



HUMAN RIGHTS
LIKEMINDED OFFICE

COVID-19

HUMAN RIGHTS OBLIGATIONS

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INTRODUCTION

This is a second edition of the report first published in May 2020 to make the latest information on COVID-19 and human rights accessible to all relevant stakeholders. The focus on human rights obligations, including language from human rights treaties, can support the international community in making the necessary commitments through public statements and new U.N. resolutions to strengthen response to COVID-19 and preparedness for future emergencies.

This report presents relevant human rights obligations in the response to the COVID-19 pandemic, organized by themes. The report draws on recent statements and guidance notes from U.N. staff and human rights experts, as well as civil society organizations.

The Human Rights Likeminded Office (see [HRLO.org](https://hrlo.org)) is an independent organization providing substantive inputs and services to support the advancement of human rights in U.N. processes.

The human rights obligations quoted here from the U.N. will be a good basis for dialogue among all relevant stakeholders on COVID-19 and human rights in every thematic area. Such a dialogue will support information-sharing and the advancement of common priorities.

Below are some examples of relevant human rights obligations in the response to the COVID-19 pandemic. They state what Governments are required to do in order to fight the pandemic in a manner that continues to respect their human rights obligations towards everyone. The quotes from U.N. staff and independent experts mandated to interpret international law make human rights obligations explicitly clear.

- All health-care workers must be provided with proper protective clothing and equipment against contagion.¹
- Everyone, regardless of their social or economic status, should have access to the health care they need.²

¹ Committee on Economic, Social and Cultural Rights, Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights, [E/C.12/2020/1](https://www.unhcr.org/refugees/article/2020/04/17-april-2020-statement-on-the-coronavirus-disease-covid-19-pandemic-and-economic-social-and-cultural-rights), para 13, 17 April 2020.

² Report of the Secretary-General, [COVID-19 and human rights](https://www.unhcr.org/refugees/article/2020/04/17-april-2020-statement-on-the-coronavirus-disease-covid-19-pandemic-and-economic-social-and-cultural-rights), p. 4.

- The 170 States parties of the International Covenant on Economic, Social and Cultural Rights are under an obligation to devote their maximum available resources to the full realization of all economic, social and cultural rights, including the right to health. Allocation of resources should prioritize the special needs of marginalized groups.³
- States must: cease all evictions; provide emergency housing with services for those who must isolate; and ensure that the enforcement of containment measures (e.g.: curfews) does not lead to the punishment of anyone based on their housing status.⁴
- Emergency legislation and measures should be strictly temporary, limited to addressing the situation at hand and contain appropriate safeguards. They should be subject to proper parliamentary, judicial and public oversight.⁵
- The use of emergency powers should be notified to the relevant treaty bodies when fundamental rights are being significantly limited.⁶
- It is crucial that tools of surveillance technology be limited in use, both in terms of purpose and time, and that individual rights to privacy, non-discrimination, the protection of journalistic sources and other freedoms be rigorously protected.⁷
- The right to freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media, applies to everyone, everywhere, and may only be subject to narrow restrictions.⁸
- Civil society's participation in multilateral institutions must be secured.⁹

³ Committee on Economic, Social and Cultural Rights, Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights, [E/C.12/2020/1](#), para 14, 17 April 2020.

⁴ Special Rapporteur on adequate housing, [statement](#), 18 March 2020.

⁵ Spokesperson of the U.N. High Commissioner for Human Rights, [press briefing](#), 27 March 2020; and statement by the U.N. High Commissioner for Human Rights, [statement](#), 27 April 2020.

⁶ U.N. Special Procedures, [joint statement](#), 16 March 2020.

⁷ Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression with OSCE Representative on Freedom of the Media and IACHR Special Rapporteur for Freedom of Expression, [joint statement](#), 19 March 2020.

⁸ Ibid.

⁹ Special Rapporteur on the right to peaceful assembly and association, [statement](#), 14 April 2020.

- Define core child protection services as essential and ensure that they remain functioning and available.¹⁰
- Protect women from, and ensure accountability for, gender-based violence, enable women's socio-economic empowerment and guarantee their participation in policy and decision making in all crisis responses and recovery efforts.¹¹
- Women's reproductive health and rights must be safeguarded at all costs. The services must continue, the supplies must be delivered, and the vulnerable must be protected and supported.¹²
- Specific efforts should be made to ensure that LGBTI people are not subjected to discrimination or fear retribution for seeking healthcare.¹³
- Older persons must be provided with ways to stay in touch online, including those in residential care homes and remote areas.¹⁴
- Persons with disabilities that live in their own homes but depend on outside support must be guaranteed continuity of support throughout the corona crisis.¹⁵
- Political responses to the COVID-19 outbreak that stigmatize, exclude, and make certain populations more vulnerable to violence are inexcusable, unconscionable, and inconsistent with States' international human rights law obligations.¹⁶
- It is vital that everyone, including all migrants and refugees, are ensured equal access to health services.¹⁷

¹⁰ Committee on the Rights of the Child, [statement](#), 8 April 2020.

¹¹ Committee on the Elimination of Discrimination against Women, [guidance note on CEDAW and COVID-19](#).

¹² UNFPA, [news report \(statement of the Executive Director\)](#), 28 April 2020.

¹³ OHCHR, [guidance note: COVID-19 and the human rights of LGBTI people](#), 17 April 2020.

¹⁴ Independent Expert on the enjoyment of all human rights by older persons, [statement](#), 27 March 2020.

¹⁵ Report of the U.N. Secretary-General, [COVID-19 and human rights](#), p. 12, 23 April 2020.

¹⁶ Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, [statement](#), 23 March 2020.

¹⁷ UNHCR, IOM, OHCHR and WHO, [joint statement](#).

THEMATIC AREAS

1. THE RIGHT TO HEALTH

U.N. experts [said](#) in a joint statement that everyone, without exception, has the right to life-saving interventions and this responsibility lies with the Government. The scarcity of resources or the use of public or private insurance schemes should never be a justification to discriminate against certain groups of patients. Everybody has the right to health.

Non-COVID-19 health services should not be interrupted.

This point was echoed by the Special Rapporteur on the right to health, Mr. Dainius Pūras. He [stated](#) that the right to health framework compels States to ensure that health goods, services and facilities are of good quality and are accessible on a non-discriminatory basis. The participation of all affected communities is also fundamental, supporting equitable responses, facilitating community-led action and targeting interventions that respect rights. In addition, non-COVID-19 health services should not be interrupted, including sexual and reproductive health care, anti-retrovirals for people living with HIV, immunization campaigns, and community-based care and support, including mental health care.

The right to health includes a wide range of factors. The Committee on Economic, Social and Cultural Rights (CESCR), calls them the “underlying determinants of health”. As stated in [fact sheet](#) no. 31 on the right to health, published by OHCHR and the WHO, they include:

- Safe drinking water and adequate sanitation;
- Safe food;
- Adequate nutrition and housing;
- Healthy working and environmental conditions;
- Health-related education and information;
- Gender equality.

All health-care workers must be provided with proper protective clothing and equipment against contagion.

CESCR issued a [statement](#) on COVID-19 and economic, social and cultural rights, reviewing the impact of the pandemic and offering recommendations for States parties to ensure that Covenant rights and obligations are protected and fulfilled during this crisis. Among them:

1. Responses to the pandemic should be based on the best available scientific evidence to protect public health. The Committee further [noted](#) in its latest general comment No. 25 (2020) on science and economic, social and cultural rights, that States should promote public trust and support for sciences throughout society and a culture of active citizen engagement with science.
2. It is imperative that States parties adopt appropriate regulatory measures to ensure that health-care resources in both the public and the private sectors are mobilized and shared among the whole population to ensure a comprehensive, coordinated health-care response to the crisis.
3. As the front-line responders to this crisis, all health-care workers must be provided with proper protective clothing and equipment against contagion. It is also essential that they are consulted by decision-makers, and that due regard is paid to their advice.
4. States parties are under an obligation to devote their maximum available resources to the full realization of all economic, social and cultural rights, including the right to health. Allocation of resources should prioritize the special needs of marginalized groups.
5. Regulatory measures should also be adopted to prevent profiteering on foodstuffs, hygiene products and essential medicines and supplies.
6. Accurate and accessible information about the pandemic is essential both to reduce the risk of transmission of the virus and to protect the population against dangerous disinformation.
7. International assistance and cooperation is crucial, including 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 endeavours by all States to ensure an effective, equitable economic recovery. The Committee [further elaborated](#) on the need for scientific international cooperation in its general comment

No. 25 (2020). If a pandemic develops, sharing the best scientific knowledge and its applications, especially in the medical field, becomes crucial to mitigate the impact of the disease and to expedite the discovery of effective treatments and vaccines.

