



ARTICLE 19

Ensuring the Public's Right to Know in the COVID-19 Pandemic

May 2020

Report



Contents

Executive Summary 3

Why the Right to Information is Important for Fighting COVID-19 4

International Human Rights Law 5

Maintaining Existing Openness Rules..... 6

Right to Information Laws and Procedures 6

Public Procurement 7

Data Protection and Subject Access Rights 8

Open Meetings 8

Open Justice..... 9

Whistleblowing..... 9

Private Sector Transparency Regulations 9

Additional Requirements for Governments to Proactively Publish Information 10

Crucial Information to be Published 10

Health Information 10

Financial Information 11

Information Beneficial to Vulnerable Persons, Groups, and Communities..... 12

Governance Information 12

Human Rights and Law Enforcement Information 12

Standards for Publication 13

Executive Summary

In responding to the COVID-19 outbreak, many governments have taken measures that limit access to information held by public bodies relating to the pandemic and other crucial areas of public interest. For many of those governments, ensuring public access to information is often not seen as important or as a priority because public functions and services are being reduced or reallocated. For others, secrecy is being imposed to try and limit criticism of poor decision-making or as part of a larger effort to restrict human rights or hide corruption. These limitations violate international law's obligations on access to information and public health.

The reduction in the public's right to know about the activities of their governments is counterproductive to the effort in combating the COVID-19 outbreak – the right to information is crucial for ensuring public awareness and trust, fighting misinformation, ensuring accountability as well as developing and monitoring implementation of public policies aimed at solving the crisis. It is crucial that the right to information is maintained during the emergency as much as possible.

Furthermore, governments are required to inform the public about the pandemic and the measures they are implementing by taking proactive steps to ensure the public have access to information that is necessary to inform and respond to the outbreak.

This document reviews access to information obligations that should be maintained, and proposes a list of key information and data sets that should be proactively published by authorities to facilitate the fight against COVID-19 and ensure accountability. It is intended to assist governments, civil society, and media in identifying key information and data that should be released based on experiences from across the world during this pandemic and previous crises.

“This is a time when, more than ever, governments need to be open and transparent, responsive and accountable to the people they are seeking to protect.”¹

UN Secretary-General António Guterres, April 2020

Why the Right to Information is Important for Fighting COVID-19

Ensuring the right to information is a necessary response to the COVID-19 pandemic. Governments across the world are making difficult decisions about how to respond to the COVID-19 outbreak. Being open helps ensure public trust and accountability in the government's actions. It also makes the public more aware of the situation and act accordingly to protect themselves and their communities. Furthermore, it enables people to understand the decisions; scientists and other experts to scrutinise and propose improvements to these decisions; journalists and elected representatives to examine official statements and actions from a more informed perspective; and countries to share and learn from each other's experiences.

The right to information is critical for building trust between governments and the public. When the public knows what the government is doing to address the pandemic, it builds trust, brings more awareness, and opens a dialogue with the institutions that will result in better behaviours from society. This is extraordinarily important because intrusive measures to limit free movement and association and prevent social gatherings will not be accepted unless clearly and quickly explained to the public.

Public access to information facilitates the public's ability to evaluate and debate decision-making processes that affect their lives by encouraging informed participation and debate. Ensuring this external accountability is essential. The UN Secretary-General has said, "Authorities need to be open and transparent in their decision-making and willing to listen to and respond to criticism."² The Council of Europe has further emphasised the importance of external scrutiny, stating in a toolkit released in April, "Official communications cannot be the only information channel about the pandemic. This would lead to censorship and suppression of legitimate concerns. Journalists, media, medical professionals, civil society activists and public at large must be able to criticise the authorities and scrutinise their response to the crisis."³ Independent health experts have already played an important role in testing government data, models, and assumptions to help identify and mitigate possible problems such as keeping businesses open and the lack of safety equipment for health care workers and testing. Academic experts on privacy and technology have been playing key roles in informing discussions on the viability and security issues of proposed mobile applications to monitor the spread of the disease and to inform people, and newspapers have been leading on revealing problems in care homes.

Reliable, accurate, and accessible information about the pandemic is also essential to reducing the risk of transmission of the virus and to protecting the population against dangerous disinformation. Such information is crucial in reducing the possibility of stigmatising or discriminating vulnerable groups, including those infected with COVID-19. It also allows the public to understand and evaluate whether governments' responses are appropriate for protecting and safeguarding people in vulnerable positions, groups, or communities. It is an essential precaution against the dangers of disinformation, whether malicious or merely ill-informed. Disinformation can dangerously harm such groups even further because they do not have the necessary information to regulate their conducts accordingly.

