

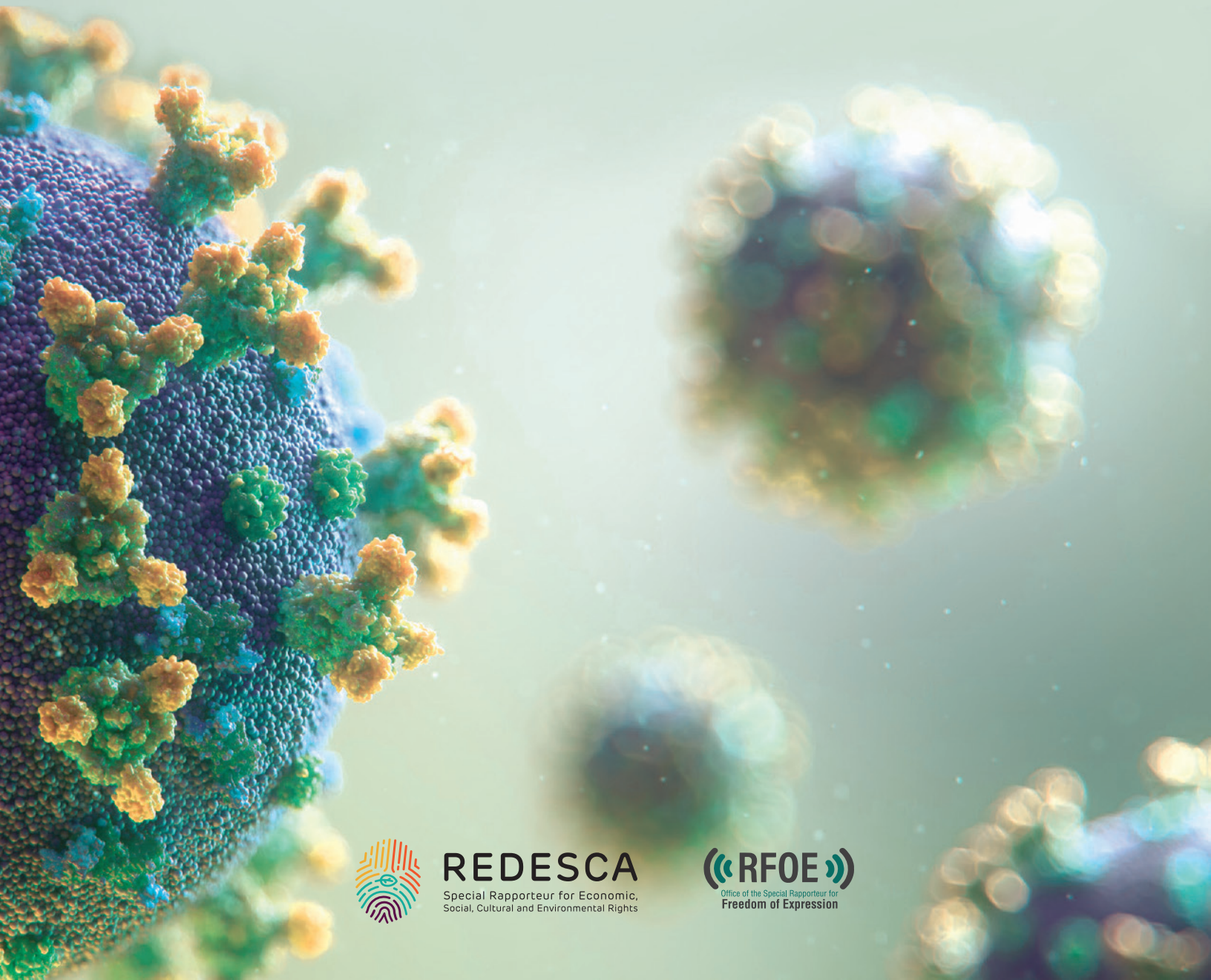


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Commission on  
Human Rights

# Human Rights of Persons with COVID-19

RESOLUTION No 4/2020



**REDESCA**  
Special Rapporteur for Economic,  
Social, Cultural and Environmental Rights



Office of the Special Rapporteur for  
Freedom of Expression

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**Resolution No. 4/2020**

**HUMAN RIGHTS OF PERSONS WITH COVID-19**

July 27, 2020

**A. Introduction**

On April 10, 2020, the IACHR adopted Resolution No. 1/2020, establishing standards and recommendations to provide guidance to States on measures they should take to ensure full respect for human rights while addressing and containing the pandemic.

