

AMERICAS AT A CROSSROADS:



HUMAN RIGHTS RESPONSE TO COVID-19

DO'S AND DON'TS FOR AUTHORITIES WHEN IMPLEMENTING PUBLIC HEALTH MEASURES

Faced with an unprecedented pandemic, governments across the Americas have begun to respond to COVID-19 in a variety of ways, ranging from calling for states of emergencies, to imposing travel bans, to implementing quarantines. Stakes are high and the way governments respond to this pandemic could determine the future of millions of people.

Governments are ultimately responsible for protecting people and their human rights but have often failed to do so in the Americas. Deep inequality, structural discrimination, a tendency to revert to repressive policing, censorship, underfunded public health systems, and inadequate social security and labour protections long predate the outbreak of COVID-19 in the region.

States have an obligation to protect and guarantee the right to health for everyone, without discrimination. Amnesty International does not take a position on the type of public health measures governments should take as the COVID-19 pandemic unfolds and recognizes that states can impose certain restrictions on some human rights in order to protect public health.

People all over the Americas are concerned and expect governments to react decisively. We in Amnesty International also believe that authorities across the region must show leadership and they must do so by prioritizing human rights and by refraining from abusing their power in the middle of this emergency.

Here is a preliminary list of “Do’s” and “Don’ts” that all governments should follow during these difficult times.

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DON'T DISCRIMINATE

In a region historically marked by deep inequality and structural discrimination, authorities must ensure responses to COVID-19 do not reinforce discrimination of any kind. The principles of equality and non-discrimination contained in different human rights instruments must remain central to all government responses to COVID-19.

While COVID-19 is a new challenge for everyone, evidence from prior efforts to prevent the spread of diseases, such as HIV&AIDS, clearly shows that stigma and discrimination undermine public health responses. There is no place in any government response to COVID-19 for discriminatory language or actions by state officials.

Many countries in the region have ratified at least one treaty that requires them to respect, protect and fulfil the right to health, the most obvious of which is the International Covenant on Economic, Social and Cultural Rights, which in Article 12 guarantees “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

Furthermore, the right to non-discrimination (protected in different human rights instruments) is an immediate and cross-cutting obligation and applies to the exercise of each and every human right guaranteed under international law.

International human rights laws and standards also require that access to health care, including any vaccines and cures developed for COVID-19 in the future, should be available in sufficient quantity and be accessible and affordable to everyone, without discrimination.

Any proposals to separate or isolate people with COVID-19 must be legitimate, necessary and proportionate, and should not discriminate against people based on their ethnic origin, socio-economic background, race, sexual orientation, gender identity, religion, citizenship, migration status or any other category.



DON'T LEAVE MARGINALIZED AND MOST AT-RISK GROUPS BEHIND

At a time when people across the world are being asked to stay at home and take preventive measures to control the spread of COVID-19, millions of people in the Americas have been forced to flee their country.

The ongoing human rights crisis in Venezuela has led to more than 4.9 million people leaving the country, in what is the world's second biggest refugee situation after Syria. Most Venezuelan refugees are hosted in the Americas, often without international protection and in some countries are in low-paid informal jobs, living in insecure or temporary housing.

Meanwhile, Hondurans, Guatemalans and Salvadorans continue to make their way through Mexico trying to enter the USA, fleeing the generalized violence prevalent in their home countries. And at least 100,000 people have fled the ongoing human rights crisis in Nicaragua, many of whom live in Costa Rica, where access to asylum processes and basic services remain a challenge.

As COVID-19 continues to spread, the World Health Organization and the United Nations High Commissioner for Refugees have noted that asylum-seekers and refugees, displaced people and people living in refugee camps have increased risks, and the organizations have provided technical guidance to governments that must be taken into account when responding to COVID-19.

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While states can put in place measures such as health screening or quarantining of people seeking international protection under specific conditions, they must not bar anyone from seeking asylum or return anyone to countries where they could face danger. The COVID-19 pandemic cannot be used to justify further erosion of states' international obligations to protect people fleeing for safety, or as an excuse to discriminate against them.

