



## **Amnesty International Aotearoa New Zealand**

### **COVID-19 AND HUMAN RIGHTS: GUIDING PRINCIPLES FOR NEW ZEALAND**

1. Across Aotearoa New Zealand and around the world, in the face of the mounting fear and suffering wrought by COVID19 we are seeing the very best of humanity.
2. Frontline workers courageously maintain the essential services that keep us healthy and safe, often at great cost. Friends, neighbours and strangers look out for each other, keeping a close eye to the well-being of those most vulnerable to the virus. People are keeping a distance and staying at home, to make their contribution to efforts to curtail spread of the pandemic and save lives. Some people are fortunate to be able to continue to work from home, while others are coping with lost wages in the face of redundancies and businesses shutting down.
3. This sense of solidarity, community and sacrifice resonates powerfully and directly with the foundational vision of universal human rights, namely that we are all inter-connected and that all aspects of our lives are inter-twined. People around the world understand that our way through this crisis lies in that collective responsibility and the commitments we owe each other.
4. Amnesty International Aotearoa New Zealand urges local and central government across the country to follow the people's lead and put human rights at the heart of all aspects of their response to the COVID-19 crisis.
5. New Zealand's international human rights obligations, the Bill of Rights Act, *Te Tiriti o Waitangi* and other treaties and laws establish clear rights, responsibilities and limitations which are directly relevant to the crisis. The New Zealand Government is responding to the unprecedented crisis with an extensive public health campaign, restrictions on freedom of movement and social interaction, and significant amounts of economic stimulus. Many of those measures are in line with human rights standards and are vital initiatives in order to protect the rights of all, including the right to life and the highest attainable standard of physical and mental health.
6. It is essential that as New Zealand continues to respond to COVID-19, human rights are at the centre of its decision making. The following principles provide a guiding human rights framework for all decision makers in New Zealand.

#### **TREAT AND RESPOND TO COVID-19 AS A HUMAN RIGHTS OBLIGATION**

7. Beyond posing staggering public health and financial challenges, the pandemic and the resulting economic crisis both highlight serious human rights obligations. New Zealand has recognised the need to pursue measures that urgently stop the spread of COVID-19 which directly implicates the obligations to uphold the right to health and the right to life. This includes ensuring the following:



### ***The right to the highest attainable standard of physical and mental health***

8. The right to health includes the “prevention, treatment and control of epidemic, endemic, occupational and other diseases”.<sup>1</sup> This means ensuring that New Zealand’s healthcare system has the resources, personnel and equipment necessary to provide treatment. This includes:
  - a. The dissemination of accessible, accurate and evidence-based information about how people can protect themselves, ensuring that any goods necessary to ensure prevention are available and affordable for all persons;
  - b. Testing and treatment is available and accessible on an equitable and non-discriminatory basis to all individuals who require it. That will require a concerted effort to address barriers to accessing healthcare across the country that are rooted in systemic discrimination and exclusion;
  - c. Focusing attention and provide resources more quickly and to a greater amount in communities whose healthcare needs have been impoverished and neglected in the past.

### ***Protection of frontline workers***

9. Frontline workers, particularly health workers continue to deliver services despite the personal risks to them and their families. The risks they face include contracting COVID-19 while doing their jobs, long working hours, psychological distress and fatigue.<sup>2</sup> While comprehensive information on the impact of the epidemic on health workers is being assessed, reports indicate that over 3,000 health workers have contracted the virus in China alone.<sup>3</sup> There, hospital doctors treating COVID-19 patients have died, including Li Wenliang, the first doctor who spoke out about the nascent health crisis late in 2019, but who was silenced and reprimanded by the Chinese government.<sup>4</sup>
10. The right to health requires states to “formulate, implement and periodically review a coherent national policy to minimize the risk of occupational accidents and diseases, as well as to provide a coherent national policy on occupational safety and health services”, which includes the working conditions of health workers.<sup>5</sup> Adequate and quality personal protective equipment, information, training and psychosocial support are all necessary to support nurses, doctors and other response staff.<sup>6</sup> New Zealand must also ensure there are mechanisms in place to guarantee support for the families of health workers and others become ill or lose their lives as a consequence of exposure to COVID-19.

---

<sup>1</sup> Committee on Economic, Social and Cultural Rights, *General Comment 14, The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/2000/4 (2000).