From the start of the global health emergency, efforts in the Americas to halt the virus and the disease it inflicts have been impaired by regional circumstances pre-dating the pandemic, such as discrimination, poverty, inequality, structurally weak public health systems, and, in many cases, a lack of political and institutional stability. Those factors have hampered the effectiveness of quarantining, social distancing, and other measures taken pursuant to the International Health Regulations (IHR) and the recommendations of the World Health Organization (WHO) and the Pan American Health Organization (PAHO).

As a result, the populations of the countries of the Americas have been and continue to be extremely hard hit by the global pandemic. The broad spectrum of social groups with COVID-19, especially the vulnerable, have to be accorded priority attention when it comes to the defense and protection of their rights. Persons with COVID-19 are at particularly grave risk of not having their rights --above all their rights to life and health -- safeguarded by sufficient availability of health or medical installations, goods, and services. The complaints regarding deficiencies in the medical care and treatment of persons with COVID-19 include poor infrastructure and hygiene; a lack of properly trained and competent professionals; shortages in the supplies and technical equipment needed; and the absence of information regarding the medical treatment to be provided; all of which are exacerbated by lack of resources.

The objective of this Resolution No. 4/2020 of the Inter-American Commission on Human Rights (IACHR) is to establish "Inter-American Guidelines regarding the Human Rights of Persons with COVID-19" drawn up by the Rapid and Integrated Response Coordination Unit (RIRCU/SACROI) that was installed by the Commission in its Executive Secretariat in coordination with its Special Rapporteurships to contribute to efforts to deal with the pandemic and its impacts on human rights in the Americas.

The reference to "persons with COVID-19" in this resolution encompasses, as applicable, persons presumed to be infected by the virus, persons at a pre-symptomatic phase of the disease, those with (light, moderate, severe, or critical) symptoms, persons who are asymptomatic who undergo medical research testing, and those who die from the pandemic, as well as their family members and/or care-givers. Family in this context is to be construed in the broadest sense, so as to ensure recognition of diverse emotional and racial ties and respect for individuals' sexual orientation and gender identity, in accordance with the standards established in the inter-American human rights system.

## **B. Considerations**

WHEREAS everyone with COVID-19 is entitled to comprehensive health with the best care and treatment possible and States assume a special guarantor position vis-à-vis persons needing health care who are being looked after by public health care institutions;

UNDERSCORING that States have assumed obligations to respect and guarantee, without discrimination, enjoyment of the human right to health, including the regulation and supervision of both public and private health care installations, goods, and services, including the prevention of violations or abuses of that right, and that they have a duty to make efficient use of as many resources as are available to ensure effective enjoyment thereof;

EMPHASIZING that States must adopt all measures needed to guarantee appropriate and timely health care and attention to persons, especially those in vulnerable situations, and that any impairment of human rights attributable to an act or omission by any public authority renders States internationally responsible;

EMPHASIZING that participation in scientific progress and enjoyment of its benefits is a recognized universal and inter-American human right and one that is vital for realization of the right to health, be it by preventing diseases or by treating them effectively;

CONSIDERING, in this context, the need to prevent serious deterioration in the health and safety of persons, to avoid major new risks in health systems and in the care provided to persons with COVID-19, and to ensure continuous monitoring of the risks of further epidemic surges during the pandemic;

DRAWING ATTENTION to the ongoing obligation to maintain essential diagnostic, treatment, care (including palliative care), and rehabilitation services in respect of other illnesses, pathologies, or medical needs that require timely and appropriate life support or medical care, as well as essential medical services for persons with COVID-19 and persons whose vulnerability is exacerbated by the pandemic, such as persons with pre-existing conditions;

