



AMAZON, LET WORKERS UNIONIZE!

RESPECT FOR WORKERS' RIGHTS IS NOT A CHOICE

AMNESTY
INTERNATIONAL



CONTENTS

INTRODUCTION	4
METHODOLOGY	5
1. BACKGROUND	6
HEALTH AND SAFETY	6
PRODUCTIVITY TARGETS	7
HAZARD PAY	8
2. RIGHT TO ORGANISE	9
2.1 USE OF TECHNOLOGY TO COUNTER UNION ACTIVITIES	10
2.2 UNIONS IN FRANCE TAKE AMAZON TO COURT OVER SAFETY	12
2.1 LACK OF ENGAGEMENT ON HEALTH AND SAFETY IN POLAND	13
2.2 THREATS OF INJUNCTIONS AGAINST UNIONS IN THE UK	14
2.3 WORKERS' ORGANIZERS FIRED IN THE US	15
CONCLUSION	17
RECOMMENDATIONS	18

Cover photo: A woman works at a packing station at the 855,000-square-foot Amazon fulfillment center in Staten Island, one of the five boroughs of New York City, on February 5, 2019. - Inside a huge warehouse on Staten Island thousands of robots are busy distributing thousands of items sold by the giant of online sales, Amazon. (Photo by Johannes EISELE / AFP)

INDEX: POL 40/3275/2020
NOVEMBER/2020
LANGUAGE: ENGLISH

amnesty.org

GLOSSARY

BLACK FRIDAY	The day after the US “Thanksgiving Holiday” Considered to be the busiest shopping day of the year in the USA and increasingly globally
ESCR COMMITTEE	UN Committee on Economic, Social and Cultural Rights
CFDT	<i>Confédération française démocratique du travail</i>, French Democratic Confederation of Workers
CGT	The National Federation of Transport Unions in France
FULFILMENT CENTRE	The term that Amazon uses to describe its warehouses
GMB UNION	A trade union in the UK – formerly the General, Municipal, Boilermakers' and Allied Trade Union
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IP	<i>Inicjatywa Pracownicza</i>, Workers' Initiative, a union in Poland
OSHA	Occupational Safety and Health Administration – US Department of Labor
PPE	Personal protective equipment
SOLIDAIRES	A union in France
SOLIDARITY	<i>Solidarność</i>, a union in Poland
UN GUIDING PRINCIPLES	UN Guiding Principles on Business and Human Rights

INTRODUCTION

The COVID-19 pandemic has had a devastating impact on societies and economies around the world. But Amazon.com, Inc. (Amazon) has boomed, cementing its position as the most used consumer-facing platform in the world, hiring at least 175,000 additional workers to meet the increased demand. By July 2020, Amazon's global workforce reached one million employees.

But this rapid expansion, occurring during an unprecedented global health crisis, has exacerbated longstanding concerns about the US-based corporation's approach to health and safety and its adversarial relationship with trade unions. As Amazon approaches its busiest time of the year between Amazon Prime Day, Black Friday and Christmas, Amnesty International has gathered information relating to these concerns from four countries where the company has major operations: France, Poland, the UK and USA.

International human rights law and standards are clear that workers have rights to join and form trade unions, and to safe and healthy working conditions. The UN Guiding Principles on Business and Human Rights state that companies have a responsibility to respect all human rights wherever they operate in the world, including the right to freedom of association and the right to collective bargaining. Amazon itself has recognised this responsibility and committed "to provide safe, inclusive and respectful workplaces in both its own operations and those throughout its value chain", but this commitment is not always matched by policies and practice.

While Amazon claims that, "we respect our employees' right to join, form or not to join a labour union", the company has consistently sought to limit the ability of trade unions to operate. Stating that it prefers a "direct relationship" with its employees, the company's most recent annual reports have identified works councils and trade unions as a "risk" factor for its international operations, and advised managers in a training video on how to look for "warning signs" of union activity, all while respecting local and national legislation.

Amazon also uses technology to engage in inappropriate surveillance and data collection from its workforce, including to undermine workers' right to organize. For example, in September 2020, *Vice News* published details of internal Amazon documents that showed that the company had been secretly monitoring and analysing Amazon Flex drivers' private Facebook groups, including to track plans for strikes or protests.

