UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES
SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

Special Rapporteur on extreme poverty and human rights

Looking back to look ahead: A rights-based approach to social protection in the post-COVID-19 economic recovery

11 September 2020

Summary

As the world faces the deepest economic recession since the 1929 Great Depression, social protection is again on the top of the international agenda, years after the adoption in 2012 of Recommendation No.202 on National Social Protection Floors within the International Labour Organization. As countries rush to issue cash transfers, unemployment benefits, and in-kind support for their citizens, the Special Rapporteur assesses the responses governments are providing, examines the global state of public services and human rights before the pandemic, and reflects on the challenges that lie ahead.

In this report, submitted in response to resolution 44/13 of the Human Rights Council, the Special Rapporteur argues that the world was ill-equipped to deal with the socioeconomic impacts of this pandemic because it never recovered from the austerity measures imposed in the aftermath of the global financial crisis of 2008-2011. The legacy of austerity measures is severely underfunded public healthcare systems, undervalued and precarious care work, sustained declines in global labour income shares, and high inequality rates coupled with average decreases in statutory corporate tax rates. With public services in dire straits, one-off cash transfers are a drop in the bucket for people living in poverty, whether in developed, developing, or least developed countries.

Maladapted, short-term, reactive, and inattentive to the realities of people in poverty, the new wave of social protection hype must hold up to human rights scrutiny. This report identifies eight challenges that must be addressed in order to bring social protection in line with human rights standards.

In total, over 1,400 social protection measures have been adopted by 208 jurisdictions to cushion the shock. While a remarkable number in itself, the intended beneficiaries of these schemes must often face systemic obstacle courses to access them. Many of the programs are short-term, temporary measures, that either are being phased out, or can only be renewed through parliamentary processes with uncertain outcomes. Many provide allowances that are grossly insufficient to guarantee an adequate standard of living. Although some schemes have been designed to cover workers in the informal sector and in precarious forms of employment (respectively 1.6 billion and 0.4 billion worldwide, both categories representing 61.2% of the global workforce), many are inattentive to the realities of the different groups that make up this category of workers. Migrants, especially undocumented migrants, often are not covered. Indigenous Peoples, despite being overrepresented among people in poverty, remain invisible to public databases and face distinct obstacles in accessing benefits. Many schemes are not gender-sensitive because they do not take into account the fact that women are overrepresented among part-time workers and workers in precarious employment, as well as among workers with an interrupted career, and that women shoulder the burden when schools close or when the healthcare sector is overwhelmed. Many schemes also require forms to be completed online, which *de facto* excludes large groups of the population who have no internet access or have little digital literacy. Finally, although transparency and participation should ensure that schemes are designed and implemented effectively and reach those who are most in need of support, and although access to independent claims mechanism are essential to reduce the risks of exclusion, these human rights principles have almost systematically been disregarded in the name of expediency.

In sum, impressive though the reaction has been considering the number of measures adopted, States have been taken off-guard. Now is the time to rebuild. The international community must prove that it learned from the mistakes of the 2008-2011 global financial crisis to avoid ending up more fragile than when it started.

Equitable financing, one of the main themes of the Call to Action of the Global Partnership for Universal Social Protection (USP2030), should therefore be at the heart of States' answer to this crisis in order to avoid repeating the mistakes of the past: this is essential to ensure "universality of protection, based on social solidarity," as pledged in the Social Protection Floors Recommendation No. 202. Fiscal support to emissions-intensive firms contributing to climate change must also be conditional on clear plans for a transition towards zero emissions. The design and implementation of social protection policies, and any conditionalities attached to allowances, must be transparent, consider the voices of people in poverty, and include oversight mechanisms that allow populations to hold their governments to account.

Building social protection systems on the basis of human rights can significantly contribute to their effectiveness in eradicating poverty and in reducing inequalities, thus improving resilience of societies in the face of shocks. This means defining social protection neither as an emergency response to a situation of crisis, nor as charity – but rather as a set of permanent entitlements prescribed by domestic legislation, defining individuals as rights-holders, and guaranteeing them access to independent claims mechanisms if they are denied the benefits for which they qualify. Both the mobilization of domestic resources and international solidarity should be placed in the service of this objective.

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I. Introduction[1]

1. Human Rights Council resolution 44/13 invited the Special Rapporteur to reflect on the impacts of the COVID-19 pandemic on persons in extreme poverty and the implementation of the 2030 Agenda.[2] In this report, the Special Rapporteur calls upon the States to ground their responses to the post-COVID-19 economic and social crisis on the right to social security, and to strengthen resilience by adopting a rights-based approach to social protection.

2. The Special Rapporteur commends the impressive efforts that countries are streamlining by marshaling unheard-of amounts to revamp their social protection systems. As of September 2020, some 1,407 measures have been adopted by 208 countries and territories.[3] Many of the measures taken have provided critical relief to individuals and families in need of support, showing that, even though the world economy is in a worse position to recover from the present crisis than from the 2008 global financial crisis, political will is all that is needed to address poverty.

3. Instead of providing a gloomy picture of ever-growing destitution numbers, abhorrent abandonment, or absolute lack of social protection coverage—all of which were daily realities for people in poverty already before this crisis—the present report is a wake-up call for decision-makers: governments and financial institutions must show that lessons have been learned from responses to the previous financial crisis and that the protections and funds they provide during and after the COVID-19 pandemic can hold up to human rights scrutiny. We must not, yet again, end up more fragile than when we started.

4. The Special Rapporteur is grateful for the 108 submissions received in response to the questionnaire in which he requested information on the impact of COVID-19 on people in poverty and the status of social protection advancements, especially in light of SDG target 10.4 on the adoption of fiscal, wage, and social protection policies to achieve greater equality.[4]

5. More than six months have passed since the pandemic became a global priority and countries began deploying their initial recovery packages in response to the resulting economic downturn. It is therefore an appropriate moment to take stock of actions taken thus far and their impact on people in poverty. This report examines the status of public services and human rights before the pandemic, assesses social protection responses to it, and exhorts countries to avoid the looming specter of austerity.

6. After providing an overview of social protection responses around the world (II), this report argues that eight challenges must be addressed in order to bring social protection in line with the human rights standards it embodies (III). The new wave of social protection hype is maladapted, short-term, reactive, and inattentive to the realities of people in poverty. Despite the growing number of social protection measures, the

[1] The Special Rapporteur is grateful to Paula Fernandez-Wulff for the outstanding research and analysis undertaken for the present report.

[2] A/HRC/RES/44/13

[3] ILO, "Social Protection Responses to COVID-19 Crisis around the World," last accessed Sept.7, 2020

[4] Questionnaire responses were received from Albania, Argentina, Armenia, Azerbaijan, Bulgaria, Colombia, Costa Rica, Cyprus, Denmark, Ecuador, Estonia, Finland, Germany, Greece, Hungary, Italy, Maldives, Mexico, Mongolia, Nepal, Oman, Panama, Paraguay, Qatar, Republic of Korea, Romania, Singapore, Slovakia, Sierra Leone, Spain, State of Palestine, Sweden, Ukraine, and the United Kingdom of Great Britain and Northern Ireland. Additional responses were received from the regional or local governments. The Special Rapporteur is also grateful for the enriching submissions received from UN agencies and other international organizations, National Human Rights Institutions, Ombudspersons, Courts, NGOs, Civil Society Organizations, and academics.

majority of countries have not introduced income guarantees, additional health and sickness protections, or food and nutrition assistance. Participation, transparency, and accountability are also deficient.

7. Section IV examines an underlying factor that has exacerbated the already terrible impact of the COVID-19 crisis, especially on those in poverty or with low incomes: the dilapidation that public services have suffered since the global financial crisis, with public health systems underfunded and increasingly privatized, care work devalued and precarious, and extreme levels of inequality due to extreme wealth concentration. The explosive result is apparent in the disconnect between financial markets—now booming—and the real economy of regular families, the worsening climate crisis despite lockdowns, and the aporophobic impacts of inadequate policy responses to COVID-19. A major change in direction is needed. The Special Rapporteur exhorts countries to design recovery plans with climate justice and equitable financing at their core.

8. This crisis provides an opportunity to fundamentally rethink political choices in a way that prioritizes the most vulnerable, protects societies from extreme inequality, and provides proactive and systemic—not reactive and *ad hoc*—responses to protect the population. The world was ill-prepared for this pandemic and will continue to be unless we learn from past mistakes. We must avoid the 'tyranny of the urgent' and the budget-balancing logic to address structural issues in the design of social protection.

II. The rediscovery of social protection in a global pandemic

9. The right to social security, enshrined in Article 9 of the International Covenant on Economic, Social and Cultural Rights, requires that States meet their core obligations to the maximum of their available resources to ensure all individuals enjoy basic income security throughout their lives, complying with an adequate framework of participation, transparency, and accountability.[5] Even for countries not party to the Covenant, Articles 22 and 25 of the Universal Declaration of Human Rights, both of which contain the right to social security, are applicable, as is Article 26 of the almost universally adopted Convention on the Rights of the Child.