CONSIDERING that prior, free, full, and informed consent derives from rights recognized in the inter-American system, such as the right to health, to receive and access information, and not to suffer arbitrary interference in one's private life, and that it is, moreover, central to the development of a human rights bioethics, in the sense of a highly valuable tool for framing and resolving problems and dilemmas linked to the pandemic;

POINTING OUT that, in addition to the social stigma associated with COVID-19, which extends to anyone perceived to have been in contact with the virus, there are other instances of stigmatization and structural discrimination that hamper access to the right to health of especially vulnerable groups, such as those living in poverty, persons deprived of liberty, LGBTI persons, older adults, migrants, indigenous peoples, Afro-descendants and tribal communities, persons with disabilities, and others;

RECOGNIZING that, faced with the COVID-19 pandemic, States have an obligation to devote all available resources to addressing it; that they may face shortages of such resources; and that, even then, they remain bound by the norms derived from international human rights law and any curtailment must be duly justified in terms of its legality and proportionality;

BEARING IN MIND that States are gradually transitioning toward full reactivation of their economies, whereby they need to adopt additional measures to minimize the risks of contagion and prevent massive new surges of COVID-19, including public policies to ensure the availability of diagnostic testing; boosting contact-tracing systems; and strengthening access to necessary health care services, so as to ensure that, if cases of infection do increase, all necessary medicines and medical and hospital services are available;

CONSIDERING the duty of States to provide reliable and disaggregated data regarding the pandemic, to avoid encouraging false information, and to take reasonable care to ensure that their pronouncements are based on the best scientific evidence;

RECOGNIZING the importance of respecting privacy and protecting the personal data of persons with COVID-19, and being mindful, in that respect, of the proliferation of digital tools and apps that use personal data, particularly personal information that is sensitive in the context of the pandemic;

TAKING INTO ACCOUNT the importance of a robust legal framework for data protection and on the role of bodies guaranteeing observance of these rights.

BEARING IN MIND that, in some cases, health or other care workers on the front line face obstacles, threats, harassment, acts of aggression, or risks when they act like human rights defenders and make a special effort to guarantee access to rights of persons needing health care services and attention; and that they have been stigmatized and deprived of adequate protection; Concerned, too, at the large numbers of infections and deaths among COVID-19 health and other care workers;

OBSERVING that persons with COVID-19 may also suffer negative impacts and curtailments of other economic, social, cultural, and environmental rights (ESCER), such as the right to work or to education; At the same time, lack of access to particular ESCER, especially access to water, nutrition, and adequate housing increases the risk of contagion for more vulnerable segments of the population;

CONSIDERING that, even in the context of the COVID-19 pandemic, States are obliged to use all due diligence to prevent human rights violations and also to provide an appropriate and effective remedy for conducting a serious investigation, within a reasonable period of time, into those responsible for such violations, punishing them, and ensuring that the victims and their next of kin receive adequate reparation.

CONSIDERING that, for family members, not knowing the fate or whereabouts of persons who have died from COVID-19 causes anguish and added suffering, and that the absence of an act of worship or funeral rites proper to their culture, beliefs, or customs makes it harder for them to grieve and comes to terms with their ties and feelings for the deceased in a manner that might mitigate the sequels of trauma, bereavement, and pain; All of which impairs the relatives' rights to personal integrity/humane treatment and mental health.

### **C. Operative Part**

The Inter-American Commission on Human Rights (IACHR), with the support, in particular, of its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights (REDESCA) and specialized inputs from its Special Rapporteurship for Freedom of Expression (SRFE), hereby resolves to adopt the following "Inter-American Guidelines for Protecting the Human Rights of

Persons with COVID-19" pursuant to the functions vested in it by Article 106 of the Charter of the Organization of American States, Article 41.b of the American Convention on Human Rights, and Article 18.b of its Statute:

**I. General Guideline: The Human Rights of Persons with COVID-19**

1. States must comply with their obligations to respect and guarantee the conditions needed to ensure enjoyment and exercise of the human rights of persons with COVID-19 by, inter alia, espousing an intersectional and multidisciplinary approach that recognizes and asserts human dignity, the elimination of all forms of discrimination, and the indivisibility and inter-dependence of those rights in their norms, policies, and decision-making and in each of their branches of government.