Finally, billions of dollars are now being committed by governments worldwide to purchase goods and services and to support businesses and communities. Transparency about the justification for, allocation of, and the results of this extraordinary expenditure is essential to provide oversight, ensure that it is used fairly and wisely, and to avoid corruption.

International Human Rights Law

The right to access to information is a fundamental component of the right to freedom of expression, as enshrined in Article 19 of the Universal Declaration of Human Rights⁴ and Article 19 of the International Covenant on Civil and Political Rights.⁵ This encompasses the right of individuals to seek, receive, and impart information. The UN Human Rights Committee in General Comment 34 has specified that states should proactively publish information of public interest and take steps to facilitate access to information held by public bodies, including by passing freedom of information legislation.⁶

As a constituent part of freedom of expression, the right of access to information may also be restricted, but restrictions must be provided by law, pursue a legitimate aim, and be necessary and proportionate. Responding to a public health crisis is one of those legitimate aims but that does not give countries authority to waiving freedom of expression rights in total as stated by the Special Rapporteur on Freedom of Expression because “they also advance public health policies.”⁷

International human rights law on the right to health also imposes requirements on states to ensure public access to information.⁸ Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that everyone has the right to “the enjoyment of the highest attainable standard of physical and mental health.”⁹ The UN Committee on Economic, Social and Cultural Rights declared in General Comment No 14 that the right to health is “closely related to and dependent upon the realization of other human rights ... [including] ... access to information,” which it considers as addressing “integral components of the right to health.” States are obliged to “provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them.”¹⁰ The Committee noted in a footnote that “This general comment gives particular emphasis to access to information because of the special importance of this issue in relation to health.”

Experts from the UN, the Inter-American Commission for Human Rights (IACHR), and the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media have also recently stressed the importance of the relationship between the two, stating that: “Human health depends not only on readily accessible health care. It also depends on access to accurate information about the nature of the threats and the means to protect oneself, one’s family, and one’s community.”¹¹

States have additional obligations to make information publicly available in public emergencies. As stated by the World Health Organization (WHO) in a recent publication: “People have the right to be informed about and understand the health risks that they and their loved ones face. They also have the right to actively participate in the response process.”¹² The African Commission on Human and Peoples’ Rights has stated:

“In times of public health emergencies, members of the public have the right to receive factual, regular, intelligible and science-based information on the threat COVID-19 poses to their health, the role and impact of the measures adopted for preventing and containing the virus, the precautionary measures that members of the public should take, and on the scale of the spread.”¹³

The UN Special Rapporteur on the Right to Health has found that states have an obligation to inform the public in public health emergencies that “an effective emergency response system requires the public to be provided with useful, timely, truthful, consistent and appropriate information promptly throughout.”¹⁴ The UN Human Rights Committee told Japan after the 2011 Fukushima disaster that international law required it “to monitor the levels of radiation and disclose this information to the people affected in a timely manner.”¹⁵

Under the UN Inter-Agency Standing Committee (IASC) *Operational Guidelines on the Protection of Persons in Situations of Natural Disasters*, states are required to provide

“easily accessible information in a language they understand about (a) the nature and level of disaster they are facing; (b) the possible disaster risk and vulnerability reduction measures that can be taken; (c) ongoing or planned humanitarian assistance, recovery efforts and their respective entitlements; and (d) their rights under international and domestic law.”¹⁶

In Europe and Central Asia, the UN Economic Commission for Europe (UNECE) Aarhus Convention, which deals with environmental information, requires that “in the event of any imminent threat to human health or the environment” public bodies “make public ... all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by public ... immediately and without delay to members of the public who may be affected.”¹⁷ This is also set out in human rights law. The European Court of Human Rights (ECtHR) has found in cases of environmental pollution that states have a positive obligation to collect and make information available on health hazards.¹⁸

Maintaining Existing Openness Rules

Many countries, regions, and cities across the world have declared states of emergency or invoked extraordinary powers to reduce the transmission of the virus. Many of these measures have an impact on existing human rights obligations, including the right to information.

It should be re-emphasised that the right to information is a fundamental human right and, as such, any restrictions must be legal, legitimate, necessary, and proportionate. Any restriction must be exceptional and proportionate to the aim of protecting public health. Any limitations should only last for the duration of the crisis and should be reviewed regularly.