10. Despite ample jurisprudence on this human right and eight years passing since the governments and social partners adopted Recommendation No.202 on Social Protection Floors (2012) within the International Labour Organization, social protection has been largely missing from the international human rights agenda.

11. Since the beginning of the pandemic, however, countries have rushed to add payments, extend eligibility, suspend conditionalities, and increase amounts and coverage of a variety of social protection measures. According to the World Bank and based on available data from 113 countries, a total of US$589bn have been pledged for social protection (including social assistance, insurance, and labour markets), representing about 0.4% of the world's GDP.[6]

12. Some 94 countries or territories have expanded their social assistance programs by introducing new cash transfers, such as Spain's *Ingreso Mínimo Vital*, Colombia's *Ingreso Solidario*, the United States' stimulus check, the Philippines' Social Amelioration Program, Japan's *tokubetsu teigaku kyūfukin* (special cash payment), Pakistan's *Ehsaas* Emergency Cash Program, or Hong Kong's Cash Payout Scheme.

13. At least 130 countries or territories have increased budgets to supplement existing unemployment insurance, improved eligibility and timelines, and waived conditionalities

[5] E/C.12/GC/19, paras.24, 26, 42, 46, 63, 69-70, 77-81.
[6] U.Gentilini *et al.,* Social Protection and Jobs Responses to COVID-19 v.12, Jul.10, 2020

to access social assistance programs. Brazil devoted R$3bn/US$1.7bn to its *Bolsa Família* program, decreasing the waitlist to about a third of its previous size, for a total of over 14.29 million beneficiary families,[7] and passed a law allowing future regulations to raise the income thresholds for specifically vulnerable groups in its existing wage replacement program (*Benefício de Prestação Continuada*). [8] Australia extended eligibility for its unemployment scheme, JobSeeker, to include casual, self-employed, and care workers affected by or caring for someone affected by COVID-19 as well as its availability until December 2020.[9] The United Kingdom's Jobseeker's Allowance (JSA) and Denmark's *a-kasser* unemployment insurance funds eliminated certain conditionalities to receive unemployment benefits,[10] and China doubled the amount of its consumer price-based Temporary Price Subsidy cash transfer between March and June 2020 and expanded its coverage.[11]

14. Governments have also begun to pay closer attention to the vulnerable situation of informal workers. Examples include the Philippines' TUPAD conditional program,[12] Argentina's *Ingreso Familiar de Emergencia*,[13] Brazil's *Auxílio Emergencial*,[14] the Indian state of Karnataka's relief package,[15] or the relatively low-interest microcredits for informal workers provided by Mexico's federal government and Mexico City.[16] According to the ILO, some 21 countries have developed protections for informal workers.[17]

15. Migrant communities and workers are also newly covered by programs, as in the case of California's Disaster Relief Fund, which provides undocumented adults with a one-off cash transfer through community-based organizations,[18] and Portugal's and

[7] Brazil, Medida Provisoria garante mais de R$3 bilhoes para o Bolsa Familia, Mar.26, 2020; L.Bartholo *et al., As Transferências Monetárias Federais de Caráter Assistencial em Resposta à Covid-19: Mudanças e Desafios de Implementação*, Nota Tecnica 72, IPEA, May 2020 p.9

[8] Brazil, Lei no.13.982/2020, Apr.2, 2020; L.Bartholo *et al., As Transferências Monetárias Federais de Caráter Assistencial em Resposta à Covid-19*, p.7

[9] Australia, Coronavirus (COVID-19) information and support, last updated Aug.5, 2020

[10] United Kingdom, The Social Security (Coronavirus) (Further Measures). Regulations 2020, No.371, Mar.30, 2020; "Denmark's Idea Could Help the World Avoid a Great Depression," *The Atlantic*, Mar.21, 2020

[11] People's Republic of China, 关于进一步做好阶段性价格临时补贴工作的通知[Notice on further improving Temporary Price Subsidies], Apr.8, 2020

[12] The Philippines, Joint Memorandum Circular No.1 Series of 2020. Special guidelines on the provision of social amelioration measures, Mar.3, 2020; M.Dreyer, K.Nygaard, "The Philippines Provides Support to Workers in the Informal Economy," *Yale School of Management*, May 13, 2020

[13] Argentina, Administración Nacional de la Seguridad Social (ANSES), Ingreso Familiar de Emergencia

[14] Brazil, Lei no.13.982/2020, Apr.2, 2020

[15] "COVID-19: State announces ₹1,610-crore relief package," *The Hindu*, May 6, 2020

[16] Mexico, Secretaría de Economía, Lineamientos para la Operación del Programa de Apoyo Financiero a Microempresas Familiares, *Diario Oficial de la Federación* Apr.24, 2020, cap.III, Quinto, I., and cap.IV, Sexto, I; Mexico City, *Financiamiento para las microempresas de la Ciudad de México afectadas por la emergencia sanitaria, COVID-19*, Mar.2020

[17] ILO, "Social Protection Responses to COVID-19 Crisis around the World," last accessed Sept.7, 2020

[18] California, "Governor Newsom Announces New Initiatives to Support California Workers Impacted by COVID-19," Apr.15, 2020

Italy's temporary mass regularizations, making immigrants eligible for social protection under certain conditions.[19]

16. Although more limited, some countries have developed programs targeting women. For instance, Argentina's *Ingreso Familiar de Emergencia* prioritizes women, Brazil's *Auxílio Emergencial* contains women-specific provisions, and India's Pradhan Mantri Garib Kalyan Yojana (PMGKY) provided cash transfers to women beneficiaries of a prior financial inclusion program between April and June.[20]

17. The Special Rapporteur commends the efforts of these and other governments who are harnessing the power of social protection to alleviate the impacts of the economic downturn resulting from COVID-19 on their populations. This renewed interest in poverty alleviation through social protection is testimony that governments can indeed undertake far-ranging improvements that were previously dismissed as unrealistic. Political will has sufficed when it comes to poverty alleviation and prevention, and it is encouraging to see that governments can devote considerable resources to invest in public services and preserve employment.

18. However, while the 1,407 and growing count of measures announced around the globe seem impressive, the ILO database shows that efforts have been uneven: since the beginning of the pandemic, 36.9% of countries have not developed any new unemployment or special allowances/grants; 55.6% of countries have not introduced any additional sickness or health protections; 54.7% of countries have not provided novel income protection measures, and 62.7% have not implemented any food and nutrition measures. Only 29.3% of countries have introduced child or family allowances, which allows to anticipate an almost certain massive increase in child poverty as a result of this crisis. These numbers show that progress was unequal, which is troubling in light of recent research showing that this crisis is having more negative effects on the living standards of lower-income working-age families than on higher-income families.[21] The world can and must do better to improve the plight of these families.

III. Many are slipping through the cracks

19. Although World Bank and ILO note the increasing number of social assistance measures (1,055 as of July 10 for the former; 1,407 as of September 1 for the latter), these figures alone say little about whether they will effectively reach people in poverty and those with precarious employment. Eight challenges are particularly salient in the way these measures attempt to cover people in poverty.

A. Adapt social protection to the multifaceted realities of people in poverty

20. Many schemes include conditions that are maladapted to the realities of people living in poverty or those in precarious employment. Applications often include complex

[19] European Web Site on Integration, "Portuguese government gives temporary residence to immigrants with pending applications," Mar.28, 2020; "Thousands of undocumented migrants to get Italian work permits," *Al Jazeera*, May 13, 2020

[20] "Finance Minister announces Rs1.70 Lakh Crore relief package under Pradhan Mantri Garib Kalyan Yojana for the poor to help them fight the battle against Corona Virus," Press Information Bureau, Mar.26, 2020

[21] M.Brewer, L.Gardiner, The initial impact of COVID-19 and policy responses on household incomes, *Oxford Review of Economic Policy*, Jun.26, 2020, p.15

procedures and bureaucratic jargon, and are not provided in appropriate languages, despite evidence that these are key obstacles to people's ability to take up benefits.[22]

21. People with both physical and intellectual disabilities, which comprise 15% of the world's population, and people with special dependency needs, are more likely to be poor, face higher health expenses, and live in households that are more exposed to economic insecurity.[23] They are often less protected by social and health insurance because of discrimination in accessing work, and they face exclusion by design when complex and frequently changing social protection measures fail to take them into account. Building age, sex, and disability disaggregated data would allow for providing direct protections and priority access to food and housing, including to women with disabilities and women who care for relatives with disabilities. This is a first step in ensuring protections are afforded to the most vulnerable, including from gender-based violence.[24]

22. Tax reliefs, referrals, or refunds may provide much-needed support for middle-income families, but they serve no purpose for those who are not required to file taxes because of their modest income, or for those who work in the informal economy. Partial wage replacements can be equally problematic for low- or no-income families. Providing 80% of an employee's wage may cover expenses for those making well-above minimum wage, but 80% of nothing is nothing; and 80% of minimum wage typically remains below any standards of a living wage.