**II. Guidelines on protecting the right to health of persons with COVID-19**

2. The principal purpose of all health care and other forms of attending to persons with COVID-19 is to protect their lives and physical and mental health; optimize their overall wellbeing; ensure that they are not abandoned; and to respect their dignity as human beings and their right to self-determination, by making the most of available resources to provide them with the best possible care and treatment. Under no circumstances may persons be subjected to torture or cruel, inhuman, or degrading treatment, given the absolute and non-derogable prohibition of such treatment.
3. To protect persons with COVID-19, States must tailor the measures they adopt in such a way that they abide by the principles of equality and nondiscrimination upheld in inter-American and international human rights standards. Particularly important in that regard are the United Nations Educational, Scientific and Cultural Organization (UNESCO) Declaration on Bioethics and Human Rights; the core elements of public health ethics recognized by national and international institutions specializing in the subject; and the technical guidelines of the World Health Organization (WHO) and Pan American Health Organization (PAHO) regarding this virus, as well as those of National Bioethics Committees, scientific and medical associations, and other authorized bodies.
4. Skills and up-to-date medical knowledge are needed at both the institutional level and among health workers to ensure an effective and humane epidemiological response based on culturally appropriate criteria that allow for integrated participation by the populations impacted, include intersectional and gender perspectives, and address the specific medical needs of each person with COVID-19. Care must also be taken to maintain a sufficient volume of health personnel to respond in a timely manner to health needs in connection with this pandemic.
5. To ensure prevention, comprehensive treatment, and care for persons with COVID-19, States must adopt immediate measures to guarantee sustained, egalitarian, and affordable access to -- and the provision of -- high-quality supplies, services, and information. The accessibility and provision of supplies includes diagnostic tests, access to authorized medicines and other pharmaceutical products, the availability of equipment and technology, and, eventually, vaccines, based on the best scientific evidence available for preventing infection, for curing and mitigating the disease, and for rehabilitating and looking after persons with COVID-19.

6. To guarantee adequate and timely access to health care, it is necessary to avoid the collapse of health systems and greater risks to the rights of persons with COVID-19 and of health care workers. Thus, States may need to create platforms and efficient channels for attending to persons suspected of carrying the disease or with light or moderate symptoms. Measures to which States resort include: telemedicine, consultation over the telephone, visits to homes, and community support for basic health and other care services, such as continuous surveillance of risk factors and of patients' state of health, in cases that might need to be derived to hospital for more specialized medical care and attention.
7. To prevent overcrowding in health care centers, immediate prevention strategies need to be put in place, along with efforts to separate off or isolate certain areas in health facilities for the treatment of persons with COVID-19.
8. With a view to identifying the presence of the virus in persons with COVID-19, effective filtering and diagnostic test strategies are recommended, along with precise procedures for determining the best prescriptions to ensure recovery and stable health, bearing in mind the associated risks, complications, contraindications, or sequels for those persons' health. In particular, States must strive to ensure that each medical diagnosis, as an essential part of the right to health, receives prompt medical evaluation and determination of the exact nature of the pathology and the medical procedure to be followed, with a view to optimizing the health and overall wellbeing of the person with COVID-19.
9. In order to provide an appropriate first response, primary health care centers, as important health care contact facilities, need to be in a position to provide certain essentials, including information, prevention, and basic medical care and treatment, and have ways of immediately deriving cases to other medical centers with specialized and culturally appropriate installations and services.
10. States must guarantee the provision of intensive care and hospitalization for persons with COVID-19 undergoing a medical emergency in which their life is at risk if not given the life support they need, while taking special care to ensure that the treatment provided is humane and mindful of the person's dignity and comprehensive health. To that end, they must ensure that essential and basic supplies are available and accessible for treating urgent or emergency cases of this disease. Measures to bring this about include: increasing the response capacity of intensive care units; ensuring the availability or, where applicable, the purchase or production of medical oxygen, related medication, or ventilators; palliative care supplies; the availability of ambulances; the availability of enough trained health care personnel; and increasing the number of beds and hospitalization facilities. Also included is the ability to facilitate timely transfers, including air and river transportation, of persons needing urgent or emergency medical care to health facilities better equipped to meet their medical needs as well as to enable them to communicate through appropriate media with their next of kin.
11. In order to guarantee and respect the exercise of the rights to life and health of persons with COVID-19, States must ensure the accessibility and affordability of the technological and scientific facilities they need, on an equal footing with others, to guarantee those rights in the context of the pandemic. The right to benefit from scientific progress and its applications with regard to health requires that States adopt measures, in a participatory and transparent manner, to ensure access to any essential medicines, vaccines, and medical

equipment and technology that are developed thanks to science and practice in this context to prevent and treat infection from the SARS-COV-2 virus.