Right to Information Laws and Procedures

A number of countries have introduced emergency legislation that affects the public right to information.¹⁹ These vary from waiving or extending deadlines for responses to requests to more extreme limits on the laws' functions. In some countries, overbroad restrictions have already been suspended by the courts or regulators.²⁰

Even without legal changes, the pandemic has understandably impacted on public bodies' ability to answer to access to information requests. But governments are still required to continue to provide information, especially relating to the pandemic. The IACHR has stated that states should: “[e]nsure the right to access public information in the framework of the emergency caused by COVID-19, and not set general limits based on reasons of security or public order.”²¹ The International Conference of Information Commissioners (ICIC) has asked governments worldwide to support a “a flexible approach that takes into account the compelling public interest in the current health emergency, while safeguarding the values of the right to access information.”²²

If deadlines for requests for information on matters not linked to the pandemic have to be extended, governments should explain the denial, set a time period in which the obligation will be met, and allow for appeals against such decisions.

Steps that should be taken to limit the impact of any reduction in access to information rights include:

- *Delays.* While the right to access to information can never be completely waived, the fulfilment of information requests may legitimately have to be delayed for practical reasons, for example when public officials are obliged to work from home and cannot access physical records. However, delays should only be imposed based on the actual lack of capacity of the body rather than arbitrarily imposed across the board to all bodies in the jurisdiction. Delays should be set for the reasonably shortest possible time and governments should refrain from extending them unless absolutely necessary.²³
- *Priority for COVID-related requests.* Information requests related to the COVID-19 pandemic should be prioritised and replied to in a short time frame.²⁴
- *Electronic access.* Public bodies should ensure that facilities for making electronic requests and receiving the information electronically are available for when it is not possible to make physical requests in person or via post.
- *Proactive publication.* States should engage in more proactive publication of information, especially relating to the health emergency and other services impacted by the pandemic and also to spending intended to mitigate the impacts of the outbreak (see the following section for more detailed recommendations on information to be published). Relevant information should be proactively published when released in response to an access to information request, and responses to common requests for information should be automatically published on the body's website or via other electronic media forums.
- *Oversight bodies.* Public bodies still need oversight to ensure they are operating to their capacities. Oversight bodies should continue their functions to ensure that public access to information is maintained, challenging government bodies that are using the crisis as a reason not to respond to requests and requiring them to publish information of public interest. They should also try and maintain an appeals mechanism using electronic submission systems and communications as much as possible. Oversight bodies should expedite complaints about refusals to disclose information related to the pandemic. For their annual reports, the bodies should review how they published COVID-19 related information and responded to requests.
- *Access to justice.* In many recent cases, important information has also been released by authorities following the threat of legal action.²⁵ Thus, access to courts for important cases should be maintained. Time limits for cases involving the pandemic should not be extended.
- *Health and environmental laws.* Laws that ensure public access to information about crucial services, such as water, and ensuring access to allow communities to monitor community and health risks should be maintained as far as possible.
- *Record-keeping.* As many public bodies move to messaging and video conferencing, which may be run by private companies, and many officials work from home using borrowed or personal devices, it remains essential that full records are still kept of relevant data, information, and discussions and that these continue to be made available via open government requests. As noted by the ICIC, "[p]ublic bodies must also recognise the value of clear and transparent communication, and of good record-keeping, in what will be a much analysed period of history."²⁶

Public Procurement

During the pandemic, contracting authorities may need to procure goods, services, and works related to the response in exceptional circumstances. Contracting authorities have legitimate reasons not to comply fully with the usual advertising and competitive tendering requirements established under procurement laws. The use of exceptions and exemptions is often envisaged in the laws themselves.

However, ensuring compliance with the oversight aspects of public procurement law requirements is crucial. Although normal procurement requirements may be waived for emergency supplies, it remains essential that contracting authorities keep detailed records of the reasons why they were justified in using the extreme urgency exceptions. The information, including contracts and terms, payments, and reports on receipts and implementation on a regular basis should be published in full to ensure public accountability.²⁷

Contracting authorities should also assure the continuity of procurement procedures. When procurement law requires public hearings to be held, they should be performed electronically, allowing scrutiny by proponents, control entities, and any interested citizen.

The scope and the duration of these exceptions should be limited to what is absolutely necessary.