8. Developed States should avoid taking decisions, such as imposing limits on the export of medical equipment, that result in obstructing access to vital equipment for the world's poorest victims of the pandemic. Any restriction based on the goal of securing national supply must be proportionate and take into consideration the urgent needs of other countries.
9. States parties should use their voting powers in international financial institutions to alleviate the financial burden of developing countries in combating the pandemic. They should also promote flexibilities or other adjustments in applicable intellectual property regimes to allow universal access to the benefits of scientific advances relating to COVID-19 such as diagnostics, medicines and vaccines.
10. Unilateral sanctions of an economic and financial nature weaken health-care systems and could undermine efforts to combat COVID-19, especially in the context of the procurement of medical equipment and supplies. Such sanctions should be lifted to enable affected countries to have access to the resources they need to effectively combat the COVID-19 pandemic.
11. The role of the World Health Organization (WHO) should be supported. Combating pandemics effectively requires stronger commitments from States to international cooperation, as national solutions are insufficient.
12. COVID-19 has highlighted the critical role of adequate investments in public health systems, comprehensive social protection programmes, decent work, housing, food, water and sanitation systems, and institutions to advance gender equality.

CESCR [stated](#) in its general comment No. 14 (2000) on the right to health that given that some diseases are easily transmissible beyond the frontiers of a State, the international community has a collective responsibility to address this problem (para 40). The economically developed States parties have a special responsibility and interest to assist the poorer developing States in this regard. In this context, the Secretary-General [noted](#) in his report on COVID-19 and human rights

that if and when a vaccine becomes available, we must ensure that it is accessible to everyone, everywhere (p. 18).

The Committee also [referred](#) in general comment No. 14 to Article 12.2(c) of the Covenant, noting that the right to treatment includes the creation of a system of urgent medical care in cases of accidents, epidemics and similar health hazards, and the provision of disaster relief and humanitarian assistance in emergency situations (para 16). The control of diseases refers to States' individual and joint efforts to, inter alia, make available relevant technologies, using and improving epidemiological surveillance and data collection on a disaggregated basis, the implementation or enhancement of immunization programmes and other strategies of infectious disease control.

Everyone, regardless of their social or economic status, should have access to the health care they need.

The Secretary-General [recalled](#) in his report on COVID-19 and human rights that everyone, regardless of their social or economic status, should have access to the health care they need (p. 4). He [noted](#) the commitment of States towards achieving [universal health coverage \(UHC\)](#) as a target of [Sustainable Development Goal 3](#). UHC, he noted, promotes strong and resilient health systems, reaching those who are vulnerable and promoting pandemic preparedness and prevention. The Secretary-General's policy brief on COVID-19 and the need for action on mental health [offered](#) an analysis of the impact of COVID-19 on mental health, highlighting specific populations of concern and recommending actions.

The International Labour Organization (ILO) [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) set relevant health-related obligations for employers. Those included Governments' obligation as an employer to provide personal protective equipment (PPE) to medical staff in public hospitals:

"Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health." (ILO, C155, Article 16.3)

“A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.” (ILO, C155, Article 13)

The Special Rapporteur on hazardous substances, Mr. Baskut Tuncak, [said](#) that States and businesses must urgently step up their efforts to ensure that health care workers fighting the COVID-19 pandemic worldwide receive adequate protective equipment. States must ensure that countries with fewer resources have the necessary protective equipment for all their health care providers. Public and private funds are urgently needed to ensure that protective equipment and other medical supplies are universally available and accessible. States must take immediate measures to effectively deter the hoarding of essential protective equipment, exploitation of demand or profiteering from the current crisis.

The High Commissioner for Human Rights [called on](#) businesses to urgently ensure the health and safety of their workers, especially those in the health-care sector, client-facing responsibility, or with significant workplace interaction. All workers, without discrimination, should have access to health care and protective material, and their risk of exposure should be reduced. Businesses should also be assessing the impacts on workers in their supply chains and using their leverage to safeguard the rights of those who work for their suppliers.

The High Commissioner also [noted](#) that under international human rights law, States have an obligation to take steps to prevent foreseeable threats to public health and have a duty to ensure that all who need vital medical care can receive it. Rule 24 (1) of the U.N. Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), General Assembly resolution [70/175](#), states that prisoners should enjoy the same standards of health care that are available in the community. The Chair of the Committee against Torture, Dr. Jens Modvig, [stated](#) that Governments have a greater duty than ever to guarantee the safety of all people deprived of their liberty. Inmates should enjoy the same standards of healthcare that are available in the community at large, including access to virus testing and medical treatment.

2. ECONOMIC AND SOCIAL RIGHTS

The Secretary-General [noted](#) in his report on COVID-19 and human rights that countries that have invested in protecting economic and social rights are likely to be more resilient (p. 9). The report referred to universal health coverage (UHC) systems; effective food distribution systems; social security and protection systems; gender equality; protecting people and jobs through labour rights, minimum wages and paid sick leave, as well as health and safety in the workplace standards (including personal protective equipment during this crisis); the provision of affordable quality housing; well-resourced education systems able to quickly switch to distance learning; and access to the Internet.

The High Commissioner for Human Rights [welcomed](#) the fact that some Governments, as well as international organizations, were starting to put in place measures to mitigate the impact on people's economic and social rights.

The 170 States parties of the International Covenant on Economic, Social and Cultural Rights are under an obligation to devote their maximum available resources to the full realization of all economic, social and cultural rights, including the right to health. Allocation of resources should prioritize the special needs of marginalized groups.

The Committee on Economic, Social and Cultural Rights (CESCR) issued a [statement](#) on COVID-19 and ESCR, reviewing the impact of the pandemic and offering recommendations for States parties to ensure that Covenant rights and obligations are protected and fulfilled during this crisis. Among them:

1. In responding to the pandemic, the inherent dignity of all people must be respected and protected, and the minimum core obligations imposed by the Covenant should be prioritized, including access to justice.
2. States parties are under an obligation to devote their maximum available resources to the full realization of all economic, social and cultural rights, including the right to health. Allocation of resources should prioritize the special needs of marginalized groups.

3. Urgently adopt special, targeted measures to protect and mitigate the impact of the pandemic on vulnerable groups, such as: providing water, soap and sanitizer to communities that lack them; implementing targeted programmes to protect the jobs, wages and benefits of all workers, including undocumented migrant workers; imposing a moratorium on evictions or mortgage bond foreclosures against people's homes during the pandemic; providing social relief and income-support programmes to ensure food and income security to all those in need; and ensuring affordable and equitable access to Internet services by all for educational purposes.
 - The Special Rapporteur on water and sanitation, Mr. Léo Heller, [noted](#) in his recent report that responses should be focused on providing access to water and hygiene facilities to persons in homelessness, migrants and asylum-seekers living in public spaces and to those living in informal settlements where access to water and sanitation is inadequate (para 53).
4. All workers should be protected from the risks of contagion at work, as well as from disciplinary or other penalties for refusing to work without adequate protection.
5. States parties should take immediate measures to protect the jobs, pensions and other social benefits of workers during the pandemic, and to mitigate its economic impacts.
6. COVID-19 has highlighted the critical role of adequate investments in public health systems, comprehensive social protection programmes, decent work, housing, food, water and sanitation systems, and institutions to advance gender equality.
7. Promote long-term resource mobilization towards the full and equal enjoyment of the economic, social and cultural rights enshrined in the Covenant. Mechanisms to facilitate national and international cooperation and solidarity, and substantial investments in the institutions and programmes necessary for the realization of economic, social and cultural rights, will ensure that the world is better prepared for future pandemics and disasters.

The Special Rapporteur on extreme poverty and human rights, Mr. Philip Alston, [noted](#) that this is a crisis that disproportionately affects poor people, who are more likely to have health complications, live in crowded housing, lack the resources to stay at home for long periods, and work low-paid jobs that force them to choose between risking their health or losing their income.

