

THE COST OF CURING

HEALTH WORKERS' RIGHTS IN THE AMERICAS DURING COVID-19 AND BEYOND



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1. INTRODUCTION

At the time of writing, almost half the people in the world who have tested positive for the COVID-19 virus live in the Americas region, with over 2 million confirmed cases according to the Pan- American Health Organization¹. Unfortunately, access to health care is not a reality for many people in the Americas and the COVID-19 pandemic arrived in a region home to several countries already experiencing profound health care crises². By mid-March 2020, many countries in the Americas had implemented curfews, emergency decrees and lockdown measures to respond to the spreading pandemic. In this context, a group of workers was suddenly thrust into the spotlight. Doctors, nurses, nursing assistants, hospital cleaners, janitors, ambulance drivers and others were working in the background for many years in a region where insecurity and violence usually cram news headlines. These people are finally being recognized as essential to securing the safety of millions of lives. And yet at the same time, health workers are facing serious challenges in realizing their human rights to work and to health.

As some countries in the Americas now begin to ease lockdowns, and others enter their most critical stages, this document provides an overview of human rights concerns faced by health workers throughout the region to date in the context of COVID-19. These include concerns around the right to just, safe and favourable conditions at work, and how these are linked to the right to access information and the right to speak up freely, both rights recognised under international human rights law and crucial elements of protecting the right to health. Besides these rights, this document explores key actions that states can and must take to address the failings that have left health workers vulnerable, including guaranteeing their physical and mental health at work, their paid sick leave, fair wages, and to condemn attacks and violence against health workers. In addition, the report outlines the treaty obligations that states have to ensure all efforts are made to seek and provide international cooperation and assistance, including around ensuring the supply of medical equipment, especially in the case of Personal Protective Equipment (PPE) and medicines.

Some states in the region have taken extraordinary and innovative measures to tackle the COVID-19 pandemic in line with human rights, including swift adoptions of decrees and laws to strengthen health and workers' rights, the recurrence of key failings to comply with human rights obligations offers reason to evaluate possible breaches of treaty obligations by governments of the region. The conclusions and recommendations contained in this document are highly relevant for the current COVID-19 pandemic but are also designed to address pre-existing shortcomings in states' protections of the rights of workers that they must address to prepare for future health crises in the region. In addition, not only states, but also companies operating in the region have a responsibility to respect all human rights wherever they operate. The corporate responsibility to respect human rights is independent of the state's own human rights obligations. This means that, to meet their responsibility to respect human rights, companies might need to go beyond what is legally required in the relevant jurisdiction. The protection of health workers, by both states and companies, is crucial to ensuring the health of the region's population of more than one billion.

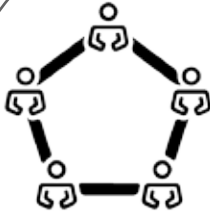
The information and recommendations contained in this document are based on telephone interviews by Amnesty International researchers with 21 workers from public and private healthcare settings in North, Central, South America and the Caribbean between 13 April and 13 May³. The interviewees included hospital and nursing home cleaners, doctors, nurses, nursing assistants, a hospital janitor, a hospital dining hall cashier, and an epidemiologist working in the public sector. Many of the interviewees were too afraid to make

¹Figures last updated 18 May, according to the Pan American Health Organization (PAHO): Cumulative COVID-19 cases reported by countries and territories in the Americas, see: <https://bit.ly/2WxNon3>

²Nicaragua, Honduras, Guatemala, Bolivia and Paraguay were already receiving special support from the Pan American Health Organization (PAHO) due to their weak health systems, prior to the COVID-19 Pandemic.

³Interviewees with health sector were from the United States, Mexico, Honduras, Nicaragua, Dominican Republic, Colombia, and Paraguay. Indirect testimonies of cases were also sourced from Argentina. For these and other countries, several other sources were used as well as talking with experts on the situation in many other countries of the region. The lack of interviews in other countries was mainly due to problems in contacting them during the pandemic via telephone at this busy and difficult time.

public their names for fear of reprisal, and in fact, the fear of speaking up limited Amnesty International's access to some interviews altogether. As well as these in-depth interviews, this document is also based on analysis of official data, expert analyses, interviews with international organizations, publicly available company documents and public information.



MINIMUM CORE OBLIGATIONS UNDER THE ICESR:

“a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant.”

UN Committee on Economic, Social and Cultural Rights (CESCR):
General Comment Number 3, 1990

2. AN UNHEALTHY DAY’S WORK: WORKERS LEFT UNPROTECTED

All 35 countries of the Americas are signatories, and nearly all are state parties (besides Cuba and the United States), to the International Covenant on Economic and Social Rights (ICESCR), the international human rights treaty which enshrines the rights of workers in its Articles 6, 7 and 8.⁴ This obligation is reflected in the parallel binding standard in the Inter-American System of Human Rights in the Protocol of San Salvador.⁵ As signatories, even the countries that have not ratified the ICESCR, nevertheless have an obligation to refrain from acts that would defeat the object and purpose of the treaty.⁶ Moreover, the rights to and at work are enshrined in almost identical terms in other human rights treaties which all states of the Americas have ratified, most notably the Convention on the elimination of all forms of Racial Discrimination (CERD),⁷ which means all governments in the region are bound to guarantee the rights to and at to work and “safe working conditions to everyone”, as per the language of the convention which focuses on eliminating racial discrimination, in this case in the context of work. In the case of the United States, it is the only country in the region that has not ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), that also enshrines labour rights in its Article 11 and is of significant relevance given that at least 70% of the region’s health workers are women.⁸

The protections in these conventions are essential to ensure that all workers on the front line of the pandemic have access to sick leave, medical attention, compensation for any injury at work, decent working hours and wages as well as equal pay between women and men. In addition, all countries of the region are members of the International Labour Organization (ILO), and have all pledged to a series of key labour commitments,⁹ even if they have not ratified some of the individual conventions which are key in this regard, such as ILO Conventions 155 (Occupational Health and Safety), 149 (Nursing Personnel Convention), and the recently adopted ILO Violence and Harassment Convention of 2019.

These obligations enshrine several workers’ rights, yet it appears that many states of the region have not protected these rights in the last two months. There is no doubt that a number of states have taken steps to analyze the situation of health workers and pass regulations and laws to address the issue,¹⁰ in line with their international obligation to take concrete steps to strengthen the rights to and at work through progressive realization. This obligation “to take steps”¹¹ towards the full realization of the rights to and at work must be

⁴International Covenant on Economic, Social and Cultural Rights, (ICESCR), adopted in 1966 and entered into force in 1976: Articles 6, 7 and 8 on Right to Work.

⁵Organization of American States, ADDITIONAL PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS IN THE AREA OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS "PROTOCOL OF SAN SALVADOR, Adopted in San Salvador, 1988. The Inter American standard echoes the UN standard in general, however it is important to mention that the Inter-American standard outlines certain specific provisions, such as “The [working] days shall be shorter in the case of dangerous or unhealthy work or of night work.”; (Art. 7 (g))

⁶Article 18, Convention of Vienna on the Law of Treaties, 1969

⁷Art 5 of the CERD outlines that states will “guarantee the right of everyone” Of: [Clause (e) i]: The rights to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration. This language mirrors the same binding language used in the International Covenant on Economic, Social and cultural Rights.

⁸Calculations of the female work force in the health sector are Amnesty International calculations based on World Health Organization figures combined with reports of the OECD.