Data Protection and Subject Access Rights

As in the case of access to information requests, individuals may face difficulties obtaining information held about themselves by third parties, including governments and private bodies. Subject access gives individuals the right to obtain a copy of their personal data and any other supplementary information on its uses. It helps individuals to understand how and why organisations are using their data and to check whether they are doing it lawfully. It is crucial that this right is maintained during a public health crisis as decisions are made about eligibility for treatment, support, housing, and other crucial services, and also for public health surveillance and enforcement.

In those countries where individuals have a legal right to copies of their own files, either under access to information or data protection laws (where it is known as 'subject access'), that right of access should continue despite the crisis. Requesters may experience delays, but these should be minimised and permitted only for a temporary and short period. Where the law does not currently provide for it, it should be made possible for access requests to be submitted electronically without overly burdensome requirements.

Open Meetings

Many intergovernmental, national, and local governments have closed meetings of their councils, committees, boards, and commissions. Some limits to open-meetings requirements during the pandemic are unavoidable. Nonetheless, the need for accountability requires that governments maintain their open-meetings laws to the fullest possible extent during the crisis, especially because in many cases open meetings are a legal requirement for adopting deliberations. This is particularly crucial in decision-making processes by governmental bodies taking decisions relating to it.

In response, many public bodies are now conducting virtual meetings, including public hearings. It is increasingly common for press conferences that allow media and journalists to connect remotely. In shifting to virtual open meetings, public bodies should provide video, audio, or telephonic access to meetings to ensure media, civil society, and members of the public can monitor the meeting and participate to the level required by law. Participation by electronic means in public-law entities' bodies meetings should not preclude the regular procedures of the body, notably regarding quorum and resolutions.

Of particular importance are national legislatures.²⁸ Legislative bodies' sessions should always be broadcasted and recordings archived, including all for chambers and committees to which the public normally has access without prior registration or permission. All votes should be published fully. Meetings relating to environmental planning that requires public input should be postponed until full public participation by the communities affected can be ensured.

Public authorities should also adopt or reinforce use of electronic platforms for communication between citizens and public administration. All bodies should update their websites and social media feeds to keep the public fully apprised of any modifications to their meeting schedules or the format of their meetings due to COVID-19. Notice of the meetings and agendas should be released in advance and records used in meetings should be made available online without having to request them. Documents created during the meetings, such as amendments, should be simultaneously published.

Finally, in relation to the crisis, governments should ensure that committees or other formal or informal bodies that provide expert advice to the government during the crisis should be fully public in their membership and advice.²⁹

Open Justice

Governments are also responding to the pandemic with new means to keep their justice systems functioning. This has created a shift in approach by way of changing working practices and introducing new procedures to minimise risks for the judiciary, staff, legal professionals, parties, and others attending hearings, such as journalists and civil society. Many courts are increasingly using electronic hearings to allow those involved to join remotely.

Nonetheless, open justice – the human right that requires that every person is entitled to a “fair and public hearing” which is available for all persons to attend – remains crucial.³⁰ This is especially important for monitoring the fair imposition of criminal penalties as part of the prevention of the spread of COVID-19.

It is crucial that governments should develop policies that ensure public access to hearings and evidence continues to the same extent as normal. This includes broadcasting of hearings and improved electronic access to schedules, files, and evidence.³¹

Whistleblowing

Since the pandemic began, many jurisdictions have had a significant gap in public knowledge as public and private bodies often have not accurately and proactively informed the public about the situation. As noted by a recent letter from nearly 100 groups around the world: “Emerging areas of concern include health system capacity and delivery, public procurement, violations of health and safety and labour law, inequitable and ill-prepared global supply chains, unfair competition practices and market abuses, and significant violations of personal privacy rights at scale through the digital tracking of individuals.”³² Health care workers are particularly impacted by the current crisis, with many expressing concerns about their exposure to the virus, poor planning, and the lack of adequate equipment and protections. They have been risking their careers, liberty, and often even their lives to expose mismanagement, wrongdoing, and corruption.³³

The pandemic should not be used to silence whistleblowers. Whistleblowers who reveal gaps in public health planning and implementation should be fully protected from retribution. Sanctions should be used against those who use the pandemic to conduct illegal or unsafe practices and threaten or harm whistleblowers who reveal the problem because it is not the whistleblowers that are threatening public health.

