial proceedings, where appropriate, as a strategy to support the progressive resumption of judicial activities.
2. **Understanding the need for people-centred justice to address the long-term impact of increased inequalities.** When the immediate threat of the pandemic passes, the socio-economic impact of the responses to the virus will be a primary concern for many people. Even before the pandemic, social movements were underway in some countries to demand that governments address long-standing issues of corruption, inequality, and exclusion. The pandemic is testing the social contract and people’s trust in state institutions as many governments struggle to respond effectively to the crisis. The crisis has laid bare glaring socio-economic inequalities. It is not only the poor, the day labourers, and the minorities who are suffering. Small business owners, freelancers, and members of the lower working class are also experiencing the negative impacts of inadequate government responses. Post-COVID-19, the demand for broad social change will likely be even stronger across the globe. This may lead to social unrest and instability.

Additionally, there may be increased risks of criminality and violence due to unresolved conflict. A recovery plan will need to consider reinforcing capacities of justice sector actors to respond to the situation in a way that renews trust in institutions, invests in more inclusive and responsive governance structures at local

Rights (OHCHR), the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (O-SRSG-SVC), the United Nations Children’s Fund (UNICEF), the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women).

and national levels, and focuses on a way to deliver more people-centred justice services, including through long-term crime prevention mechanisms. Engaging with communities and civil society organizations to identify priority areas for support will be critical to ensure that the recovery plans are locally owned and respond to the demands emerging from communities.

- 3. Assessing and sharing lessons and retaining good practices.** Once the immediate crisis has passed, a reflection on the response and measures taken to protect and promote people's access to justice in the context of the pandemic is needed. The process of reflection should identify and share good practices among justice sector actors, including private sector and civil society. Successful innovative strategies adopted during the crisis should be built upon. Distilling good practices from this particularly challenging period and advocating for their continued use could help to overcome some of the systemic barriers people face in accessing justice. For example, the use of remote technologies for legal proceedings, the adoption of prison decongestion strategies, measures to reduce the use of pretrial detention, support for online dispute resolution, virtual access to legal aid providers, among other efforts, may be continued beyond the recovery phase and have the potential for far-reaching and lasting impact.