GUIDING PRINCIPLES FOR GOVERNMENT’S RESPONSE TO A PANDEMIC

EDITOR’S NOTE

The Center for Public Justice published its Guiding Principles for Government’s Response to a Pandemic on July 13, 2020. They were written in response to the COVID-19 pandemic. Due to the ongoing nature of the pandemic, where new areas continue to come under consideration, these guiding principles address some, but not all, aspects of government’s response to a pandemic. The Center for Public Justice released these guiding principles recognizing that at the time of their release, they articulate normative principles in specific areas, but may not be comprehensive due to the shifting nature of the pandemic’s impact. In addition to these guiding principles, the Center for Public Justice has also included examples of our public policy advocacy derived from these principles.

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During the Center for Public Justice’s 40-plus year history, the United States has faced economic recessions and natural disasters that have called for unprecedented actions by our government and civil society institutions to preserve human life and promote the restoration and flourishing of our communities. In the midst of the COVID-19 pandemic, the world is experiencing dual public health and economic crises of epic proportion. There are immediate impacts in the United States – the loss of life, an overburdened health care system, loss of employment, and an intentional slowing down of the economy and closure of many of the institutions that enrich our understanding of life’s purpose and meaning, such as houses of worship and schools. The ripple effects of these immediate needs and impacts will be felt long into the future. The loss of loved ones, prolonged unemployment, and a shuttering of schools, houses of worship, and many businesses and nonprofits will have long-term effects, most of which we cannot even guess.

The Center for Public Justice’s mission is to equip citizens, develop leaders, and shape public policy in pursuit of our purpose to serve God, advance justice, and transform public life. To anchor this mission, CPJ’s work has long been animated by a set of guiding principles and norms, CPJ’s “Guidelines for Government and Citizenship,” that set forth a vision for the right roles and responsibilities of government and civil society institutions.

Public justice is the norm for government’s work. Much of what contributes to human flourishing is government’s task. Government is authorized by God to promote what is good for human flourishing through its policies and practices. Because a healthy society is comprised of a wide variety of nongovernmental institutions, government has a responsibility to safeguard and promote their flourishing -- from families and small businesses to houses of worship, secular and faith-based nonprofits, educational institutions, and large companies. Each of these institutions needs the freedom and protection to flourish and make their unique contributions to society.

CPJ’s understanding of public justice as the norm for government’s work means we can always expect there to be a nuanced and flexible exercise of governmental power. Much of what government does is to support and protect civil society institutions as well as individuals, and these may need more or less
support in varying situations. In the context of certain social challenges and emergencies, government will play an essential and leading role. But understanding public justice as the norm for government’s work also insists that this is not always the case — just as certain social challenges may require government to take a leading role, there are likewise times in which government has a more limited role and must work to promote civil society in leading or responding.

How, then, should a public justice perspective inform our government’s response to a pandemic? The following Guiding Principles for Government’s Response to a Pandemic articulate CPJ’s vision for the task of government during a pandemic and how this applies to key areas of public policy.

**GOVERNMENT**

Government bears responsibility to legislate, enforce, and adjudicate public laws for the safety, welfare, and public order of every person and institution within its jurisdiction. During a pandemic, government must fulfill this responsibility with precision and urgency.

In addressing immediate human needs related to a pandemic, government should take a leading role in the coordination and administration of public policies and emergency relief that address the needs of individuals, families, and institutions. Greater need is typically not co-located with greater resources, and government’s ability to coordinate, distribute, and scale essential services is unmatched. Government should affirmatively provide emergency support to sustain individuals and civil society institutions, including faith-based organizations and houses of worship, during the crisis.

A pandemic requires a society-wide effort to protect human life, inclusive of things like social distancing, staying home, and wearing a mask, to slow the spread of the virus. Government has a responsibility to enact public laws and orders (ex. curfews, closing of restaurants, banning of large gatherings) for the safety and well-being of the entire community. In this unique circumstance, government is authorized to alter or curtail the functioning of other sectors of society, including family life, religious institutions, educational institutions, and business in order to protect human life. Yet such action, necessary as it is, should be as limited as possible to ensure public health, and should interfere as little as possible with the fundamental rights of citizens, such as the freedom of religious exercise, conscience, and speech.

This all-encompassing protective action by government necessitates a concurrent action: addressing the economic hardships of the individuals and institutions negatively impacted by its broad, but necessary, protective action. Emergency relief offered by government must address the hardships of two distinct, yet connected, groups: already-vulnerable individuals, families, and institutions and individuals, families, and institutions that are now in a financially fragile and precarious position as a result of government’s society-protecting actions. Public policies should address and support these two groups.

