

COVID-19: AN OCCUPATIONAL DISEASE

WHERE FRONTLINE
WORKERS ARE BEST
PROTECTED



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**OPEN SOCIETY
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Introduction:

The case for COVID-19 as an occupational disease

As of April 2021, an estimated [3 million](#) people—and counting—have died from COVID-19, and 2020 was the most dangerous year on record for many economic sectors, especially for workers in [care](#). The coronavirus pandemic has disproportionately impacted women, people of colour, migrants, precarious workers and other vulnerable groups, who are more likely to work in key but under-valued, underpaid jobs on the frontlines of the COVID-19 pandemic.

Unfortunately, millions of these frontline workers do not have access to the rights and legal entitlements they deserve because their governments do not recognize COVID-19 as an occupational disease.

Occupational diseases are illnesses or conditions contracted due to exposure to risk factors arising from work. In many countries, workers are eligible for vital social protections and entitlements they would otherwise not have access to if their working conditions lead to their illness—including paid medical expenses, lost wages, and long-term care costs.

While demonstrating an injury at work is usually straightforward, it is significantly more difficult where an illness is circulating in the community. In many of these cases, the burden of proof is on the workers to show medical evidence that can link the disease directly to the workplace.

To remedy this situation, some governments have adopted [presumptive laws](#) or policies—meaning that the illness is assumed to have occurred on the job. These regulations, considered best practice by occupational safety experts, shift the burden of proof from workers to employers and regulators, who should ensure safer working conditions.

For COVID-19, the link to the workplace has become a major issue of contention because community viral loads have been high, and some cases are asymptomatic until the appearance of long-COVID symptoms. Presumptive language is therefore the best policy as it enables workers to get immediate access to benefits, but too few governments have these policies on their books.

To diagnose the pandemic-sized gap in many countries' and jurisdictions' legal regimes, UNI Global Union and the ITUC analysed 181 national and regional responses to the virus. This study included 124 countries as well as 37 U.S. States, 13 Canadian provinces and territories, and seven Australian states¹.

What we found was troubling. Workers' compensation schemes, social security programmes and public health systems are rarely sufficient to address the impacts on workers of the COVID-19 pandemic:

- **Just over half (98 jurisdictions) have recognized COVID-19 as an occupational disease through a formal regulatory process. Of the 181 jurisdictions analysed, only 6% had presumptive policies for all workers and 17% for health workers that did not require workers to provide proof that the virus was contracted in the workplace.**
- **The top ten rated jurisdictions in this study cover just 2% of the world's workers, leaving the vast majority of working people with limited provisions and benefits related to the impact of COVID-19².**

UNI Global Union and the ITUC are concerned that, without the necessary support, workers and their families will be left to shoulder the virus's wide-ranging consequences on their own, including the unknown impacts of long-COVID, psychological health issues, or other related heart and pulmonary diseases. We believe that the ILO must urgently [act to recognize COVID-19 as an occupational disease](#). This recognition would encourage member states to do the same and thereby increase social protections for workers globally.

1 Australia, Canada, and the U.S. do not have federal level systems for workers' compensations, for the purposes of this study, the states and provinces were considered as independent jurisdictions to better reflect how the experience of workers within the same country vary greatly

2 Country-level workforce data for Argentina, Austria, France, and Sweden were sourced from The World Factbook (<https://www.cia.gov/the-world-factbook/field/labor-force/country-comparison/>). State-level labour force data for Massachusetts, New Hampshire, New Jersey, Puerto Rico, Minnesota, and Missouri were sourced from (<https://www.bls.gov/news.release/laus.t01.htm>) The total labour force within these states and countries was 70, 288,902. The world labour force was calculated to be 3,382,000,000.

Why is it so important for care workers that COVID-19 is recognized as an occupational disease?

The pandemic has inflicted an unspeakable human toll on care workers. Research released by Amnesty International, UNI Global Union, and Public Services International found that **at least 17,000 healthcare workers have died from COVID-19**.

Another recent UNI Global Union [study](#) detailed how nursing homes became some of the world's most dangerous worksites during the pandemic. In the United States alone, nearly 500,000 long-term care workers have been infected. From mid-December 2020 to mid-January 2021, nearly four of these U.S. care workers died a day.

Recognition of COVID-19 as an occupational disease is particularly important for care workers because it will give them the support they need to recover from either a long or short-term illness—without the fear of losing their wages or, in many countries, incurring high medical bills.