23. In other cases, measures exclude individuals without formal employment or identification, or they limit applications to heads of households. Requiring official registrations and addresses is also problematic for those in situation of homelessness, living in shelters, sleeping in their workplaces, or in other informal dormitories. Many newly developed benefit programs, such as Canada's Emergency Response Benefit program or the United States' CARES Act require social identification numbers,[25] which exclude informal and undocumented workers. Spain's *Ingreso Mínimo Vital* requires proof of effective residence through a municipal certificate,[26] which many people in poverty cannot readily produce; this and other bureaucratic hurdles have led to an application uptake of about 0.5% since applications to this emergency measure opened in June.[27] Japan's special one-off cash payment to all residents is only paid to officially registered heads of households (*setainushi*), exposing other household members—most notably women already facing hardship, or victims of domestic violence without court orders—to potential economic abuse.[28]

24. Many cash transfers exclude young adults under 25, and unemployment programs for this age group often exclude those in precarious, informal types of employment or within probationary periods. An example of this is France's one-time *Aide Covid-19 pour*

[22] Eurofound, *Access to social benefits: Reducing non-take-up*, Publications Office of the European Union, 2015, p.25,30
[23] ILO, *Disability-inclusive social protection response to COVID-19 crisis,* Apr.9, 2020
[24] UNDESA, *Leaving no one behind: the COVID-19 crisis through the disability and gender lens*, Policy Brief No.69 p.2, May 6, 2020
[25] Ontario Chamber of Commerce, "Letter of Support Regarding the Inclusion of Self-Employed Workers in the Canada Emergency Response Benefit." Apr.8, 2020; Canada, COVID-19 Emergency Response Act, SC 2020, c.5, s 9, Mar.25, 2020; Z.Parolin *et al.*, *The CARES Act and Poverty in the COVID-19 Crisis: Promises and Pitfalls of the Recovery Rebates and Expanded Unemployment Benefits*, Poverty&Social Policy Brief, 4:8, p.2. Jun.21, 2020; U.S. Congress, H.R.748 - CARES Act, Sec. 2102 (d), Mar.3, 2020
[26] Spain, Seguridad Social, Ingreso Mínimo Vital
[27] "La Seguridad Social solo ha analizado el 19% de las solicitudes para el ingreso mínimo," *El País*, Aug.20, 2020
[28] "１０万円給付、「世帯主の口座に」で見えたもの"[100,000JPY cash payment, what we have learned from payments to *setainushi*], *Asahi*, Jun.14, 2020

les jeunes. The scheme was passed in May to protect those under 25 who have lost their jobs or benefit from housing allocations; but this leaves other precarious young adults unprotected.[29]

25. Unemployment or social protection schemes aimed at "incentivizing work" often require registration with unemployment offices as a precondition for accessing benefits. These can be associated with requirements such as attending trainings and interviews that many individuals cannot undertake due to health issues and care needs. In other cases, inadequate databases prevent people who need support from accessing benefits purportedly made available to them. Brazil's *Cadástro Unico*, the federal database of families in poverty, is meant to automatically provide the new cash transfer *Auxílio Emergencial* to registered families, but because the databases are not updated frequently many saw their benefits withheld.[30] China's "urban surveyed unemployment rate," its sole publicly available unemployment rate during the pandemic, excludes many of the so-called "migrant rural workers" (individuals moving from rural to urban areas within China for work) as a result of its random sampling methodology, leaving many only eligible for an extremely low one-time unemployment subsidy and ineligible for regular unemployment insurance benefits.[31] In the case of Japan, many unemployment protections are paid to employers, which excludes employees whose employers do not report them or who cannot prove an employment relationship, which is the case for informal domestic workers.[32] Even when workers can apply directly, those in precarious forms of employment, such as unregistered freelancers and other informal workers, remain ineligible.[33]

B. Guarantee continuity in coverage and adequate amounts

26. Six to nine months into the pandemic, it has become abundantly clear that short-term, contingent support will not cut it to support families in need. Yet most social assistance responses have been designed with a maximum average length of three months,[34] and countries have had to renew schemes several times. By late August 2020, many unemployment programs related to COVID-19 have either expired or are about to expire. Instead of relying on time-consuming renewing bills, extending these measures until economies have recovered would save time and would prevent people in poverty from being temporarily unprotected. This would be in line with ILO's Recommendation No.202 on Social Protection Floors, which calls for standing, rights-based social protection schemes that define people as rights-holders who can benefit from entitlements,

[29] France, Aide covid-19 jeunes : une aide de 200 euros pour les étudiants et les jeunes précaires, Jun.26, 2020; Submission by Commission nationale consultative des droits de l'homme (CNCDH) – France.
[30] L.Bartholo *et al., As Transferências Monetárias Federais de Caráter Assistencial em Resposta à Covid-19*, p.12
[31] 农民工参加失业保险规定亟待完善[Regulations on migrant rural workers' participation in unemployment insurance schemes requires urgent improvement], *Financial News*, Jul.1, 2020; People's Republic of China, 关于扩大失业保险保障范围的通知[Notice on the expanding protection of unemployment insurance], May.29, 2020
[32] Japan, [COVID-19] Second Supplementary Budget (Overview), Jun.12, 2020; 助成金要領：緊急雇用安定助成金[Subsidy Outline: Subsidy for Enhancing the Employment Adjustment], at 0303 May 19, 2020
[33] Japan, 新型コロナウイルス感染症等の影響に対応するための雇用保険法の臨時特例等に関する法律（令和 2 年法律第 54 号[Law No.54 regarding temporary special measures on employment insurance to respond to impacts of COVID-19], 2020
[34] U.Gentilini *et al.*, Social Protection and Jobs Responses to COVID-19 v.12, Jul.10, 2020

and lists "predictability" among the principles that should guide the establishment of such schemes.

27. In many cases, cash transfers are also utterly inadequate in amounts. As examples, South Africa's COVID-19 social grant of R350 (US$18.44) per month is less than a third of the country's own Upper-Bound Poverty Line (UBPL);[35] Chile—the most unequal country in the OECD in terms of wealth concentration[36] and with a 2019 national poverty line of CLP164,605 (USD212.18)[37]—provided CLP65,000 once, then CLP100,000 three times for single households through its highly bureaucratic *Ingreso Familiar de Emergencia* cash transfer, a program not only below its own line but also causing confusion as it has been renewed at the last moment several times.[38] Pakistan's *Ehsaas* Emergency Cash program, the largest in the country's history, provides a one-time PKRs12,000 (about US$72) per household regardless of its composition,[39] which remains under its national poverty line of PKRs3,250.28.[40]

C. Be attentive to the diverse realities of informal workers

28. There are about 1.6 billion informal workers worldwide, and an additional 400 million workers are currently in precarious forms of employment, temporary, short-term, or non-standard employment. This means 2 billion workers in the world, or 61.2% of the global labour force, work in the informal economy.[41] The COVID-19 pandemic has affected their livelihoods perhaps more than any other type of worker, and yet they are often not eligible for social protection.

29. Only in the garment industry, workers have lost an estimated US$6bn in wages due to underpayment or no payments during the crisis.[42] Many informal workers, such as citizen and non-citizen sex workers, are also systematically excluded from social protection measures, including from income protection schemes.[43]

30. Although some 21 countries have introduced protections for these workers, this sudden interest in their livelihoods[44] must be compounded with a genuine commitment to their needs by tailoring social protection schemes to the realities of the different groups of workers within the informal economy.

31. The case of China is an example of how destructive the lack of coordination between national and municipal-level governments can be for informal workers. China's implementation of support to informal workers is generally left to regional governments,

[35] South Africa, National Poverty Lines, Statistical Release P0310.1, Jul.2019, p.3
[36] OECD, Society at a Glance 2019: OECD Social Indicators, Mar.27, 2019, p.99
[37] Chile, Informe de Desarrollo Social 2019, p.8
[38] Chile, Ley 21.230 Concede un Ingreso Familiar de Emergencia, May 16, 2020; Ley 21.251 modifica la Ley No.21.230, para facilitar y ampliar el acceso al Ingreso Familiar de Emergencia, Aug.3, 2020
[39] Pakistan, Ehsaas Emergency Cash: A digital solution to protect the vulnerable in Pakistan during the COVID-19 crisis, Jul.20, 2020, p.4
[40] Pakistan, *National Poverty Report 2015-16* (latest available), p.3
[41] ILO, *Women and men in the informal economy: a statistical picture (third edition),* 2018, p.13
[42] S.Barradas *et al., Un(der)paid in the pandemic. An estimate of what the garment industry owes its workers,* Clean Clothes Campaign, Aug.2020
[43] UNAIDS, *Six concrete measures to support women and girls in all their diversity in the context of the COVID-19 pandemic,* 2020;UNAIDS, "Sex workers must not be left behind in the response to COVID-19," Apr.8, 2020
[44] IMF, "Effective policy responses must reach informal workers and their families quickly to prevent them from falling (deeper) into poverty," Apr.4, 2020

known to have pushed low-wage workers, including street workers, away for years.[45] Providing street vendors with social security has no real impact on their livelihood if cities obfuscate permits applications or evict them in the name of "beautification." Although informal workers may collect *di bao* allowance in their localities (between RMB500-1,000/US$71-143 per month depending on the province)[46] and apply for entrepreneurship loans at reduced interest rates, these schemes are not designed for low-wage workers, and they may be ineligible if they work or live outside of their household registration (*hukou*) locality.[47] Despite China's efforts to expand coverage, and that of certain municipalities to increase amounts of unemployment benefits,[48] those who have not been enrolled for at least a year (the case of many informal workers) do not receive full insurance amounts.[49]

32. Other countries that have implemented cash transfers for informal workers provide problematically low amounts and rely on inaccurate databases. In Egypt, where an estimated 60% of the labour force—or almost 18.5 million people, half of which are women[50]—work in the informal sector,[51] and informal enterprises represent nearly 90% of all micro and small businesses,[52] an allowance of EGP500/US$32.60 expected to cover only 2.5 million beneficiaries officially recognized as "irregular workers"[53] is certainly insufficient.[54] In India, where 92% of the workforce works in the informal sector,[55] an estimated 65% of these workers have not received any cash transfer under its PMGKY package as a result of non-registration in the social security system.[56] It is problematic that many of the exclusions reported to this mandate are taking place because residence and income databases are not regularly updated.