Private Sector Transparency Regulations

Under existing environmental, planning, health, safety, financial, and other laws, many private bodies are required to submit detailed information to government bodies about their activities that impact on public health, limit corruption, affect the environment, and other important societal needs. Some of this information is then routinely made public as a means of oversight and encouraging public engagement. For example, under laws in many countries, polluting companies must make available information on which toxic chemicals they are using and releasing. This information is crucial for communities to be able to understand the dangers they may face.³⁴

As long as the private bodies are continuing their operations that impact public health, the environment, or other areas, they should be required to continue monitoring and submitting the information and data required, and government bodies should continue making the information available, except when it can be clearly established that it is not possible to do so. In those cases, the information should continue to be collected and made public as soon as circumstances allow. In no cases should there be gaps in the information.

Public companies should continue to fulfil their legal transparency obligations, such as holding their annual general meetings in a way that ensures the participation of all interested parties. They should also ensure public disclosure of their annual financial, social, environmental, and extractive payments, as well as other reports.

Additional Requirements for Governments to Proactively Publish Information

“Accurate timely information is one of the most valuable commodities during a health emergency or disaster.”

World Health Organization³⁵

Crucial Information to be Published

In this time, it is not enough that governments maintain their existing transparency obligations; rather, as set out earlier, they have obligations under international law to make information about the crisis and actions they are taking publicly available. The UN Secretary-General has called on states to make available more information as a means to combating the pandemic: “The free flow of timely, accurate, factual information and disaggregated data, including by sex, is essential, so those seeking to scrutinize or critique the effectiveness of government actions must be able to play their part.”³⁶

This section highlights key sets of information and data relating to the impacts and efforts to mitigating the pandemic, which have been repeatedly requested across jurisdictions by media and civil society organisations. Governments should make exceptional efforts to proactively publish the following information:

Health Information

This information should be published daily, in a commonly agreed to, open, and reusable format:

- Number of identified and suspected cases disaggregated by health status, location, ethnicity, gender, and age; number of health care workers and other key workers affected;
- Number of persons died both in hospital and outside, hospitalised, in intensive care, needing ventilators, discharged, or in quarantine, disaggregated by location, ethnicity, gender, and age; number of health care workers and other key workers affected;
- Number of tests conducted and results disaggregated by location, ethnicity, gender, and age, number of health care workers and other key workers tested, criteria for eligibility for testing;
- Number of people contacted and missed using contact tracing, number of people employed to conduct tracing;
- Availability of health care facilities providing testing, stockpiles of supplies and equipment, hospital beds, waiting times, disaggregated by location;
- Names and locations of hospitals, health, social and other care facilities, and prisons and other criminal facilities affected, including number of cases disaggregated;
- Number of scheduled medical and other procedures that have been cancelled due to the pandemic, disaggregated;
- Algorithms, models, and underlying assumptions used to estimate spread of disease and impacts; evidence about other pandemics and data; epidemiological and behavioural predictions;

- Names and biographies of the members of all external groups or committees providing scientific, economic, or other advice to public bodies; copies of all minutes of meetings, working documents and advice provided to governments;
- Existing and planned trials for new preventative vaccines, drugs and measures, treatments and cures, with detailed results;
- Existing and planned studies on infection levels with disaggregated results; and
- Emergency and contingency plans and evaluations, preparedness tests, purchasing and stockpiling plans, communications plans, and situation reports.

Financial Information

- Full details of funds budgeted, expended, and disbursed in the forms of subsidies, grants, loans, or other types of support to private bodies listing a unique trackable identification number for each project, recipient, amount dispersed, type of support, its terms, purpose and the rationale for agreeing to it if discretionary, and the approving body, rates of approvals and rejections, guidelines on eligibility for financial support; information about payments to private bodies should also include their real beneficial owner and legally registered location;
- Full details of funds budgeted, expended and disbursed for support to government bodies, state owned enterprises, subnational bodies, and other bodies under the control of the government, as well as directly to public officials listing the recipient body or official, amount dispersed, type of support, its terms, purpose and the rationale for agreeing to it, and the approving body;
- Full details of money spent on official advertising for public information campaigns in all forms of media, including recipients, amount, purpose, criteria for selection, and evaluations of impact;
- Full texts of contracts and amendments and other agreements made with third parties to provide goods and services, with related materials, in an open data format such as the Open Contracting Data Standard; reports and audits on execution of contracts and agreements;
- All oversight and inspection reports and audits conducted to track expenditures, progress, effectiveness, and impacts;
- Full details of funds budgeted, expended, and disbursed for social benefits and programmes established or used by governments to address consequences of pandemic disaggregated by health status, location, ethnicity, gender, age, rates of approvals and rejections;
- Donations to public bodies over a certain size classified according to the source of donation and whether the donor is a private entity/person and its expenditure; and
- Full details on loan agreements and other support by international organisations, donor countries, and private organisations to countries, including its expenditure.

