



CATALYZING RIGHTS BRIEFING PAPER: STRUCTURAL AND SYSTEMIC CHANGE THROUGH COVID-19 HUMAN RIGHTS MEASURES

DUKE LAW

INTERNATIONAL
Human Rights Clinic



catalyzing rights
INDEX OF ADVANCES DURING COVID-19

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ABOUT US

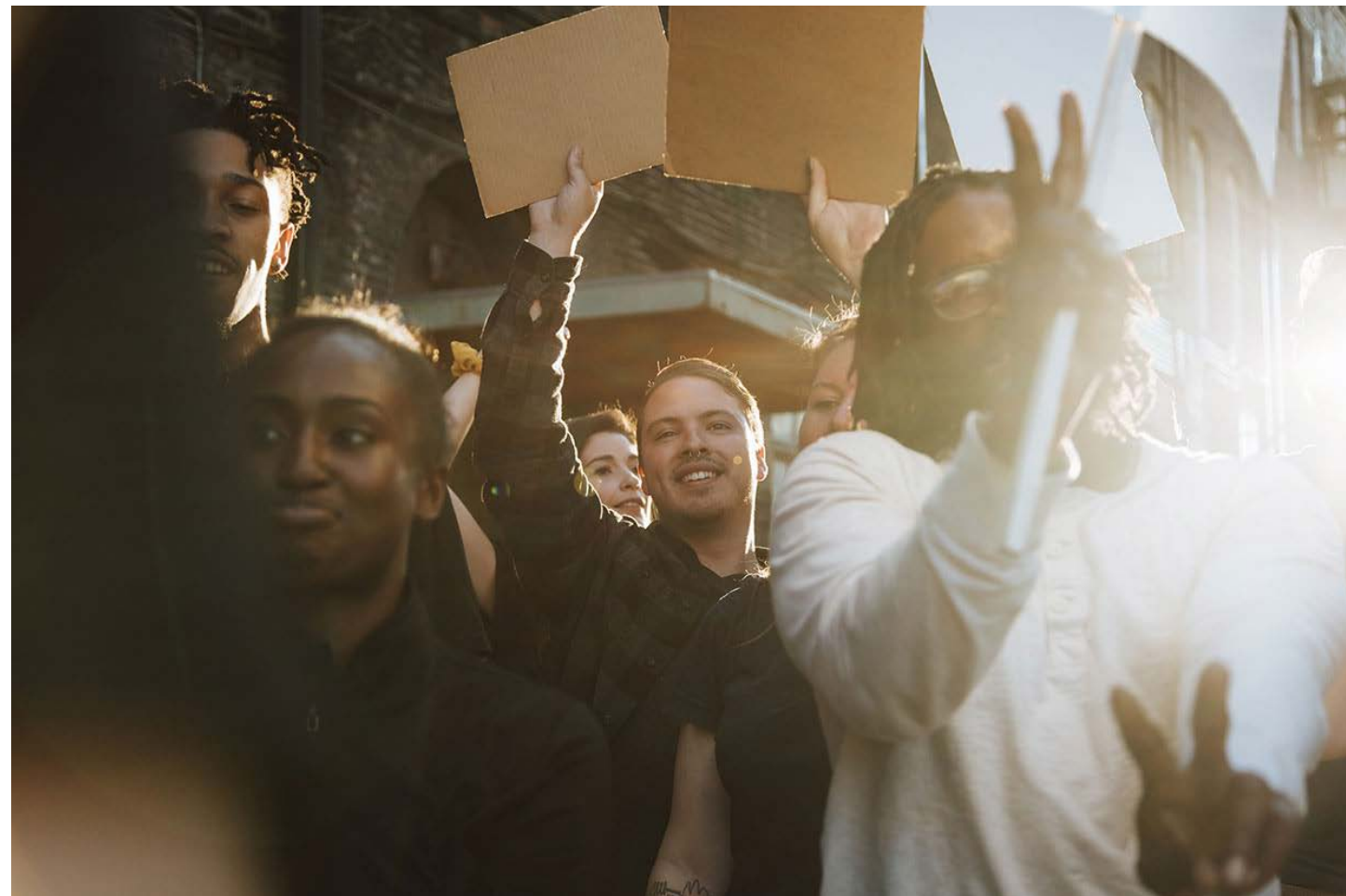
The [Duke Law International Human Rights Clinic](#) is a core component of the [Human Rights Program](#) at Duke Law. The Clinic is a semester-long course that enables students to critically engage with cutting-edge human rights issues, strategies, tactics, institutions, and law in both domestic and international settings. The Clinic's partners include local and international non-governmental organizations, as well as inter-governmental bodies such as the United Nations.