12. Persons with COVID-19 are entitled to the protection and proper handling of their medical records, as well as access to them.
13. To mitigate the suffering and pain associated with the disease, States need to make arrangements for providing the palliative care needed, based on the individual self-determination principle.
14. Should a period of physical isolation or quarantining be necessary for persons with COVID-19, they and their family members have a right to be informed of the nature, need, conditions, and whereabouts of such quarantining. When States furnish quarantining facilities, they must make sure that they are appropriate and have access to health care installations.
15. In order to provide differentiated and timely access to health care services and equipment for persons with COVID-19 living in poverty, particularly in shanty-towns ("informal settlements") or on the street, or in other conditions exposing them to extreme vulnerability or exclusion, States must ensure that diagnosis, treatment, and rehabilitation are all cost-free.
16. States must strive to provide the broadest possible geographic coverage of such services, taking into account each geographical area's specific characteristics. As regards persons with COVID-19 whose lives are at risk or who face serious threats to their health and live, like indigenous peoples and Afrodescendent tribal communities, in rural or remote areas with scant access to specialized services, States must take special steps to identify them and devise strategies to lend assistance with transportation, accommodation, and essential access to water and food.
17. In attending to and treating indigenous persons with COVID-19, consideration must be given to those communities' right to receive culturally appropriate health care that is mindful of their preventive health care, curative practices, and traditional medicines. Likewise, States must ensure an appropriate intercultural approach when treating and attending to Afrodescendent tribal communities.
18. To protect the right to health of persons with COVID-19, it is necessary to recognize and guarantee the right to receive appropriate provision of health care services governed by a regulatory framework and clearly defined care and treatment protocols. Those protocols also need to be constantly reviewed and updated, using the best scientific evidence available and subject to supervision and audits by health and other care institutions, and accompanied by simple channels for filing complaints and requests for urgent protection measures, that are then duly investigated and addressed.

### **III. Guidelines on protecting the right to the prior, free, and informed consent of persons with COVID-19**

19. Any medical treatment of persons with COVID-19 must have the prior, free, and informed consent of the persons affected. When it is shown that a person's state of health precludes such consent, that of his or her family members or representatives shall be required. The



only exception to that rule is when there is an emergency situation with imminent risk to life and it is impossible for the person with COVID-19 to make a decision regarding her or his health. Urgency or emergency refers in this case to an imminent risk, i.e. a situation in which a medical intervention is necessary because it cannot be postponed. This, therefore, excludes situations in which there is time to wait for consent to be granted. Children or adolescents with COVID-19 should be consulted and their opinion duly taken into consideration by the members of their family, persons responsible for their care, and health care teams.

20. Every person with COVID-19 has a right to be given timely, full, comprehensible, clear, not overly technical, and reliable information by their medical care providers, with due account being taken of any special characteristics or needs of that person. That person should be informed, albeit informally, of: i) the assessment of the diagnosis; ii) the objective, method, likely duration, and expected benefits and risks of the proposed treatment; iii) possible adverse effects of the proposed treatment; iv) alternative, including less intrusive, treatment options, and the potential pain or discomfort, risks, benefits, and secondary effects of any proposed alternative treatment; v) the consequences of treatments; and vi) estimates of what will happen before, during, and after the treatment. All information provided must be clear, understandable, and culturally appropriate.
21. Any COVID-19-related research conducted on human beings with COVID-19 must have their prior, free, and informed consent. Everyone is entitled to refuse to take part in research and to withdraw his or her consent at any time. Concerning the use made of their personal data, the persons involved must be informed, and must likewise grant their consent, regarding the circumstances under which their data or biological material may be shared with public health authorities or with other groups of researchers for future studies.
22. Persons with COVID-19 must not be induced by any medical services provider into consenting to any kind of experimental medical treatment or to taking part in any research project, due to either a lack of information or of failure to understand the information provided.