In a moral failing of epic proportions, most States are doing all too little to protect those most vulnerable to this pandemic.

States must: cease all evictions; provide emergency housing with services for those who must isolate; and ensure that the enforcement of containment measures (e.g.: curfews) does not lead to the punishment of anyone based on their housing status.

The Special Rapporteur on adequate housing, Ms. Leilani Farha, [urged](#) States to take extraordinary measures to secure the right to housing for all to protect against the pandemic. At a minimum, to ensure protection of those living in homelessness or grossly inadequate housing, States must: cease all evictions; provide emergency housing with services for those who are affected by the virus and must isolate; ensure that the enforcement of containment measures (e.g.: curfews) does not lead to the punishment of anyone based on their housing status; provide equal access to testing and health care; and provide adequate housing which may require the implementation of extraordinary measures as appropriate in a state of emergency, including using vacant and abandoned units and available short-term rentals.

With respect to those facing job loss and economic hardship, the Special Rapporteur on adequate housing says that States must: provide direct financial assistance or defer rental and mortgage payments; enact a moratorium on evictions due to arrears; introduce rental stabilization or reduction measures; and, at least for the duration of the pandemic, suspend utility costs and surcharges.

The Special Rapporteur provides detailed [COVID-19 guidance notes](#) on: (1) prohibition of evictions; (2) protecting residents in informal settlements; (3) protection for those living in homelessness; (4) protecting renters and mortgage payers; and (5) protecting housing from financialization and building back a better future.

In a [joint statement](#) on the topic of safe water, several Special Procedures mandate holders called on Governments to immediately prohibit water cuts to those who cannot pay water bills. It is also essential that they provide water free of cost for the duration of the crisis to people in

poverty and those affected by the upcoming economic hardship. Public and private service providers must be enforced to comply with these fundamental measures.

The right of everyone to social security was recognized in the [Universal Declaration of Human Rights](#) (Article 22) and the [International Covenant on Economic, Social and Cultural Rights](#) (Article 9). The [Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#) establishes worldwide-agreed minimum standards for all nine branches of social security: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit, and survivors' benefit.

The High Commissioner for Human Rights [recommended](#) governmental action to ensure income security, the protection of livelihoods, and access to essential goods and services for the poorest members of society. It is vital to prevent people from becoming homeless as a result of losing their jobs. Cash grants should be envisioned, alongside measures to ensure families can delay rental or loan payments, and a halt to evictions. For the homeless, and others without adequate housing, measures could include using short-term rentals and emergency accommodation.

The International Labour Organization [notes](#) that the International Labour Standards (ILS) are a useful decent work compass in the context of the crisis response to the COVID-19 outbreak. Firstly, respecting key provisions of ILS relating to occupational safety and health, working arrangements, protection of specific categories of workers, non-discrimination, social security or employment protection ensures that workers, employers and government can maintain decent work while adjusting to the socio-economic consequences of the COVID-19 pandemic. Secondly, a wide range of ILO labour standards on employment, social protection, wage protection, SMEs promotion or workplace cooperation contain specific guidance on policy measures that would encourage a human-centred approach to the pandemic.

3. EMERGENCY POWERS

The Secretary-General [stated](#) in his report on COVID-19 and human rights that human rights law recognizes that national emergencies may require limits to be placed on the exercise of certain human rights (p. 3). He noted that postponement of some elections may be necessary in some situations, while maintaining democratic institutions is vital (p. 14). Democratic oversight

of the pandemic response, especially the use of emergency powers, must be maintained. Courts and the administration of justice must continue to function despite the constraints imposed by the crisis (p. 15). States must continue to ensure that law enforcement is maintained.

The Chairpersons of the 10 U.N. human rights treaty bodies [stated](#) that strict controls that affect human rights, such as limitations on freedom of movement and restrictions on peaceful assemblies and privacy, must be undertaken pursuant to a valid legal framework. In countries that declare a state of emergency, such a declaration must be exceptional and temporary, strictly necessary and justified due to a threat to the life of the nation. A state of emergency, or any other security measures, should be guided by human rights principles and should not, in any circumstances, be an excuse to quash dissent.

Emergency legislation and measures should be strictly temporary, limited to addressing the situation at hand and contain appropriate safeguards. They should be subject to proper parliamentary, judicial and public oversight.

The High Commissioner for Human Rights [said](#) that an emergency situation is not a blank check to disregard human rights obligations. The Spokesperson for the High Commissioner [noted](#) that, under international human rights law, emergency legislation and measures should be strictly temporary, limited to addressing the situation at hand and contain appropriate safeguards. The High Commissioner [stated](#) that they should be subject to proper parliamentary, judicial and public oversight.

The High Commissioner [said](#) that lockdowns, quarantines and other such measures to contain and combat the spread of COVID-19 should always be carried out in strict accordance with human rights standards and in a way that is necessary and proportionate to the evaluated risk.

The High Commissioner [issued](#) a policy guidance on emergency and exceptional measures. She [said](#) that shooting, detaining, or abusing someone for breaking a curfew because they are desperately searching for food is clearly an unacceptable and unlawful response. So is making it difficult or dangerous for a woman to get to hospital to give birth. In some cases, people are dying because of the inappropriate application of measures that have been supposedly put in place to

save them. In some countries, thousands have also been detained for curfew violations, a practice that is both unnecessary and unsafe. Jails and prisons are high risk environments, and States should focus on releasing whoever can be safely released, not detaining more people. The policy guidance stressed that, as in normal times, law enforcement officials should adhere to the principles of legality, necessity, proportionality and precaution. The Special Rapporteur on Torture, Mr. Nils Melzer, [stated](#) that protective measures, including lockdowns and curfews, cannot justify any excessive use of force and coercion, and all allegations of torture or ill-treatment must be thoroughly investigated.

OHCHR's guidance set out clearly that the measures should not only be necessary to achieve a legitimate public health objective, but that they should also be the "least intrusive" approach required to achieve that result. Furthermore, a state of emergency should not be used for any purpose other than the public necessity for which it is declared.

The use of emergency powers should be notified to the relevant treaty bodies when fundamental rights are being significantly limited.

A joint statement of the special procedures [recalled](#) that the use of emergency powers must be publicly declared and should be notified to the relevant treaty bodies when fundamental rights including movement, family life and assembly are being significantly limited. They also noted that in countries where the virus is waning, authorities must seek to return life to normal and must avoid excessive use of emergency powers to indefinitely regulate day-to-day life.

The Human Rights Committee, mandated to monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR), [noted](#) that several States parties have resorted to emergency measures in response to the COVID-19 pandemic in a manner seriously affecting the implementation of their obligations under the Covenant, without formally submitting any notification of derogation from the Covenant to the U.N. Secretary-General as required.

The Human Rights Committee also [recalled](#) the requirements and conditions laid down in article 4 of the Covenant and explained by the Committee in its general comments, particularly in general comment No. 29 (2001) on states of emergency, in which it provided guidance on the following aspects of derogations: the official proclamation of a state of emergency; formal

notification to the Secretary-General; the strict necessity and proportionality of any derogating measure taken; the conformity of measures taken with other international obligations; non-discrimination; and the prohibition on derogating from certain non-derogable rights.

The Committee on economic, social and cultural rights (CESCR), mandated to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights, issued a [statement](#) on COVID-19 and ESCR, reviewing the impact of the pandemic and offering recommendations for States parties to ensure that Covenant rights and obligations are protected and fulfilled during this crisis. The Committee stated, *inter alia*, that adopted measures must be necessary to combat the public health crisis, and be reasonable and proportionate (in compliance with the conditions set out in article 4 of the Covenant). Emergency measures and powers should not be abused, and should be lifted as soon as they are no longer necessary for protecting public health.

In relation to quarantine and social distancing measures, the Secretary-General [noted](#) in his report on COVID-19 and human rights that restrictions on free movement should be strictly necessary for that purpose, proportionate and non-discriminatory (p. 4). OHCHR and the WHO [noted](#) in their interim guidance on COVID-19 (focus on persons deprived of their liberty) that any detention measures introduced for the purpose of managing risks to public health, including when applied to people arriving from other countries, must be necessary, proportionate and subject to regular review; must not be arbitrary or discriminatory, must be based on an individual assessment, must be authorized by law in accordance with applicable due process and procedural safeguards, must be for a limited time period and subject to periodic review, and must otherwise be in line with international standards (p. 4). Health concerns do not justify the systematic detention of individuals or groups of migrants, including refugees.