ABOUT THE CATALYZING RIGHTS PROJECT

Under the guise of protecting public health and reducing the spread of the novel coronavirus, many governments are restricting rights during the COVID-19 pandemic. Yet amid this widespread crackdown on rights, some governments have also tried to protect and, in some cases, even advance rights. Collecting, indexing, and sharing these positive steps allows identification of good practices, as well as tools to hold governments to account if they try to roll back these developments. Cataloging these developments also provides an opportunity to reimagine post-pandemic futures and advocacy strategies that fully center rights. This project, undertaken by the Duke Law International Human Rights Clinic, tracks these rights-positive responses to the COVID-19 pandemic around the globe, from the local to the national level.

CONTACT

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The following measures found in [Catalyzing Rights](#) explicitly aim to create structural and systemic change, including by emphasis on the concept of doing things differently than previously. In putting into place such measures, States have sought to demonstrate a commitment to transformative, structural, and long-term change. These measures—in a range of categories—suggest that States have indeed used the challenges posed by the COVID-19 pandemic to catalyze more foundational and transformative change that extends beyond temporary or superficial measures. The following is a non-exhaustive list of some such measures in different categories.

ECONOMIC AND FISCAL POLICY RESPONSES

As emphasized by United Nations (U.N.) [Office of the High Commissioner for Human Rights \(OHCHR\)](#), States have put into place measures that “contribute to building back better in the longer term...to build a more inclusive and sustainable world, including for future generations.” Reflecting the recommendations of the [U.N. Independent Expert](#) on the effects of foreign debt and human rights, some States have also acted to “[lay\[\] the groundwork for a robust, sustained and inclusive global economic recovery.](#)” For example, Albania’s “[Economic Reform Program 2021-2023](#)” which contains “[b]oth monetary and fiscal measures . . . to give support to the Vulnerable and the Private Sector” contains “18 structural reforms” which include “energy market liberalisation, diversification of energy sources, transport, broadband connectivity, land consolidation, businesses environment, education and VET, employment and labour market, and social inclusion.” Ghana’s “[National Adaptation Plan \(NAP\) Project](#)” is aimed at “guid[ing] the process of integrating climate change into national decision-making and effective adaptation in the country” including by identifying “medium and long term adaptation needs.” As noted by the U.N. Environment Programme ([UNEP](#)), the government planned to use the process “to ‘build back better’”

and to “ensur[e] that post-COVID-19 recovery investments and stimulus packages are ‘climate-proof’ - i.e., resilient to the extreme weather events projected in the coming decades.”

EDUCATION

Regarding long-term, systematic, and transformative elements of the right to education in the context of COVID-19, the [U.N. Special Rapporteur](#) on the right to education has stated that “implementing the right to public, inclusive, quality education for all on a long-term basis is the best way to combat the inequalities that the COVID-19 crisis did not create but exposed and widened significantly” and, linking the right to education to technology and digital rights, the [U.N.](#) has emphasized the need “to remove technological barriers by investing in digital infrastructure and lowering connectivity costs,” noting also that “[b]ridging the digital divide will also require greater investment in digital literacy for marginalized populations.” The importance of the rights of persons with disabilities has also been stressed, with the [U.N.](#) calling for the “systematic inclusion of persons with disabilities” in COVID-19 “response and recovery,” with such inclusion being “central to the UN’s commitment to achieve transformative and lasting change on disability inclusion.”