It is clear that the extreme physical and psychological ramifications of the virus on care workers will last long after it is under control in our communities. This is why care workers in particular need the recognition of COVID-19—including “long-COVID”—as an occupational disease.

Findings

The analysis includes 127 different countries and over 180 jurisdictions when considering the state and provincial level responses in Australia, Canada and the United States. Depending on the country, some states or provinces have different approaches, reflected in figure 1. Only 31³ countries have formally recognized COVID-19 as an occupational disease, and 16 other countries already had systems in place to support workers impacted by the pandemic. In the U.S., 34 states passed laws or changed policies to allow for workers' compensation claims. In Canada, ten provinces and territories made clear guidance for workers' compensation claims, and in Australia, the states and territories also provided recognition for claims through workers' compensation.

Only ten jurisdictions (5.5%) received top ratings indicating good or very good provisions for wage replacement, medical treatment, sick pay, and death benefits. Fifty-five jurisdictions received average ratings showing that workers have limited access to benefits. We could only confirm that sick pay was available in 104 jurisdictions, meaning that almost 43% of workers had no access to paid sick leave.

Only 6% of the studied jurisdictions had presumptive rules, regulations, laws or policies that give automatic access without proof to medical treatment and wage replacement for all workers through social security, workers' compensation schemes or other public programmes. However, when considering healthcare workers this percentage rose to 17%.

Argentina, a non-OECD nation, received our top score for a country, showing that strong support for workers does not depend on a nation's wealth. Spearheaded by a strong labour movement, the **Argentinian government took swift action on 13 April 2020**. Although they were not the first country to recognize COVID-19 as an occupational disease through an act of parliament, this rapid response meant that workers could gain access to support before the health system was overwhelmed.

Austria was also a top scorer. Legislators made changes to the country's Epidemic Act of 1950 to include COVID-19 on 15 March 2020, so workers would continue to receive pay when at home recovering from the virus. **Sweden** also acted quickly to make changes to their laws in April 2020, which gives wage replacement and medical treatment for workers who must miss work due to possible exposure.

The states of New Hampshire and New Jersey, in the United States, also received top scores at the state and provincial levels. These jurisdictions have a presumptive language law or policy that auto-qualifies workers with COVID-19 for wage replacement and medical treatments. **Puerto Rico's** governor also took early action on 1 June 2020, to amend the Workers' Accident Compensation Act to extend coverage to COVID-19.

3 This excludes Australia, Canada, and the U.S. because there is no national decision about the recognition of COVID-19. This only includes countries who have made official changes to laws or regulations.

In France, the link to work is still required, but the definition of care work was extended to cover all care workers, including persons providing transport for the sick, administrative staff in the care sector, and staff in social and medico-social establishments. In France, COVID-19 is automatically treated as an occupational disease for care workers who are exposed to the virus at work.

Spain scored highly for adopting an urgent measure to allow COVID-19 to qualify as an occupational disease. They also acknowledged this right for self-employed people. Workers were given wage replacement for periods of infection and for recovery.

British Columbia, Canada, is another example of a jurisdiction that reacted quickly to cover workers. However, although they accept cases of COVID-19 for workers' compensation, they still do a case-by-case review and require evidence from the worker about the existence of COVID-19 in their workplace. It must be shown that going to work created a risk of contracting the disease significantly greater than the ordinary exposure risk in the community. This proof requirement means that many workers may be denied benefits when community viral loads are high. It is still to be seen if the case-by-case evaluation will restrict access to benefits.

In Germany and the Nordic countries, existing legislation on infectious diseases means that workers who contract COVID-19 have automatic access to sick leave, wage replacement and medical care. No formal change was needed to the legislation to support workers. This is one of the best examples of how a country could prepare for future pandemics.

Unfortunately, the jurisdictions with the least support are concentrated in lower-income countries, where workers were already facing harsh working conditions before the pandemic. However, in Chile, the government has directed its social security system to recognize COVID-19. Perilously, in Brazil the government has recognized COVID-19 as an occupational disease but workers are reporting that it is impossible to access any state benefits. In the Philippines, a strong trade union campaign resulted eventually⁴ in recognition that COVID-19 is an occupational disease when on 29 April 2021, the Employees' Compensation Commission agreed that, subject to Presidential confirmation, workers in various circumstances could receive Php 30,000 (US\$620).

In Switzerland, the government has not made a decision about COVID-19 as an occupational disease, so workers are at the mercy of insurance companies making decisions. The lack of guidance at the federal level means that workers have no guarantees of getting their cases accepted.

