



7 May 2020

Call to Action:

Addressing discrimination and inequality in the global response to COVID-19

In the short time since the start of this new decade, life has changed dramatically across the world. COVID-19 has now spread to more than [185 countries](#). The number of recorded cases has surpassed 3.5 million. Families and friends across the globe are mourning the loss of more than 240,000 people. With the stated intention of controlling the spread of the virus and protecting lives, States are implementing unprecedented restrictions on movement both within and between countries (“lockdowns”), with significant and wide-ranging impacts on societies and economies.

As these measures have taken effect, it has become clear that, [while the virus is indiscriminate, the impacts of state responses are not](#). In late April, launching a new report, United Nations Secretary General António Guterres stated that the pandemic is a public health emergency “that is fast becoming a human rights crisis”. As that [UN report](#) highlights, there is clear and growing evidence that state responses in delivery of healthcare, in the implementation of lockdown measures and in policies designed to mitigate economic impacts are having disproportionate and discriminatory impacts. These effects are being experienced by all groups exposed to discrimination, including, but not limited to, older persons, children, persons with disabilities, women, ethnic and religious minorities and indigenous peoples, LGBTI persons, persons living with HIV and AIDS, and migrants, refugees and stateless persons. They are impacting upon the enjoyment of rights ranging from freedom of movement to access to education and from access to information to an adequate standard of living, together, of course, with the rights to life and to health.

These discriminatory impacts are occurring despite the fact that [almost every State in the world has accepted international legal obligations to ensure the equal enjoyment of human rights, without discrimination](#). At a bare minimum, these obligations require that the State – whether through law, policy or practice – does not discriminate in its actions. They also create a duty to provide effective protection from all forms of discrimination by private actors and to make reasonable accommodation when required. These obligations apply to all: citizen and non-citizen, irrespective of their identity, status or beliefs. They are “immediate and cross-cutting”. They apply in respect of all civil, political, economic, social and cultural rights. Crucially, while international law recognises that in states of emergency, States can limit the enjoyment of certain human rights, their obligations to ensure non-discrimination remain – emergency measures must not discriminate either in their purpose or their effects.

As this unprecedented global crisis unfolds, it is clear that **States are failing to meet their non-discrimination obligations**. Their responses – largely driven by a stated intention to protect lives – are having a wide range of discriminatory impacts. While many of these effects may be unintended, the lack of intent does not limit States’ obligations. Moreover, with new evidence emerging each week, it is clear that we cannot yet foresee the full range of discriminatory impacts which this crisis will engender.

State obligations to assess and address equality impacts

We call on all States to incorporate **equality impact assessment** as an integral element of their on-going public health, economic and social policy responses to the crisis. It is only through assessing the equality impacts of their policy responses that States can ensure that their actions comply with their

binding non-discrimination obligations under international law. Equality impact assessment is the only way that States can anticipate and eliminate the discriminatory effects of their policy responses, including those which are unintended or unforeseen.

Equality impact assessments must be aimed at ***identifying and eliminating the actual or potential discriminatory effects of State policies***. They should also ensure that ***policies and programmes respond to and accommodate the different needs of diverse groups with due consideration to intersectionality*** and that they do not create or exacerbate inequality.

In order to ensure that States comply with their international legal obligations, equality impact assessments should be ***pre-emptive***, coming before new policy measures are adopted and before any changes are made to policies which are already in force. Where measures have already been adopted, equality impact assessment should be undertaken as an urgent priority. Where discriminatory impacts are identified, ***measures to eliminate any discrimination or inequality of impact should be taken with immediate effect***. States must ensure that they ***involve and consult all groups at risk of discrimination and experiencing inequality in conducting equality impact assessment***. States must ensure that equality impact assessment is an ***essential element of their monitoring and review of policy responses*** to the pandemic and of their on the ground effects. Both initial assessments and ongoing monitoring must be informed by the ***collection of data on the experiences and outcomes of groups exposed to discrimination***.

All policy responses to the crisis must be subject to assessment, including those relating to the management of healthcare and other resources, the restriction of civil liberties, closure of businesses and educational establishments, adaptation of support services, economic and social protection programmes, immigration and border control and the use of new information technologies. The actual or potential equality impacts of actions by both state and private actors must be assessed.

A renewed commitment to the creation of an equal world

Furthermore, we call on all States to emerge from the current crisis with **a renewed commitment to the elimination of all forms of discrimination and the creation of a world in which all are “free and equal in dignity and rights”**. The wide range of unintended discriminatory consequences of state responses to the crisis – ranging from the increased exposure to the virus amongst ethnic minority populations to the rise in domestic violence – only serve to underline the deep inequalities within our societies and the failure to address the systemic discrimination which feeds them.

This crisis has shone a harsh and unforgiving light on these existing inequalities. We must emerge from it ready to forge a world in which all can participate equally. Arundhati Roy has described this pandemic as a [portal](#), “a gateway between one world and the next”. We call on States to ensure that we walk through this portal leaving no one behind, and with a shared determination to create an equal world.