⁹For Example, the ILO Declaration on Fundamental Principles and Rights at Work Adopted in 1998 – “aims to encourage the efforts made by the Members of the Organization to promote the fundamental principles and rights enshrined in the Constitution of the ILO.”

¹⁰Notable laws that have been passed include, but are not limited to: A law by Paraguay including a special payment to health workers and provisions for workers’ compensation for workers left without work due to COVID either for sickness or another reason, a decree by Argentina to provide for a special bonus pay for health workers working on the frontline, and a law proposed by El Salvador’s legislative for health workers medical needs, social security rights and for their families, that was later vetoed by the president. This veto was finally overcome and approved in the El Salvador Legislative Assembly on 14 May.

¹¹Article 2, par. 1 of the ICESCR

“deliberate, concrete and targeted”¹². This obligation for progressive realization is replicated also in relation to the right to health and is of utmost importance for the COVID-19 pandemic. Furthermore, the Committee on Economic, Social and Cultural Rights (CESCR), the United Nations treaty body that supervises the implementation of the ICESCR, has stated that “measures to prevent, treat and control epidemic and endemic diseases” are “obligations of comparable priority” to core obligations (or “the minimum, essential levels”) of the right to health, and that a state party cannot, under any circumstances justify its non-compliance with its core obligations, “which are non-derogable”.¹³

Nevertheless, in many countries of the region, health workers in both the private and public sector are faced with repeated dangers at work to their physical and mental health, as well as to their fair wages and other labour protections. Several states may be in breach of their obligations under international law due to their actions or omissions in recent months, and according to the CESCR, “if any deliberately retrogressive measures [have been] taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for”.¹⁴

The rights to and at work have multiple elements that are outlined in the above mentioned Covenants of the United Nations, ILO instruments as well as its contemporaneous and parallel standards in the Inter-American System of Human Rights.¹⁵ Of the many elements of this right, this document will highlight some of the most pertinent to the situation of health workers in the COVID-19 Pandemic:

2.1 RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS:

The Americas is one of the most unequal regions in the world. While the region in some places is home to luxury hospitals and state-of-the-art clinics, in several countries, ensuring safe conditions for health workers is obstructed by underlying humanitarian crises that make functioning hospitals a challenge, let alone capable health systems. Venezuela is a critical example: when the United Nations published a special report on the situation of the country in mid-2019, it concluded that the government was in breach of its treaty obligations on the right to health and that “the health situation in the country is dire, with hospitals lacking staff, supplies, medicines and electricity to keep vital machinery running.”¹⁶ Until recently, Venezuela had maintained a general refusal to receive foreign assistance.¹⁷ However, in early April 2020, Venezuela received a shipment of 90 tonnes of medical and PPE supplies from the United Nations’ agency UNICEF.¹⁸ Haiti is another example of a health system on the brink: At various points during 2019, hospitals ran out of essential medicines and treatments and there were cuts in water and electricity supplies, according to media reports.¹⁹ The Inter American Commission expressed specific concern and set up a taskforce on Haiti’s basic services in early 2019.²⁰

Significant examples of the stretched capacity of public health systems during COVID-19 have included the city of Guayaquil, Ecuador. In early April, Amnesty International’s Crisis Evidence Lab was able to verify digital footage of corpses being laid out in the streets as the public health system failed to cope with the demand.²¹ More recently in the city of Manaus in northern Brazil, a similar agglomeration of corpses related to COVID-19 is outstripping the public capacity for response.²² According to press reports, in Bolivia, health workers in the cities of El Alto and Santa Cruz carried out work stoppages in early May and have threatened to resign from their job in protest at the lack of protective equipment.²³ Protests of health workers have also been reported other countries, among others Colombia.²⁴ In Guatemala, as of 13 May, the Ministry of Health had failed to pay a group of medics working for at least 40 days without any remuneration, many of them without a formal

¹²UN Committee on Economic, Social and Cultural Rights (CESCR): General comment 6, paragraph 19

¹³CESCR General Comment 14, paras 43, 44 and 47. Paragraph 47 states that the “core obligations” in paragraph 43 are non-derogable. As per the Committee in paragraph 44, states’ responsibilities towards the obligations listed in paragraphs 43 and 44 are “of comparable priority”, and therefore treated equivalently.

¹⁴CESCR General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), E/C.12/2000/4, 11 August 2000, para 32.

¹⁵Ibid, see above Note 5.

¹⁶United Nations, Office of the High Commissioner for Human Rights, UN Human Rights Report on Venezuela urges immediate measures to halt and remedy grave violations, 4 July 2019

¹⁷Amnesty International, Annual Report on Human Rights in the Americas, 2019: “Venezuela”, page 86

¹⁸United Nations’ Children’s Fund: UNICEF providing supplies to combat COVID-19 and support integrated response in Venezuela., 8 April 2020

¹⁹Amnesty International, Annual Report on Human Rights in the Americas, 2019: “Haiti”, page 55

²⁰Ibid

²¹On 7 April 2020 Ecuadorian Human Rights Organizations alerted of the grave humanitarian situation of the city of Guayaquil after images of corpses abandoned in the streets, collapsed hospitals and morgues flooded the media. The organizations demanded immediate humanitarian intervention. See: <https://ddhhecuador.org/sites/default/files/documentos/2020-04/Alerta%20%20%202017.pdf>.

According to information as of 7 May provided by the province of Guayas, of which Guayaquil is the capital, has 12,577 people infected, which represent 58,9% of the country and 726 deaths. See: <https://drive.google.com/file/d/1AOJquXaADVpO2EPvpEY51ySjOhuneWj8/view>

²²Tom Phillips and Fabiano Maisonnave, “Utter Disaster”: Manaus fills mass graves as Covid-19 hits the Amazon, The Guardian, 30 April 2020. Amnesty International corroborated this information in this press report with contacts on the ground.

²³El Espectador, Médicos amenazan con renuncias y paros a falta de bioseguridad,

<https://www.paginasiete.bo/sociedad/2020/4/21/medicos-amenazan-con-renuncias-paros-falta-de-bioseguridad-253250.html>. 21 April 2020.

²⁴El Espectador, 13 April 2020 “Médicos del Hospital Kennedy protestan por falta de garantías laborales”.

contract, in a temporary hospital set up for COVID-19 response in Guatemala City.²⁵ One medic from this hospital told Amnesty International that at times they had to use plastic bags to make up for the lack of PPE they had.

On 19 March 2020, the World Health Organization issued guidelines²⁶ on the rational use of PPE including goggles, medical masks, gowns, gloves, and other equipment of biomedical protection for people working in health care facilities worldwide acknowledging that countries across the world have been affected by lack of PPE during the COVID-19 pandemic. The Americas region is no exception to this, nevertheless, analysing state responses in line with resource constraints can point to whether countries are taking immediate steps to fulfil their international obligations. In the case of highly industrialized and developed countries such as the United States, the fact that over 9,000 health workers have tested positive for COVID-19,²⁷ combined with consistent calls from health workers around the need for additional protections and PPE shortages, raises questions about whether they were adequately protected during this pandemic.