33. Many millions of informal workers are now receiving cash transfers, a phenomenon that has contributed to acknowledging and visibilizing them as the full contributors to society that they are. These programs must be built into permanent, adapted, and integrated structures that are attentive to the needs of the different groups of workers commonly associated with the category of informal workers.

D. Protect migrant and undocumented workers

34. It is widely recognized that migrant workers provide key goods and services for social and economic development, but they often face challenges in accessing social protection due to built-in ineligibility or simply non-take-up. They may not be eligible

[45] "Why Parts of Beijing Look Like a Devastated War Zone," *The New York Times,* Nov.30, 2017
[46] People's Republic of China, 2020 年 1 季度低保标准,[The Dibao standard of the first quarter of 2020]
[47] *See* A/HRC/35/26/Add, paras.27-28
[48] Beijing Municipal Human Resources and Social Security Bureau, 北京市人力资源和社会保障局 关于调整失业保险金发放标准的通告[Announcement on adjusting the disbursing standard of unemployment insurance benefits], Jul.2, 2020
[49] People's Republic of China, *Report on the Work of The Government*, May 23 2020, p.21; People's Republic of China, 关于扩大失业保险保障范围的通知[Notice on expanding protection of the unemployment insurance], May 29, 2020
[50] World Bank, *Women Economic Empowerment Study*, May 2018, p.16, citing R.Rizk, H.Abou-Ali, *Informality and Socio-Economic Well-being of Women in Egypt*, May 2015, p.2
[51] N.Rizk, "Vulnerabilities Exposed: COVID-19 and Informal Livelihoods in Egypt" Jun.19, 2020
[52] OECD, *The Covid-19 Crisis in Egypt*, Apr.20, 2020, p.4
[53] "Saafan: 2.5 mln beneficiaries of Sisi's grant for irregular workers," State information service, Apr.27, 2020
[54] "Why Egypt's coronavirus response failed," *Middle East Eye*, Jun.16, 2020
[55] ILO India Country Office, *India Labour Market Updates* Jul.2017, p.3
[56] "No Documents, No Benefits: How India's Invisible Workforce Is Left To Fend For Itself," *IndiaSpend,* Jun.21, 2020

because of their citizenship or residency status, the length of their employment, the lack of bilateral social security agreements, or as a result of the nature of their employment.[57] During this crisis, they suffer from limited access to healthcare, loss of jobs and income, poor working and living conditions and access to sanitation, increased vulnerability due to migratory and employment status, and lack of adequate information due to language barriers.[58] Some countries have developed measures to protect migrant communities and workers, often undocumented, by extending unemployment benefits to them, granting residence permits and social protection eligibility, or guaranteeing their employment. Examples include the abovementioned California's Disaster Relief Fund, Portugal's and Italy's regularization, but also India's PM Garib Kalyan Rojgar Abhiyaan (PMGKRA) program to guarantee employment for internally displaced people,[59] and Colombia's one-off Ingreso Solidario, made available to 50,000 migrants of Venezuelan origins with special permits previously registered in a government database (SISBÉN).[60]

35. Although a few countries provide informal and migrant workers with some form of support, many social protection programs exclude non-citizens and include damaging residency requirements, such as Australia, Argentina, or Spain. South Africa's COVID-19 social grant of R350/US$18.44 excludes asylum-seekers and special permit holders.[61] In Germany, undocumented workers are required to register with social services to access tests and treatment for COVID-19, hindering their ability to remain anonymous and facing deportation.[62] While Israel and the Palestinian Authority have allowed some 50,000 workers (out of a nearly 80,000-150,000 West Bank Palestinians working on Israeli work permits) to cross the borders despite COVID-19 lockdowns, the rest have been mostly laid off and are not entitled to unemployment benefits.[63]

E. Make Indigenous Peoples count

36. Indigenous Peoples had nothing to celebrate during their yearly International Day on August 9. Their multiple vulnerabilities to COVID-19, including health, poverty, discrimination, and violence, have exacerbated the impacts of the pandemic on their livelihoods. There are an estimated 476.6 million Indigenous Peoples, representing 6.2% of the world's population,[64] but almost 19% of the world's people living in extreme poverty.[65] Additionally, more than 86% of Indigenous Peoples work in the informal

[57] C.Van Panhuys et al., Migrant Access to Social Protection under Bilateral Labour Agreements: A Review of 120 Countries and Nine Bilateral Arrangements, ILO ESS Working Paper No.57, 2017

[58] ILO, *Social protection for migrant workers: A necessary response to the Covid-19 crisis,* Jun.23, 2020, p.5

[59] Prime Minister Narendra Modi launches Garib Kalyan Rojgar Abhiyaan on 20th June 2020 to boost employment and livelihood opportunities for migrant workers returning to villages, in the wake of COVID-19 outbreak, Press Information Bureau, Jun.20, 2020

[60] Colombia, Departamento Nacional de Planeación, Ingreso Solidario

[61] South Africa, Department of Social Development, Notice No. R.517, p.3. Amendment of paragraph 6 of the Directions, (k), May 9, 2020

[62] "Coronavirus pandemic poses threat to undocumented migrants," *DeutscheWelle,* May 13, 2020

[63] "Palestinians working in Israel face coronavirus dilemma," *BBC,* April 29, 2020

[64] ILO, Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future, Feb.3, 2020, p.13

[65] Based on data from 23 countries representing 83% of the global indigenous population. ILO, *COVID-19 and the world of work: A focus on indigenous and tribal peoples*, May 2020, p.2

economy (compared to 66% for their non-indigenous counterparts), where they face poor working conditions, including low pay and absence of social protection.[66]

37. Despite this dire plight, data remains unreliable due to gaps in how Indigenous Peoples are considered in official COVID-19 statistics, which in turn obscures the needs for social protection coverage of these groups. Although over 70% of Indigenous Peoples live in rural areas, many have migrated to urban areas seeking work and better livelihoods.[67] In Brazil, with a COVID-19 estimated mortality rate 150% higher than the country's average,[68] the Special Secretariat for Indigenous Health (SESAI) does not include Indigenous Peoples living in urban areas in its statistics, which makes the official count of cases and deaths misleadingly low compared to the incidence of the disease in Amazon cities and cities in states with large Indigenous populations, such as Manaus (AM) or Dourados (MS). Similarly, Peru's Ministry of Health (Minsa) does not provide disaggregated data for its Indigenous COVID-19 cases and victims, only for location, age and sex,[69] which has forced civil society to do their own calculations.[70] Bolivia's Ombudswoman has also denounced that the same problem is present in the country.[71]

38. At the same time, submissions to the Special Procedures' questionnaire demonstrate that these very groups that are being discriminated against are leading efforts in micro-data collection, community mobilization, awareness-raising, and the provision of critical mutual support and aid. The Special Rapporteur has been inspired by the courageous actions of human rights defenders in the face of this pandemic. Governments can and should rely on these efforts and expertise by collaborating with civil society and community-based organizations not only for healthcare, but also to identify gaps in information, coverage, and access to social protection. Relying, however, must under no circumstance mean outsourcing.

F. Develop gender-responsive protections

39. Women in their diversity are particularly vulnerable this crisis. They are more likely to live below the international poverty line[72] and are overrepresented in high-risk sectors given their higher numbers in the informal economy.[73] Women, who already carry a disproportionate burden of caring for ill or elderly family members, make up 70% of health-care workers globally and 80% of nurses in most regions, roles in which they have particularly close and prolonged contact with sick patients;[74] and they were the most impacted by the closure of schools as well as the reduced access to healthcare facilities for non-COVID-19 patients throughout the crisis.