Equal Rights Trust
Association for Women’s Rights in Development
Child Rights International Network
Equality Now
Global Campaign for Equal Nationality Rights
HelpAge International
Institute on Statelessness and Inclusion
International Disability Alliance
International Disability and Development Consortium
International Lesbian, Gay, Bisexual, Trans and Intersex Association
Minority Rights Group
OutRight Action International
Women’s Refugee Commission

States' international legal obligations to ensure non-discrimination

The rights to equality and non-discrimination are the foundations of international human rights law. Article 1 of the [Universal Declaration of Human Rights](#) proclaims that all human beings are “born free and equal in dignity and rights”, while Article 2 states that everyone is entitled to human rights and freedoms “without distinction of any kind”.

Through ratification of the [International Covenant on Civil and Political Rights](#) (ICCPR) and the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), States have undertaken to guarantee the rights which they provide without discrimination. In total, [173 States are party to the ICCPR](#), Article 2(1) of which requires them to “respect and guarantee” the civil and political rights provided therein without discrimination, and Article 26 of which provides a free-standing right to non-discrimination, while [170 States are party to the ICESCR](#), Article 2(2) of which requires States to guarantee that all of the economic, social and cultural rights which it provides can be exercised without discrimination. In addition, many States – including some of the small number which have acceded to neither the ICCPR nor the ICESCR – have accepted obligations to guarantee the rights to equality and non-discrimination under instruments to eliminate discrimination against [women](#), discrimination on the basis of [race](#) and discrimination against [persons with disabilities](#).

The UN Human Rights Committee has [stated](#) that the rights in the ICCPR “apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness”. The Committee on Economic, Social and Cultural Rights has [clarified](#) that the list of grounds of discrimination provided in the ICESCR (and by implication in the ICCPR) is illustrative and that, irrespective of their omission from the original text of the Covenant, States are obligated to ensure non-discrimination on grounds such as age, disability, gender identity and sexual orientation. It has [noted](#) that non-discrimination is “an immediate and cross-cutting obligation” which requires states to ensure that their “constitution, laws and policy documents do not discriminate”, to refrain from discriminatory actions and to “take concrete, deliberate and targeted measures” to eliminate discrimination, in particular through the adoption of legislation.

The Human Rights Committee has [stated](#) that one of the conditions for limiting the enjoyment of human rights in times of emergency is that measures taken do not discriminate.

Discriminatory impacts of state responses to COVID-19 pandemic – an emerging picture¹

The recent United Nations [report](#) setting out how human rights can and must guide COVID-19 response and recovery underlines the fact that discrimination, both direct and indirect, is at the heart of the human rights crisis engendered by state responses to the pandemic. While the full range of discriminatory impacts of state responses is not yet clear – and some apparent patterns of discrimination have yet to be verified – there is already **compelling evidence** of discrimination affecting various groups' enjoyment of their human rights. These patterns extend across characteristics, and indeed across the intersection of characteristics.

Lockdown and other containment strategies adopted by many States to control the spread of the virus are not being applied equally in all settings, resulting in discrimination in respect of the **right to health**. For example, the [UN Independent Expert on the enjoyment of all human rights by older persons](#) has highlighted the impacts on older people residing in care homes, stating that “[r]eports of abandoned older persons in care homes or of dead corpses found in nursing homes are alarming”. Serious concerns have been raised about the increased health risks faced by [refugees, internally displaced persons and migrants](#) living in overcrowded conditions with limited access to healthcare. Conversely, the [UN Special Rapporteur on the rights of persons with disabilities](#) has noted that “containment measures, such as

¹ The information contained in this section has been compiled and verified by the Equal Rights Trust, which assumes sole responsibility for its accuracy. While the work of individual signatories to this statement is cited, the signatories take no responsibility for the contents of this section.

social distancing and self-isolation, may be impossible for those who rely on the support of others to eat, dress and bathe".

The crisis has also exposed the way in which pre-existing inequalities between ethnic groups can result in discrimination in health. In England for example, [an analysis by The Guardian](#) has found that of 12,593 who had died in hospital up to 19 April, 19% were Black, Asian and minority ethnic though these groups make up only 15% of the general population. [Professor Wasim Hanif](#) at University Hospital Birmingham has stated that in the pandemic, "health inequalities that have existed (...) are actually coming out". A [Washington Post analysis](#) of early data from across the US has found that COVID-19 appears to be infecting – and killing – black people at a disproportionate rate. While genetic predisposition cannot be ruled out, legitimate concerns have been [raised](#) that the disparity may be the result of lack of access to healthcare, increased exposure as a result of over-representation in frontline "essential" jobs and other factors which are linked with past and current patterns of discrimination.