The Working Group on arbitrary detention adopted [Deliberation No. 11](#), which established a set of guidelines to prevent arbitrary deprivation of liberty during public health emergencies. If the person concerned is not at liberty to leave a premise, that person is to be regarded as deprived of their liberty. Therefore, mandatory quarantine in a given premise, including in a person's own residence that the quarantined person may not leave for any reason, is a measure

of de facto deprivation of liberty. When placing individuals under quarantine measures, States must ensure that such measures are not arbitrary ([Deliberation No. 11](#), para 8).

The prohibition of arbitrary deprivation of liberty extends to all types of detention regimes, including detention within the framework of criminal justice, administrative detention, detention in the context of migration and detention in the health-care settings ([Deliberation No. 11](#), para 7).

While the right to liberty is not an absolute right, and derogations from it are permitted under international law, the Working Group emphasized that the prohibition of arbitrary deprivation of liberty is absolute and universal. Arbitrary detention can never be justified, whether it be for any reason related to national emergency, maintaining public security or health ([Deliberation No. 11](#), para 5).

The High Commissioner for Human Rights [called](#) to carefully reduce the number of people in detention facilities, to avoid an explosive spread of the virus in closed and overcrowded settings. The Working Group on arbitrary detention echoed this recommendation in its [Deliberation No. 11](#) (para 16). The High Commissioner [expressed concern](#) that some countries envisioned prison sentences for violating orders on physical distancing: this is likely to exacerbate the epidemic.

4. THE RIGHT TO PRIVACY IN THE DIGITAL AGE

The Secretary-General [noted](#) in his report on COVID-19 and human rights that the use of technologies, including artificial intelligence and big data, to enforce emergency and security restrictions or for surveillance and tracking of impacted populations raises concerns (p. 16). Adequate safeguards are needed. All measures must incorporate meaningful data protection safeguards, be lawful, necessary, and proportionate, time-bound and justified by legitimate public health objectives.

[The International Covenant on Civil and Political Rights \(ICCPR\)](#) Article 17 states that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. The Human Rights Committee, mandated to monitor the implementation of the ICCPR, stated in its [general comment No. 16: Article 17 \(right to privacy\)](#), that even interference with a person's privacy

provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances.

The Committee spelled out specific obligations in the aforementioned general comment No. 16. Even with regard to interferences that conform to the Covenant, relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted. A decision to make use of such authorized interference must be made only by the authority designated under the law, and on a case by case basis. Compliance with article 17 requires that the integrity and confidentiality of correspondence should be guaranteed de jure and de facto. Correspondence should be delivered to the addressee without interception and without being opened or otherwise read. Surveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire tapping and recording of conversations should be prohibited (Human Rights Committee, [general comment No. 16](#), para 8).

Furthermore, the gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law. Effective measures have to be taken by States to ensure that information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it, and is never used for purposes incompatible with the Covenant. In order to have the most effective protection of his private life, every individual should have the right to ascertain in an intelligible form, whether, and if so, what personal data is stored in automatic data files, and for what purposes. Every individual should also be able to ascertain which public authorities or private individuals or bodies control or may control their files. If such files contain incorrect personal data or have been collected or processed contrary to the provisions of the law, every individual should have the right to request rectification or elimination (Human Rights Committee, [general comment No. 16](#), para 10).

If a State party decides to derogate from the obligations under Article 17, it must be to the extent strictly required by the exigencies of the situation, provided that this is not inconsistent with its other obligations under international law and does not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. The State party must also

immediately inform the other States parties of its derogation through the U.N. Secretary-General (ICCPR, Article 4).

In 2019, the Special Rapporteur on the right to privacy, Mr. Joseph A. Cannataci, [submitted](#) to the General Assembly a report focused on health-related data. He noted that the identification and containment of a communicable disease was a legitimate purpose for processing health-related data ([A/74/277](#), para 5.2). However, this statement was preceded by a long list of principles that must be adhered to. Among other principles, the Special Rapporteur noted that health-related data must be collected for explicit, specific and legitimate purposes and processed in a transparent, lawful and fair manner ([A/74/277](#), para 4.1). It is also worth highlighting that health-related data must not be stored for longer than is necessary for the purposes for which the health-related data were collected ([A/74/277](#), para 10.1).

The Special Rapporteur on freedom of expression, Mr. David Kaye, [noted](#) in his recent report to the Human Rights Council that COVID-19 will increase demands for the use of surveillance tools to trace positive tests for the virus and track the spread of the disease. This desire is fully understandable as a matter of public health ([A/HRC/44/49](#), para 54). However, it is imperative that, even where Governments permit the collection of data, such collection be accompanied by strict personal data protection guarantees and be time-limited, while also promoting the public's right to know the outcomes of such collection.

The Special Rapporteur on freedom of expression further presented principles that should govern surveillance in the pandemic, to ensure that surveillance is conducted consistently with international human rights law, drawing from his previous report ([A/HRC/41/35](#), para 50), which focused on surveillance and human rights:

(a) Any authorization of surveillance should be contained in precise and publicly accessible laws and only be applied when necessary and proportionate to achieve a legitimate objective (such as protecting public health);

(b) Authorization of surveillance of specified individuals should be based on independent evaluation, preferably by a judicial authority, with appropriate limitations on time, location, manner and scope;

(c) Rigorous record-keeping should be required so that individuals and oversight bodies can ascertain that surveillance was conducted for legitimate public health purposes;

(d) Any personal data collected should be subject to strict privacy protections to ensure against disclosure of personal information to anyone not authorized for public health purposes;

(e) Some personal data should be expressly excluded from collection, such as the content of a person's communications, and robust safeguards must be put in place to ensure against any government or third-party misuse of such data, including use for purposes unrelated to the public health emergency;

(f) Where personal data is anonymized, the State and any third-party actor involved in collection must be able to demonstrate such anonymity.

It is crucial that tools of surveillance technology be limited in use, both in terms of purpose and time, and that individual rights to privacy, non-discrimination, the protection of journalistic sources and other freedoms be rigorously protected.

The Special Rapporteur on freedom of expression, in a joint statement with counterparts of the Inter-American Commission on Human Rights (IACHR) and the Organization for Security and Cooperation in Europe (OSCE), [stated](#) that it is crucial that tools of surveillance technology be limited in use, both in terms of purpose and time, and that individual rights to privacy, non-discrimination, the protection of journalistic sources and other freedoms be rigorously protected. States must also protect the personal information of patients. They strongly urged that any use of such technology abide by the strictest protections and only be available according to domestic law that is consistent with international human rights standards.

5. FREEDOM OF OPINION AND EXPRESSION

The High Commissioner for Human Rights [expressed concern](#) by steps taken to impose restrictions on media freedom and freedom of expression. Vaguely formulated actions to combat alleged "misinformation" could be applied to any criticism, and in some countries we have

already seen reports of journalists being penalized for reporting a lack of masks; health-workers reprimanded for saying they lack protection; and ordinary people arrested for social media postings about the pandemic. Criticism is not a crime, she said.

The Human Rights Committee, mandated to monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR), [noted](#) that freedom of expression and access to information as well as a civic space where a public debate can be held, constitute important safeguards for ensuring that States parties resorting to emergency powers in connection with the COVID-19 pandemic comply with their obligations under the Covenant.

The Special Rapporteur on freedom of expression, Mr. David Kaye, [noted](#) that hundreds of journalists have been detained because of their work. Detaining journalists runs directly counter to the State's obligation to ensure an enabling environment for the media. Noting alarming accounts of official retaliation against journalists under the guise of spreading disinformation, the Special Rapporteur referred to his recent report to the Human Rights Council ([A/HRC/44/49](#)), in which he emphasized the way in which governments attack the messenger and limit reporting rather than act responsively on the information disclosed.

The Special Rapporteur noted in his report that the principles of legality, necessity and proportionality apply across the board; they are not simply discarded in the context of efforts to address the public health threat of COVID-19 ([A/HRC/44/49](#), para 16). In paragraph 5 of its [general comment No. 34](#) (on Article 19: Freedoms of opinion or expression), the Human Rights Committee emphasized that it could never become necessary to derogate from the freedom of opinion during a state of emergency ([A/HRC/44/49](#), para 17).