<sup>2</sup> WHO, *Coronavirus disease (COVID-19) outbreak: Rights, roles and responsibilities of health workers, including key considerations for occupational safety and health*, [www.who.int/docs/default-source/coronaviruse/who-rights-roles-respon-hw-covid-19.pdf?sfvrsn=bcabd401\\_0](http://www.who.int/docs/default-source/coronaviruse/who-rights-roles-respon-hw-covid-19.pdf?sfvrsn=bcabd401_0)

<sup>3</sup> Business Insider, *Nearly 3,400 Chinese healthcare workers have gotten the coronavirus, and 13 have died*, 5 March 2020, [www.businessinsider.com/healthcare-workers-getting-coronavirus-500-infected-2020-2?r=US&IR=T](http://www.businessinsider.com/healthcare-workers-getting-coronavirus-500-infected-2020-2?r=US&IR=T)

<sup>4</sup> Amnesty International, *China: Doctor's death highlights human rights failings in coronavirus outbreak*, (Press release, 7 February 2020), [www.amnesty.org/en/latest/news/2020/02/china-doctor-death-highlights-human-rights-failings-in-coronavirus-outbreak](http://www.amnesty.org/en/latest/news/2020/02/china-doctor-death-highlights-human-rights-failings-in-coronavirus-outbreak)

<sup>5</sup> CESCR General Comment 14, para 36.

<sup>6</sup> WHO, *Coronavirus disease (COVID-19) outbreak: Rights, roles and responsibilities of health workers, including key considerations for occupational safety and health*, [www.who.int/docs/default-source/coronaviruse/who-rights-roles-respon-hw-covid-19.pdf?sfvrsn=bcabd401\\_0](http://www.who.int/docs/default-source/coronaviruse/who-rights-roles-respon-hw-covid-19.pdf?sfvrsn=bcabd401_0)



### *Economic and social rights*

11. As the impact of the economic crisis deepens, leading to business closures and job losses, there is an urgent need for comprehensive action to uphold a range of human rights obligations that lie at the heart of peoples' ability to meet their basic needs on a daily basis, including the right to an adequate standard of living, including adequate food and housing; the right to just and favourable working conditions; and the right to social security.

#### **KEEP MEASURES THAT INFRINGE OTHER HUMAN RIGHTS WITHIN STRICT LIMITS**

12. Article 4 of the International Covenant on Civil and Political Rights (ICCPR) provides for a derogation power, which allows governments to temporarily suspend the application of some rights in the exceptional circumstance of a 'state of emergency' and subject to certain conditions. Recourse to this regime is rare.
13. The New Zealand Government has recognised the unprecedented nature of the global pandemic COVID 19, which has resulted in declaring a state of emergency in order to manage the spread of the COVID-19 epidemic within New Zealand.
14. While such measures are expressly adopted so as to uphold the right to health and life in New Zealand, they in turn infringe on a range of other rights, including freedom of movement, freedom of assembly and rights to education and to pursuing a livelihood. International human rights law and the Bill of Rights Act recognise that such measures, taken to address a public health emergency, may permissibly constrain or violate other rights.
15. However, such restrictions can **never be discriminatory**, and they must be demonstrably **necessary, legitimate, proportionate, time-bound and no broader than strictly required**. These constraints on limiting rights must be strictly adhered to and reassessed on an ongoing basis.
16. Certain rights, however, are non-derogable, that is, they cannot be suspended even in a state of emergency. Article 4(2) of the ICCPR provides that no derogation is permitted for the right to life (art 6), freedom from torture or cruel, inhuman and degrading treatment or punishment; and freedom from medical or scientific experimentation without consent (art 7), freedom from slavery and servitude (arts 8(1) and (2)), freedom from imprisonment for inability to fulfil a contractual obligation (art 11), prohibition against the retrospective operation of criminal laws (art 15), right to recognition before the law (art 16) and freedom of thought, conscience and religion (art 18).
17. Human rights safeguards and scrutiny will become even more pressing as New Zealand continues at "Alert level 4", including measures such as adjourning Parliament, increased Police powers and potential military presence in New Zealand communities, and if there are further moves towards enforcing orders through "nark" lines, tracking and surveillance measures or arrest and imprisonment. The potential for overreach and abuse of such powers is very real and the resulting impacts of criminalisation and stigmatisation can be considerable.

#### **ADDRESS VULNERABILITY WITHIN PARTICULAR COMMUNITIES**

18. Central to a human rights-based response to an emergency such as the COVID-19 pandemic is recognition that the virus itself -- as well as restrictions adopted to contain it -- may cause



particular harm to communities that already disproportionately experience human rights abuses. The most marginalised people experience the most severe impacts. It is essential that New Zealand adopts and continues to adopt measures that anticipate and address those vulnerabilities, including for the following:

### ***Older people and people with disabilities***

19. Older people and people living with disabilities face heightened susceptibility to contracting the virus and may be more severely impacted by restrictive measures that have been introduced and already face extra challenges obtaining services and supplies, and accessing basic needs. All solutions and measures must consider the accessibility needs of people, including carrying out a survey with those in immediate need of assistance to ensure that everyone has access to necessary goods and services.