Union organisers told Amnesty International of the lack of meaningful or constructive engagement with Amazon. In France, trade union representatives said that Amazon did not engage with them over health and safety concerns at the start of the COVID-19 pandemic until the union Solidaires launched a legal challenge that forced a temporary halt in the company's operations and the introduction of more stringent health and safety measures. Similarly, in Poland, trade union Workers' Initiative said that Amazon would not engage with their health and safety concerns in March 2020. In the USA, Amazon disciplined and dismissed workers who spoke out about health and safety conditions during the pandemic. In the UK, Amazon continues to obstruct efforts by the GMB union to organise workers, including by threatening organizers with injunctions for trespassing when trying to access facilities.

Amnesty International expressed concerns over Amazon's treatment of the unions in letters to the company on 21 September and 9 November 2020. Amazon responded on 12 October 2020 that, "across Amazon we place enormous value on having daily conversations with each associate. Direct engagement with our employees is a strong part of our work culture."

Amazon must stop treating the human rights of its workers as a choice rather than a responsibility and should start engaging constructively with trade unions on matters including workers' health and safety. The company has recognised its corporate responsibility to respect human rights, but is failing to fully comply with international labour standards, in particular by respecting the rights of workers to join and form trade unions, as well as workers' right to privacy and other rights in relation to its use of technology.

METHODOLOGY

This briefing is part of a research project in which Amnesty International is examining the compliance of digital platform companies with internationally protected workers' rights.¹ Amnesty International focused on France, Poland, UK, and USA to look at how Amazon runs some of its largest operations, in environments with different legal frameworks and labour practices.² While the US and UK have comparatively restrictive trade union laws, in France and Poland the existence of unions in workplaces is better protected in law.

Researchers collated information from a variety of sources, including court documents;³ the US Department of Labor's Occupational Safety and Health Administration (OSHA) citations and notifications of penalty for violations of workplace safety in 2015; publicly available communications between California's Labor Commissioner's Office and Amazon, OSHA's COVID-19 complaints through August 2020;⁴ as well as reports by trade unions research organizations, and the media on the situation of Amazon workers and the company's treatment of unions.⁵

Researchers also spoke to 13 worker and union representatives in France, Poland, the UK and the USA. The interviews were carried out in Polish, French and English without the use of an interpreter by telephone. To reflect the changing situation of the warehouse workers between April and October, the interviews were followed up through email communications with the workers and unions. To protect the identity of the interviewees who are both workers and union shop stewards, in some cases Amnesty International has not used their real names in this briefing.

Amnesty has written to Amazon twice since April 2020, as well as immediately prior to publication, asking for information and providing it with an opportunity to respond to its findings. Amazon replied on 24 April, 12 October and 12 November. Amnesty International reviewed the responses in detail and took appropriate account of information provided in updating its findings.

¹ While this briefing focuses on the rights of Amazon employees working in "fulfilment centres" – Amazon's term for warehouses – there are also important concerns in relation to other categories of workers, including Amazon's "independent delivery service partners and their drivers" and self-employed drivers who deliver goods through "Amazon Flex"

² Although it is a relatively small market for Amazon, Poland is significant because Amazon's operations there serve other European markets, in particular Germany <https://blog.aboutamazon.eu/job-creation-and-investment/amazon-and-poland-are-the-great-match-growing-workforce-to-18-000-employees-and-creating-10-000-seasonal-jobs-for-the-festive-period>; <https://notesfrompoland.com/2020/02/18/amazon-in-advanced-talks-to-enter-polish-market-report/>; Boewe, J. and Schulten, J. The Long Struggle of Amazon Employees. Rosa-Luxemburg-Stiftung, 2017, <http://www.rosalux-nyc.org/the-long-struggle-of-the-amazon-employees/>

³ Brief for Amici Curiae submitted by Union Syndicale Solidaires, Federation Nationale Des Sindicats de Transports CGT, and Federation Nationale des Transports et de la Logistique Force Ouvriere in support of Plaintiff Motion for Preliminary Injunction, Submitted in June 2020.