#### **IV. Guidelines on protecting the right to equality and non-discrimination of persons with COVID-19**

23. Decisions relating to the health and care of persons with COVID-19 must be taken and implemented without any kind of arbitrary discrimination in respect of any of the grounds recognized in international human rights standards. This is particularly true in connection with certain collective segments of the population, such as older persons or persons with disabilities. Differential treatment is contrary to international law when there are no objective and reasonable grounds for it, that is to say when it does not pursue a legitimate goal and there is no reasonable proportionality between the means used and the goal pursued. That applies even to cases of medical treatment of persons with medical conditions or illnesses caused or exacerbated by infection by the virus.
24. In order to overcome the social stigma associated with COVID-19 and potentially discriminatory behavior toward persons perceived to have been in contact with the virus, measures must be adopted immediately that include gender equality and intersectional perspectives, as well as differential approaches, in order to highlight the added risks of violating the human rights of persons, groups, and collectivities in the region that are

especially vulnerable or who have historically suffered exclusion, such as persons living in poverty or on the street, older adults, persons deprived of liberty, indigenous peoples, tribal communities, Afrodescendants, persons with disabilities, migrants, refugees, and displaced persons in other human mobility contexts, LGBTI persons, children and adolescents, and women, particularly pregnant women and victims of gender-based violence.

**V. Guidelines to ensure that priority is accorded in public policies, resource allocation, and cooperation activities to saving the lives of persons with COVID-19.**

25. It is vital that States assign priority to focusing on identifying, allocating, mobilizing, and making maximum use of available resources to guarantee the rights of persons with COVID-19. That includes drawing up budget plans and entering into concrete commitments, including the allocation of funds and budget appropriations, substantially increasing the public sector budget, and giving priority to safeguards for the rights to life and health, and social programs to support persons with COVID-19.
26. Faced with limited resources, States need to embark proactively on efforts to raise them in order to be able to formulate and implement public policies for caring for persons with COVID-19. More developed States bear a special responsibility for assisting the less developed States and helping them protect the human rights of persons with COVID-19 in the context of the pandemic.
27. In connection with the obligation to maximize available resources for guaranteeing the rights of persons with COVID-19, the Commission highlights the urgency of this particular challenge and recommends that States parties to multilateral financial institutions step up their efforts to induce those institutions to provide affordable loans or immediate subsidies to guarantee the rights to life and health of persons with COVID-19 in the context of the pandemic.
28. To protect the right to life and treatment of persons with COVID-19, cooperation mechanisms among States need to focus, as a priority, on scientific research, especially investigation of genetic sequences and mutations of the SARS-COV-2 virus, vaccines and medicines for treating the disease, the development of personal protection equipment, and a constant flow of information on bioethical standards in this field.

**VI. Guidelines on protecting the rights of persons with COVID-19 in connection with private actors' or enterprises' involvement in the health sector**

29. To guarantee the rights of persons with COVID-19, States must clearly demand that non-State or private actors involved in the health sector observe human rights and go about their business in this field with all due diligence. That includes activities related to the direct provision of health and care services and scientific medical research, private health insurance, and the production, marketing, and distribution of medical biosecurity products, such as medicines, vaccines, health technologies and equipment, or goods that are essential for health care and treatment of this disease, and others.
30. As for abuses or violations of the rights of persons with COVID-19 involving private enterprises or actors involved in the health and care sector, States must bolster transparent and effective monitoring, surveillance, and audit mechanisms for such cases and, where applicable, impose effective punishments and require proper reparation for persons with

COVID-19. That includes regulating, monitoring, and, requiring accountability with respect to human rights from enterprises engaging in transnational activities relating to the health or biosecurity sector over which States exercise influence or control.

31. With a view to guaranteeing access and affordability in health care for persons with COVID-19, States must adopt measures to prevent private actors or firms from inducing shortages or disproportionately increasing the prices of essential health care or biosecurity goods, materials, and services. Such measures include the use of flexibility clauses in relation to patent and intellectual property rules, as well as other steps to prevent and combat speculation, private hoarding, or the improper use of said goods.