Many groups at risk of discrimination have been exposed to increased ***discriminatory violence and hate speech*** as a result of the crisis. There have been reports of [racist and xenophobic hate speech and hate crimes](#) being committed against individuals perceived as Asian, as well as other ethnic and religious groups. In India, [some commentators are stating in public](#) that Muslims are responsible for the spread of COVID-19, despite clear evidence that this is not the case. The [UN has noted](#) that "LGBTI people have previously been blamed for disasters, both manmade and natural, and there are scattered reports of this happening in the context of the COVID-19 pandemic". Ageism against older people has [trended on social media](#) and the worth of saving older people's lives has been called into [question](#); in one instance, a UK journalist [suggested](#) "culling" older people would have a beneficial economic effect. There is also emerging evidence of an increase in [domestic violence](#) against women during lockdowns in a number of States.

Examples have also been [recorded](#) of ***discrimination in respect of freedom of expression, assembly and association***. In Kyrgyzstan, for example, following a decision to [ban mass rallies](#) citing COVID-19, a march for International Women's Day [was dispersed](#), while at the same time, a large group of men were permitted to [participate in a traditional ceremony to ward off coronavirus](#). There have been [reports from Uganda](#) of police targeting LGBTI organisations under the pretext of enforcing presidential directives to combat the spread of COVID-19.

There also exists limited to no ***access to information*** in culturally appropriate formats for minority and indigenous communities, with most government statements and information only being made available in one majority language and shared via the mainstream media. This presents a [particularly serious threat to persons with disabilities within marginalised communities around the world](#), including religious, ethnic, and linguistic minorities, refugees and internally displaced persons, and indigenous communities.

Moreover, there are credible ***warnings about the emerging and potential discriminatory impacts*** of state responses. Leading non-governmental organisations have raised concerns that responses to the virus are feeding and deepening the historical and structural discrimination against [people with disabilities](#); exacerbating inequalities for [women and girls](#); exposing [indigenous peoples](#) in the Amazon to existential threats; creating barriers which prevent [transgender and intersex individuals](#) from accessing essential health care; and failing to factor the [stateless](#) into decision-making.

Organisations of [persons with disabilities](#) have raised serious concerns about the discriminatory impacts of triage protocols using criteria which could result in denial or removal of care from persons with disabilities, resulting in discriminatory denial of the ***rights to health and life***. Similar grave concerns have been raised about the potential that decisions regarding allocation of "[scarce medical resources such as ventilators in intensive care units may be made solely on the basis of age](#)".

While access to education for millions of learners has been compromised by school closures, the [Right to Education Initiative](#), amongst others, has highlighted the potentially discriminatory impacts on the

right to education for students whose households cannot afford the equipment necessary to facilitate online and home learning. In Lebanon, concerns have been raised that [students with visual disabilities](#) cannot make use of many online courses which are available. Serious concerns have also been raised about the other discriminatory impacts of school closures on children in vulnerable situations, including, for example, [girls at risk of sexual abuse](#).

The discriminatory impacts of lockdown and business closures on the **right to work** are becoming clearer with each week. As the [International Labour Organisation](#) has highlighted, “[t]he world of work is being profoundly affected by the global virus pandemic”. Before the crisis, labour markets in many states were effectively segregated on the basis of race, gender and other characteristics – women being overrepresented in social care and ethnic minorities being overrepresented in service sector roles, for example. In this context, States’ decisions on issues such as whether and how to close certain sectors of the economy; designate essential roles; enforce working from home requirements; and provide financial support to workers who cannot work all have serious potential discriminatory impacts. Further issues will arise as we move forward, where restrictions which have previously been of a blanket nature are lifted for specific sectors of the economy, public services or groups of people.

Border closures and other policies aimed at limiting migration – including measures which the UN has [deemed](#) to be unlawful suspensions of the **right to asylum** – can have discriminatory impacts on non-citizens, including refugees. There is evidence that these policies are, among other effects, [exacerbating the effects of nationality laws that discriminate on the basis of gender](#), with families facing separation or the inability to return to their homeland. Though most States have committed to offer healthcare to persons affected by the virus regardless of status, the economic relief funds being distributed to households in many countries, including [Jordan](#) and [Malaysia](#), are not being made available to non-citizens, including the children and spouses of female citizens who cannot access nationality due to discrimination in the law.

The use of new information technologies in States’ response to the pandemic [threatens](#) the **right to privacy and data protection** and risks long-lasting discriminatory effects. In Russia, [facial recognition software is being used](#) to make sure people who have been quarantined stay at home. As China encourages people to return to work, it requires citizens to use software on their smartphones which predicts their health status, tracks their location and determines whether they can enter a public place. According to a [New York Times](#) analysis, the software “appears to share information with the police, setting a template for new forms of automated social control that could persist long after the epidemic subsides.” The discriminatory potential of new information technologies is [yet to be fully understood](#); there is a real and pertinent risk that the mass collection of data, coupled with the limited transparency as to how such data is stored and re-used, will be used by certain States to target specific groups.