The Special Rapporteur further noted that in legal terms, ensuring the dignity and respect owed to all individuals entails:

- (a) Being honest with people and giving them access to information in a way they can consume, in a way that promotes non-discrimination;
- (b) Enabling all individuals genuine access to the tools of communication necessary to learn about the public health crisis and the steps necessary to protect themselves and, if they are health-care workers (formally or informally), to care for others;

(c) Strongly promoting and protecting, and refraining from interference with, the independent media's role of informing the public and holding officials accountable for their statements and actions;

(d) Ensuring that people have the tools to confront and correct disinformation, and, in particular, avoiding taking the kinds of steps that will deter the sharing of critical information at a time of crisis;

(e) Doing what is necessary to trace the development of the disease – but only what is necessary. The law is flexible enough to tolerate errors and inadvertent overreach at a time of crisis, but it is not so flexible as to condone the discretion to conduct surveillance without oversight, without limit and without resort to fundamental principles of legality and necessity;

(f) Ensuring accountability, such that no State is free to use this public health crisis for unlawful purposes beyond the scope of the health threat.

The right to freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media, applies to everyone, everywhere, and may only be subject to narrow restrictions.

The Special Rapporteur on freedom of expression, in a joint statement with counterparts of IACHR and OSCE, [stated](#) that the right to freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media, applies to everyone, everywhere, and may only be subject to narrow restrictions.

These experts delivered recommendations to Governments, while stating the human rights obligations in relation to: providing truthful information; ensuring the fastest and broadest possible internet access; protecting the work of journalists; ensuring they meet the standards of necessity and proportionality when resorting to censorship; as well as limiting the use of surveillance technology, both in terms of purpose and time, and rigorously protecting rights to privacy, non-discrimination, the protection of journalistic sources and other freedoms.

6. THE RIGHT TO PEACEFUL ASSEMBLY AND ASSOCIATION

OHCHR noted in its [guidance on civic space and COVID-19](#) that States should ensure that the right to hold assemblies and protests can be realized, and only limit the exercise of that right as strictly required to protect public health. Restrictions on public gatherings should be constantly assessed to determine whether they continue to be necessary and proportionate.

The Special Rapporteur on the right to peaceful assembly and association, Mr. Clément Nyaletsossi Voule, [stated](#) that a state of emergency does not halt the freedoms of peaceful assembly and of association. Exemptions should be foreseen for civil society actors, particularly those monitoring human rights, trade unions, social services providing humanitarian assistance, and journalists covering the management of the crisis.

Civil society's participation in multilateral institutions must be secured.

The Special Rapporteur issued [guidelines](#), emphasizing ten key principles for States to comply with their human rights obligations:

1. Ensuring that new legal measures respect human rights.
2. Ensuring that the public health emergency is not used as a pretext for rights infringements.
3. Democracy cannot be indefinitely postponed.
4. Ensuring inclusive participation.
5. Guaranteeing freedom of association and assembly online.
6. Protecting workplace rights to freedom of association and assembly.
7. Freedom of expression must be ensured.
8. Civil society's participation in multilateral institutions must be secured.
9. International solidarity is needed more than ever.
10. Future implications of COVID-19 and responding to popular calls for reform.

7. RIGHTS OF THE CHILD

The Secretary-General [reviewed](#) four areas in his policy brief on the impact of COVID-19 on children: falling into poverty; learning; survival and health; as well as safety. He concluded with several recommendations (pp. 14-15).

Define core child protection services as essential and ensure that they remain functioning and available.

The Committee on the rights of the child, mandated to monitor the Convention on the Rights of the Child, [called on](#) States to:

1. Consider the health, social, educational, economic and recreational impacts of the pandemic on the rights of the child. States should ensure that responses to the pandemic, including restrictions and decisions on allocation of resources, reflect the principle of the best interests of the child.
2. Explore alternative and creative solutions for children to enjoy their rights to rest, leisure, recreation and cultural and artistic activities.
3. Ensure that online learning does not exacerbate existing inequalities or replace student-teacher interaction.
4. Activate immediate measures to ensure that children are fed nutritious food.
5. Maintain the provision of basic services for children, including healthcare, water, sanitation and birth registration.
6. Define core child protection services as essential and ensure that they remain functioning and available, including home visits when necessary, and provide professional mental health services for children living in lockdown.
7. Protect children whose vulnerability is further increased by the exceptional circumstances caused by the pandemic.
8. Release children in all forms of detention, whenever possible, and provide children who cannot be released with the means to maintain regular contact with their families.

9. Prevent the arrest or detention of children for violating State guidance and directives relating to COVID-19.
10. Disseminate accurate information about COVID-19 and how to prevent infection in languages and formats that are child-friendly and accessible to all children.
11. Provide opportunities for children's views to be heard and taken into account in decision-making processes on the pandemic.

A large number of Member States [issued](#) a joint statement in response to the Secretary-General's call on countries to prioritize children's education, food, health and safety amid the COVID-19 pandemic. Member States committed to fully respect, promote and protect the rights of all children, reduce the negative impacts during and after the pandemic, as well as ensure respect for the best interests of the child while striving to take into account, where possible, children's views.

The joint statement also listed several areas for action: "We must therefore work together to protect all children and act now to prevent and mitigate each of the risks they face, to ensure access to inclusive and quality education, nutrition and health care, as well as strengthen social protection systems. We must prevent and combat all forms of violence, including domestic violence, abuse and sexual exploitation of children online and offline, cyberbullying, and bridge the digital divide. We acknowledge the specific effects the crisis has on girls' access to education and on gender-based violence. We should be doing everything we can to cushion the impact on children's well-being, especially for those whose vulnerability has increased as a result of the current circumstances."

U.N. human rights experts [offered](#) recommendations in their appeal to States to boost child protection measures to help safeguard the welfare of millions of children worldwide who may be more exposed to violence, sale, trafficking, sexual abuse and exploitation during the COVID-19 pandemic.

The Special Rapporteur on the sale and sexual exploitation of children, Ms. Mama Fatima Singhateh, [stated](#) that a comprehensive mapping and rapid and responsive child protection measures are paramount to assess the magnitude of this crisis on the most vulnerable children, including those who are refugees, displaced, homeless, migrants, minorities, slum-dwellers, living

with disabilities, living on the streets, living in refugee settlements, and in institutions. Social benefits and social protection nets should prioritize low-income and vulnerable communities and families to alleviate COVID-19 collateral damage on children. Among essential measures to mitigate harm she included: victim and survivor outreach, non-discriminatory child protection systems, public education and awareness campaigns, expanded helpline services and safe accommodation.

The Special Rapporteur on the right to education, Ms. Koumbou Boly Barry, [warned](#) against the temptation to consider high-tech solutions as the main or best means of ensuring the continuity of education in times of crisis. As she noted in her [report](#), most education systems in fragile and conflict-affected contexts are not set up to support them. In addition, most marginalized populations will not have the financial capacities or even just the physical possibility to access to the means for supporting their children with digital distance learning ([A/HRC/44/39](#), para 34).

8. VIOLENCE AND DISCRIMINATION AGAINST WOMEN

The Office of the High Commissioner for Human Rights presented a [guidance note](#), addressing the impact of COVID-19 on women in various areas, including promising practices, recommendations and resources. The guidance note addressed the topics of gender-based violence; the health of women and girls; work, income and livelihoods; access to water and sanitation; girls' education; access to food; women's participation in the design of COVID-19 responses; and data collection.

The Working Group on discrimination against women [stated](#) that States must ensure that policy decisions are taken with equal and meaningful participation of women from diverse groups and take into account the gendered risks and realities which are exacerbated by other circumstances. A key benchmark of any new policy must be that it does not deepen existing structural inequalities, or create new vulnerabilities, but rather ameliorates and creates new opportunities that are just and equitable.

The Working Group noted that the dramatic increase in women's caregiving responsibilities, the rise in what was already an epidemic of sexual and domestic violence, the continued feminization of poverty, as well as the proliferation of barriers to healthcare, especially

pregnancy-related healthcare, will profoundly jeopardize women's safety and well-being, economic security, and participation in political and public life, both during and after the pandemic. The measures taken by Governments to mitigate the risks to health and life posed by COVID-19 must take into account the specific attributes and circumstances faced by women and girls. The Working Group recommended several measures.