UNI Global Union and ITUC research found many jurisdictions where workers are not entitled to sick pay.

The lowest rated countries have several things in common. Firstly, they all have yet to recognize COVID-19 as an occupational disease. They also have not made any specific changes to their regulatory provisions for COVID-19. Many of these countries already have social security systems that do provide coverage for sick leave or disability. However it is unclear whether benefits are being extended to workers with COVID-19.

In Morocco, for example, when a worker is suffering from COVID-19, the employment contract is suspended, and the Moroccan social security laws cover them. This is a positive step for workers, but they still do not have access to support sufficient to be considered a top-rated country.

Recognition of COVID-19 at the international level

Recognition of COVID-19 as an occupational disease under Schedule I of ILO Convention 121 and ILO Recommendation 194 would substantially impact all workers in the 24 countries that have ratified this convention on Employment Injury Benefits⁵. Currently, only 11 of the countries which have ratified C121 have moved towards recognizing COVID-19. For those member states who have ratified C121, it is a legal obligation to recognize all the diseases included in Schedule I, including when an amendment is made. In addition, according to Recommendation 194, diseases caused by biological agents at work not directly mentioned in the list (which is the case for COVID-19) can be recognized as occupational where a direct link is established between work and the workplace. In an analysis done by UNI Global Union and ITUC on the list of occupational disease criteria, COVID-19 should already be included for coverage. However, explicit recognition of COVID-19 as an occupational disease by the ILO would encourage member states to do the same.

The European Union could also add COVID-19 to the European schedule of occupational diseases, which would immediately support over 11 million workers.

The limitation of this research is that compensation programmes are difficult to compare, this is why we pulled out elements such as sick pay. The threshold to qualify for workers' compensation and social security benefits are different depending on the jurisdiction, making the level of support for workers different worldwide.

4 <https://iohsad.wordpress.com/2021/04/29/workers-pressure-forced-government-to-recognize-covid-19-as-occupational-disease/>

5 As the Council of Global Unions called for on International Workers' Memorial Day on 28 April 2020: https://www.ituc-csi.org/IMG/pdf/cgu_statement_iwmd2020_en.pdf