Amnesty International has received information from multiple sources about recurrent lack of PPE in most countries of the region. There were some exceptions to this, and at least 2 out of 20 of the interviewees for this report mentioned having adequate or mostly adequate PPE in their workplace – notably these two interviewees worked in private or mixed private-public health settings. Importantly, the Inter American Commission on Human Rights recently passed its Resolution O1/2020 entitled Pandemic and Human Rights, which speaks to the need for states to not only ensure the “availability” (disponibilidad) of PPE, but also the provision (provisión) of PPE.²⁸ This issue is of relevance to countries like Nicaragua, where reports surfaced that close to 300,000 medical masks were delivered to the country via foreign assistance in early April²⁹, yet evidently remained undistributed for weeks throughout the public and private health sector. Until the end of April, several Nicaraguan health workers directly interviewed and civil society monitors in Nicaragua continued to report to Amnesty International that even those health workers who had access to PPE, were actively being prohibited from using it in their hospitals. This situation appears to have changed with an announcement on national television on 28 April by the Nicaraguan Vice-president permitting the use of medical masks and the use of some social distancing.³⁰ However, given the very recent nature of these announcements, Amnesty International continues to monitor whether this is actually happening. In this regard – after 28 April, Amnesty repeated interviews with Nicaraguan health workers and found that their access to PPE in one case changed after the 28 April announcement, while others said the denial of PPE remained the same. More information on Nicaragua’s general response to COVID-19 in several aspects, is in section 4 below.

2.1.1: THE SPECIAL CASE OF HOSPITAL CLEANERS AND NURSING HOME HOUSEKEEPERS:

“We are moved to pity to see them picking up the rubbish with their bare hands. They are mostly women. Their work conditions are still functioning as if they weren’t in the pandemic. But it is a very delicate issue, and not many of them want to talk, many of them are scared.”

Dr Samuel Santos, Pediatrician and Pneumatologo. Vice-president of the Medical College of Honduras.

These comments give a flavour of the situation of the cleaners that work at Dr’s Santos public hospital in San Pedro Sula, Honduras, and of the repressive and exploitative conditions many health workers in Honduras.³¹ Amnesty International spoke to other health workers in Honduras who attested to the

²⁵Interview Amnesty International with inspector from the Human Rights Ombudsman’s Office of Guatemala (Procuraduría para los Derechos Humanos – PDH) – 13 May 2020.

²⁶World Health Organization Rational Use of personal protective equipment (PPE) for coronavirus disease (COVID-19). Interim guidance, 19 March 2020. Important to note is the table on pages 2,3 and 4.

²⁷United States Centre for Disease Control, of 9 April. Amnesty International request an update on these figures from the CDC and their information office responded on 8 May to say that this was a one-time special report and an update on this figure was not planned at this stage. Available at: https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e6.htm?s_cid=mm6915e6_w.

²⁸Inter American Commission on Human Rights: Resolución O1/2020, Pandemia y Derechos Humanos en las Américas paragraph 10. (Original in Spanish)

²⁹Civilian Observatory on COVID-19 in Nicaragua. Report prepared on the irregularities towards healthcare personnel between 17 March and 23 April. This group brings together civil society monitors from around the country with verified reports on the situation of the pandemic. Amnesty International also verified this information with testimonies from a number of health workers.

³⁰See various press reports, including: <https://100noticias.com.ni/nacionales/100581-sancionada-rosario-murillo-anuncia-uso-mascarillas/>; <https://www.despacho505.com/murillo-admite-riesgo-por-covid-19-orienta-distanciamientopero-oculta-cifras/><https://confidencial.com.ni/wp-> Amnesty International has verified this information reported in press with contacts on the ground.

³¹Amnesty International carried out an interview with Dr Suyapa Figueroa, President of the Medical College of Honduras on 20 April. Dr Figueroa provided information to Amnesty International including documentation, surrounding a recent trend in labour hiring contracts for health care workers in Honduras that make their workers’ rights more precarious. According to the interview, in recent years a large part of health sector workers are hired under precarious labour contracts that allow them less rights than other members of the sector. For example, in this new style of contracts, known colloquially in Honduras as “contratos código verde” (“green code contracts”), workers are not given sick leave as part of their benefits.

widespread precarious labour conditions in the health sector of the country, including for many nurses and doctors.³²

Cleaners in healthcare facilities occupy a particularly vulnerable situation in the frontline of the COVID-19 pandemic. The WHO guidelines on rationing PPE outline that cleaners and housekeepers indeed should have more PPE than many other hospital staff members, including doctors and nurses who do not have direct contact with COVID-19 patients.³³ For example, cleaners entering the rooms of COVID-19 patients should have a medical mask, a protective gown, heavy duty gloves, eye protection, and boots.³⁴

Nevertheless, cleaners and housekeepers consistently came up as the most unprotected workers in health settings in all the interviews Amnesty International carried out, either with cleaners themselves, or with hospital staff who witnessed daily their working conditions. In addition to precarious physical safety, many cleaners have different employment arrangements than the rest of hospital staff in the hospitals Amnesty International received information about. Cleaning services are often outsourced to companies outside of the general directorship of the hospitals. While international human rights law does not dictate specific observations on outsourcing services to private companies, the CESCR has outlined that: “States parties should impose sanctions and appropriate penalties on third parties, including adequate reparation, criminal penalties, pecuniary measures such as damages, and administrative measures,” in the event of violation of any of the elements of the right. “They should also refrain from procuring goods and services from individuals and enterprises that are abusing the right.”³⁵ State parties should ensure that the mandates of labour inspectorates and other investigation and protection mechanisms cover conditions of work in the private sector and provide guidance to employers and enterprises.³⁶ The Inter American Commission has also issued specific guidance on the responsibility of companies in the context of the COVID-19 Pandemic to ensure due diligence.³⁷ The ILO has also relevant guidance regarding enterprises.³⁸

“I hate my job, but I love what I do. I like my residents. I treat them like human beings. I like to make fun of my residents sometimes. I like to mess with people. That’s what makes it feel more genuine.... It’s pretty cool dealing with the people.”

“I think the number of cases of COVID-19 [in our nursing home] could have been controlled if we had proper PPE instead of trying to save a buck [dollar].”

Dr Samuel Santos, Pediatrician and Pneumatologo. Vice-president of the Medical College of Honduras.

Ozzmon’s hourly wage is \$14.10, which is barely over the legal minimum wage in the city of Chicago.³⁹ He told Amnesty International he is not receiving hazard pay⁴⁰ for the extra burden and tasks involved in working in a context of COVID-19 in his nursing home.

In some countries including Canada, the pandemic has revealed the precarious nature of facilities that care for older people, where over 80% of COVID-19 related deaths have occurred.⁴¹ The provinces of Ontario and Quebec have been particularly hard hit, with over 1,000 uniformed Canadian Forces medical personnel deployed on 7 April in Quebec province⁴² to provide urgent support in long term care facilities for older people. Critical concerns include PPE and conditions that leave workers vulnerable to exploitation, as well as transparency and oversight of privately-owned facilities in particular.⁴³

³²Ibid – testimony of Dr Suyapa Figueroa.

³³World Health Organization Rational Use of personal protective equipment (PPE) for coronavirus disease (COVID-19). Interim guidance, 19 March 2019. Important to note is the table on pages 2,3 and 4.

³⁴Ibid.

³⁵CESCR General Comment No 23 on the Right and Favourable conditions of work, Paragraph 59

³⁶Ibid

³⁷Resolución 1/2020 19. CIDH: “Exigir y vigilar que las empresas respeten los derechos humanos, adopten procesos de debida diligencia en materia de derechos humanos y rindan cuentas ante posibles abusos e impactos negativos sobre los derechos humanos, particularmente por los efectos que los contextos de pandemia y crisis sanitarias infecciosas suelen generar sobre los DESCA de las poblaciones y grupos en mayor situación de vulnerabilidad y, en general, sobre las personas que trabajan, las personas con condiciones médicas sensibles y las comunidades locales. Las empresas tienen un rol clave que desempeñar en estos contextos y su conducta debe guiarse por los principios y reglas de derechos humanos aplicables.”