Government continues to bear significant responsibilities during the period following emergency actions aimed at stopping loss of life and societal stability, as institutions and their employees continue to experience economic harm. Emergency aid from government is still needed because of the impact of the virus, even though the source of the harm is no longer from the government’s mandates, but from the voluntary decisions of leaders of institutions and individuals in light of public health advice. As shelter-in-place orders are lifted, many institutions will experience negative economic effects. Businesses will reopen, compliant with the law, but with fewer customers. Congregations may make voluntary decisions that the risks of virus transmission are greater than they are willing to bear and will continue to gather virtually. While government must provide public health information to guide the actions that individuals
and institutions will take in response to the pandemic, leaders of institutions must decide how to implement the guidance.

Finally, as a pandemic recedes and the need for vigorous and wide-sweeping counteraction to it diminishes, expansive government action ought to be scaled back again for the flourishing of persons, families, and nongovernmental institutions.

**IMPLICATIONS FOR GOVERNMENT**

The sections below address the task of government relative to protecting a diversity of institutions and the individuals who depend on them.

**FAMILIES**

The family is the most basic of human institutions. As CPJ’s [Guideline on Family](#) expresses, government must recognize and protect the family as an essential expression of its responsibility to uphold a just society. A pandemic draws families into a range of new and compressed duties. When schools and places of care close, parents’ work and caregiving responsibilities converge. Parents who must work outside the home for financial reasons, or because of the nature of their job, must make difficult decisions about who will -- and how to -- care well for their children. Many Americans, including caregivers, are unable to work due to illness or lose their job as a result of a pandemic. Many households lack sufficient savings to make it through sustained job loss or work reduction without hardship. The historic racial wealth gap means that families of color are far more likely to have entered the COVID-19 crisis without sizable savings to draw upon for support. For these families, fear or the reality of financial hardship looms. Government bears a responsibility to mitigate the economic hardship experienced by families as a result of a pandemic and to empower and enable families to make decisions that serve the well-being of their members.

**POLICYMAKING FOR THE COVID-19 PANDEMIC**

CPJ has encouraged federal legislation designed to:

1. Enable those who are employed to also have time for crucial family care. Emergency paid sick and family leave policies are critical for those who cannot or should not work due to the pandemic to stay home, recover, and care for children.

2. Facilitate job-sharing arrangements (also called work-share) whereby those with extra family responsibilities can remain employed at reduced hours and with wage supplements.

3. Provide funding needed to sustain a diversity of child care options to facilitate the crucial work of essential workers.

4. Expand and enable the unemployment insurance safety net to operate effectively for households that will be out of work due to the recession.

5. Ensure that children and families that rely on free or reduced school meals do not experience food insecurity as a result of schools being closed. Granting states flexibility to amend or suspend certain rules or requirements for Supplemental Nutrition Assistance Program (SNAP) eligibility and receipt during the crisis will allow for more families to access food during this time of outsized need.
FAITH-BASED ORGANIZATIONS

Faith-based organizations and houses of worship are integral to the spiritual, emotional, and physical well-being of millions of Americans. These institutions are responsible not only for enriching and forming the lives of people of faith, they are essential in the provision of social services for the most vulnerable among us. A pandemic not only prevents people of faith from gathering together in person, it also changes the operations of many faith-based organizations that provide vital human services – food for the hungry, shelter for the homeless, child care for single parents – in our communities. During an economic downturn caused by a pandemic and by the government’s public-health actions to respond to it, government should act to preserve and restore social institutions with their diverse responsibilities and aims. Its action should uphold the operations of faith-based organizations and houses of worship through needed aid, just as it must aid every other legal enterprise that is part of society.

For organizations that already partner with government, additional funding will likely be needed to sustain the provision of human services that they offer. These actions in the short-term will contribute to long-term ability for faith-based organizations and houses of worship to continue to serve. Support to faith-based organizations should keep in mind key underlying factors that constitute barriers for small faith-based nonprofits and churches. Small houses of worship and faith-based nonprofits, many of which represent thriving Hispanic and African American communities, play a vital role in the health and well-being of those they serve, and yet they face unequal opportunity barriers. These include lack of access to lending institutions and lack of experience navigating government rules and funding.

POLICYMAKING FOR THE COVID-19 PANDEMIC

CPJ has encouraged federal legislation designed to:

1. Incentivize charitable giving in this time of economic and social crisis. Congress should enact a significant universal charitable deduction that gives a tax deduction to all taxpayers who contribute to the nonprofit sector.

2. Protect the ability of faith-based organizations to continue to contribute to the social safety net by ensuring that funds intended to uphold nonprofit organizations are not accompanied by restrictions that would limit the religious freedom of faith-based organizations.

3. Mitigate expected economic hardship for faith-based organizations as well as their employees through rapid reimbursements to employers for mandated sick and family leave payments and through access to potentially forgivable loans through the Small Business Administration.

4. Expand and enable the unemployment insurance system to operate effectively so that groups excluded from coverage – clergy, employees of religious organizations as well as gig-economy and contingent workers – are included.