Information Beneficial to Vulnerable Persons, Groups, and Communities

Vulnerable communities may have specific needs that should be addressed and published separately. These include:

- Policies and decisions aimed at groups and minorities exposed to particular risks during the outbreak;
- Information about social welfare benefits and programmes established by government to help special categories of beneficiaries as a consequence of the outbreak;
- Information about budgets and expenditures of resources used (and to be used) during the emergency response to the economic and social consequences on indigenous communities;
- Culturally relevant information on COVID-19, its impact, and preventative measures taken for indigenous communities. When prescribing preventative measures, authorities should recognize and respect the right to self-determination of the communities themselves;
- Information about violence against women and lesbian, gay, bisexual, transgender, and intersex (LGBTI), including data on reports and statistics; and
- Information with a gender perspective in indigenous languages where appropriate aimed at women and minors who are victims of domestic violence, including hotline numbers, available care facilities, protective measures, and penalties for offenders.

Governance Information

- Legal and regulatory measures to address the COVID-19 pandemic, including their titles and dates of adoption; significant decisions taken by governments and bodies;
- Details of projects cancelled or suspended due to pandemic, and plans for rescheduling;
- Data, analyses, and reports on the current and estimated economic impacts and government measures to remedy; and
- All waivers made to existing laws, including regulatory, safety, environmental, anti-corruption, and others, including expected impacts and number and location of companies and communities affected.

Human Rights and Law Enforcement Information

- Clear and comprehensive information, including regulations and official guidance on measures imposed by the government and law enforcement bodies affecting freedom of expression, assembly and association, privacy, and other human rights, including their legal basis;
- Information on investigations, prosecutions, and penalties imposed under these measures or existing laws for COVID-19 related activities, disaggregated;
- Number of social media and other accounts blocked or taken down for fake news or other offences relating to the pandemic, restrictions on Internet access;
- Information on collection of personal information from private and public bodies and its legal protections, security, uses, and disposal, including data protection impact assessment and equalities assessments; and
- Information on apps and other tools being evaluated or developed to track, monitor, notify, or quarantine individuals, including source code, protocols, subcomponents, implementations, documentation, policies, and data protection impact and equalities assessments.

Standards for Publication

The information described above should be made available to the public in accordance with the following criteria:

Regular and timely. Information should be provided on a regular basis, preferably as soon as it is available.

Open format. Data should be shared in a downloadable, open, machine-readable format, and under an open licence.³⁷ The WHO should create universal standards for health information and outcomes to ensure the data can be easily combined and compared.

Easy to understand. In addition to data and technical and legal information, public bodies should also make available information that is easily understood by the general public, including using user-friendly visual presentations.

Reaching the full population. Publication of COVID-19 relevant information should reach the entire population. Public authorities should transmit and disseminate information through the most appropriate formats and means to reach different areas and communities. For many governments, the Internet is the primary means of reaching the public. However, this is likely to exclude many disadvantaged and remote communities, and particular attention should be given to communities without or with limited access to the Internet. Governments should also use other means of reaching those communities, including newspapers, message services, community radio, and via community groups.

Non-official sources. Public authorities should empower responsible media and civil society organisations to contribute with accurate, timely, and up-to-date data and information and to publicly disclose that information without official permission.

No national security classification of information. Information about public health responses to COVID-19, including the number of cases, government plans for mitigation, and availability of equipment and supplies, should not be classified under official secrets or national security legislation or rules.

Protection of personal data. Personal information of persons with or suspected of being infected should be strictly protected and only released when there is a compelling public interest.

Vulnerable communities. Governments must take extra measures to ensure that vulnerable communities are fully reached during the pandemic. This involves planning and communication strategies. The WHO recommends that government bodies, “Conduct early and ongoing assessments to identify essential information about at-risk populations and other stakeholders (their perception, knowledge, preferred and accessible communication channels, existing barriers that prevent people to uptake the promoted behaviors...).”³⁸ Thus, they must develop special social communication strategies and appropriate means to reach them, including local and indigenous languages, taking into account audio formats to target illiterate persons. Public authorities should always respect and take into consideration the spiritual and religious beliefs, uses, and customs of the indigenous communities when designing and approving measures to prevent and mitigate the outbreak. They should specifically address these groups, ensuring the free, prior, and informed consent of the indigenous communities on the measures adopted to address the pandemic that is directly impacting their members.