³⁸“Individuals, local communities, trade unions, civil society and private sector organizations - have responsibilities regarding the realization of the right to work. Such measures should recognize the labor standards elaborated by the ILO and aim at increasing the awareness and responsibility of enterprises in the realization of the right to work. (general comment 6).

³⁹United States Bureau of Labor Statistics, Table B-3. Average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector, seasonally adjusted <https://www.bls.gov/news.release/empsit.t19.htm>

⁴⁰According to the US Department of Labor, “Hazard pay means additional pay for performing hazardous duty or work involving physical hardship.” See: <https://www.dol.gov/general/topic/wages/hazardpay>

⁴¹May 8 press conference remarks by Chief Public Health Officer Dr Theresa Tam

⁴²Government of Canada, Department of Defence: Update on Canadian Armed Forces’ response to COVID-19, 7 May 2020

⁴³One trade union in Ontario that represents healthcare facilities personnel, including sanitary personnel, is calling for an inquiry into this issue.



DON ALEJANDRO^{44*}: 70 YEAR- OLD CLEANER IN MEXICO CITY PUBLIC HOSPITAL; DOCKED PAY FOR ASKING NOT TO CLEAN IN AT-RISK AREAS WITHOUT PPE

70-year-old Don Alejandro earns the equivalent of just over \$5USD a day working in state hospital facilities in Mexico City run by the Civil Service Social Security and Services Institute (ISSSTE: Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado), that house dozens of COVID-19 patients. He requested to be re-assigned away from hospital areas to only clean in administrative areas due to his risk profile for COVID-19 as an older person. According to Don Alejandro, in response, his employer, a private company, allowed him to stop cleaning in the hospital areas, but in return for granting this request he was met with a reduction to his income by approximately 16%.

Don Alejandro told Amnesty International that the hospital cleaning personnel are forced to congregate every day and queue up for at least an hour to sign their attendance record. This process is carried out without social distancing and without safety supervision from his employer.

Amnesty International has received information from various sources including other ISSTE workers and publicly available reports that are consistent with the testimony of Don Alejandro indicating that cleaning staff hired by this private company are not provided with medical masks, or adequate Personal Protective Equipment (PPE), even when they are exposed to hospital areas that are within reach of patients who have tested positive for COVID-19.

The Mexican government has an obligation to adequately regulate private companies' treatment of its workers and conduct prior assessment of the human rights policies of the companies that it contracts through public tendering processes. Failing to comply with these obligations can constitute a breach of its treaty obligations as well and undermine the UN Guiding Principles on Business and Human Rights.^{45 46}

2.3: REST PERIODS AND REASONABLE LIMITATION OF WORKING HOURS AND MENTAL HEALTH AT WORK.

Amnesty International received several testimonies about health workers carrying out long shifts with limited breaks. One doctor working at a hospital in Mexico City told Amnesty International that her supervisors refused to let her drink water while she was working, and that she had to stand continuously for 6 hours in the isolation room, because taking off her protective suit and the sterilizing process would take almost half an hour each time. A nurse in Paraguay also gave a similar account. He told Amnesty that since the start of the pandemic he has been working 12-hour night shifts without breaks, because of the difficulty involved in unclothing and exiting isolation rooms and then re-entering them. This situation is unsustainable at a physical level, and also questionable in line with the standard under the San Salvador Protocol which calls for night shifts to be reasonable shorter than day shifts.⁴⁷

While Amnesty International observed that several the workers interviewed feel the need to go beyond the normal work requirements and their own physical endurance levels due to extraordinary challenge they are facing, employers should ensure manageable workloads, and take steps to prevent trauma-induced stress. Such stress causes, amongst other symptoms, feelings of guilt, hopelessness and helplessness, and can lead to exhaustion and over-work.⁴⁸ This obligation includes the need to provide psychological support for these essential workers.

⁴⁴This is a pseudonym to protect the interviewee's identity.

⁴⁵Un Guiding Principles on Businesses and Human Rights, available with commentary at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁴⁶The CESCR emitted a General Comment No. 6 (1995) on the economic, social and cultural rights of older persons and in particular the need to take measures to prevent discrimination on grounds of age in employment and occupation

⁴⁷Organization of American States, ADDITIONAL PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS IN THE AREA OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS "PROTOCOL OF SAN SALVADOR, article 7 (g)

⁴⁸Laura van Dernoot Lipsky and Connie Burk, PhD: Trauma Stewardship: an everyday guide to caring for self while caring for others, 2009, Berret Koehler Publishers, United States. This book is based on countless interviews with human rights defenders and healthworkers and the study outlines the idea of a "Trauma Response Exposure" framework that details the symptoms of workers in these contexts experience, which include "feeling helpless and hopeless" and "a sense that one can never do enough", "hypervigilance", "anger", "fear", "guilt", "chronic exhaustion and physical ailments", among others. See examples of general testimonies from healthworkers in other parts of the world as to the mental health toll of working on the COVID-19 pandemic:

<https://www.theguardian.com/society/2020/apr/23/half-of-uk-health-workers-suffering-stress-because-of-covid-19>

“Working there, it changes you. I have seen some of the nicest people come in there, all cheerful, and then leave broken. Working in a nursing home can give you PTSD. You get so used to the bullshit that you just take it.”

Ozzmon, Housekeeper (cleaner). His comments refer to the pre-existing working environment in the nursing home before COVID-19, which he says got worse after the pandemic.

3. SILENCING BRAVE VOICES: REPRISALS FOR SPEAKING UP

Amnesty International has received and analysed multiple reports and testimonies of nurses, doctors, cleaners and hospital staff throughout many countries of the region, who have spoken up and blown the whistle to denounce unsafe working conditions for themselves, other workers and COVID-19 patients, as well as lack of access to information on the COVID-19 pandemic more widely.

Access to information is a vital component of ensuring the right to health,⁴⁹ and states have an obligation to refrain from withholding health-related information.⁵⁰ This right is intrinsically linked with, and a key part of the right of freedom of expression.⁵¹ Access to information can strengthen health responses, and examples from other pandemics, such as HIV/AIDS, showed that protecting human rights, including the right to receive evidence-based information, is critical. For example, countries that had more success in HIV/AIDS prevention campaigns were those that showed a “willingness of governments and communities to speak frankly, openly and inclusively.”⁵²

In the current context of the COVID-19 pandemic, the right of health workers to speak up and to access information about the risks they and others face, is fundamental to ensuring crucial information about the pandemic comes to light. Health workers also need to be actively involved in dialogue about public health measures, not least because they are the ones involved in delivering them and are aware of practical needs and challenges.⁵³

Finally, and most importantly, health and other key workers who take a stand and criticise harmful, inadequate, discriminatory or slow responses by governments and health authorities, or who blow the whistle and expose unsafe conditions for patients and workers, who demand the necessary information to deal with the pandemic, are playing a key role in defending the human rights of us all. As such, they should be publicly recognised and afforded protection in line with the UN Declaration on Human Rights defenders, which establishes the legitimacy and necessary role of individuals and groups who take action to defend human rights.⁵⁴ As key allies in addressing the challenges posed by the pandemic, they should be allowed to carry out their role in a safe and enabling environment, free from verbal attacks and stigmatization; threats of and actual dismissal, harassment and bullying and other forms of reprisals in the work place; criminalization or other forms of silencing and persecution by the authorities.