Indigenous peoples, including Indigenous peoples living in voluntary isolation, Afro-descendant communities and rural people also need special protections. Many of these communities live in precarious conditions, which make them more vulnerable to some diseases. Historically, their access to health care has been from unequal to inexistence. Indigenous people's territories need to be respected and serious consideration to suspend some mega projects must be given, avoiding that personnel from companies access their territories during quarantines. Other rural communities similarly situated, as well as people living in marginalized areas such as "favelas", may need the same special protection as well.

Furthermore, in a region where many people spend long periods in pre-trial detention, and in countries such as Cuba and Venezuela, where activists, including political activists, and human rights defenders are regularly imprisoned solely for their consciously held beliefs, people in detention (who have no choice but to live in close proximity to others) must also be granted protection and access to healthcare in the face of COVID-19 without discrimination.

All prisoners of conscience must be immediately released, and the early or conditional release of prisoners especially at risk, such as older prisoners or those with serious medical conditions, including those with a weakened immune system, should be seriously considered.



DON'T RESORT TO REPRESSION OR EXCESSIVE FORCE IN POLICING OF PUBLIC HEALTH MEASURES THAT REQUIRE RESTRICTIONS ON FREEDOM OF MOVEMENT OR DEPRIVATION OF LIBERTY

Authorities across the Americas routinely used repression, including arbitrary detentions and unnecessary or excessive use of force, to silence discontent in 2019.

Governments in the region have often declared "states of emergency" or "states of exception" and have used them to control dissent and to undermine people's rights, such as in Chile, Ecuador and Bolivia in 2019.

As countries across the world begin to deploy military and law enforcement officials to police public health measures such as quarantines, curfews, "social distancing" or travel restrictions, governments in the Americas must avoid reverting to this trend of excessive use of force.

Torture and other ill-treatment, also common in the Americas, often during arbitrary detentions or other deprivations of liberty, are absolutely prohibited in all circumstances, and can never be justified, including in national emergencies.



DON'T CENSOR OR LIMIT ACCESS TO EVIDENCE-BASED INFORMATION OR PREVENTATIVE MEASURES

In 2019, the Americas remained the most dangerous region in the world for human rights defenders and journalists.

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As the response to COVID-19 intensifies, doctors, nurses and other health care professionals are at the frontline of this epidemic, continuing to deliver services despite the personal risks to them and their families. Reports have started to emerge of health workers in certain countries being silenced when they have tried to share information about the pandemic.

All affected individuals and communities are entitled to easy, accessible, timely and meaningful information concerning the nature and level of the health threat, the possible measures to be taken to mitigate risks, early warning information of possible future consequences and information on ongoing response efforts. When states' responses to COVID-19 are based on restrictions of information, a lack of transparency and censorship, they risk making it harder for people to take adequate actions to protect themselves from infection.

Authorities must ensure that healthcare professionals, public health specialists, journalists and human rights defenders can do their jobs and provide quick access to evidence-based and accurate information on the pandemic as it unfolds.



DO GUARANTEE WORKERS' RIGHTS AND SOCIAL SECURITY

In 2019, widespread discontent and protest were often fueled by the fact that Latin America and the Caribbean continued to be the most unequal, as well as the most violent, region in the world, according to UN estimates. Poverty in the region increased again in 2019 (estimated at 31% according to the UN Economic Commission for Latin America and the Caribbean - ECLAC), inequality continued to decrease but not at a significant rate, and economic growth was almost non-existent (0.1% according to ECLAC).

In Latin America and the Caribbean some 140 million people are employed in the informal sector, according to the International Labour Organization.

As the response to COVID-19 has required quarantines in contexts where labour protections and welfare systems are weak, many low-income and informal workers will fear for their livelihoods, jobs and salaries because they cannot work. They could be at risk for loss of basic supplies such as food, health and hygiene needs. They may also find it harder to protect themselves from exposure to COVID-19 as a result, if they are unable to afford preventive care, such as sanitizers, or if job loss results in evictions due to arrears on rent or mortgage payments.

Governments across the region should use this opportunity to take measures to widen access to social security – including sick pay, health care, and parental leave for people who are unable to work because of COVID-19, for example, if they are sick, or quarantined, or caring for dependents who are affected, including children because of school closures.

This is especially important for workers who live day-to-day, and people who cannot work from home during periods of quarantine, such as caregivers, manual workers, rural workers and domestic workers. Sex workers and other groups, historically marginalized and stigmatized must also be given access to social security and social protections.