Extra measures should also be taken to reach disabled persons. The UN Special Rapporteur on the rights of persons with disabilities recommends that “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.”³⁹

¹ UN, *We Are All In This Together: Human Rights and COVID-19 Response and Recovery*, 23 April 2020, <https://www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and>

² Ibid.

³ Council of Europe, *Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis: A toolkit for member states*, Information Documents SG/Inf(2020)11, 7 April 2020, <https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>

⁴ UN, *Universal Declaration of Human Rights*, Article 19, <https://www.un.org/en/universal-declaration-human-rights/>

⁵ Office of the High Commissioner for Human Rights (OHCHR), *International Covenant on Civil and Political Rights*, Article 19, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁶ UN Human Rights Committee, *General comment No. 34*, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

⁷ UN Human Rights Council, *Disease pandemics and the freedom of opinion and expression: Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, A/HRC/44/49, 23 April 2020, https://freedex.org/wp-content/blogs.dir/2015/files/2020/04/A_HRC_44_49_AdvanceEditedVersion.pdf

⁸ ARTICLE 19, *A healthy knowledge: Right to information and the right to health*, 27 September 2012, <https://www.article19.org/resources/healthy-knowledge-right-information-right-health/>

⁹ UN, *International Covenant on Economic, Social and Cultural Rights*, Article 12, https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf

¹⁰ OHCHR, *Committee on Economic, Social and Cultural Rights (CESCR) general comment no. 14: The right to the highest attainable standard of health (Art. 12)*, 11 August 2000, <https://www.refworld.org/pdfid/4538838d0.pdf>

¹¹ OHCHR, *COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International Experts* (David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Harlem Désir, OSCE Representative on Freedom of the Media; and Edison Lanza, IACHR Special Rapporteur for Freedom of Expression, 19 March 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25729&LangID=E>

¹² WHO, *Risk Communication and Community Engagement (RCCE) Action Plan Guidance COVID-19: Preparedness and response*, 16 March 2020, [https://www.who.int/publications-detail/risk-communication-and-community-engagement-\(rcce\)-action-plan-guidance](https://www.who.int/publications-detail/risk-communication-and-community-engagement-(rcce)-action-plan-guidance)

¹³ African Commission on Human and Peoples' Rights, *Press Statement on human rights based effective response to the novel COVID-19 virus in Africa*, 24 March 2020, <https://www.achpr.org/pressrelease/detail?id=483>

¹⁴ UN Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover. Addendum: Mission to Japan*, A/HRC/23/41/Add.3, 31 July 2013, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-41-Add3_en.pdf

¹⁵ UN Human Rights Committee, *6th Review of Japan*, CCPR/C/JPN/CO/6, 20 August 2014.

¹⁶ IASC, *IASC operational guidelines on the protection of persons in situations of natural disasters*, 7 October 2011, <https://interagencystandingcommittee.org/meeting-humanitarian-challenges-urban-areas/documents-public/iasc-operational-guidelines-protection>

¹⁷ Article 5(1)(c). See UNECE, *The Aarhus Convention: An implementation guide, second edition*, June 2014. Available at https://www.unece.org/env/pp/implementation_guide.html

¹⁸ See, for example, ECtHR, *Guerra v Italy*, App. No. 14967/89, Judgement of 19 February 1998.

¹⁹ For an international survey, see Toby McIntosh, *Governments delaying access to information because of pandemic*, 25 March 2020, <https://eyeonglobaltransparency.net/2020/03/25/governments-delaying-access-to-information-because-of-pandemic/>; and US Congressional Research Service, *Freedom of Information Act (FOIA) processing changes due to COVID-19: In brief*, 27 March 2020, <https://crsreports.congress.gov/product/pdf/R/R46292>

²⁰ Brazil, *Suspensa norma que restringe acesso a informações públicas*, 26 March 2020, <http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=440207>; and Argentina, *Agencia de Acceso a la Información Pública*, Resolución 70/2020, 14 April 2020, <https://www.boletinoficial.gob.ar/detalleAviso/primera/227825/20200415>

²¹ IACHR, *Pandemic and human rights in the Americas*, Resolution 1/2020, 10 April 2020, <https://www.oas.org/en/iachr/decisions/pdf/Resolution-1-20-en.pdf>

²² ICIC, *COVID-19: Access to information in the context of a global pandemic – Statement*, 14 April 2020. Available at <https://www.informationcommissioners.org/COVID-19>

²³ See, for example, Ombudsman New Zealand, *Chief Ombudsman's statement on official information response times during the COVID-19 emergency*, 24 March 2020, <https://www.ombudsman.parliament.nz/news/chief-ombudsmans-statement-official-information-response-times-during-covid-19-emergency>

²⁴ IACHR, Resolution 1/2020.