While there are many situations within healthcare settings where retaining information and confidentiality is of utmost importance, especially where patient privacy is involved, ethical principles pertaining to doctors and

⁴⁹Information accessibility is a key dimension of the accessibility of health care, and includes the right to “seek, receive and impart information and ideas concerning health issues: CESCR General Comment 14, para 12 (b)

⁵⁰United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12): (Contained in Document E/C.12/2000/4),

⁵¹The rights to access to information and freedom of expression enshrined as an international obligation in Article 19 of the International Covenant on Civil and Political Rights

⁵²James Welsh, “Freedom of Expression and the Healthy Society” Health and Human Rights. 1998;3(2):66-80. Vol. 3, No. 2, Fiftieth Anniversary of the Universal Declaration of Human Rights (1998), pp. 66-80 (quote from page 74).

⁵³International Labor Organization, (ILO): “What is Social Dialogue”: Summary of treaty obligations arising from ILO Conventions: <https://www.ilo.org/ifpdial/areas-of-work/social-dialogue/lang--en/index.htm>%20%20a

⁵⁴United Nations. General Assembly. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. A/RES/53/144, 8 March 1999.

nurses involve the responsibility to highlight shortcomings in healthcare.”⁵⁵ Key regulatory bodies that oversee professional standards in the fields of nursing and medical professions have issued specific guidelines on these ethical obligations to speak up in the context of the COVID-19 Pandemic.⁵⁶

Nicaragua is a particular cause of concern in relation to reprisals of healthcare workers, and information available would suggest that Nicaragua could be in breach of its international treaty obligations, for allowing multiple reprisals, dismissals and harassment of doctors and nurses who have demanded the use of PPE in healthcare facilities and made their concerns public.⁵⁷ This indeed, is due to the fact that the rights to and at work also include the right not to be deprived of work unfairly.⁵⁸ The Inter- American Commission on Human Rights expressed its specific concern on healthcare personnel terminated from their jobs for speaking up in Nicaragua.⁵⁹ However the issue is broader than one of reprisals involving unfair dismissals at work. In Nicaragua, the government has pursued a policy of deliberately putting their population at risk in the context of the COVID-19 pandemic by encouraging social gatherings, provoking the specific and public concern of the Pan-American Health Organization and downplaying the pandemic.⁶⁰ Worse still, local civil groups and health workers who try to gather and disseminate information on the scale of the COVID-19 pandemic in the country are putting themselves at risk, within a country that has spent the last two years in a severe human rights crisis under a wave of repressive crackdowns that since 2018 that have spurred the exodus of over 100,000 people from the country, not to mention the widespread detention and reprisals against human rights defenders.⁶¹

According to a national network of civilian monitors on the current situation in the country, health workers have not only been fired for using PPE at work, but also at times have had their protection equipment stripped from them violently.⁶² A recent public statement of 230 brave doctors who used their names on the declaration, gives an overview of a series of severe failures of the Nicaraguan government to protect its people.⁶³ Amnesty International interviewed six doctors and nurses working in Nicaragua, some whom have been fired in recent years for speaking up against government measures. One was fired just recently in the context of information made public about data on COVID-19. Besides these testimonies, one doctor working in a hospital of mixed private-public ownership, said that she was constantly harassed by her supervisors at work for bringing her own mask to work during the month of April. However since early May she wears a mask without a problem, according to her because the situation is getting worse in the country and the scale of the pandemic is getting harder for her supervisors to ignore.

Other countries have also taken steps to silence health workers who have spoken out. In the United States there have been several cases of employers who stopped their health workers from speaking out with a range of reprisals, including harassment, disciplinary procedures, and unfair dismissal. During March and April 2020 Amnesty International monitored this issue and contacted US health workers who had been disciplined by their employers for speaking out about their conditions at work. At the same time, the United States is a place where health workers have been able to protest in public in the context of COVID-19, such as the socially-distant protest of the National Nurses Union (NNU) in front of the White House on 20 April.⁶⁴ At the same time, members of the National Nursing Union also recently staged a protest to over issues of retaliation of some of their members in their workplaces.⁶⁵

⁵⁵In the case of nurses, according to the International Council of Nurses, “where nurses face a “dual loyalty” involving conflict between their professional duties and their obligations to their employer or other authority, the nurse’s primary responsibility is to those who require care... Nurses individually and collectively through their national nurses associations have a duty to speak up... particularly those related to access to essential health care and patient safety. Position statement on Nurses and Human Rights – International Council of Nurses, 1998 – revised 2011. In addition, the American Medical Association released guidelines recently in the context of the COVID-19 Pandemic, that “For example, “physicians have an obligation to argue in the public sphere for action to address critical shortages of essential resources, such as expedited distribution of available resources to areas of greatest need or policy to promote rapid manufacture of those resources. American Medical Association: Speaking out on issues adversely affecting patient safety in a pandemic, 8 April 2020

⁵⁶Ibid

⁵⁷Civilian Observatory on COVID-19 in Nicaragua. Report prepared on the irregularities towards healthcare personnel between 17 March and 23 April.

⁵⁸United Nations Committee on Economic, Social and Cultural Rights General Comment No. 18: The Right to Work, 6 February 2006, E/C.12/GC/18

⁵⁹<https://twitter.com/cidh/status/1255149895335292928?s=21>

⁶⁰See statement by PAHO representative, concerning Nicaragua, 7 April 2020

⁶¹<https://www.amnesty.org/en/latest/news/2020/04/nicaragua-gobierno-aumenta-riesgo-contagio-covid19/>

⁶²Civilian Observatory on COVID-19 in Nicaragua. Report prepared on the irregularities towards healthcare personnel between 17 March and 23 April.

⁶³See statement of 230 Nicaraguan doctors, at: <https://confidencial.com.ni/wp-content/uploads/2020/05/Pronunciamiento-de-profesionales-de-la-salud-30-abril-firmado.pdf>

⁶⁴https://www.washingtonpost.com/local/nurses-read-names-of-colleagues-who-died-of-the-coronavirus-in-front-of-the-white-house/2020/04/21/fc93184c-83e6-11ea-878a-86477a724bdb_story.html

⁶⁵See: El Paso Times, “<https://www.elpasotimes.com/story/news/2020/05/02/coronavirus-el-paso-nurses-protest-hospitals-limited-n-95-masks/3065338001/>”, May 2, 2020. And El Paso Times: “Nurses protest outside Las Palmas, but hospital denies retaliation over COVID-19 concerns”, 2 May 2020. Amnesty International verified the information reported in press with contacts on the ground. <https://www.elpasotimes.com/story/news/local/el-paso/2020/05/08/nurses-protest-las-palmas-hospital-denies-retaliation-against-rn-over-covid-19-equipment-concerns/3101634001/>; 8 May 2020 El Paso nurses protest lack of ample N95 masks, safety gear amid coronavirus pandemic <https://www.elpasotimes.com/story/news/2020/05/02/coronavirus-el-paso-nurses-protest-hospitals-limited-n-95-masks/3065338001/>

“Lives are being snatched away, souls are being snatched away, and people don’t care.”

Tainika Somerville

TAINIKA: NURSING ASSISTANT FIRED FROM A CHICAGO-AREA NURSING HOME AFTER DENOUNCING LACK OF PPE AND INFORMATION



Tainika told Amnesty International “The way we found out [that COVID-19 was in the facilities]... was a slap in the face. The whole time they were telling us that it wasn’t in the building, they were lies. In the end, we found out through a newspaper article.”