5. Sustain nonprofits, including faith-based organizations and houses of worship, that are essential to the safety net through emergency relief legislation like the Paycheck Protection Program.

ECONOMIC JUSTICE

Making room for the independent exercise of profit-making production and exchange, as articulated in the Guideline on Economic Justice, is what CPJ recognizes and supports as a market economy. During
times of economic crisis, especially one which involves the intentional slowing of the economy for public health purposes, government should sustain businesses and the market through emergency relief and other measures.

Economic crises should not be an opportunity for businesses, including banks and lenders, to profit off the hardships of vulnerable Americans. Government must monitor for and prohibit usurious or exploitative business or lending practices designed to take advantage of the vulnerable.

POLICYMAKING FOR THE COVID-19 PANDEMIC

CPJ has encouraged federal legislation and agency guidance designed to:

1. Mitigate the hardship that will follow as workplaces radically change for many employers. Emergency paid sick and family leave policies as well as employer payroll tax deductions are critical for employers whose employees cannot or should not work, so the employees can stay home, recover, and care for children.

2. Facilitate work-share, partial work, and other flexible work arrangements that help employers retain employees on payroll while adjusting to changing market conditions.

3. Provide clear and actionable guidance for employers regarding health and safety for reopenings of workplaces. As states and communities lift shelter-in-place orders, the locus of vigilance and response to COVID-19 will shift. Workplaces must prevent transmission as well as respond to its detection, acting quickly to exclude known carriers from access to communal spaces and working with public health officials to conduct contact tracing.

4. Protect borrowers from predatory lenders. Predatory lenders are poised to take advantage of households awaiting needed and anticipated aid through tax rebates, unemployment relief and other sources. As many working Americans now find themselves underemployed or unemployed, Congress should extend the protections of the Military Lending Act, including a 36 percent rate cap, to new loans made to all Americans during the crisis.

5. Federal agencies should offer clear guidance to financial institutions that emphasizes that the current economic crisis is not an opportunity for banks to make predatory payday loans or high-interest and fee installment loans.

CRIMINAL JUSTICE SYSTEM

Government’s responsibility, under law, entails the protection of the political community from those who threaten life, property, and public peace. This remains true during a pandemic. Domestically, police forces, courts, and the criminal justice system should continue to fulfill their duties; however, a pandemic may require delaying some duties (e.g., courts conducting emergency operations only). Government also has a responsibility to protect the health and well-being of those under its supervision in jails, prisons, and juvenile detention facilities. The congregate nature of these facilities enable the easy spread of the COVID-19 virus. It is nearly impossible to socially distance, per public health order, in a detention facility. There is a need to carefully balance public safety, public health, and the health and safety of those within the criminal justice system. To the greatest extent possible, the criminal justice system should take actions to promote health and safety for incarcerated men and women.
POLICYMAKING FOR THE COVID-19 PANDEMIC

CPJ has encouraged federal legislation designed to:

1. Expedite clemency decisions for those who have served a proportional sentence and demonstrated their desire to make amends during their incarceration, while prioritizing those who are uniquely vulnerable to the impact of COVID-19 due to age or medical history.

2. Expand the use of existing elderly and compassionate release mechanisms to allow select federal prisoners to complete an appropriate term of punishment in settings more conducive to their health and safety, while still being held accountable for their crimes.

3. Provide federal funding to support COVID-19 response strategies among state and local correctional leaders. State and local criminal justice systems are responsible for the overwhelming majority of the United States’ incarcerated population. Without federal assistance, these stakeholders will be constrained in their ability to contain, mitigate, and treat COVID-19 outbreaks.

4. Fund the costs for increased phone or video minutes for incarcerated individuals for whom family visits can’t occur due to COVID-19 and explore creative solutions for continued rehabilitative programming and religious worship that is currently not possible due to COVID-19.

5. Ensure more individuals accused of a federal crime await their trial in the community and reserve pre-trial detention for individuals who pose a significant risk of flight or danger to the community.

IMMIGRATION

In the United States, the federal government is responsible for legislating and enforcing laws governing citizenship. It is also the responsibility of government, as the Center for Public Justice Guideline on the Family states, to “recognize and protect the family as an essential expression of its responsibility to uphold a just society.” Government must recognize that healthy families help nurture future citizens, prepare future employers and employees, decrease public costs resulting from fragmented families, and build up strong social and cultural capital. As a general matter, federal policy regarding immigration should not interfere with the sovereignty of the institution of the family over their children and should favor keeping families intact rather than forcing their separation. When public policy fails to safeguard immigrant families, many other civil society institutions are also impacted.

POLICYMAKING FOR THE COVID-19 PANDEMIC

CPJ has encouraged federal legislation designed to:

1. Protect families from forced separation at the border.

2. Favor family reunification wherever possible.

3. Allow unaccompanied minors who have entered the United States to await the processing of their cases in a safe environment that is the least restrictive.