## **VII. Guidelines on protecting the right of access to information of persons with COVID-19**

32. To ensure appropriate exercise of their rights by persons with COVID-19, States have a positive obligation to pro-actively inform them of their rights vis-à-vis health care providers and of the protection mechanisms available to them. That also includes the duty to facilitate knowledge and culturally appropriate information that is specifically accessible for the different segments of the population regarding prevention and health care measures in this context.
33. The right of access to information of affected persons includes information regarding their medical records, the causes (etiology), symptoms, forms of transmission, and possible treatments of the disease, and so on. In addition, each individual must be given information regarding the risks associated with pre-existing conditions, taking into consideration that individual's situation and the significance of such risks.

## **VIII. Guidelines on protecting the right to confidentiality, privacy, and the use of personal data of persons with COVID-19**

34. In developing apps for geolocation tracking and warning of exposure to COVID-19, States must check that the public or private actors providing those services obtain the informed consent of the persons with COVID-19 whose personal data are included. That entails duly informing them of the purpose for which those data will be used, the kind of geolocation tracking to which they will be subjected, and the health authorities, enterprises, or other users with which that information will be shared.
35. States must conduct a prior and public assessment of the impact on the privacy of those affected by the virus of the technological apps and tracking tools they intend to develop to safeguard public health, so as to provide a substantiated justification for the use of those tools rather than others that are less detrimental to privacy. They must also prevent selective identification of certain people and take care to ensure that only those personal data that are strictly necessary to combat the proliferation of COVID-19 are gathered and used.
36. The storing of the data of persons with COVID-19 must be limited to the legitimate and restricted purpose of containing and reverting the pandemic and be continued for only as long as is strictly necessary, with measures taken to preclude identification of particular individuals and highly personal matters. The data gathered for the aforementioned purpose shall be deleted as soon as they cease to be necessary or relevant with respect to the emergency. When the data collected are to be used for scientific purposes, they must be

rendered anonymous. The persons involved shall always preserve their right to access, correct, and delete their personal data once the risk has subsided.

37. When States develop or outsource to the private sector the development of an artificial intelligence system to address the pandemic, care must be taken to ensure that the technology hired, including the algorithms used, comply with non-discrimination principles, and an external and independent audit must be conducted of the impact that system might have on human rights.
38. States must refrain from using data on the health condition of persons with COVID-19 to issue immunization certificates that give rise to an unwarranted difference in treatment with regard to the enjoyment and exercise of other rights.

#### **IX. Guidelines on protecting the rights of health care workers and other caregivers looking after persons with COVID-19**

39. It is vital that, in preserving the lives and right to health of persons with COVID-19, health care workers and other caregivers have biosecurity protocols specifically for their protection and training, that include regular diagnostic testing, and that they have sufficient personal protection equipment and the materials needed to disinfect and properly maintain the areas in which they work.
40. The right to professional care requires due guarantees for the labor rights of health care workers and other caregivers, including job stability, time off, fair and adequate remuneration, offsetting of the extra workload and long working days they put in, and not being forced to work when they themselves are at risk due to their own state of health or when they are not provided with the necessary personal protection gear, materials, or biosecurity. It is in the public interest to foster social recognition and ensure mental support and care for these workers and caregivers providing professional care to persons with COVID-19.
41. States must adopt measures to provide effective protection for health care workers and other professionals looking after persons with COVID-19 who fulfill a special function in the defense of human rights by creating contexts and environments free from harassment and threats.

#### **X. Guidelines on protecting other ESCER of persons with COVID-19**

42. Persons with COVID-19 must be protected from unwarranted dismissal from their jobs in the public or private sector, as a guarantee of job stability, which includes special measures designed to protect the rights and conditions that go with it. Likewise, it is recommended that States espouse measures that include, inter alia, sick leave for ailments caused by COVID-19, compensation for performing caregiving functions, and facilitate for an active participation of trade unions and workers associations.
43. States must accord priority to providing sufficient water and food to persons with COVID-19 who are living in poverty or extreme poverty, especially those who lack access to water or cannot afford essentials. A further recommendation is that temporary accommodation under dignified conditions be provided for the quarantining or care of persons with COVID-19 who need it, especially those living in poverty, on the street, or in informal and

precarious settlements or shanty-towns. Other possible measures include suspending evictions, or the payment of rents and mortgages, or other forms of relief that enable persons with COVID-19 to comply with health requirements.

