

President of El Salvador
His Excellency Nayib Bukele
Alameda Manuel Enrique Araujo 5500,
San Salvador,
El Salvador

8 April 2020

**Open letter to His Excellency Nayib Bukele from the International Bar
Association's Human Rights Institute**

Your Excellency,

We are writing to you on behalf of the **International Bar Association's Human Rights Institute** (IBAHRI) to express our concern over the introduction of national emergency laws and restrictions imposed on constitutional rights in El Salvador, amidst the Covid-19 worldwide pandemic.

The International Bar Association, established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 160 countries. The IBAHRI, an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

The IBAHRI remains sensitive to the challenging times that humanity is currently enduring. We appreciate the efforts being made by the Government of El Salvador to restrain the spread of the coronavirus disease, and protect the health and livelihood of the people of El Salvador. Along with prompt leadership that has to be displayed at this time of crisis, it is imperative that the people of El Salvador feel secure and supported by the government.

The IBAHRI has received reports that under the national emergency laws introduced on 21 March, a complete lockdown has been imposed in El Salvador. As of 6 April, this state of emergency has been extended to 29 April. Further, as of 7 April, over 850 people had been unnecessarily detained. Three of these detainees were women arrested whilst stocking up on essential supplies at a market. The Supreme Court of El Salvador, taking on the case of these three women, has ordered that in light of inadequate sanitary conditions, those in detention must be released to continue isolation in their homes. Whilst some have now been released, many still remain in detention. The IBAHRI condemns the fear-mongering stirred to enforce quarantine, as it has been reported to the IBAHRI that the Minister of Justice and Public Security has made a statement threatening citizens, that if they break domiciliary quarantine, they will be detained and taken to a detention centre where *'they might catch Covid-19.'*



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Furthermore, the IBAHRI has received worrying reports that 4,500 Salvadorians have been trapped abroad with no recourse to return after borders were shut. Those who have travelled back to El Salvador have been detained. Whilst some have been sent to hotel accommodation to carry out their detention, many have also faced detention in the airport without access to hygiene facilities, food or water. The Constitutional Chamber of the Supreme Court has, further to the aforementioned decision, demanded that government authorities ensure suitable conditions for those quarantined to be treated with dignity, and is hearing an appeal in favour of an individual currently detained. The IBAHRI urges El Salvador to release those in arbitrary detention, and immediately provide those detained with access to essential provisions. Further, the IBAHRI regrets communication from Your Excellency through twitter, stating *'We must stop arguing whether a measure is taken or not, whether we are alarmists or not, whether it is constitutional (at someone's discretion) or not, whether it suits the interests of a group or not.'* Whilst certain emergency measures are required to secure the public health of citizens, these measures should be proportionate, temporary and guaranteeing respect for an individual's human rights. The rule of law must prevail throughout times of crisis and it is imperative that the El Salvadorian government upholds the decisions enacted by the Supreme Court.

On the 30 March, the Government pledged to give an amount of \$300 to approximately 1.5 million households who work in the informal sector and lack a financial safety net, a welfare measure welcomed by the IBAHRI. However, reports suggest that poor distribution of the financial aid resulted in the police using pepper spray to disperse crowds that had gathered in the capital city of San Salvador. The IBAHRI severely condemns these measures to those seeking governmental aid. The creation of panic and civil unrest is in complete contradiction to the aims of imposing lockdown to safeguard public health. The IBAHRI has also received reports of Your Excellency stating in a national press conference that police officers and the military must be extra tough, and that it doesn't matter if they have to *'twist your wrist'*. Far-reaching measures will only serve to cause panic, and not allow citizens to safely socially isolate to stop the spread of the virus.

The IBAHRI is committed to defending a vibrant free press. The right to freedom of information and expression at this time becomes even more crucial. These fundamental rights are essential pillars upholding the rule of law. It is of great concern to see the attacks made on social media platforms against journalists who speak out against the government's actions. The Public Attorney for the defence of human rights in El Salvador has denounced this, including the restrictions on asking questions at informative press conferences regarding Covid-19, and reports that the National Civic Police and Army have been *'destroying journalistic material'*. This is far from a proportionate measure implemented to protect the health of El Salvador's citizens, but an arbitrary measure implemented under the guise of this global crisis to extend the government's power.

It is also disconcerting for the IBAHRI to witness statements from the President via Twitter, denouncing non-governmental organisations who work for the preservation of human rights. Stating that such organisations are a threat to society creates a polarising atmosphere, and causes public mistrust against the very institutions which protect them. In today's challenging atmosphere, solidarity and co-operation between the government and human rights organisations is essential to achieve the common goal of public health and security.



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The IBAHRI is deeply concerned about the disintegration of the rule of law amidst the coronavirus crisis in El Salvador. It is important that the nation, under its newly elected leadership, stands firm on the promised new era of peace, security and governmental accountability. Adherence to the rule of law and human rights is key to ensure that El Salvador, along with the rest of the world, collectively overcomes this global health crisis.

The present climate represents a conflict with El Salvador's obligations under international human rights law. Such obligations include (1) Article 3 of the Universal Declaration of Human Rights (UDHR) which states that everyone has the right to life, liberty and security of person; (2) Article 9 of the UDHR which states that no one shall be subjected to arbitrary arrest, detention or exile; (3) Article 4 of the International Covenant on Civil and Political Rights (ICCPR) which states that in time of public emergency which threatens the life of the nation, measures to restrict fundamental freedoms can only be undertaken in a manner that is not inconsistent with other obligations under international law; and (4) Article 22 of the UDHR which states that everyone has the right to social security.

Further, unlawful detention in light of a public health emergency also violates the Siracusa Principles, adopted by the UN Economic and Social Council in 1984, which state that emergency restrictions during a health crisis should be least intrusive to achieve the objective.

The IBAHRI urges the government of El Salvador to remember achievements of the past and to abide by due process of law, in order to maintain social order and harmony within the nation. We urge Your Excellency to immediately re-consider those measures which are not proportionate or necessary, immediately fulfil the decisions of the Supreme Court, and implement only measures which are for the benefit of your fellow citizens.

We would be grateful to receive your assurances that you have received our letter and that our concerns will be addressed as a matter of urgency.

Yours sincerely,

The Hon Michael Kirby AC CMG
IBAHRI Co-Chair

Anne Ramberg Dr Jur hc
IBAHRI Co-Chair

London São Paulo Seoul The Hague Washington DC
4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom Tel: +44 (0)20 7842 0090 Fax: +44 (0)20 7842 0091 www.ibanet.org