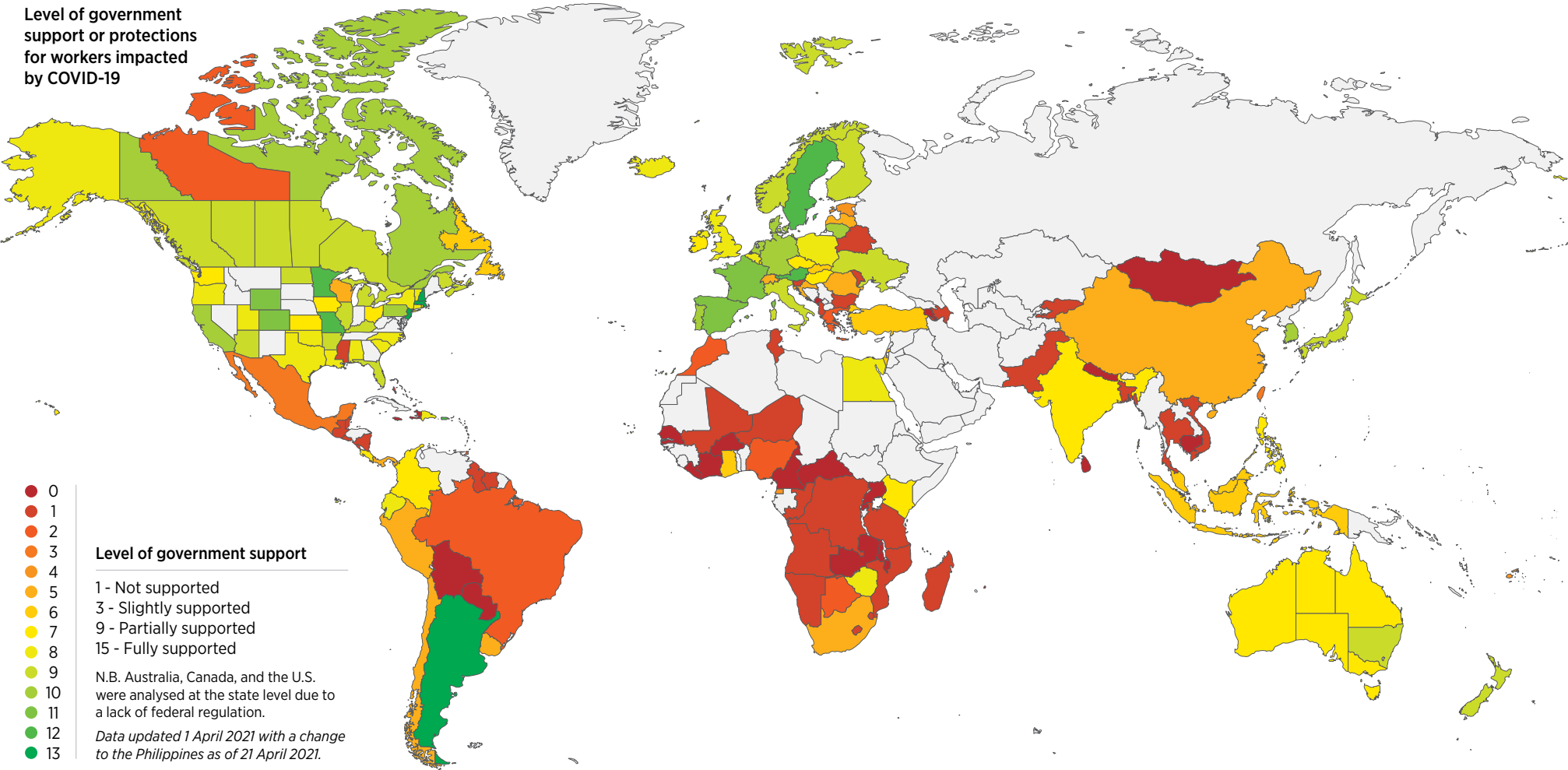
OECD Report Card

In addition to the global map, we rated the 37 countries that are members of the Organization for Economic Co-operation and Development (OECD) and gave them a letter grade based on their policies and programmes that apply in the context of COVID-19. This report card also helps balance the map, which could largely be viewed as a chart of inequalities and relative poverty between the Global North and South. We hoped that by providing this type of ranking, it is possible to see more easily where workers are getting better support for COVID-19.

FIGURE 1:
Level of government support or protections for workers impacted by COVID-19

OECD Report Card: Government level support and recognition for COVID-19

TOP 5				WORST 5			
Sweden	A+	Spain	A+	Switzerland	D	Greece	D
Austria	A+	Germany	A	Estonia	D	Slovenia	D
France	A+			Mexico	D		



Policy recommendations

Based on our research into 181 jurisdictions and consultation with care workers and their unions, we have developed a set of recommendations to help policymakers better support workers impacted by COVID-19 and cope with future pandemics. When governments fail to act, unions can negotiate these concepts into their collective agreements.

1. Automatic qualification for benefits related to COVID-19 illness

When there is a reasonable risk of contracting COVID-19 at work, workers should not have to deal with dual problems of infection and complicated legal procedures to access benefits for occupational diseases. Therefore, jurisdictions must enact laws with presumptive language—language that automatically protects workers in environments with an elevated risk of exposure to COVID-19. This would include frontline workers and those forced to continue to work outside their homes. These initiatives must include support for long-COVID, heart and pulmonary issues, and the psychological illnesses associated with the pandemic (e.g. PTSD, anxiety and depression).

2. Coverage for all workers regardless of the employment relationship

Workers in forms of non-standard employment relationships are often excluded from government programmes. Workers need access to these programmes irrespective of their employment relationship.

3. Reliable data collection

Work-related data should be collected at the workplace level. The data needs to be disaggregated by gender, age, income, education, migratory status, disability, geographic location, employment status, job type,

and any other relevant characteristics relevant to the context. The data must be reported by employers to national authorities and made publicly available. These surveillance systems need to be ready for any subsequent infectious disease to make evidence-informed decisions that will effectively protect the heroes of this pandemic—frontline workers.

4. Inclusion of a general occupational infectious disease category in laws and policy

Including a general infectious disease category in occupational health and safety laws and policy means that countries will not have to make amendments to legislation with the emergence of new diseases. Although this research advocates specifically for COVID-19 as an occupational disease, the inclusion of all infectious diseases for workers would be an excellent preparatory measure for future outbreaks, epidemics or pandemics.

5. Paid sick leave for testing and recovery

Sick pay is a patchwork of policies and laws that vary around the world. Even in highly developed countries, like Canada and the U.S., many workers still have no guaranteed access to sick pay. Recognizing COVID-19 as an occupational disease might support these initiatives and would be a step in preventing the spread of the virus.