Tainika Somerville has worked as a nursing assistant for over 20 years, feeding older residents, bathing them, taking their vital signs and providing company and emotional support. She told Amnesty International that on 2 April she was fired from the Bridgeview Healthcare Centre in Cook County, Illinois, which in a letter accused her of verbal abuse and refusing to follow instructions, after she filmed a Facebook live video stream on 31 March that shows her reading out a petition at her workplace from her and other workers about the lack of PPE in the facilities.

According to Tainika, workers are still missing N95 masks, shoe covering, hair covering, at the time of writing. They are forced to re-use gowns between workers. Amnesty International sent a letter to Bridgeview Healthcare Centre’s parent company, Dynamic Health Care Consultants, Inc, (owner of three nursing homes for older people, asking for further information, but has not yet received a response.⁶⁶ Tainika told Amnesty International that all she wants right now, is to get her job back.

There are several other countries where health workers have been silenced. Venezuela presents a repeated lack of protections for health workers, or for those who defend human rights by publishing information on health conditions.⁶⁷ This issue, and more generally, attacks on critics and human rights defenders, has been a pre-existing concern for many years in Venezuela. Amnesty International carried out a fact-finding mission as far back as 2016 where hospital workers were terrified of sharing information with Amnesty International about the grim lack of medical supplies that they had to work with.⁶⁸ At the time of writing, official data in Venezuela reports just 541 people infected with the COVID-19 and only 10 deaths,⁶⁹ which seems unlikely

⁶⁶ILO Convention No. 158 concerning Termination of Employment (1982) defines the lawfulness of dismissal in its article 4 and in particular imposes the requirement to provide valid grounds for dismissal as well as the right to legal and other redress in the case of unjustified dismissal.

⁶⁷See, for example, Amnesty International: Journalist Reporting on COVID-19 Jailed. Urgent Action, 23 March 2020

⁶⁸Amnesty International: Venezuela: Stubborn politics accelerate catastrophic humanitarian crisis, 10 June, 2016, at: <https://www.amnesty.org/en/latest/news/2016/06/venezuela-stubborn-politics-accelerate-catastrophic-humanitarian-crisis/>

⁶⁹Statistics on COVID-19 from Venezuelan government, available at: <https://covid19.patria.org.ve/estadisticas-venezuela/>. Last accessed on 15 May 2020

due to the health care constraints that have been documented in the last few years. In addition, President Nicolás Maduro's government has not released public epidemiological information since 2017, as Amnesty International has reported in several occasions.⁷⁰ These examples speak to the need for health workers to have freedom to report on actual data of the dimension of the pandemic in Venezuela and to receive accurate information.

Amnesty International noted that health workers in Honduras, Mexico, Paraguay and Nicaragua all expressed fear to Amnesty International of revealing their identity or were approached by Amnesty International and did not speak to the organization due to the fear of the consequences of sharing information. One doctor at a public hospital in Mexico City with pronounced numbers of daily deaths from COVID-19, told Amnesty International that her supervisor constantly harassed her about her concerns over lack of safety protocol in the hospital, saying "if she didn't like the hospital, she could leave."⁷¹ She also told Amnesty International that the director of the hospital had ordered doctors to decline from recording patients with clinical symptoms of COVID-19 as suspected COVID-19 cases. She refrained from following these orders.⁷²



WHAT IS A HUMAN RIGHTS DEFENDER?

Human rights defenders play a key role in watching that the measures taken by authorities do not infringe unduly on human rights - for example on the right to freedom of expression, on the right to privacy, or on the rights to health, housing and to an adequate standard of living - and speak out when this happens.

Finally, it is not only health workers in general hospital settings that have been silenced and met with reprisals or dangers in their place of work or related to the work they have carried out in the frontline of the COVID-19 pandemic. On 16 April, Brazil's president Jair Bolsonaro fired his health minister after he had repeatedly called for greater caution by the Brazilian leader who had continuously told the public that COVID-19 was not a cause for concern.⁷³ In early April, verified reports emerged of death threats against Doctor Anthony Fauci, Director of the United States National Institute of Allergy and Infectious Diseases and the key advisor to the White House on the COVID-19 pandemic. Since that time, he has required security guards on his person and at his residence. Investigators who first reported on the threats against him noted that Fauci "is among the few officials willing to correct President Trump's misstatements."⁷⁴

Amnesty International wrote a letter to Fauci's office and 23 other government representatives⁷⁵ in early March detailing a list of human rights recommendations to help face the COVID-19 Pandemic. Anthony Fauci was the only public official of the 23 contacted who sent a response to Amnesty International thanking the organization for its recommendations.⁷⁶ At this time, the authorship of the multiple threats against Anthony Fauci had not been made known.

⁷⁰Amnesty International, Annual Report on Human Rights in the Americas, 2019: "Venezuela", page 86

⁷¹Interview with public health Doctor from a major Mexico City hospital, 24 April 2020

⁷²This Mexican doctor also told Amnesty International she was disappointed that the government was not recognizing the full dimension of the obesity crisis in Mexico and that from her observations, obesity was the main recurring factor that the people dying from COVID she was seeing and this was not being reflected upon adequately in the daily press updates of the government. Amnesty International has no stance on the epidemiological determinants of COVID-19, however as human rights defenders, is complying with a formal request from this health worker to include this in this report as she said she could not say this publicly and wished to blow the whistle on this issue which was based on a clinical study she was carrying out on site on the front line.

⁷³BBC News Mundo: "Coronavirus en Brasil: Bolsonaro destituye al ministro de Salud por sus diferencias con el distanciamiento social y el aislamiento." See: <https://www.bbc.com/mundo/noticias-america-latina-52318391>. Amnesty International Brazil. Health and life are basic human rights.

⁷⁴Isaac Stanley-Becker, Yasmeen Abutaleb, and Devlin Barrett, "Anthony Fauci's security is stepped up as doctor and face of US coronavirus response receives threats." The Washington Post, 1 April 2020

⁷⁵Amnesty International USA: Letter to White House Task Force on COVID-19, 18 March 2020, available at: <https://www.amnestyusa.org/wp-content/uploads/2020/03/20200318-COVID-19-Letter-to-President-Trump-and-Task-Force.pdf>

⁷⁶Correspondence in response to Amnesty International from the office of Dr Anthony Fauci, 19 March 2020.

4. STIGMATIZATION, ATTACKS AND DISCRIMINATION

Amnesty International is also alarmed to receive reports of the harassment, stigmatization and attacks against health workers faced throughout the region. Denial of transport, community-based shaming, physical attacks, and even death threats against health sector workers by individuals and communities, began to emerge in various countries of the region during March and April, as described in more detail below.

a) Attacks against health workers by individuals

Stigmatization is the practice of deliberately labelling of persons or people based on their external characteristics or membership of a group, as a prejudice. When this prejudice translates into the denial of certain rights, this is an issue of discrimination. States have an obligation to protect all persons from discrimination.⁷⁷ Several countries of the region have witnessed attacks, harassment and threats against health workers in recent weeks. This document outlines some examples in this regard.