40. Although limited, countries have developed social protection programs targeting women. According to IFPRI, as of April, 11% of social protection responses recorded by the World Bank showed some degree of gender-sensitivity; among those, only eight

[66] *Id.*
[67] *Id.*
[68] Greenpeace, "How the city in Brazil with the highest number of Indigenous People is dealing with COVID-19," Aug.26, 2020
[69] Peru, Plataforma Nacional de Datos Abiertos
[70] "Sin datos oficiales, indígenas de Perú hacen su recuento de víctimas de COVID-19," *Gestión* May 26, 2020
[71] *See* Submission "Bolivia - Defensoría del Pueblo"
[72] A.M.Munoz Boudet *et al., Gender Differences in Poverty and Household Composition through the Life-cycle*, World Bank Working Paper 8360, Mar.2018
[73] ILO, *COVID-19 crisis and the informal economy*, May 2020
[74] M.Boniol et al., Gender equity in the health workforce: Analysis of 104 countries, WHO Working Paper, Mar.2019, p.3,5

programs targeted women specifically.[75] Examples include programs targeting pregnant women or women receiving maternity benefits, those targeting women due to criteria including nutritional risk, lack of spouse, or pre-existing female beneficiaries, and programs focusing on childcare duties or benefits. For instance, Argentina's IFE cash transfer per household prioritizes women when several members of the same household apply for the allowance.[76] In other cases, programs are created specifically to address the needs of women. Brazil's means-tested *Auxílio Emergencial* provided a monthly R$1,200 (US$212.77) between April-August exclusively to eligible women head of single-parent households, and half of that amount between September-December.[77] India's Pradhan Mantri Garib Kalyan Yojana (PMGKY) provided Rs500 (US$6.59) monthly to a reported 204 million women beneficiaries of a 2014 financial inclusion program between April-June.[78]

41. But challenges remain. India's PMGKY Rs500 cash transfer, in addition to being inadequate in amount, has been found to potentially exclude over half of women in poverty (under $2.50/day PPP).[79] Moreover, one in five women in poverty lack ration cards, which grant access to the food ration system,[80] and although the government has introduced a scheme for the portability of ration cards by March 2021, the problem is exacerbated today as a result of the large number of internal migrant workers that have moved as a result of COVID-19.[81] In Japan, unemployment schemes have also been criticized because many women cannot access support in practice due to differences in employment type (as of March, 54% of working women are non-permanent employees in the country), and schemes do not reflect the reality that women are typically forced to take on burden to care for family more than men.[82]

G. Ensure the digital divide does not discriminate against people in poverty

42. UNICEF has reported that in 71 countries, mostly located in the African continent and South Asia, less than half of the population has access to the internet.[83] With public services shifting online during the pandemic, illiteracy levels and lack or poor broadbands have prevented individuals from accessing social assistance to which they could have had a right. For instance, in the region of Latin America and the Caribbean, 38% of the poorest

[75] M.Hidrobo *et al.*, *Gender-sensitive social protection: A critical component of the COVID-19 response in low- and middle-income countries*, IFPRI Issue Brief, Apr.2020, p.2
[76] Argentina, El Gobierno oficializó la segunda etapa del pago del IFE, Jun.1, 2020
[77] Brazil, Lei no.13.982/2020, Apr.2, 2020; "Governo endurece regra para ter direito às 4 parcelas de R$300 do auxilio," UOL, Sept.3 2020
[78] Finance Minister announces Rs1.70 Lakh Crore relief package under Pradhan Mantri Garib Kalyan Yojana for the poor to help them fight the battle against Corona Virus, Press Information Bureau, Mar.26, 2020
[79] R.Pande *et al., A Majority of India's Poor Women May Miss COVID-19 PMJDY Cash Transfers*, Yale Economic Growth Center, Apr.17, 2020
[80] A Majority of India's Poor Women May Miss COVID-19 PMJDY Cash Transfers, Apr.17, 2020
[81] ICJ, *India on the Brink of Hunger Crisis during COVID-19 Pandemic,* Apr.27, 2020, p.6
[82] 政府の新型コロナウイルス対策に対する女性たちからの要請[Request from women on the Government's COVID-19 responses]," May 1, 2020, https://covid19andgenderequality.jimdosite.com/
[83] T.Dreesen *et al.*, *Promising practices for equitable remote learning,* UNICEF Innocenti Research Brief 2020-10, p.2

households (first quintile) did not have internet access in 2019, but in individual countries including Bolivia, Paraguay, or Peru, only 3% did.[84]

43. Some countries have developed innovative ways to allow for social assistance applications. South Africa's R350 COVID-19 social grant, for instance, can be applied for using WhatsApp, email, phone, or a dedicated website,[85] and other countries such as Brazil have developed their own specific apps.[86] Still, the use of an app can pose significant barriers to persons living in poverty, whose digital literacy and internet access are often limited or inexistent.

44. The digital divide is also contributing to the intergenerational transmission of poverty. Children located in rural areas, those of Indigenous or ethnic groups, and more generally those experiencing poverty are being left behind in their education as a result of poor or non-existing connectivity. This is unsurprising given that average government expenditure in education (as percentage of GDP) has yet to return to pre-2011 numbers.[87] The Special Rapporteur has been alerted to the inspiring actions of teachers and civil society groups functioning in many countries as intermediaries, printing homework, bringing it to children, and sending it back to schools every day. Once again, however, this is a responsibility that rests with States, in accordance with their obligations under the Convention on the Rights of the Child and the right to education and digital literacy.[88]

H. Comply with human rights principles

45. Lack of participation, accountability, or oversight mechanisms means challenges such as the ones outlined above have gone largely unnoticed, including exclusions by design and high rates of non-take-up. Public efforts have also largely relied on emergency measures, leading to top-down policies with limited participation and often little transparency. Thus far accountability or oversight mechanisms have also lacked.

46. General Comment No.19—where the Committee on Economic, Social and Cultural Rights provides an authoritative interpretation of Article 9 of the International Covenant on Economic, Social and Cultural Rights—contains a clear obligation to develop mechanisms for participation, transparency, and accountability when implementing the right to social security.[89] Similarly, the UN High Commissioner for Human Rights has emphasized that "genuine participation of affected groups and individuals in decision-making processes" is needed to ensure compliance with human rights obligations when adopting austerity measures, in line with the right to participate in human rights impact assessments of the Guiding Principles on Human Rights Impact Assessments of Economic Reforms.[90]

47. Yet civil society has pointed out that the fast-tracking of support from international financing institutions—particularly the International Finance Corporation (IFC)—

[84] CEPAL, *Universalizar el acceso a las tecnologías digitales para enfrentar los efectos del COVID-19*, Informe Especial COVID-19 no.7, Aug.26, 2020, p.2
[85] South Africa, Social Relief of Distress (SRD) grants
[86] Instituto de Tecnologia e Sociedade do Rio, *Brazil's "Auxílio Emergencial" & "Caixa Tem" apps*, Jun.2020
[87] World Bank (based on UNESCO Institute for Statistics), Government expenditure on education, total (% of GDP), last accessed Aug.30, 2020 https://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS
[88] Convention on the Rights of the Child, arts.12, 13, 15, 17; A/66/290, para.61; forthcoming General Comment of the CRC on children's rights in relation to the digital environment
[89] E/C.12/GC/19, para.26
[90] E/2013/82, para.21; A/HRC/40/57, Principle 19

without consulting communities, may have adverse impacts.[91] And what is true at the project level is also valid for economic recovery plans more broadly. According to ITUC, union representatives from only 49 countries out of the 95 surveyed said they were involved in discussions with their respective governments regarding economic recovery plans.[92]

48. Although most countries have publicly available information on official websites, and some had conducted surveys with civil society organizations,[93] none of the national-level social protection measures reviewed for this report included mechanisms institutionalizing the participation of people in poverty in the elaboration, application, or evaluation of economic recovery plans. Once again, localities and cities together with community-based organizations have taken up a burden that governments should have shouldered.[94]

49. When task forces have been formed, the voices of economists and virology and epidemiology experts have been privileged, to the detriment of those of other health and non-health experts, including people in poverty, despite the unique knowledge they can bring to the table. This impression is confirmed by WHO researchers, who have found that "evidence" is largely understood as research-based, and not necessarily experience-based, and that non-governmental expertise, particularly of civil society and community groups, is mostly left out of decision-making.[95] Access to information and participation are essential to ensure that the schemes shall be designed and implemented effectively and reach those who are most in need of support. Yet, even where commendable efforts are made in this regard, they may neglect the specific obstacles people in poverty and Indigenous Peoples face in exercising their rights to participation.[96]

50. Transparency is needed particularly for public procurement contracts, funds devoted to social protection and public healthcare systems and equipment, and to shed light on the use of bailout funds benefiting corporations registered in tax havens. But this requirement does not only apply to government measures. Major international financial institutions including the IMF and the World Bank must take the opportunity to include transparency and anti-corruption measures in their emergency relief programs to ensure that populations can hold their government accountable for the actions taken with those funds, and that funds go to people who need them most. These institutions are bound by human rights under international law, which include complying with the principles of transparency, accountability, and participation.[97]

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[91] M.Day, G.Berry, "Fast-Tracked COVID-19 Financing Requires Communities' Expertise To Succeed," Accountability Counsel, Apr.6, 2020

[92] ITUC, *Global COVID-19 Survey*, Jun.2020, p.2

[93] *See*, for an example, Finland's submission to the joint questionnaire

[94] International Observatory on Participatory Democracy (IOPD), Citizen Cooperation facing COVID-19, https://participate.oidp.net/processes/COVID19

[95] D.Rajan *et al.*, Governance of the Covid-19 response: a call for more inclusive and transparent decision-making, *BMJ Global Health*, 2020

[96] For example, although a temporary multisectoral commission was recently created in Peru, a new Law passed in May established the possibility of using digital communication technologies to implement citizen participation mechanisms through this commission, potentially ignoring the digital and energy gap that many communities (especially Indigenous) experience, as well as the different languages they speak. *See* Resolución Suprema N°005-2020-MC, Jun.17, 2020; Decreto Legislativo N°1500, Art.6; and Submission "Derecho Ambiente y Recursos Naturales"

[97] E/C.12/2016/1, paras.7-8

IV. Looking back to look ahead

51. As the worst economic crisis since the Great Depression, this pandemic would have been difficult regardless of the starting point. But we must remember the root conditions of this crisis amidst calls for immediate action. A previous report by this mandate, issued during the 2008-2011 crisis, detailed the human rights obligations of States when designing economic recovery measures.[98] Almost ten years later, we are still dealing with that crisis' legacy of entrenched inequality, unescaped poverty, and public services in an appalling state of disrepair.