Conclusion:

Not failing workers means action locally and globally

Occupational health and safety should be a fundamental right at work, and the pandemic has shown that workplace safety means implementing infectious disease protections for workers. Our research demonstrates that some governments are engaging in a full suite of social protections, while others are letting key workers continue to fall by the wayside.

This varied response to the pandemic on jurisdictional levels shows the necessity for international leadership by the ILO. Recognizing COVID-19 as an occupational disease would help guide local and national governments to action and set baseline standards, that when enacted, will send a clear signal to frontline workers—that their sacrifices will be denied no longer.

Annex:

How we ranked countries?

Data was collected in several ways. Firstly, by reviewing data collected on U.S. states by Dr. Glenn Shor⁶. An ILO publication on national practices was used for the international level review⁷. When the information was not covered in either of these sources, desktop research was carried out. And finally, consultations with affiliates to understand more and inquire about implementation challenges or successes.

A 15-point scoring method was developed to address the four questions of the project. A broad scale was designed to reflect the complexity of the issue and recognize the diverse types of support and compensations available. Because systems differ from country to country, the broader scale identifies elements like data collection, which are an essential element of policy-informed decision-making.

Questions	Possible answers	Total possible score	Reason for including this metric
Is COVID-19 an Occupational Health Disease?	Yes (1) No (0) Pending legislation (0) Unknown (0)	1	Formal recognition shows the political will of current governments to make improvements
Is there a requirement for employers to report cases to authorities?	Yes (1) No (0) Unknown (0)	1	How data is collected helps to support evidence-informed policymaking. Identifying worksite data is vital for addressing environmental factors that may be putting workers at risk.
Are work-related statistics publicly available?	Yes (1) No (0) Unknown (0)	1	Transparency is essential to unions being able to take an active role in negotiating better policy.
Are infected workers eligible for compensation for work-related COVID-19?	Yes (1) No (0) Unknown (0)	1	This question looked at social security and sick pay legislation to see if COVID-19 or infectious disease was explicitly stated.
Are workers receiving regular sick leave payments for COVID-19?	Yes (1) No (0) Unknown (0)	1	This question only addressed publicly funded sick pay and whether it was available for COVID-19.
Presumptive law/policy for health workers	Auto-qualification (4) Rebuttable (3) Case-by-case (2) Other (1) No or Unknown (0)	4	This scale was selected as most worker-friendly to least worker-friendly. Auto-qualification is the best case for workers.
Presumptive law/policy for all workers	Auto-qualification (4) Rebuttable (3) Case-by-case (2) Other (1) No or Unknown (0)	4	This scale was selected as most worker-friendly to least worker-friendly.
Is there a death payment/benefit?	Yes (1) No (0) Unknown (0)	1	Death benefits do help families pay for funeral expenses and transition to losing an income. These are especially important when the loss of an income will slide a family into poverty.
Implementation as reported by workers	Good (1) Poor or Unknown (0)	1	Consulting with workers directly is the only way to understand how the policies are being experienced truly.
Total possible score		15	

⁶ Compiled by Glenn Shor, PhD, MPP, gshor@berkeley.edu; please contact original author for further details

⁷ ILO GEIS, https://www.ilo.org/global/topics/geip/publications/WCMS_768009/lang-en/index.htm