The Secretary-General [reviewed](#) five areas in his policy brief on the impact of COVID-19 on women: economic impacts; health impacts; unpaid care work; gender-based violence; and impacts in humanitarian and fragile settings on human rights. The policy brief emphasized three cross-cutting priorities: ensure women's equal representation in all COVID-19 response planning and decision-making; drive transformative change for equality by addressing the care economy, paid and unpaid; and target women and girls in all efforts to address the socio-economic impact of COVID-19.

The Secretary-General offered recommendations in his policy brief mentioned above and stated that every COVID-19 response plan, and every recovery package and budgeting of resources, needs to address the gender impacts of this pandemic. This means: (1) including women and women's organizations at the heart of the COVID-19 response; (2) transforming the inequities of unpaid care work into a new, inclusive care economy that works for everyone; and (3) designing socio-economic plans with an intentional focus on the lives and futures of women and girls.

Protect women from, and ensure accountability for, gender-based violence, enable women's socio-economic empowerment and guarantee their participation in policy and decision making in all crisis responses and recovery efforts.

The Committee on the elimination of discrimination against women issued a [guidance note](#) on CEDAW and COVID-19. The Committee noted the obligation of States parties to the Convention to ensure that measures taken to address the COVID-19 pandemic do not directly or indirectly discriminate against women and girls. States parties also have an obligation to protect women from, and ensure accountability for, gender-based violence, enable women's socio-

economic empowerment and guarantee their participation in policy and decision-making in all crisis responses and recovery efforts.

The Committee provided detailed recommendations in its call on States parties to:

1. Address the disproportionate impact of the pandemic on women's health.
2. Provide sexual and reproductive health as essential services.
3. Protect women and girls from gender-based violence.
4. Ensure equal participation of women in decision-making.
5. Ensure continuous education.
6. Provide socio-economic support to women.
7. Adopt targeted measures for disadvantaged groups of women.
8. Protect women and girls in humanitarian settings and continue implementing the women, peace and security agenda.
9. Strengthen institutional response, dissemination of information and data collection.

The Secretary-General [noted](#) in his report on COVID-19 and human rights that States must protect women from violence and abuse and ensure continuity of support services to gender-based violence survivors during the crisis (p. 15).

The Special Rapporteur on violence against women, Ms. Dubravka Simonovic, supported by several other human rights experts, [stated](#) that Governments must uphold the human rights of women and children and come up with urgent measures for the victims of domestic violence. Measures to protect victims must remain available or be adopted during the crisis. That includes ensuring access to protection by restraining orders and maintaining safe shelters and helplines for the victims. The police should increase their efforts for rapid action.

The Executive Director of UN Women, Ms. Phumzile Mlambo-Ngcuka, [spoke](#) of a shadow pandemic of violence against women: Confinement is fostering the tension and strain created by security, health, and money worries. It is increasing isolation for women with violent partners, separating them from the people and resources that can best help them. It's a perfect storm for controlling, violent behaviour behind closed doors. And in parallel, as health systems are

stretching to breaking point, domestic violence shelters are also reaching capacity, a service deficit made worse when centres are repurposed for additional COVID-19 response.

In this context, UN Women offered a [detailed set of recommendations to Governments](#), including to allocate additional resources and include evidence-based measures to address violence against women and girls in COVID-19 national response plans; strengthen services for women who experience violence during COVID-19; build capacity of key services to prevent impunity and improve quality of response; put women at the centre of policy change, solutions and recovery; and ensure sex-disaggregated data is collected to understand the impact of COVID-19 on violence against women and girls and inform the response.

9. SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

The U.N. Population Fund (UNFPA) [pointed out](#) some key concerns: Women are disproportionately represented in the health and social services sectors, increasing their risk of exposure to the disease. Stress, limited mobility and livelihood disruptions also increase women's and girls' vulnerability to gender-based violence and exploitation. If health systems redirect resources away from sexual and reproductive health services, women's access to family planning, antenatal care and other critical services could suffer.

UNFPA [published](#) several technical briefs in response to COVID-19, providing recommendations on topics such as adolescents and young people, gender equality and addressing gender-based violence (GBV), and modern contraceptives and other medical supply needs.

Women's reproductive health and rights must be safeguarded at all costs. The services must continue, the supplies must be delivered, and the vulnerable must be protected and supported.

UNFPA [published](#) an interim technical note analyzing the impact of the COVID-19 pandemic on family planning and ending gender-based violence, female genital mutilation (FGM) and child marriage. Upon the publication, UNFPA Executive Director, Dr. Natalia Kanem, [stated](#) that the pandemic was deepening inequalities, and millions more of women and girls now risked losing the ability to plan their families and protect their bodies and their health. Women's reproductive

health and rights must be safeguarded at all costs. The services must continue, the supplies must be delivered, and the vulnerable must be protected and supported.

The Committee on the elimination of discrimination against women issued a [guidance note](#) on CEDAW and COVID-19, in which it called on States parties to the Convention to provide sexual and reproductive health as essential services. States parties must continue to provide gender-responsive sexual and reproductive health services, including maternity care, as part of their COVID-19 response. Confidential access to sexual and reproductive health information and services such as modern forms of contraception, safe abortion and post-abortion services and full consent must be ensured to women and girls at all times, through toll-free hotlines and easy-to-access procedures such as online prescriptions, if necessary free of charge. States parties should raise awareness about the particular risks of COVID-19 for pregnant women and women with pre-existing health conditions. They should provide manuals for health workers guiding strict adherence to prevention of infection, including for maternal health, during pregnancy, at-birth and the post-delivery period.

10. LGBTI PEOPLE

On the eve of the International Day Against Homophobia, Transphobia and Biphobia (IDAHOBIT) on 17 May 2020, a [joint statement](#) released by the Independent Expert on sexual orientation and gender identity, Mr. Víctor Madrigal-Borloz, on behalf of a group of 96 U.N. and international human rights experts, called on States and other stakeholders to urgently take into account the impact of COVID-19 on lesbian, gay, bisexual, transgender and gender diverse (LGBT) persons when designing, implementing and evaluating the measures to combat the pandemic.

The 96 experts noted that the failure to respect and fulfill the right to life obligations for LGBT individuals is near ubiquitous in many parts of the world, a shortcoming that also affects data gathering, resource allocation and support to civil society. They detailed the impact of COVID-19 on LGBT persons in every area. They urged States and other stakeholders to give visibility to and protect LGBT persons in the context of the pandemic. They called on States to pursue all means necessary – including conducting research, adopting legislation, forming public policy, and ensuring access to justice mechanisms – to ensure that this public health emergency will neither exacerbate existing misconceptions, prejudices, inequalities or structural barriers, nor lead to

increased violence and discrimination against persons with diverse sexual orientations and gender identities.

The Office of the High Commissioner for Human Rights [published](#) a guidance note on COVID-19 and the human rights of LGBTI people (lesbian, gay, bisexual, trans and intersex people).

Specific efforts should be made to ensure that LGBTI people are not subjected to discrimination or fear retribution for seeking healthcare.

The guidance recommended key actions:

1. Specific efforts should be made to ensure that LGBTI people are not subjected to discrimination or fear retribution for seeking healthcare. Health services that are particularly relevant to LGBTI people should not be deprioritized on a discriminatory basis.
2. Measures to address the socio-economic impacts of the pandemic should consider the particular vulnerabilities of LGBTI people, including older persons and the homeless, and ensure that LGBTI people are fully covered.
3. Political leaders and other influential figures should speak out against stigmatization and hate speech directed at LGBTI people in the context of the pandemic.
4. Shelters, support services and other measures to address gender-based violence during the COVID-19 pandemic should take steps to include the LGBTI population.
5. States should not use states of emergency or other emergency measures to roll back existing rights and guarantees that apply to LGBTI people.
6. Measures restricting movement should provide protection for trans and gender non-conforming persons. Law enforcement officials should be instructed and trained not to discriminate against this population.

The Lesbian, Bisexual, Trans and Intersex (LBTI) Caucus, an informal group of over 300 representatives from every region of the world, posted a [joint statement](#) in response to the COVID-19 pandemic. The LBTI Caucus statement detailed the specific impact of the way the pandemic is addressed, pointing out disproportionate implications on those who face multiple

and intersecting forms of marginalization, including LGBTI and gender non-conforming (GNC) women and people. The Caucus also offered recommendations.