In a measure addressing both technology and digital rights and the right to education, and particularly emphasizing the access of children and persons with disabilities to such rights, Sierra Leone’s “[National Policy on Radical Inclusion in Schools](#)” aims to remove “all infrastructural and systemic policy and practice impediments that limit learning for any child,” “creating an enabling and inclusive environment that eradicates stigma, harassment, intolerance and exclusion of any kind,” “increasing justice and equity in peoples’ lives and organisations,” and “emphasiz[ing] the inclusion of historically marginalised groups: pregnant girls and parent learners, children with disabilities,



children from rural and underserved areas, and children from low-income families.” Notably, David Moinina Sengeh, the Minister of Basic and Senior Secondary Education, explained that the COVID-19 pandemic “enabled” thinking about “how to do things differently, particularly for children who have been adversely affected, starting with building a more inclusive and equitable education system” and that this “inspired much of the direction and content” of the policy.

EMPLOYMENT

In the area of employment, the [U.N.](#) has called for the adoption of a “comprehensive approach to returning to work” including by ensuring safety in workplaces, allowing for “alternative work modalities for populations-at-risk,” and implementing measures that will have long-term impacts. Towards this end, the Republic of Korea’s [“Amendment to the Equal Employment Opportunity and Work-Family Balance Assistance Act”](#) amended existing legislation to extend the “maximum period of family care leave” to “90 days per year,” allowing employees to make use of this leave for different circumstances extending beyond the COVID-19 pandemic. These circumstances include when “a serious emergency alert level has been issued . . . due to the spread of an infectious disease” and family members are impacted, such that “an employee needs to care for a family member,” suspension or temporary closure orders have been issued for schools or businesses and “the employee in question needs to care for their child,” or “due to an infectious disease . . . the employee’s child is in need of care because they have been required to self-quarantine at home.”



ENVIRONMENTAL JUSTICE

In the area of environmental justice, [OHCHR & UNEP](#) have emphasized that a “rights-based approach to the COVID-19 recovery and response requires that we build back better and more sustainably.” In Costa Rica, a [“Financial Program for Women who](#)



[Protect Natural Resources”](#) involved a collaboration between the government and United Nations Development Programme (UNDP) “to mitigate the socio-economic impacts generated by the global pandemic” which “aim[ed] to strengthen the economic autonomy of women, facing up to gender gaps in nature management and progress towards the achievement of the Sustainable Development Goals.”

HOUSING

The former [U.N. Special Rapporteur](#) on the right to adequate housing has emphasized the importance of measures that have longevity beyond the pandemic, stating that “States must ensure that all emergency measures taken to contain the virus and prevent individuals and families from losing their homes, lays the groundwork for the realization of the right to housing once the pandemic is over. This is an opportunity to ensure that moving forward housing systems are sustainable and resilient in the face of the next global crisis.” In the United States, the state of New Hampshire’s [“Emergency Energy Assistance Programs”](#) made funding available “for emergency energy assistance for New



Hampshire residents . . . to help with high energy prices this fall and winter.” While temporally limited, this measure accounted for, and was responsive to, needs arising from societal, political, and economic factors beyond COVID-19 by recognizing “higher energy bills due to the current high energy prices” that had resulted from a combination of factors including “increased energy usage as the economy recovers from the COVID pandemic, uncertainties in supply stemming from the ongoing war in Ukraine, and growing inflation.”

TECHNOLOGY & DIGITAL RIGHTS

As called for by the [U.N. Special Rapporteur](#) on the promotion and protection of the right to freedom of opinion and expression, some States have put into place measures to respond to “the profound need for expanding infrastructure to allow for [digital]



access.” For example, Oman’s [“Agreement Signed to Cover Villages and Population Centers With Telecommunications and Internet Services Via Satellite”](#) received funding to “to provide the infrastructure for this project” and aimed to create broad based changes including “further[ing] the implementation of the National Broad Band Strategy . . . to bridge the digital divide between urban and rural areas.”



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