Furthermore, the rights of those under quarantine should be respected and protected, and people's basic needs should be met, including adequate shelter, food, water and sanitation, as such human rights protections will support public health measures.

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DO GUARANTEE ACCESS TO ADEQUATE WATER, SANITATION AND HEALTH CARE FOR ALL AND ENGAGE INTERNATIONAL COOPERATION AND ASSISTANCE

Many communities in the Americas have no access to running water and soap, let alone hand sanitizer, and will likely face additional barriers in being able to adequately protect themselves against COVID-19.

In some countries with existing humanitarian and human rights crises, or very weak health and social protection systems, people could face deepened hardship in the face of COVID-19.

For example, in Haiti, the poorest country in the hemisphere, 6 million people were living below the poverty line in 2019, according to the World Bank.

Similarly, in Venezuela, according to the UN Office for the Coordination of Humanitarian Affairs, 7 million people needed humanitarian assistance last year, and serious shortages in basic health services and medicines – as well as the exodus of healthcare personnel – severely affected people’s access to healthcare. Epidemiological data has not been published by the authorities since 2017.

Nicaragua, Honduras, Guatemala, Bolivia and Paraguay are receiving special support from the Pan American Health Organization (PAHO) due to their weak health systems.

In these circumstances the need for international cooperation and assistance is more urgent, and it is even more important that the international community responds quickly.



DO ENSURE A GENDER-FOCUS

Gender-based violence is so widespread across Latin America and the Caribbean that it is considered both a human rights problem and a global health problem of epidemic proportions by the WHO.

At least 3,500 women were killed because of their gender in 10 Latin American and Caribbean countries in 2018, according to ECLAC’s Gender Equality Observatory.

When responding to COVID-19, governments should consider that measures such as quarantines, curfews and travel restrictions could put women and girls at increased risk of violence from their intimate partners and limit their access to support. States must take steps to mitigate these risks.

According to the United Nations Population Fund, Latin America and the Caribbean had the second highest rate of adolescent pregnancy in the world last year and women and girls the region face widespread limitations on access to sexual and reproductive healthcare, including contraception and safe abortion.

As an increase in COVID-19 cases could put pressure on already fragile public health systems, pregnant women and girls could face further limitations on access to healthcare, and increased risks for maternal mortality. States should plan to ensure access to emergency maternal care and mitigate adverse impacts. Women are primary carers, so their situation needs to be taken into account in times of quarantines.

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DO PROTECT PEOPLE'S RIGHT TO PRIVACY

Evidence and best practices from other epidemics show that breaches of the right to privacy by government officials or healthcare workers, or perceptions of such breaches, undermine public health responses by making people afraid to test, access services or generally come out into the open.

While governments can implement measures to gather epidemiological information, states must protect the personal information of patients and their dignity and any surveillance or tracking measures must meet the test of being legitimate, necessary and proportionate, and non-discriminatory.

CONCLUSIONS

The COVID-19 crisis affects everyone, but it does not affect us all in the same way. The crisis reveals how different forms of exclusion, inequality and human rights violations are interconnected. But it also gives governments of the region an opportunity to make radical changes needed to be the society we want to be.

The first step is to recognize that health and social security are human rights and they need to be prioritized. Often the importance that governments give to an issue can be discovered in its budget.

Latin America and the Caribbean is one of the regions with the least investment in health (public and private) per inhabitant. Central government health funding averages 2.4% of GDP in the 23 countries analyzed by ECLAC in its Social Panorama 2019.

This stands in contrast to the provisions of the Sustainable Health Agenda for the Americas 2018–2030, which established that moving towards universal health requires achieving “a level of public expenditure on health of at least 6% of GDP.”

Within the region there are huge discrepancies as well. The budget priority given to social protection by Central America, Dominican Republic and Mexico together is less than a third of that of South America, also according to ECLAC. And in each country, there are also huge disparities, especially among people that access private or public health-care systems.

A similar picture can be painted with social security spending, which is another human right at stake in this crisis.

It remains to be seen if leaders of the Americas are up to the task: Will they guarantee protections for everyone that needs it, so no one is left behind? Will they use this opportunity to start solving deep structural inequalities and lack of prioritization of social rights? Will they put people's human rights first?

The way states solve universal access to human rights such as health and social security during this crisis, and respect other human rights during these difficult times, will mark how they will be remembered in history.