### ***Places of detention***

20. Places of detention means any place in New Zealand where persons are or may be deprived of liberty, which includes prisons, police cells, court cells, secure mental health or addiction facilities, some Oranga Tamariki residences, premises approved under the Immigration Act, or a military detention quarters.<sup>7</sup> Additionally, in February 2020, the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment clarified that that any place where a person is held in quarantine from which they are not free to leave, is also a place of detention, and therefore must meet the required safeguards under international human rights standards.<sup>8</sup>
21. COVID-19 could spread rapidly particularly in prisons and other places of detention given the close quarters and inadequate health and sanitation services in some facilities. It is essential that authorities take full account of all the rights of person deprived of liberty, their families and detention and healthcare staff when taking measures to combat the pandemic.
22. Measures to reduce that risk must be implemented on an urgent basis, including considering the release of detainees who are particularly vulnerable to contracting the virus and those who do not pose a serious risk to public safety, as well as providing safe housing and other services to provide support upon their release. All measures must not violate the right to freedom from torture or cruel, inhuman and degrading treatment or punishment, which cannot be suspended, even in a time of emergency.

### ***Indigenous Māori communities***

23. Due to the impact of discrimination, isolation, and long-standing concerns about inadequate housing, and access to healthcare, safe water and sanitation, and other essential services, urgent measures are needed to uphold the human rights of Indigenous Māori communities. In New Zealand, this includes under *Te Tiriti o Waitangi* and the UN Declaration on the Rights of Indigenous Peoples, which sets out as the minimum standards “for the survival, dignity and

---

<sup>7</sup> Crimes of Torture Act 1989, s 16.

<sup>8</sup> United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Advice of the Subcommittee on Prevention of Torture to the National Preventive Mechanism of the United Kingdom of Great Britain and Northern Ireland regarding compulsory quarantine for Coronavirus*, adopted at its 40th session, 10-14 February 2020, [https://www.ohchr.org/Documents/HRBodies/OPCAT/NPM/2020.03.03-Advice\\_UK\\_NPM.pdf](https://www.ohchr.org/Documents/HRBodies/OPCAT/NPM/2020.03.03-Advice_UK_NPM.pdf)



wellbeing” of Indigenous peoples in every country, including the right to be free from discrimination, right to self-determination, equal right to health and the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them.<sup>9</sup>

### ***Refugees and asylum seekers***

24. COVID-19 has rapidly and dramatically altered the refugee protection landscape. Resettlement and complementary pathways are amongst the areas deeply impacted, and on March 17th the UN Refugee Agency and the IOM suspended the refugee resettlement program. The agencies have stated that this is a temporary measure that will be in place only for as long as it remains essential. At this stage, no further quota refugees are due to arrive in New Zealand for the current intake. Refugee populations around the world are facing increased risks of exposure due to inadequate sanitation, social distancing opportunities, or health care. It is essential that the specific needs of refugee and asylum seeker communities in New Zealand are addressed, including access to necessary goods and services that also take account of language, mental health and religious and cultural needs, and that future humanitarian intakes can continue when it is safe to do so.

### ***Family and intimate partner violence***

25. Self-isolation and quarantine and the impact of stress and economic uncertainty increase the risk of intimate partner and family violence within the home. Amnesty International’s research in Canada has shown that when resource sector workers return home, family stress and rates of intimate partner violence rise.<sup>10</sup> In New Zealand, Women’s Refuge have confirmed that women abused by partners are more at risk during Covid-19 outbreak.<sup>11</sup> This risk of violence is particularly heightened as workers who have been made redundant return home at this stressful time. It is essential that Government continues to work with and adequately resource front-line agencies to ensure that family and intimate partner violence does not increase further.

### ***Gender-based impacts***

26. While there has been limited information so far on the gendered impact of the COVID-19 epidemic, in previous public health emergencies, women and girls have experienced particular and disproportionate impacts.<sup>12</sup> This is often linked to women performing care-giving roles, both in the informal sector and the health and social sector,<sup>13</sup> and thus being at higher risk of exposure to illnesses. All response efforts should include a gender analysis to ensure that the rights of women, girls and gender non-binary people are protected and that they receive appropriate support. Their particular needs must be taken into consideration, including by ensuring their access to sexual and reproductive health information, goods and services, for example by ensuring that everyone who needs it has access to menstrual hygiene products and supplies needed by pregnant and breastfeeding women.