11. OLDER PERSONS

The High Commissioner [called](#) to ensure that difficult medical decisions are guided by a commitment to dignity and the right to health, and based on medical need, ethical criteria and on the best available scientific evidence, rather than on age alone.

The newly appointed Independent Expert on the enjoyment of all human rights by older persons, Ms. Claudia Mahler, [urged](#) States to avoid ageist policies, following calls for older persons to sacrifice themselves to save the economy or to safeguard younger generations by exposing themselves to COVID-19. Older persons need to have access to accountability mechanisms that provide for remedies and redress when their human rights are violated.

Older persons must be provided with ways to stay in touch online, including those in residential care homes and remote areas.

The former Independent Expert on the enjoyment of all human rights by older persons, Ms. Rosa Kornfeld-Matte, [stated](#) that older persons do not only face a disproportionate risk of death but they are further threatened by COVID-19 due to their care support needs or by living in high-risk environments such as institutions. She noted that physical distance is crucial but creative and safe ways must be found to increase social connections. Older persons must be provided with ways to stay in touch online, including those in residential care homes and remote areas. In addition, triage protocols must be developed and followed to ensure that decisions around the allocation of scarce medical resources are made on the basis of medical needs, the best scientific evidence available, and not on non-medical criteria such as age or disability.

The Secretary-General published a [policy brief](#) on the impact of COVID-19 on older persons. In his report, the Secretary-General offered recommendations in four areas: the impact on health, rights and long-term care services for older persons; the effects of physical distancing and stigma; integrate a focus on older persons in the overall socio-economic and humanitarian responses to COVID-19; as well as harness knowledge and data, share good practices, and expand participation by older people.

The Secretary-General noted several human rights obligations in his discussion of the impact on health, rights and long-term care services for older persons, such as:

- It is important for triage protocols to ensure that medical decisions are based on medical need, ethical criteria and on the best available scientific evidence, rather than based on age or generalized assumptions about the impact of a particular diagnosis, such as dementia, on overall health, life expectancy or chances of survival.
- Everyone has the right to consent to, refuse or withdraw medical treatment, and to express their wishes in advance. However, during this pandemic, cases have been reported in which older persons have not had an opportunity to give consent to medical treatment or have been put under undue pressure to refuse medical treatment in advance, such as being asked to sign do-not-resuscitate orders before receiving treatment.
- The right to health requires that older persons continue to receive integrated health and social care, including palliative care, rehabilitation, and other types of care.
- Given the heightened risk older persons face and scarce health resources, attention needs to be paid to the provision of palliative care services. Older persons have the right to die with dignity and without pain. In this context, the newly appointed Independent Expert on older persons, Ms. Claudia Mahler, [stressed](#) the need for urgent and sustainable responses to improve palliative care for older persons. She emphasized the obligation of States to prevent pain and suffering – that could amount to cruel, inhuman or degrading treatment.
- Policy responses need to incorporate the needs and rights of older persons, especially older women, whose dependence on family members for their daily survival and care make them especially vulnerable to abuse. Measures to restrict movement may trigger greater incidence of violence against older persons and all types of abuse – physical, emotional, financial, and sexual, as well as neglect.

12. PERSONS WITH DISABILITIES

The Secretary-General [stated](#) upon the launch of his policy brief on a disability-inclusive response to COVID-19: “We must guarantee the equal rights of people with disabilities to access health care and life-saving procedures during the pandemic.”

The [policy brief](#) highlighted the impact of COVID-19 on persons with disabilities. The policy brief noted, among other concerns, that persons with disabilities living in institutions are more likely to contract the virus and have higher rates of mortality (p. 5). In this context, it is worth recalling that the Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas, noted in her report ([A/HRC/40/54](#)) that States must eradicate all forms of institutionalization of persons with disabilities and set up clear deinstitutionalization processes (para 67). The Secretary-General’s policy brief outlined key actions and recommendations to make the response and recovery to COVID-19 inclusive of persons with disabilities. The brief identified four overarching areas of action that are applicable for all:

1. Ensure mainstreaming of disability in all COVID-19 response and recovery together with targeted actions.
2. Ensure accessibility of information, facilities, services and programmes in the COVID-19 response and recovery.
3. Ensure meaningful consultation with and active participation of persons with disabilities and their representative organizations in all stages of the COVID-19 response and recovery.
4. Establish accountability mechanisms to ensure disability inclusion in the COVID-19 response.

The policy brief noted that a human rights-based approach to disability is required to ensure persons with disabilities are not left behind. Both the Convention on the Rights of Persons with Disabilities (CRPD) and the 2030 Agenda for Sustainable Development call for placing persons with disabilities at the center of all our efforts, as agents of planning and implementation. The brief presented foundations for a disability-inclusive COVID-19 response and recovery, including

non-discrimination, intersectionality, accessibility, participation, accountability and data disaggregation.

Persons with disabilities that live in their own homes but depend on outside support must be guaranteed continuity of support throughout the COVID-19 crisis.

The Secretary-General [noted](#) in his report on COVID-19 and human rights that persons with disabilities that live in their own homes but depend on outside support must be guaranteed continuity of support throughout the COVID-19 crisis (p. 12).

The Office of the High Commissioner for Human Rights presented a [guidance note](#), addressing the impact of COVID-19 on persons with disabilities in various areas, including promising practices, recommendations and resources.

The Committee on the rights of persons with disabilities and the Special Envoy of the Secretary-General on disability and accessibility issued a [joint statement](#) including recommendations. They noted that Article 11 of the CRPD establishes that States parties shall take all possible measures to ensure the protection and safety of persons with disabilities in the national response to situations of risk and humanitarian emergencies (para 2). This comprises measures in all areas of life of persons with disabilities, including the protection of their access to the highest attainable standard of health without discrimination, general well-being and prevention of infectious diseases, and measures to ensure protection against negative attitudes, isolation, and stigmatization that may arise in the midst of the crisis.

The Committee and the Special Envoy also stated that States should prevent discriminatory denial of health care or life-saving services, food or fluids on the basis of disability (para 7).

The World Health Organization (WHO) [pointed out](#) factors that increase the risk to persons with disabilities, and therefore require reasonable accommodations. Some may have difficulties in implementing basic hygiene measures to keep the virus at bay. Others may not be able to practice social distancing because they require care or other support. Additionally, some persons with disabilities who contract the virus could develop a severe case of the disease as it can worsen existing health conditions, particularly related to immune response or respiratory function.

The Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas, [called](#) for access to additional financial aid and to narrowly tailor restrictions. Public advice campaigns and information from national health authorities must be made available to the public in sign language and accessible means, modes and formats, including accessible digital technology, captioning, relay services, text messages, easy-to-read and plain language.

The International Disability Alliance (IDA) [provided](#) key recommendations and links to relevant resources.

13. RACISM

The Secretary-General [stated](#) in his report on COVID-19 and human rights that Member States have the primary responsibility to counter discrimination and hate speech but all actors, including social media companies, must play their part (p. 11). The U.N. strategy and plan of action on hate speech [states](#) that international law prohibits incitement to discrimination, hostility and violence. In this regard, see Article 20.2 of the [International Covenant on Civil and Political Rights](#) and Article 7 of the [Universal Declaration of Human Rights](#). The Human Rights Committee, mandated to monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR), [noted](#) that States parties must take steps to ensure that public discourse in connection with the COVID-19 pandemic does not constitute advocacy or incitement against specific marginalized or vulnerable groups, including minorities and foreign nationals.

The Secretary-General [appealed](#) for an all-out effort to end hate speech globally:

- “I call on political leaders to show solidarity with all members of their societies and build and reinforce social cohesion.
- “I call on educational institutions to focus on digital literacy at a time when billions of young people are online – and when extremists are seeking to prey on captive and potentially despairing audiences.
- “I call on the media, especially social media companies, to do much more to flag and, in line with international human rights law, remove racist, misogynist and other harmful content.

- “I call on civil society to strengthen outreach to vulnerable people, and religious actors to serve as models of mutual respect.”