FIGURE 2:
Level of government support

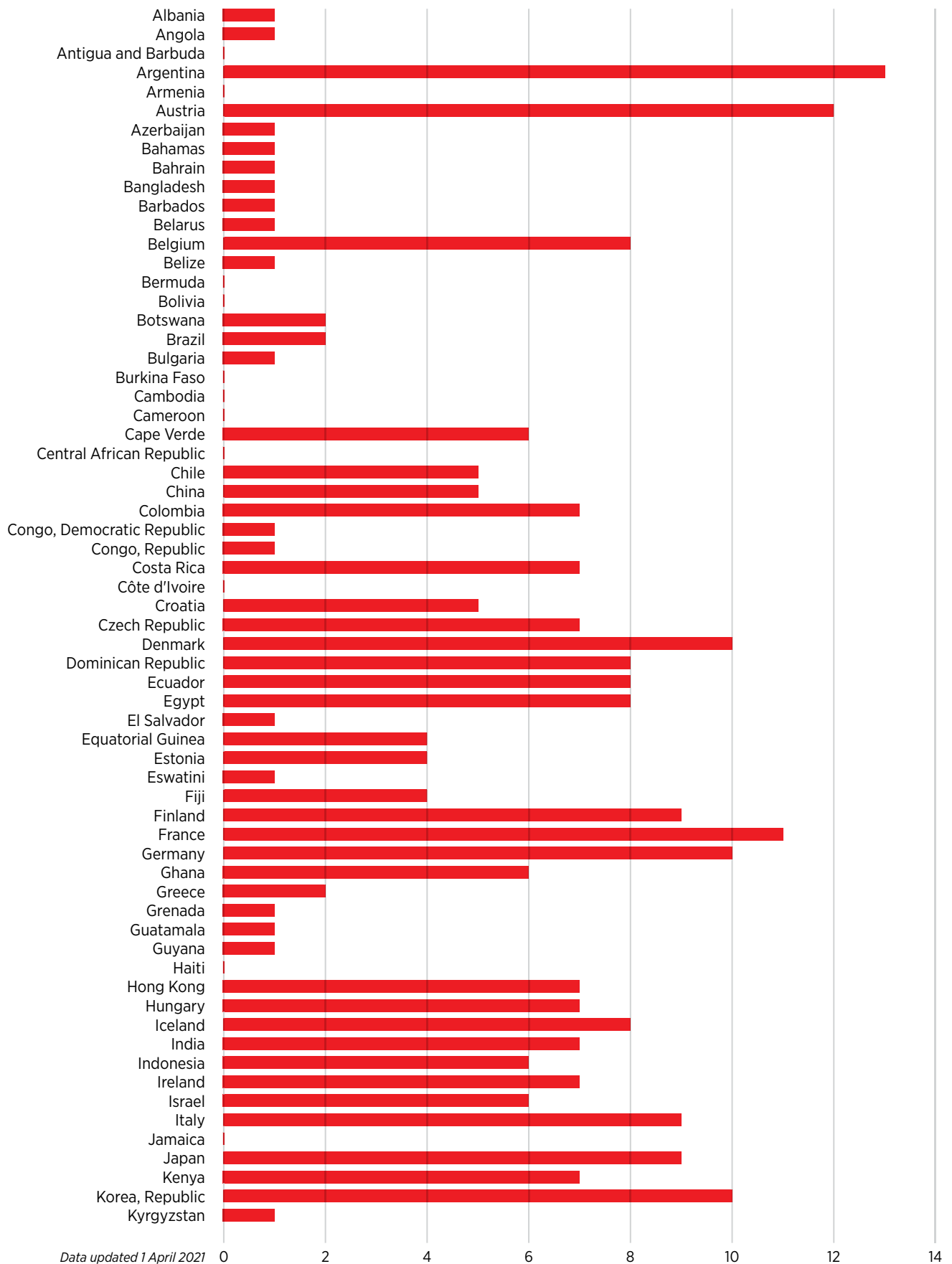


FIGURE 2 (continued):