In the city of Bogotá, Colombia, a series of physical attacks against health workers emerged in national media outlets during April, in one case even escalating to a case of death threats from neighbours in a department complex painted on the door of a doctor living in the building, which caused a national outcry. Authorities are reported to have opened a police investigation on the case.⁷⁸

In Bolivia, the national human rights ombudsman denounced a case of at least a hundred people who on 30 April in a group threw stones at two municipal buses that were transporting health workers in the city of El Alto,⁷⁹ as well as a number of cases including stoning and ordering health workers vacate from a hotel where health workers were staying.⁸⁰

b) Government statements about health workers and human rights defenders

In El Salvador, president Nayib Bukele has issued a series of statements undermining the role human rights defenders and civil society organizations during the COVID-19 pandemic.⁸¹ These statements have continued during the COVID-19 Pandemic, including labelling “human rights organizations [as the ones who] work to make sure more people die.”⁸² These statements from leaders of countries are not only unfortunate, but unfounded in evidence. The president’s statement completely ignores the fact that the highest expert body on health, the WHO, specifically indicates that “violations or lack of attention to human rights can have serious

⁷⁷According to the United Nations’ treaty body that supervises the implementation of the ICESCR, “Individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society. A person’s social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the refusal of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places.” United Nations Committee on Economic, Social and Cultural Rights, General Comment 20

⁷⁸El Tiempo, 24 April 2020, “Avanza investigación por amenaza a familia de médico de Usaquén”,


⁷⁹See [press release by the Human Rights Ombudsman of Bolivia: https://www.defensoria.gob.bo/noticias/defensoria-del-pueblo-vela-por-la-seguridad-del-personal-de-salud-de-el-alto-y-demanda-garantias-al-estado](https://www.defensoria.gob.bo/noticias/defensoria-del-pueblo-vela-por-la-seguridad-del-personal-de-salud-de-el-alto-y-demanda-garantias-al-estado)

⁸⁰ibid.

⁸¹See for example, Tweet of President Nayib Bukele, 20 April 2020

⁸²Tweet of President Nayib Bukele, 29 March 2020



 ↑ Mural giving thanks to Health Care workers, Mexico City. © Amnesty International

health consequences.”⁸³ Leaders that make statements such as these, such as stigmatizing human rights organizations, open dangerous ground for condoning attacks against human rights defenders more widely, not to mention providing the population with disinformation that could undermine their own safety.

In a somewhat contradictory turn of events, a few weeks later Nayib Bukele publicly called health workers “heroes” and denounced the attacks and discrimination they were facing.⁸⁴ Nevertheless, just a few days later, Nayib Bukele vetoed two decrees by the National Assembly⁸⁵ that would have strengthened the safety of health workers at work, given them and their families social protections and ensured better training for them to face the COVID-19 pandemic.⁸⁶ In the face of a pandemic, it is important that state leaders disseminate consistent and clear messages on an issue and issue orders for their public administration to do the same, requesting public servants at all levels to align in an effort to support groups that are facing stigmatization or discrimination. The contradictory statements and actions of Nayib Bukele in this regard, would indicate a lack of willingness to further the rights of human rights defenders, in this case health workers and civil society organizations promoting the right to health.

For its part, the health ministry of Mexico and the Mexican president Andrés Manuel López Obrador has given a central role and voice to the job of nurses and health workers and pursued state-led actions to promote awareness of their essential role in society.⁸⁷ Just days after a series of physical attacks started to emerge against health workers around the country, the Mexican government took swift action to invite a leading public nurse to share her story and that of hundreds of others by giving her a key voice at the daily presidential press briefings. This plea for respect from this nurse was followed up by the Mexican government with a series of governmental communications that aimed to garner public support and decrease the incidence of attacks and stigmatization against health workers.⁸⁸

On 1 April, Colombian President Ivan Duque made a public declaration condemning the attacks and stigmatization that had occurred against medical personnel and said anyone responsible for these acts should be sanctioned.⁸⁹

On International Health Day, Argentinian President Alberto Fernández publicly thanked all health workers in the country, publishing an official video that speaks to their role.⁹⁰

⁸³World Health Organization, Human Rights and Health, 29 December 2017

⁸⁴<https://twitter.com/nayibbukele/status/1250278542702563328?lang=es>

⁸⁵See Presidential Veto of Decrees 620 and 630 of the Legislative Assembly of El Salvador, 17 April 2020.

⁸⁶Ibid

⁸⁷See daily press conference on the status of the COVID-19 pandemic in Mexico, 20 April 2020

⁸⁸See Tweet and video from Secretary and Under-Secretary of Health of Mexico: 19 April 2020 See tweet with video of press conference of Under-Secretary of Health, 24 April 2020

⁸⁹Presidency of Colombia press release, Es absurda, inadmisibile y torpe la discriminación hacia los trabajadores de la salud, 1 April 2020

⁹⁰Tweet of Alberto Fernández, President of Argentina, 7 April 2020

5. INTERNATIONAL COOPERATION AND ASSISTANCE

The Americas region is home to an extremely diverse style of governments and ideologies. Nevertheless, under the ICESCR, all states have human rights obligations regarding international cooperation and assistance.⁹¹ The treaty obligation of international cooperation is higher than political concerns and binds all states. International cooperation not only means that wealthier states must help more resource-stretched states, but that all states analyze their capabilities and what they can offer. This includes states sharing knowledge, innovations, skills, services, and advice.

Countries of the region are committed to a Sustainable Development Agenda for 2030,⁹² which calls them to look at what they are spending, and in general to spend at the very least 6% of their GDP in public expenditure on health,⁹³ not to mention the requirements on international assistance in line with these frameworks. In addition, while the human rights standards on international cooperation treat all countries equally, indeed there is a recognition that countries who are able to, must act to do their very best to help others with the resources they have. In this regard, the withdrawal of funding from the United States to the WHO (the US was the largest donor to the WHO), is an act that undermines global efforts to respond to the COVID-19 pandemic.⁹⁴

The CDESCR outlines that: “Such international assistance and cooperation include the sharing of research, medical equipment and supplies, and best practices in combating the virus; coordinated action to reduce the economic and social impacts of the crisis; and joint endeavors by all States to ensure an effective, equitable economic recovery. The needs of vulnerable and disadvantaged groups as⁹⁵ well as fragile countries, including¹⁰¹ least developed countries, countries in conflict and post-conflict situations, should be at the centre of such international endeavours.”⁹⁶ In addition, the United Nations Office of the High Commissioner for Human Rights, has issued specific guidance on human rights in line with the COVID-19 pandemic and calls on states to strengthen their commitment on international cooperation, as national efforts are not sufficient.⁹⁷

On 17 April the Permanent Council of the Organization of American states passed⁹⁸ Resolution 1151 – CP/Res 1151 (2280/20) entitled “The OAS Response to the COVID-19 Pandemic”⁹⁹, calling on all states to unite in a hemispheric response to COVID-19 and through democratic leadership and solidarity, work among states. This cooperation, according to the resolution, must include, sharing of knowledge, best practices, resources, and other measures. In addition, the Inter American Commission of Human Rights recently issued its Resolution O1/2020, “Pandemic and Human Rights”¹⁰⁰, emphasizing the important role that international cooperation has in guaranteeing the right to health and the urgent need for collaboration among states in the face of the COVID-19 Pandemic. It calls on broad dialogue in the region with a human rights focus. This resolution also calls on technical exchange and global protocols on the use of data and information, not to mention promoting mechanisms for access to funds that strengthen the protections of human rights.

⁹¹Article 2(1) IESCR: 1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

⁹²Pan American Health Organization, The Sustainable Health Agenda for the Americas

⁹³Central government health funding averages 2.4% of GDP in the 23 countries analyzed by ECLAC in its Social Panorama 2019, and according to the 2030 Sustainable Development Agenda, countries should aim to assign 6% of their budget.