²⁵ See, for example, Lucille Sherman, "NC health officials release locations of nursing home outbreaks, reversing stance", *News and Observer*, 27 April 2020, <https://www.newsobserver.com/news/local/article242315786.html>

²⁶ ICIC, *COVID-19: Statement*. See also COVID-19: The duty to document does not cease in a crisis, it becomes more essential. <https://cdn.website-editor.net/61ed7ac1402f428695fcc2386ad0577f/files/uploaded/COVID-the-duty-to-document-is-essential.pdf>

²⁷ In Ukraine, emergency contracts must be published in full. See Open Contracting Partnership, *Emergency procurement for COVID-19: Buying fast, open and smart*, 24 March 2020, <https://www.opengovpartnership.org/stories/emergency-procurement-for-covid-19-buying-fast-open-and-smart/>; also see Institute for Development of Freedom of Information, *Guidelines on Covid-19 related public procurement – Structure and content*, 10 April 2020, [https://idfi.ge/public/upload/Blogs/Recommendations%20on%20Public%20Procurement%20Transparency%20during%20Covid19%20\(2\).pdf](https://idfi.ge/public/upload/Blogs/Recommendations%20on%20Public%20Procurement%20Transparency%20during%20Covid19%20(2).pdf)

²⁸ See Directorio Legislativo and ParlAmericas, *COVID-19: The challenge of adapting and strengthening the role of parliaments: An analysis from an Open Parliament perspective*, April 2020, <https://alertas.directoriolegislativo.org/wp-content/uploads/2020/04/ENG-COVID19-The-Challenge-of-Parliaments-DL.pdf?x32394>

²⁹ See European Commission, *Commission Decision of 16.3.2020 setting up the Commission's advisory panel on COVID-19*, C(2020) 1799 final, Article 10: "Transparency", <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=39740&no=1>; also Register of Commission Expert Groups and Other Similar Entities, *Commission's advisory panel on COVID-19 (E03719)*, 17 March 2020, <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3719&news=1>; and Congressional Research Service, *Federal Advisory Committees: An introduction and overview*, 27 October 2016, <https://fas.org/sgp/crs/secrecy/R44253.pdf>

³⁰ UN Human Rights Committee, *CCPR General Comment No. 13: Article 14 (Administration of Justice), Equality before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law*, 13 April 1984, <https://www.refworld.org/docid/453883f90.html>

³¹ See, for example, First Amendment Coalition (FAC), *FAC urges California courts to ensure public access amid COVID-19 emergency*, 25 March 2020, <https://firstamendmentcoalition.org/2020/03/fac-urges-california-courts-to-ensure-public-access-amid-covid-19-emergency/>; and Judith Townend, "Covid-19, the UK's Coronavirus Act and emergency 'remote' court hearings: what does it mean for open justice?" *The Justice Gap*, 30 March 2020, <https://www.thejusticegap.com/covid-19-the-uks-coronavirus-act-and-emergency-remote-court-hearings-what-does-it-mean-for-open-justice/>

³² CISLAC, *Coalition to make whistleblowing safe during COVID-19 and beyond*, 27 April 2020, <https://cislacnigeria.net/coalition-to-make-whistleblowing-safe-during-covid-19-and-beyond/>

³³ See Samantha Feinstein, *COVID-19: The largest attack on whistleblowers in the world*, 8 April 2020, <https://whistleblower.org/blog/covid-19-the-largest-attack-on-whistleblowers-in-the-world/>

³⁴ See, for example, UNECE, *Kyiv protocol on pollutant release and transfer registers*, <https://www.unece.org/env/pp/prtr.html>

³⁵ WHO, *Pandemic influenza risk management guidance*, May 2017. Available at <https://apps.who.int/iris/bitstream/handle/10665/259893/WHO-WHE-IHM-GIP-2017.1-eng.pdf;jsessionid=FF0E44DE342CCEF9F0A31E1EFB14C8E8?sequence=1>

³⁶ UN, *We Are All In This Together*.

³⁷ See Open Data Handbook (<https://opendatahandbook.org>)

³⁸ WHO, *RCCE Action Plan Guidance*.

³⁹ OHCHR, *COVID-19: Who is protecting the people with disabilities? – UN rights expert*, 17 March 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25725&LangID=E>