52. In many ways, this 2020 downturn is different from the 2008 global financial crisis, but the two cannot be understood in isolation. In 2008-09, like in today's crisis, countries initially rushed to ramp up public expenditures. Fifty high- and middle-income countries announced approximately US$600bn in countercyclical social protection measures,[99] a level of investment comparable to the efforts announced to face the social impacts of this crisis. But this support only lasted so long. By 2010, premature budget cuts had become widespread, and a second wave of cuts arrived in 2016 affecting 132 countries, with the developing world hit hardest.[100] Austerity measures shrank investment in good-quality, green jobs and therefore in the consumption capacity of large parts of the population. While the financial sector was saved, the impacts of austerity on public services—now deemed essential—have lingered, with ensuing consequences on human rights protections around the world. As a result, the state of socioeconomic rights was already in dire straits when the pandemic unleashed.

A. Pre-crisis dilapidation of public services and socioeconomic rights

53. The state of public health systems had steadily deteriorated since the early 2000s, worsening further since the 2008 global financial crisis. Weak and underfunded public healthcare requiring high out-of-pocket expenses (direct payment for services from household's primary income or savings) led to progressively higher "catastrophic health expenditures" – a statistical measure capturing the proportion of households experiencing financial hardship as a result of healthcare costs.[101] According to WHO and World Bank, both the percentage and the size of the global population facing catastrophic payments increased at all thresholds since 2000.[102] Between 2000 and 2015 alone, the percentage of the population impoverished by out-of-pocket health spending increased from 1.8% to 2.5%, with differences across countries but with one clear conclusion: "countries with more public investments in health tend to fare better."[103]

54. This troubling evolution is correlated with the lowering of government health expenditure as a percentage of the GDP between 2009 and 2017 (last available data), both for world averages and for Least Developed and Heavily Indebted Poor Countries.[104] For the same period, private health insurance coverage increased in 21 of OECD-33 countries

[98] A/HRC/17/34
[99] ILO, *World Social Protection Report 2017-19*, Nov.2017, p.181
[100] I.Ortiz *et al*., *The Decade of Adjustment: A Review of Austerity Trends 2010-2020 in 187 Countries*, ILO ESS Working Paper No.53, 2015
[101] OECD, *Out-of-Pocket Spending: Access to care and financial protection,* Apr.2019, p.4
[102] WHO and World Bank, *Tracking Universal Health Coverage: 2017 Global Monitoring Report*, 2017, p.ix
[103] WHO, *Primary Health Care on the Road to Universal Health Coverage*, 2019, p.2-3
[104] World Bank, World Development Indicators, Domestic general government health expenditure (calculated as % of GDP), https://databank.worldbank.org/source/world-development-indicators#

by an average of 5.4% of the population,[105] with increasing trends towards privatization in other world regions as well.[106] The number of hospital beds per 1,000 inhabitants has also declined in virtually all OECD countries—with the exception of South Korea—between 2007 and 2019.[107] It is therefore no surprise that public healthcare systems have been unable to readily cope with this pandemic.

55. Similar trends can be observed in care work. Data from 64 countries (representing 66.9% of the world's working-age population) show that 16.4 billion hours are spent in unpaid care work every day, 76.2% of which is performed by women.[108] The biggest occupational group in healthcare and the most feminized of healthcare occupations,[109] nurses and midwives, are characterized by low wages, which often leads these workers to take on multiple jobs, work overtime, and suffer from work-load intensification.[110] The result is undervalued and precarious care work, much of which is done by the recently dubbed "essential workers."

56. Severely underfunded, social services around the world are now strained and overwhelmed with applications that they must process under very short timeframes. As a result, there is a risk that social services, often managed by regional or local governments, will outsource part of their obligations towards the population—including processing applications, adding hospital staff to overwhelmed healthcare services, staff for testing and contact tracing, or for virtual learning—to private actors. Thus conceived, outsourcing would constitute a relinquishment of government responsibility through stealth privatization.

B. Extreme inequality coupled with extreme wealth

57. A new Oxfam study finds that so far the top US 25 companies are earning on average an 11% profit margin (net profits as a percentage of total revenue) in FY2020, with Microsoft expected to make 82% more in net profits than in the previous four years in average, Merck 81%, and CVS Health 61%.[111] In Latin America, there are 8 new billionaires only since March, and the overall wealth of billionaires has grown an estimated 17% since then – 9 times what the IMF has devoted in urgent loans to the region.[112] These profits risk going unchecked, especially as a number of countries have

[105] OECD.Stat, Social Protection: Private health insurance, https://stats.oecd.org/index.aspx?queryid=30139 (last accessed August 2020)
[106] *See e.g.* V.Chongsuvivatwong *et al.*, Health and health-care systems in southeast Asia: diversity and transitions, *The Lancet*, Jan.25, 2011; "Growth In Private Healthcare In Africa Is Leaving The Poorest Behind," *The Huffington Post* May 1, 2018; A.V.Bustamante, C.A.Méndez, Health Care Privatization in Latin America: Comparing Divergent Privatization Approaches in Chile, Colombia, and Mexico, *Journal of Health Politics, Policy, and Law*, 39:4,pp.841–886, 2014; N.Homedes and A.Ugalde, Why neoliberal health reforms have failed in Latin America, *Health Policy* 71: 83–96, 2005
[107] OECD, Hospital beds (indicator). https://doi.org/10.1787/0191328e-en (last accessed August 30, 2020)
[108] ILO, *Care work and care jobs for the future of decent work*, 2018, p.xxix
[109] *Id.* p.179
[110] *Id.* p.180
[111] Oxfam America, *Pandemic Profits Exposed*, Jul.22, 2020, p.3
[112] S.Ruiz et al., ¿Quién paga la cuenta? Gravar la riqueza para enfrentar la crisis de la COVID-19 en América Latina y el Caribe, Oxfam International, Jul.27, 2020

relaxed compliance requirements in the banking system,[113] the main way for governments to scrutinize banks for due diligence and transparency and to monitor financial flows.

58. In fact, recent research shows that between 1985 and 2018, the global average statutory corporate tax rate fell by about half, from 49% to 24%, and that close to 40% of multinational profits (profits made by transnational corporations outside the State where the parent company is domiciled) were shifted to tax havens in 2015.[114] The resulting revenue losses vary across countries, but the overall result is a tax revenue loss of 10% for governments in the world as a whole.[115]

59. This overall decrease in corporate taxes would be a welcome fiscal relief if only it had led to an overall betterment in standards of living for those at the bottom of the economy. Yet global inequality data show that while the top earning 10% received 48.9% of total pay, and the next decile received 20.1%, the remaining 80% of workers received just 31%.[116] In fact, the labour income share (the share of national income paid in wages, including benefits, to workers) began trending down in the 1990s in both advanced and developing economies.[117] At the bottom of the income distribution particularly, incomes have grown extremely slowly, especially after deducting housing costs.[118]

60. Workers around the world are now working excessive hours in poor conditions in an attempt to keep their jobs, labour inspectorates under lockdown are failing to protect workers from poor working conditions, and workers increasingly face unfair dismissals and union suppression.[119]

C. Addressing climate change in recovery plans

61. One often-cited silver lining in this pandemic is the potential decline in climate change emissions as a result of countries' lockdown measures. Despite the estimated 0-30% recent drop, the latest research in fact finds that, due to various rebound effects, the direct effect on actual cooling by 2030 will be negligible.[120] While these scenarios show that current warming trends could be prevented by over half by 2030 if countries spent at least 1.2% more of their GDPs in low-carbon technologies and at least 0.4% less on fossil fuels, the world is currently not on track.