The Committee on the elimination of racial discrimination (CERD) [stated](#), *inter alia*, the following obligations:

1. Measures including but not limited to the closing of borders, lockdowns, quarantines and enforcement measures must not be enacted or enforced in a manner that violates the prohibition of racial discrimination.
2. Members of vulnerable groups must be protected against discrimination stemming from private actors. This obligation applies in particular to racist insults and hate speech, harassment, acts of violence, and exclusion or denial of goods and services contrary to the prohibition of racial discrimination.
3. States are obliged to desist from, but also condemn and combat, any action that could reinforce such stereotypes and lead to stigmatization, in particular with regard to any action that might incite acts of racial discrimination. States should counter existing stereotypes and prejudice through the dissemination of fact-based information and awareness campaigns.
4. Obligations relating to economic, social and cultural rights to take appropriate measures to address the disparate effects of the COVID-19 pandemic on groups and minorities protected under the Convention in relation to:
 - a. Equal access to healthcare services, including testing, medicine and medical procedures, including for migrants and undocumented persons.
 - b. Adequate housing and homelessness, for example through financial assistance or regulatory measures on rent and mortgage payments as well as eviction moratoriums.
 - c. Employment and employment conditions, in particular with regard to the higher risk and impact of unemployment.
 - d. Access to education, for example by taking the needs of these groups into specific consideration when deciding about the reopening of schools, advancing ways of

alternative learning solutions and enacting measures in order to bridge the digital divide.

- e. Equal access to financial aid and other economic support measures without discrimination. Consider the adoption of special measures.
 - f. Indigenous peoples, specifically those living in remote areas and in isolation, are particularly vulnerable to the COVID-19 pandemic.
- The High Commissioner [recalled](#) in her recent report the responsibility of States to ensure the full and effective participation of indigenous peoples in matters that concern them, including in the elaboration of responses to pandemics (para 3).

Political responses to the COVID-19 outbreak that stigmatize, exclude, and make certain populations more vulnerable to violence are inexcusable, unconscionable, and inconsistent with States' international human rights law obligations.

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. E. Tendayi Achiume, [stated](#) that COVID-19-related expressions of racism and xenophobia online have included harassment, hate speech, proliferation of discriminatory stereotypes, and conspiracy theories. She added that political responses to the COVID-19 outbreak that stigmatize, exclude, and make certain populations more vulnerable to violence are inexcusable, unconscionable, and inconsistent with States' international human rights law obligations.

The Special Rapporteur on freedom of religion or belief, Mr. Ahmed Shaheed, [stated](#) that any incitement to hatred or violence based on religious, belief or ethnic identity is simply not acceptable. To combat disinformation, it is critical that States establish effective strategies and channels of communication to provide accurate and reliable information to the public. He also noted that those targeted have faced verbal abuse, death threats, and physical attacks and experienced discrimination in accessing public services, including denial of vital health services.

The [OHCHR COVID-19 guidance](#) states that the dissemination of accurate, clear and evidence-based information and awareness-raising campaigns are the most effective tools against

discrimination and xenophobia, which feed on misinformation and fear. Additional efforts are needed to monitor incidents of discrimination and xenophobia, and responses to any incidents should be swift and well-publicized.

The Working Group of Experts on People of African Descent [called on](#) Member States to commit to equity in the current public health crisis and to recognize the current risk that the historical exploitation of the bodies and resources of people of African descent poses to decision-making today, including driving racial disparities in access to health care and treatment. Structural racial discrimination may further exacerbate inequality in access to health care and treatment leading to racial disparities in health outcomes and increased mortality and morbidity for people of African descent.

14. MIGRANTS, REFUGEES, ASYLUM-SEEKERS AND INTERNALLY-DISPLACED PERSONS

The Office of the High Commissioner for Human Rights issued a [guidance note](#) on COVID-19 and the human rights of migrants. The guidance note provided recommendations in relation to access to health facilities, goods and services; migrants living in camps or unsafe conditions; the right to decent work and social protection; the right to education; immigration detention; border management; and xenophobia.

Forced returns of migrants must be suspended in times of COVID-19.

The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Special Rapporteur on the human rights of migrants, Mr. Felipe González Morales, issued a [Joint Guidance Note](#) on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants. They called on States to:

1. Strictly limit State emergency responses, publicly declare them and notify the Committee.
2. Integrate migrant workers into national COVID-19 prevention and response plans and policies.
3. Guarantee access to social services for migrants and their families.

4. Guarantee the labour rights of migrant workers, especially of those working in essential sectors.
5. Implement measures for the labour integration of migrant workers trained in health-related sectors to assist in the fight against COVID-19.
6. Facilitate virtual channels to ensure access to education for children of migrants.
7. Include migrants and their families, regardless of their migration status, in economic recovery policies, taking into account the need for the recovery of remittance flows.
8. Establish protocols and create adequate conditions in shelters and other structures designed for the reception or stay of migrants.
9. Guarantee the rights of persons in need of international protection.
10. Avoid implementing migration-related control or repression actions and adopt measures to ensure the protection of personal data and information.
11. Implement mechanisms to review the use of immigration detention with a view to reducing their populations to the lowest possible level, and immediately release families with children and unaccompanied or separated children from immigration detention facilities to non-custodial and community based alternatives with full access to rights and services, including health care.
12. Promote the regularization of migrants in an irregular situation or undocumented migrants.
13. Guarantee the right of all migrants and their families to return to the country of which they are nationals.
14. Consider the temporary suspension of deportations or enforced returns during the pandemic.
 - In this regard, the U.N. Network on Migration [stated](#) that forced returns of migrants must be suspended in times of COVID-19.
15. Pro-actively prevent discrimination and scapegoating of individuals or groups of migrants.

16. Facilitate human rights monitoring and data collection on the human rights situation of migrants during the COVID-19 pandemic.

17. Avail the Committee and the Special Rapporteur.

The Special Rapporteur on the human rights of migrants and the Special Rapporteur on trafficking in persons, especially women and children, Ms. Maria Grazia Giammarinaro, [said](#) in a joint statement that States worldwide must urgently adopt inclusive measures aimed at protecting migrants and trafficked persons in their national response to COVID-19, such as prevention measures, testing, medical treatment, health services and social assistance. States should also take steps towards the regularization of undocumented migrants whenever necessary, in view of facilitating their access to health services during the fight against the pandemic. Particular attention should be given to inadequate or overcrowding facilities where migrants are accommodated.

The Special Rapporteur on trafficking in persons also issued a [position paper](#), including many recommendations to address the impact and consequences of the COVID-19 pandemic on trafficked and exploited persons. Her recommendations addressed poverty and unemployment; vulnerabilities linked to the migration status or the migratory journey; restrictive migration policies; lack of services provided to victims of trafficking and re-victimization; disruption of supply chain; trafficking and exploitation of children; and the risks faced by victims and potential victims of sexual exploitation.

It is vital that everyone, including all migrants and refugees, are ensured equal access to health services.

UNHCR, IOM, OHCHR and WHO [stated](#) in a joint statement that it is vital that everyone, including all migrants and refugees, are ensured equal access to health services and are effectively included in national responses to COVID-19, including prevention, testing and treatment. In addition, while countries are closing their borders and limiting cross-border movements, there are ways to manage border restrictions in a manner which respects international human rights and refugee protection standards, including the principle of non-refoulement, through quarantine and health checks.

The Special Rapporteur on internally displaced persons (IDPs), Ms. Cecilia Jimenez-Damary, [stated](#) that Governments must ensure that all IDPs have access to water, sanitation, facilities for personal hygiene, adequate housing and food. They must be informed about the disease risks, prevention and treatment. Those who require medical treatment for COVID-19 must have access to appropriate health care in a timely manner and without discrimination.

The Special Rapporteur called on States to exercise their sovereign responsibility to protect IDPs based on the [Guiding Principles on Internal Displacement](#). States must also scale up humanitarian assistance to IDPs in light of the pandemic. The Special Rapporteur added that IDPs know best the specific challenges they face. Their participation in identifying these challenges and designing tailored responses to COVID-19 is essential.

The Working Group on arbitrary detention stated that detention in the context of migration is only permissible as an exceptional measure of last resort, which is a particularly high threshold to be satisfied in the context of a pandemic or other public health emergency. Migrant children and children with their families should not be detained in the context of migration policies, and should therefore be immediately released. Asylum seekers should not be held in places of deprivation of liberty during the course of the procedure for the determination of their status, and refugees should be protected by authorities of the recipient State and not detained ([Deliberation No. 11](#), paras 23-25).