

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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AS THEY EMERGE FROM LOCKDOWN, BUSINESSES MUST PROTECT THEIR WORKERS

Despite the enormous challenges that businesses face due to the COVID-19 crisis, they must still ensure that they respect human rights. The need for economic continuity and the respect for human rights are not trade-offs, even in times of crisis. As articulated in the UN Guiding Principles on Business and Human Rights, the responsibility to respect rights extends to all companies, wherever they operate, “regardless of their size, sector, operational context, ownership and structure.”

This means that as businesses restart operations following the lifting of lockdown measures, they must ensure the protection of all their workers.

Workers include those not employed by the business directly but working as its agents or on its behalf, for instance so called “gig economy” workers who are classified as self-employed in some jurisdictions.

In practice this means that employers must put, so far as is reasonably practicable, adequate preventive and protective measures in place to minimise the risk of exposure to COVID-19. This includes the provision of adequate personal protective equipment at no cost to workers, measures to ensure physical distancing, disinfection and other forms of protection, adequate information about and appropriate training on the risks of exposure.

Employers must also put arrangements in place that allow workers to report on health and safety risks. Workers’ safety concerns must be listened to and addressed. There must be no retaliation against the workers for raising concerns or lodging a complaint related to health and safety.

Workers are entitled to remove themselves from a work situation that can reasonably be considered as posing a serious risk to their health. Until adequate measures are adopted and an imminent danger to life and health is addressed, employers cannot oblige workers to work in such conditions. This includes the situation in which health workers have reasonable justification to believe that they are exposed to an imminent and serious danger to their life or health at work. Workers may be sick, required to self-isolate, care for dependents, and work from home. Businesses should implement policies that are supportive of these needs, including providing as generous and flexible work, leave, sick leave and sick pay packages as possible in these circumstances. Similarly, businesses should try to provide workers with as wide a range of benefits as possible, including parental leave and health insurance. Temporary absence because of illness is not a valid reason for termination of employment.

Where businesses are responsible for other aspects of workers’ lives (e.g. businesses that provide migrant workers’ housing, health insurance and sponsor their residence permits), they should ensure workers are protected from exposure to COVID-19 and are not impeded from accessing health care. These companies should also continue to provide workers adequate accommodation, water, and sanitation.

Where it is demonstrated that businesses did not comply with their obligations to ensure safe working conditions, and thus contributed to the exposure of workers to Covid-19, they must provide appropriate remedy, in line with their human rights responsibilities. Remedy may include, but is not limited to, financial or non-financial compensation, reinstatement, contribution to investigation as well as the prevention of additional harm.

Furthermore, business enterprises must be aware of the impact that their operations might be having on the health of others. This includes customers and persons within a business relationship to the enterprise, but also those otherwise affected by its business operations. For instance, mining companies need to take into account the health risk to communities located close to their operations, particularly when job site and housing infrastructure facilitates the spread of the virus or health care and sanitary facilities are inadequate to respond to the virus. Where businesses determine that they are not able to adequately protect workers, contractors and communities from the health risks or other human rights risks linked

to their operations, they should suspend their activities, in consultation with affected communities, until such time as adequate measures have been put in place.

^[1] The United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles) make a distinction between a company's activities and its business relationships. The UN Guiding Principles note that, "...a business enterprise's "activities" are understood to include both actions and omissions; and its "business relationships" are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services".

^[2] UN Guiding Principles, Principle 14.