62. According to the Energy Policy Tracker (based on OECD and World Bank data), only 36.3% of energy-focused spending by G20 countries has gone to clean energy, compared to 53.4% (or some US$204bn) to fossil fuel industries.[121] COVID-19 fiscal recovery packages have included emissions-intensive firms such as airlines, in countries

[113] World Bank, Covid Financial Sector Responses, https://datacatalog.worldbank.org/dataset/covid-19-finance-sector-related-policy-responses (last updated Jul.24, 2020 as of Sept.7)
[114] T.Tørsløv *et al., The Missing Profits of Nations*, p.1, 3
[115] The Missing Profits of Nations, p.31
[116] ILO, *The Global Labour Income Share and Distribution*, Jul.2019, p.2
[117] IMF, *World Economic Outlook: Gaining Momentum?* Apr.2017, p.122
[118] P.Bourquin *et al., Living standards, poverty and inequality: summary of the latest data 2018–19*, Institute of Fiscal Studies, Mar.2020
[119] *See e.g.,* Business and Human Rights Resource Center, *Union busting & unfair dismissals: Garment workers during COVID-19,* Aug.5, 2020
[120] P.M.Forster *et al.*, Current and future global climate impacts resulting from COVID-19, *Nature Climate Change*, Jul.24, 2020, p.4
[121] Energy Policy Tracker, G20 https://www.energypolicytracker.org/region/g20/ (last updated Sept.2, 2020 as of Sept.7)

including Russia, Australia, and the United States.[122] This is a clear abdication by governments of their responsibilities. The environmental injustices caused by climate changes are by now well-documented and they cannot be ignored. Any support to companies contributing to climate change must be conditional on clear plans for a transition towards zero emissions.[123]

D. Equitable financing

63. Social protection responses must ensure that these measures are financed equitably so they can have lasting impacts on poverty reduction and not lead to increased inequalities. Equitable financing, one of the main themes of the Call to Action of the Global Partnership for Universal Social Protection (USP2030),[124] means relying on fair, sustainable, and diversified taxation systems. In the short term, this means considering lowering indirect taxes such as consumption or value-added taxes on particular items, including food, hygiene products (prioritizing female health products), and essential medicines and supplies.[125] For instance, Colombia's VAT refund to the poor program distributes part of the funds to beneficiaries of other social assistance programs to counter VAT's regressive features,[126] and China has almost eliminated VAT for small-scale taxpayers and postponed or heavily reduced corporate taxes for certain small and low-profit businesses.[127]

64. Some countries are also introducing conditions for businesses receiving public funds, especially after large corporations benefitted from loan schemes intended for small businesses.[128] Denmark, France, and Poland have set conditions for companies who wish to access public financial aid: they cannot be registered in offshore tax havens or control subsidiaries in them.[129] Other countries, like China, protect workers by requiring that micro, small, and medium enterprises do not dismiss a percentage of their employees if they wish to receive refunds of their unemployment insurance.[130] South Africa's and Mexico's high-level public servants have taken large pay cuts in a sign of solidarity.[131]

[122] C.Hepburn *et al.,* Will COVID-19 fiscal recovery packages accelerate or retard progress on climate change? *Oxford Review of Economic Policy,* May 4, 2020 p.7
[123] A/75/181 para.4; A/HRC/41/39 paras.42-45, 54
[124] Global Partnership for Universal Social Protection (USP2030), Together to Achieve Universal Social Protection by 2030 (USP2030) – A Call to Action, Feb.5, 2019
[125] E/C.12/2020/1, para.17
[126] Colombia, Esquema de compensación del IVA a los hogares más vulnerables: Manual Operativo, Jun.2020
[127] People's Republic of China, 关于支持个体工商户复工复业增值税政策的公告 [Announcement on VAT policies to support individual businesses to resume operations], Feb.28, 2020; People's Republic of China, State Council, Report on the Work of The Government, May.23, 2020, p.10
[128] "Chemicals firm BASF biggest beneficiary of UK coronavirus loan scheme," *The Guardian,* Jun.4, 2020; "Paycheck Protection Program billions went to large companies and missed virus hot spots," *CBS News,* Apr.20, 2020
[129] "EU split over halting bailouts for tax haven firms," *DeutscheWelle,* Apr.29, 2020
[130] People's Republic of China, 关于做好疫情防控期间有关就业工作的通知[Notice on better performing tasks regarding employment during the period of epidemic prevention and control], Feb.5, 2020
[131] "South Africa's Economic Response to the Covid-19 Pandemic," *Covington,* Apr.6, 2020; "Entra en vigor el plan de reactivación económica de México," *Notimérica* (Europapress), Apr. 22, 2020

The mobilization of domestic resources for social protection: expanding fiscal space

65. The economic recovery should contribute to poverty eradication and the reduction of inequalities, not merely postpone their effects. For this to happen, as governments pledged to do when adopting SDGs 1 and 10, the economic recovery should be financed through progressive taxation schemes and social programs with a strong redistributive component. Public wealth must therefore account for States' ability to tax in the future, which, if done fairly, is a key measure against income and wealth inequality. In the medium and long term, equitable financing means investing in public services and moving towards more progressive tax systems—in the form of direct taxes with progressive economic incidence and distributional effects—and shifting the burden of taxes from "goods" (particularly labour) to "bads" (such as carbon emissions and other environmentally destructive behaviors, and speculative financial transactions). Social protection spending does not necessarily depend on a country income level, as countries with lower GDP per capita often spend as much of their GDP as countries with higher GDP levels; social protection systems "require a politically sustainable social contract."[132]

66. This is in line with the doctrine of the Committee on Economic, Social and Cultural Rights on the right to social security. The Committee has emphasized the need to mobilize extraordinary resources to address the pandemic to provide an impetus for long-term resource mobilization that guarantees the enjoyment of human rights.[133] When such mobilization is impossible, and States must obtain loans to guarantee the right to social security, borrowing States should be aware that conditions attached to the loan implying the adoption of retrogressive measures would constitute a violation of the International Covenant on Economic, Social and Cultural Rights.[134]

67. The Social Protection Floors Recommendation No. 202, adopted in the wake of the 2008 financial crisis, also refers to "solidarity in financing" among the principles that should guide the establishment of social protection floors at the national level.[135] Both the IMF and the World Bank acknowledge the important role of social protection in reducing inequality and poverty,[136] noting that social protection is key for a sustainable economic recovery,[137] and that "health spending must occur regardless of how much room in the budget a country may have."[138]

68. However, developing and particularly Least Developed Countries may lack the fiscal space required to protect the population from poverty post-COVID-19. The pandemic has had disastrous impacts on global supply chains. Remittances from migrant workers—representing, in many developing countries, over 10% of GDP[139]— have fallen by approximately 20%. Emerging markets have witnessed a capital flight of an estimated US$100bn[140] (five times more than in the three months following the 2008 global

[132] ILO, Fiscal Space for Social Protection: A Handbook for Assessing Financing Options, 2019 p.28
[133] E/C.12/2020/1, para.25
[134] E/C.12/2016/1, para.4
[135] ILO, Social Protection Floors Recommendation (No. 202), 2012
[136] *See e.g.* IMF's event "Income Inequality Matters: How to Ensure Economic Growth Benefits the Many and Not the Few," Apr.13, 2019; and the Bank's *Sourcebook on the Foundations of Social Protection Delivery Systems*, Jul.30, 2020
[137] World Bank, "Building back better after COVID-19: How social protection can help countries prepare for the impacts of climate change," Jul.14, 2020
[138] IMF, "Fiscal Policies to Protect People During the Coronavirus Outbreak," Mar.5, 2020
[139] C.Hevia, P.A.Neumeyer, "A Perfect Storm: COVID-19 in emerging economies," *VoxEU*, Apr.21, 2020
[140] IMF, "COVID-19 Crisis Poses Threat to Financial Stability," Apr.14, 2020

financial crisis).[141] Developing countries have also been negatively affected by the lower prices of raw commodities in global markets. As a result, poverty levels could be set back 8-10 years in 70 of the developing countries.[142] With exports and tax revenue quickly declining, these countries are facing an impossible choice: increasing their external debt or reducing social protection levels, thus further impoverishing their population.

International support: the risks of conditionalities attached to loans

69. The consequences of the impossible choice between debt and social protection are already apparent. Both Lebanon and Argentina have defaulted and restructured their debt,[143] and South Africa and Brazil have already approached the IMF and the World Bank for loans[144] and discussed prospective privatizations.[145] The IMF has made US$1 trillion available in loans to 100 of its 189 members, half of which are low-income countries.[146] Similarly, the World Bank Group announced its support to 100 countries through grants, loans, equity investments,[147] and suspension of bilateral debt service;[148] and the World Bank and IMF have jointly called for a suspension of debt payments from 74 countries to allow them to address the impacts of pandemic.[149]

70. The IMF also initially encouraged fiscal stimulus at the beginning of the 2008-11 global financial crisis.[150] This was soon followed, however, by encouragements to "achieve fiscal consolidation."[151] Indeed, deregulations of labour markets have been proposed as part of loan conditionalities as recently as early 2020, despite the IMF itself having found no statistically significant impact on unemployment reduction,[152] and despite the negative impacts of such reforms on protecting and guaranteeing collective labour rights.[153] Similarly, the Bank has in no uncertain terms committed to supporting