Level of government support

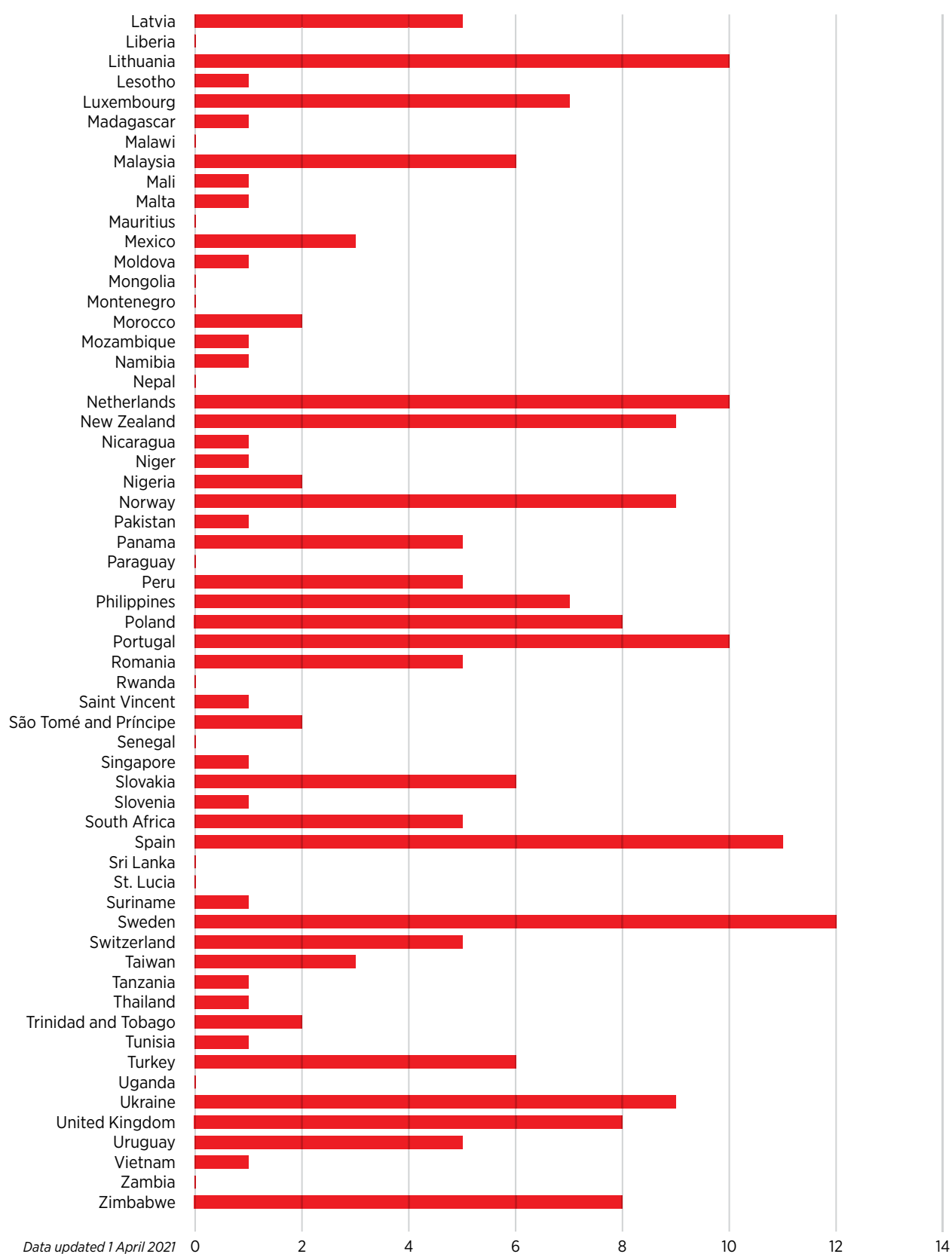


FIGURE 3:
Level of government support (United States)