44. To ensure full enjoyment of the right to education of persons with COVID-19, when they or members of their family have the disease, States must make arrangements at the various levels of their educational system for measures to be taken that mitigate a possible interruption of studies and focus on reducing drop-outs, and lessen other direct impacts of the pandemic, bearing in mind, in particular, the part played by schools in vulnerable settings as providers of hygiene, health care, or food.

#### **XI. Guidelines on access to justice of persons with COVID-19**

45. To guarantee the right to access to justice of persons with COVID-19, resources must be found for a serious, timely, and diligent study of impairments of their rights, which include irregularities in the diagnosis, treatment, and medical rehabilitation they may have received, the provision of medical care in unauthorized institutions or facilities unfit for it due to deficient infrastructure or hygiene, or treatment by unqualified personnel.
46. To ensure diligent investigation of violations of the rights of persons with COVID-19, all essential procedures need to be followed to preserve proof and evidence that might assist with the investigation, such as proper registration and safekeeping of clinical records and autopsy findings, and analysis of human remains. These activities need to be conducted rigorously, by competent professionals, and following appropriate procedures.
47. Proceedings relating to complaints of violations of the rights of persons with COVID-19 and the execution of punishments must be completed within a reasonable period of time. Whenever a decision in a judicial proceeding is of crucial importance for safeguarding the rights of the person affected, States must expedite the proceeding with exceptional diligence, even though such cases may be fairly complex.
48. To investigate and, where applicable, punish those responsible for a violation, all available mechanisms should be deployed; failure to determine criminal liability should not preclude investigation of other types of responsibility and imposition of penalties, such as those envisaged in administrative or disciplinary proceedings.
49. Collegiate medical bodies participating in the investigation of possible irregularities in medical treatment must adopt a comprehensive right to health care stance, with a human rights and medical ethics perspective, and a differentiated impacts approach, so as to constitute independent organs that, based on their medical experience, also guarantee the rights of persons with COVID-19.

#### **XII. Guidelines on bereavement and the rights of the next of kin of persons who have died of COVID-19**

50. The family members of persons who have died of COVID-19 have a right to respect for their personal integrity and mental health, whereby it is especially important that they are informed by health care providers of the situation of their loved ones. Hospital databases on patients and their next of kin help to ensure that the latter can be identified and contacted and, even in emergencies, can grant their prior, free, and informed consent regarding

medical treatment. States must likewise guarantee conditions for the return of the mortal remains of persons who died outside their country, as well as the right to information of the consulates of the country concerned and of the relatives.

51. In order for family members to receive accurate information as to what happened to their loved ones and their whereabouts, in the case of deaths from COVID-19, procedures for their identification have to be adopted. It is further recommended that States refrain from burying the deceased in common graves and that they prohibit the cremation of the remains of persons who have died of COVID-19 that have not been identified, or else that they use specific graves for persons either confirmed or suspected of having died of COVID-19 that can subsequently facilitate their identification and location.
52. Family members of persons dying during the COVID-19 pandemic must be able to grieve and perform funeral rites in accordance with their own traditions and world view. That right may only be curtailed under specific circumstances and on the recommendation of health authorities based on the scientific evidence available, and using the most suitable, and least hurtful, measures to protect life, health, or personal integrity: such as a shorter time for the ceremony or a restricted number of persons at the funeral, so as to ensure adequate physical distancing. Care also needs to be taken to avoid unwarranted or unreasonable delays in handing over remains.

Finally, the IACHR and its Special Rapporteurships, in accordance with their respective mandates, remain at the disposal of the member states to provide any technical assistance required with implementing the standards and guidelines set forth in the present resolution.

Adopted on July 20, 2020, by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Julissa Mantilla Falcón; and Edgar Stuardo Ralón Orellana, members of the IACHR.