[141] J.Griffiths *et al., Reducing low-income country debt risks: The role of local currency-denominated loans from international institutions*, ODI Briefing note, May 2020, p.2
[142] UNDP, "Progress against the multiple dimensions of poverty was made before the pandemic – but now it is at risk," Jul.16, 2020
[143] "Lebanon to default on debt for first time amid financial crisis," *The Guardian*, Mar.7, 2020,; "Argentina set for default as bondholders reject new terms," *The Guardian*, May 22, 2020. *See also* "Poor Countries Face a Debt Crisis 'Unlike Anything We Have Seen'," *The New York Times*, Jun.1, 2020
[144] "South Africa unleashes largest ever spending plan, but adds to debt worries," *CNBC*, Apr.24, 2020; "Equipe Econômica quer empréstimo de US$4bi de órgãos internationais", *R7 Noticias*, May 25, 2020
[145] "Guedes defende redução de reservas internacionais para diminuir dívida bruta", *InfoMoney*, April 29 2020; "Conflicting Visions Emerge for South Africa's Post-Virus Revival," *Bloomberg* Jul.12, 2020
[146] "IMF chief economist says 100 countries seek pandemic aid; more resources may be needed," *Reuters*, Apr.14, 2020
[147] "World Bank Group: 100 Countries Get Support in Response to COVID-19 (Coronavirus)," May 19, 2020
[148] World Bank, "Debt Service Suspension and COVID-19," May 11, 2020
[149] "Joint Statement World Bank Group and IMF Call to Action on Debt of IDA Countries," Press Release No.20/103, Mar.25, 2020
[150] *See* The case for a Targeted Fiscal Boost, A Commentary by Dominique Strauss-Kahn, Managing Director of the International Monetary Fund, Jan.30, 2008
[151] IMF, "From Stimulus to Consolidation - Revenue and Expenditure Policies in Advanced and Emerging Economies," Apr.23, 2010
[152] P.Bakvis, *The IMF's Renewed Supply-Side Push: Four decades of structural adjustment and austerity conditionality*, International Trade Union Confederation, May 21, 2020, pp.38-40
[153] R.G.Blanton *et al.*, The Impact of IMF and World Bank Programs on Labor Rights. *Political Research Quarterly* 68, 2:324–36, Jun.2015

"structural reforms" and to working with countries that have "excessive regulations, subsidies, licensing regimes, trade protection, or litigiousness as obstacles."[154]

71. It is equally troubling that IMF rescue loans are often attached to privatizations of state-owned companies—despite also acknowledging that significant gains could result from merely improving how public assets are managed[155]—and that, while providing essential support in the short term, they may result in altering the structure of taxation in developing countries. In so doing, there is a risk that tax systems become more reliant on VAT to the expense of trade taxes, despite VAT's adverse distributive impacts and its lack of universality in countries with large informal sectors.[156] As to the World Bank's assistance, it will be largely channeled through its private sector financing sister organization, the International Finance Corporation, despite its track-record of poor performance in environmental and social accountability[157] and the deterioration of public service provision that results from public-private partnerships.[158]

72. Loan conditionalities thus defined are at odds with the principles of equitable financing, since they end up reducing the fiscal policy space for beneficiary countries. Yet the number of conditions between 2008 and 2014 only increased,[159] although such conditionalities have been found to lead to increased income inequality in borrowing countries in the short term, persisting over three years.[160] Countries should be wary of accepting conditionalities, including fiscal balancing, trade liberalization and foreign direct investment, privatization, and external debt management, but also more subtle processes such as technical assistance, training programs, and policy learning.[161]

73. Such loan conditionalities may also lead to violations of economic, social, and cultural rights. The Committee on Economic, Social and Cultural Rights has emphasized that any policy changes or adjustments in response to economic crises must be temporary, covering only the period of crisis; necessary and proportionate, in the sense that any other policy or lack thereof would be more detrimental to human rights; non-discriminatory and comprising all possible measures to mitigate inequality; and respectful of social protection floors as developed by the ILO.[162] Austerity measures can have retrogressive effects on human rights when "cuts to public spending on programmes that benefit the poor […] impact *inter alia* the rights to education, health, food, water and social security […] resulting in increased levels of unemployment [which] in turn create a rise in the levels of extreme poverty."[163] Deliberately retrogressive measures constitute a *prima*

[154] Remarks by World Bank Group President David Malpass on G20 Finance Ministers Conference Call on COVID-19, Mar.23, 2020 ("Countries will need to implement structural reforms to help shorten the time to recovery and create confidence that the recovery can be strong. For those countries that have excessive regulations, subsidies, licensing regimes, trade protection or litigiousness as obstacles, we will work with them to foster markets, choice and faster growth prospects during the recovery.")

[155] IMF, "Fiscal Monitor Report: Managing Public Wealth," Oct.2018, p.21

[156] Bernhard Reinsberg *et al.*, Taxing the People, Not Trade: the International Monetary Fund and the Structure of Taxation in Developing Countries, *Studies in Comparative International Development* 55:278–304, Jul.2020, pp.299-300

[157] External Review of IFC/MIGA E&S Accountability, including CAO's Role and Effectiveness, Report and Recommendations, Jun.2020

[158] A/HRC/44/40**,** para.49

[159] A.E.Kentikelenis *et al.*, IMF conditionality and development policy space, 1985-2014, *Review of International Political Economy*, 23:4, pp.543-582, 2016

[160] T.Forster *et al.*, How structural adjustment programs affect inequality: A disaggregated analysis of IMF conditionality, 1980–2014, *Social Science Research* 80: 83-113, 2019, p.93

[161] A.Broome, L.Seabrooke, Shaping policy curves: cognitive authority in transnational capacity building, *Public Administration*, 93:4, pp.956-972, 2015

[162] CESCR/48th/SP/MAB/SW

[163] E/2013/82, paras.13-14

facie violation of the International Covenant on Economic, Social and Cultural Rights.[164] International financial institutions cannot ignore such requirements: as recalled by the Committee on Economic, Social and Cultural Rights, they are bound by human rights, "as listed in particular in the Universal Declaration of Human Rights, that are part of customary international law or of the general principles of law, both of which are sources of international law."[165] Any international financial organization that lends funds to stimulate the economic recovery of a country must refrain from imposing conditions leading to permanent or disproportionate measures that counter the establishment or development of social protection floors, as developed by the ILO.[166]

74. There are other, more promising means to provide low-income countries with the kind of support they require to close a financing gap estimated at US$26.8bn per year.[167] Debt cancellation, restructuring or re-profiling—all of which the Independent Expert on external debt has called for[168]—can play a role: UNCTAD has estimated that in 2020 and 2021, developing countries will have to spend up to US$3.4 trillion on repayments on their public external debt.[169] The Social Protection Interagency Cooperation Board (SPIAC-B) has recommended that countries with insufficient fiscal space be supported through a new global solidarity financing mechanism.[170] In this regard, the Special Rapporteur shall support discussions on the establishment of a Global Fund for Social Protection,[171] an initiative that has already gathered broad support.

V. Conclusion

75. The world was ill-equipped to deal with this pandemic, but it does not have to be. Building social protection systems on the basis of human rights can significantly contribute to their effectiveness in eradicating poverty and in reducing inequalities, thus making for societies that shall be more resilient in the face of shocks. This means defining social protection neither as an emergency response to a situation of crisis, nor as charity – but rather as a set of permanent entitlements prescribed by domestic legislation, defining individuals as rights-holders and public authorities as duty-bearers. It also means guaranteeing individuals' access to independent claims mechanisms if they are denied certain benefits, including as a result of corruption, discrimination, or favoritism based on family affiliations or political loyalty. It means establishing social protection floors that are financed equitably, providing income support at levels sufficient to ensure an adequate standard of living and fulfilling a redistributive function, in line with the pledge made in SDG 10 to reduce inequalities. It means, finally, ensuring adequate participation, by social partners and by people in poverty, in the design, implementation, and monitoring and evaluation of social protection schemes, to ensure that such schemes will effectively

[164] E/2013/82, para.43
[165] E/C.12/2016/1, para.7
[166] CESCR/48th/SP/MAB/SW
[167] F.Durán-Valverde et al., Measuring financing gaps in social protection for achieving SDG target 1.3: Global estimates and strategies for developing countries, ILO ESS Working Paper No.73, 2019, p.31
[168] Note by the Independent Expert on debt and human rights, Ms. Yuefen Li, on options to consider for a human rights based debt relief during COVID-19 for developing countries, Aug.2020
[169] UNCTAD, COVID-19 is a matter of life and debt, global deal needed, Apr.23, 2020
[170] SPIAC-B, A Joint Statement on the Role of Social Protection in Responding to the COVID-19 Pandemic, Apr.2020, p.3
[171] *See Underwriting the Poor. A Global Fund for Social Protection*, Briefing note of the Special Rapporteur on the right to food, Olivier De Schutter, and of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda, Oct.2012

benefit people in need, and that, in the memorable phrase of Richard Titmuss, services to the poor shall not be poor services.

76. Combined with adequate international support, domestic resources can and should be mobilized to that end: guaranteeing to all, throughout their whole lives, access to healthcare and to basic income security – for children, for adults who cannot earn a sufficient income due to ill-health, unemployment, maternity or disability, and for older persons reaching pension age. The Special Rapporteur intends to contribute actively to identifying means through which this vision can be made a reality: if, learning from the shock created by the COVID-19 pandemic, governments deliver on that pledge, then this crisis shall have served a purpose.