---

<sup>9</sup> United Nations Declaration on the Rights of Indigenous Peoples, art 2, 3, 24(2), 23.

<sup>10</sup> Amnesty International, *Out of sight, out of mind: gender, indigenous rights and energy development in northeast British Columbia, Canada*, 2016, [https://www.amnestyusa.org/files/out\\_of\\_sight\\_out\\_of\\_mind\\_-\\_report\\_eng\\_web.pdf](https://www.amnestyusa.org/files/out_of_sight_out_of_mind_-_report_eng_web.pdf).

<sup>11</sup> <https://womensrefuge.org.nz/covid-19-outbreak/>

<sup>12</sup> UNFPA, *New Ebola outbreak hits women and girls hardest in the Democratic Republic of the Congo*, 10 September 2018, [www.unfpa.org/news/new-ebola-outbreak-hits-women-and-girls-hardest-democratic-republic-congo](http://www.unfpa.org/news/new-ebola-outbreak-hits-women-and-girls-hardest-democratic-republic-congo)

<sup>13</sup> According to research by the WHO, women form 70% of workers in the health and social sector. See, WHO, *Gender equity in the health workforce: Analysis of 104 countries*, Health Workforce Working Paper 1, [https://www.who.int/hrh/resources/gender\\_equity-health\\_workforce\\_analysis/en/](https://www.who.int/hrh/resources/gender_equity-health_workforce_analysis/en/)



### ***Homelessness and people in poverty***

27. Resources must be dedicated to meet the needs of individuals who are experiencing homelessness or living in situations of inadequate housing. The widespread scaling back and shutting down of business activity also has a disproportionate impact on workers who are precariously employed, including hourly-wage employees, low-paid casual workers, workers without legal status in New Zealand, and the self-employed, for whom a significant reduction or loss of income may have devastating impact on the ability to meet basic needs including rent, utilities and food. New Zealand should ensure that all people have access to an adequate standard of living and social security including benefits, sick pay, health care and parental leave.

### **INTERNATIONAL SOLIDARITY & ASSISTANCE**

28. Around the world, the international community is struggling to meet the challenges of treating and preventing the spread of COVID-19. Many governments do so relying on overstretched and under-resourced national health systems. Other governments face the needs of overcrowded refugee camps. The UN Committee on Economic, Social and Cultural Rights has highlighted that in the face of diseases that are “easily transmissible beyond the frontiers of a State, the international community has a collective responsibility” to act, and that states that are more economically developed have a “special responsibility and interest to assist” other states.<sup>14</sup>

29. At a time when the impulse is to focus inward, maintaining and increasing New Zealand’s longstanding commitment to international solidarity is essential, including by sharing COVID 19-related information and expertise, and significantly boosting levels of development assistance.

### **STRENGTHEN HUMAN RIGHTS ACCOUNTABILITY AND OVERSIGHT**

30. A deliberate and comprehensive approach to human rights accountability and oversight will ensure that violations are anticipated, prevented and mitigated from the outset. Amnesty International Aotearoa New Zealand notes the creation of a special cross-party select committee to assist in holding the Government to account as Parliament is adjourned. Amnesty International Aotearoa New Zealand supports the creation of this select committee, and in addition urges that:

- a. This committee includes an explicit human rights watchdog focus as part of its mandate, including an ability to be briefed with ongoing assessments and issue regular public reports of the human rights impact of decisions, policies and laws adopted to address the pandemic;
- b. All efforts are made to ensure that Official Information Act requests are able to be processed within the legislated time;
- c. A wide range of experts and representatives reflective of communities facing the greatest vulnerability to human rights violations are also included in special committees, emergency task forces and other bodies that have been established to oversee and coordinate their responses to the COVID-19 crisis;

---

<sup>14</sup> Committee on Economic, Social and Cultural Rights, *General Comment 14, The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/2000/4 (2000).



d. Media freedom is prioritised.

#### **PREPARE FOR A LONG-TERM HUMAN RIGHTS AGENDA**

31. Time, attention and resources are presently necessarily being devoted to the immediate response to this public health emergency and associated economic crisis. When the urgency diminishes it will be vital to identify a longer-term human rights agenda that documents and draws upon the lessons of this pandemic and the challenges and opportunities that have arisen in responding to it. It will be time to critically examine institutional structures which have caused and exacerbated human rights crises.
32. With that longer-range view in mind, measures taken now to provide financial stimulus to industries impacted by the economic crisis should avoid initiatives that would stand to exacerbate the global climate crisis should be human rights-centred and help lay the ground for a transition to a carbon neutral economy.