⁹⁴Amnesty International : USA : Congress must halt administration’s plan to suspend critical funding to WHO. See also: 20 April 2020: Amnesty International USA: Letter to Appropriators concerning White House decision to halt Funding to the World Health Organizations

⁹⁵Amnesty International Americas <https://www.amnesty.org/en/documents/amr01/2012/2020/en/>

⁹⁶CDESCR, Statement on the Coronavirus disease (COVID-19) pandemic and economic, social and cultural rights Paragraph 19

⁹⁷Office of the UN High Commissioner for Human Rights, Essential Guidelines to Incorporate a Human Rights Perspective in the attention to the COVID-19 pandemic.

⁹⁸Adopted by the Permanent Council of the OAS, available at: <http://www.oas.org/en/cim/docs/CP42233S06-EN.pdf>

⁹⁹OEA/Ser.G CP/RES. 1151 (2280/20): 17 April 2020

¹⁰⁰Ibid, See note 28 above

6. CONCLUSIONS AND RECOMMENDATIONS

International human rights law provides obligations for all states, to follow. These human rights commitments are ultimately the roadmap for countries to follow to address the way out of the pummeling effect that the COVID-19 pandemic has had on the whole region, in a manner that leaves no one behind.

This core roadmap; which each state has adopted, has provided a framework for countries to chart their course through and to face crises, conflicts, famines, natural disasters, diseases and epidemics, with resilience and effectiveness. It is crucial to follow now, in the context of COVID-19, a pandemic that knows no borders and takes its toll on the groups in society that are most vulnerable to being affected. Health workers are a group in society that has been left completely exposed in the Americas region, and when health workers speak out about their risks at work, they are undoubtedly defenders of human rights. Governments must urgently act to protect health workers and the wider population during the COVID-19 pandemic, but also beyond the pandemic in the months and years to come.

A number of states of the region may face difficulty in proving that they have made use of all their available capacities and resources to ensure the rights of health workers and their populations, and the majority of countries in the region can be reviewed by a treaty body of the United Nations that carries out special inquiries under international law that can order measures on individual cases or even entire state policies.¹⁰¹

For the reasons outlined above in this report, and in dedication to all health workers who have lost their lives in the face of this pandemic and those that continue to risk their lives and safety, Amnesty International outlines the following recommendations for urgent implementation by governments of the region:

To all states in the Americas:

- Urgently adopt measures, whether through legislative measures, executive decrees or decisive action-oriented policies, that strengthen the right to safe working conditions for health workers and the right to health of the population more generally. In the case that such measures have already been taken, urgently monitor the implementation of these measures, with civil society participation, and ensure that public officials are held accountable for their proper execution;
- Refrain from taking any retrogressive measures that would violate rights to and at work, and to health;
- Urgently implement provisions to protect whistleblowers inside the health sector, and immediately sanction any reprisals, unfair dismissals or irregular disciplinary responses by employers in response to health workers who denounce unsafe working conditions or share public health information;
- In line with the Declaration on human rights defenders, recognize, protect and enable all those health and key workers who take a stand to defend human rights. such as demanding fact-based information, denouncing abuses and calling for greater safety at work to ensure they can carry on defending human rights without fear of reprisal;

¹⁰¹The Optional Protocol on the ICESCR has been signed by most countries of the region. See: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCESCR.aspx>.

- Urgently direct extra resources to ensure that cleaners and housekeeping staff in healthcare settings receive adequate PPE, ensuring that in cases that companies employ cleaners that they are met with sanction for not meeting this requirement;
- Carry out an urgent assessment, involving the expert advice of independent experts and complying with obligations on social dialogue, on whether social protections for health workers, including their rights to sick leave and their rights to mental health, are being adequately protected in line with international human rights standards. Ensure that measures are taken to address this where this assessment finds that protections are insufficient;
- Where states have not done so, Ratify ILO Conventions 155 (Occupational Health and Safety), 149 (Nursing Personnel Convention), and the recently adopted the recently adopted ILO Violence and Harassment Convention of 2019, at the earliest date possible;
- Ensure that any harassment, threats or physical attacks against health workers are met with an immediate, prompt, impartial and effective investigation, and those responsible are held to account;
- Publicly recognize the role health workers play as essential in society, not only in the COVID-19 Pandemic but beyond, including the role of auxiliary health workers such as cleaners, hospital and healthcare facilities' transport staff, hospital food and maintenance staff.
- Ensure that this public recognition comes from the highest levels of government and is accompanied by policy guidance to public servants to reiterate this awareness raising;
- Conduct an urgent assessment of the country's capacity to provide health care for the populations and labour protections for health workers, and immediately request assistance from the international community for where gaps are identified. States must clarify what nature of assistance they are seeking: be it targeted financial aid for specific sectors; a moratorium on debt or interest payments; shortages in key medical supplies; or technical assistance to develop health system or social sector capacity.
- Urgently engage with the Organization of Americas States and take action to ensure the implementation of OAS Resolution CP/RES. 1151 (2280/20) ("The OAS Response to the COVID-19 Pandemic") and the Resolution of the Inter American Commission of Human Rights 01/2020 ("Pandemic and Human Rights"), to ensure international cooperation between states in the exchange of resources, knowledge and information, innovations, scientific discoveries and provisions to face the pandemic
- States with capacity to do so, should provide PPE, finances and supplies to other states, as swiftly as possible.
- States with limited monetary resources must not use these as an excuse to not engage in international cooperation, and must carry out an urgent assessment of their country's resources in innovation, intellectual endeavors and human capital as possibilities for helping other countries
- Wealthier States should urgently mobilize their financial resources to help countries combatting the pandemic, including by providing financial assistance in a short time frame. This assistance should be consistent with human rights standards, keeping in mind the needs of specific, marginalized groups and those who have been worst impacted
- Carry out prior assessment of any company or enterprise engaged in the health sector in order to ensure that their hiring policies and conditions on workers' rights are in line with the UN Guiding Principles on Business and Human Rights, ensuring that any companies found to be undermining health workers' rights are met with sanction.

To the United States of America:

- Take swift and decisive action in subsequent budgets and funding bills to continue to increase contributions to the World Health Organization and other UN specialized agencies for their critical responses to the COVID-19 emergency;
- Ratify the International Covenant on Economic, Social and Cultural Rights at the earliest date possible;
- Ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) at the earliest date possible;

To Cuba:

- Ratify the International Covenant on Economic, Social and Cultural Rights at the earliest date possible;

To companies operating in the health care sector in the Americas:

- All companies have a responsibility to respect all human rights wherever they operate, including throughout their operations and supply chains. The corporate responsibility to respect is independent of the State's own human rights obligations. This means that, to meet their responsibility to respect human rights, companies might need to go beyond what is legally required in the relevant jurisdiction.

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THE COST OF CURING

HEALTH WORKERS' RIGHTS IN THE AMERICAS DURING COVID-19 AND BEYOND

At the time of writing, almost half the people in the world who have tested positive for the COVID-19 virus live in the Americas region, with over 2 million confirmed cases according to the World Health Organization. Unfortunately, access to health care is not a reality for many people in the Americas and the COVID-19 pandemic arrived in a region home to several countries already experiencing profound health care crises.

As some countries in the Americas now begin to ease lockdowns, and others enter their most critical stages, this document provides an overview of human rights concerns faced by health workers throughout the region to date in the context of COVID-19. These include concerns around the right to just, safe and favourable conditions of work, and how these are linked to the right to access information and the right to speak up freely, both rights recognised under international human rights law and crucial elements of protecting the right to health. This document is updated as of 18 May 2020.