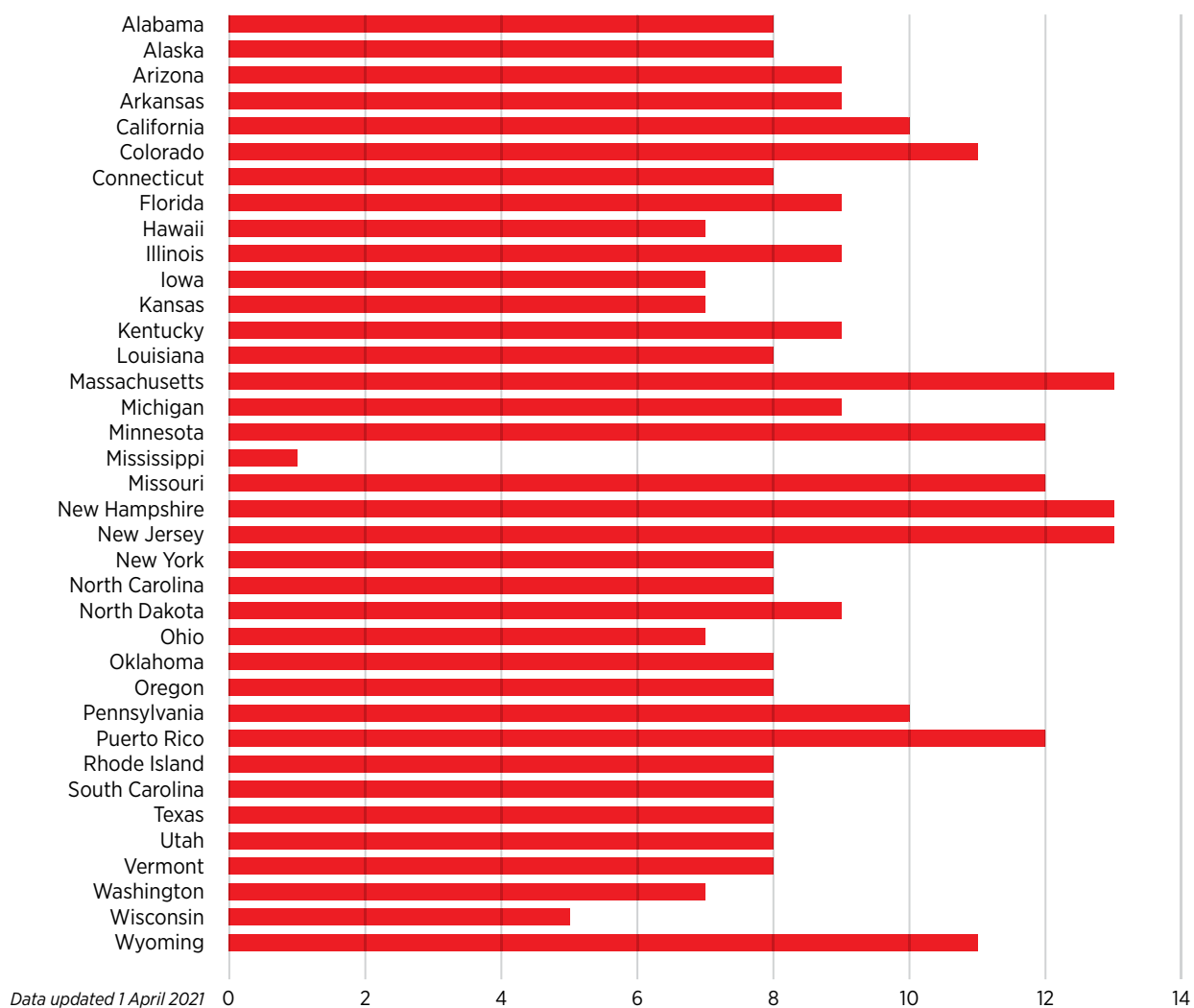


FIGURE 4:
Level of government support (Canada)

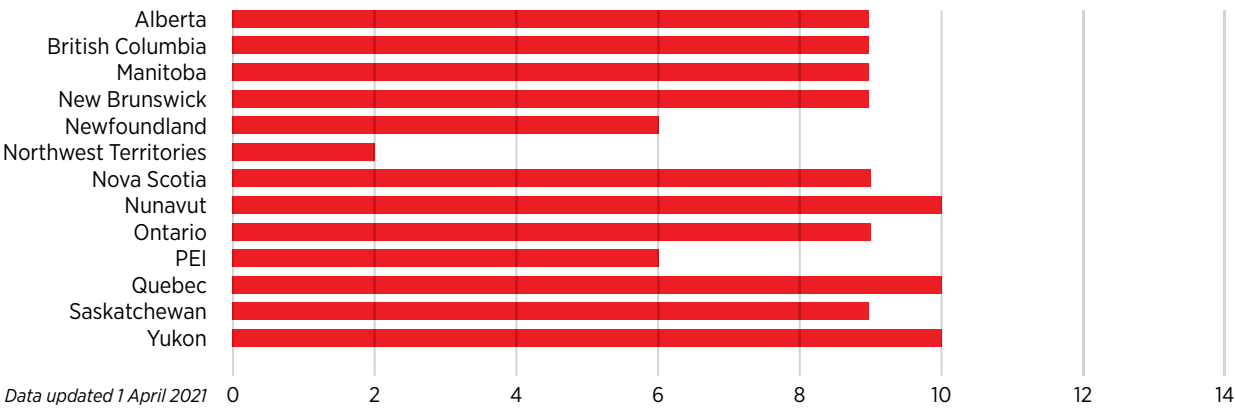
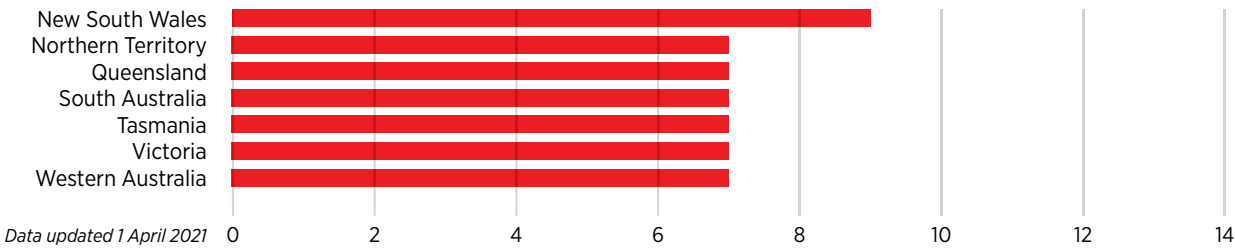


FIGURE 5:
Level of government support (Australia)





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