⁴ The Labour Commissioner was concerned that Amazon seems to reduce the eligibility for sick pay to those diagnosed with COVID-19. Letter to Amazon from the Labour Commissioner dated on 27 May 2020: <https://www.documentcloud.org/documents/6986857-May-27-Amazon.html>; Letter to Amazon from the Labour Commissioner dated on 16 June 2020: <https://www.documentcloud.org/documents/6986852-June-16-Amazon.html>; Letter to the Labour Commissioner from Amazon dated on 26 June 2020: <https://www.documentcloud.org/documents/6986854-June-26-Amazon.html>

⁵ Olivia LaVecchia and Stacy Mitchell, "Amazon's Stranglehold: How the Company's Tightening Grip Is Stifling Competition, Eroding Jobs, and Threatening Communities," Institute for Local Self-Reliance, November 2016, <https://ilsr.org/amazon-stranglehold/>; UNI Global Union, Essentially Irresponsible, 2020, https://www.uniglobalunion.org/sites/default/files/public_shared/amazoncovid_en_pages.pdf; Athena & Hedge Clippers, *Amazon endangers workers, delivers contagion, reaps the profit, Special Report*, April, 2020, https://populardemocracy.org/sites/default/files/AmazonWorkersCoronavirus_FD2_0.pdf; Hanley, D.A. and Hubbard, S. *Eyes Everywhere, Amazon's Surveillance Infrastructure and Revitalizing Worker Power*. Open Markets, September 2020.; Trades Union Congress, *Challenging Amazon*, , October 2020, <https://www.tuc.org.uk/sites/default/files/2020-10/Challenging%20Amazon%20%28final%29.pdf>; Bryan Menegus, "Amazon's Aggressive Anti-Union Tactics Revealed in Leaked 45-Minute Video", Gizmodo, 26 September 2018, <https://gizmodo.com/amazons-aggressive-anti-union-tactics-revealed-in-leake-1829305201>; Lorenzo Franceschi-Bicchierai, "Amazon Is Hiring an Intelligence Analyst to Track 'Labor Organizing Threats'", Lauren Gurley and Joseph Cox, "Amazon Is Spying on Its Workers in Closed Facebook Groups, Internal Reports Show", Vice, 2 September 2020, https://www.vice.com/en_ca/article/3azegw/amazon-is-spying-on-its-workers-in-closed-facebook-groups-internal-reports-show

1. BACKGROUND

When you enter an Amazon warehouse you see pretty colourful halls, lunches for one złoty [0.22 Euro], free work shuttle... but then there is the ‘targets, targets, targets...’

Jakub, a worker and a representative of Workers Initiative union at Amazon warehouse in Poland.⁶

Amazon is the world’s largest e-commerce company, worth an estimated US\$1 trillion (£810 billion), directly employing one million workers globally, and shipping to over 100 countries.⁷ Its business portfolio includes areas such as Amazon Web Services, construction, logistics, manufacturing.⁸

Amazon’s operations and profits have grown considerably since the start of the COVID-19 pandemic, in response to the increased demand for home-delivery of goods. Its operating income (profit from a business’s operations, after deducting operating expenses) increased to US\$ 6.2 billion in the third quarter of 2020, up from US\$ 3.2 billion a year earlier.⁹ To respond to an increased demand during the COVID-19 pandemic it has hired at least 175,000 additional workers worldwide.¹⁰

While working conditions at Amazon are shaped by national labour laws, certain common elements of Amazon’s business model and approach to workers’ rights play an important role.¹¹ This includes the company’s approach to trade unions and to health and safety. These two issues are linked, as a key concern of trade unions is to ensure workers’ right to safe and healthy working conditions.¹²

HEALTH AND SAFETY

Amazon says that it is committed “to provide safe, inclusive, and respectful workplaces, in both our own operations and those throughout our value chain.[...] We strive to be the most safety-centric organization in the world. We provide a clean, safe, and healthy work environment. The health, wellness, and safety of our workers is our number one priority. Everyone has the right to a safe and healthy workplace with appropriate rules and practices for reporting and preventing accidents, injuries, and unsafe conditions, procedures, or behaviors.”¹³

⁷ Amazon, *2019 Annual Report*, https://www.annualreports.com/HostedData/AnnualReports/PDF/NASDAQ_AMZN_2019.pdf

⁸ Amazon, *2019 Annual Report*, p. 3

⁹ Amazon, Quarterly Report, For the quarterly period ended September 30, 2020, p. 4. <https://www.marketwatch.com/investing/Stock/amzn/SecFilings?subview=secarticle&sid=41519&guid=14468970&type=4>

¹⁰ Amazon, “Our World in 2020”. <https://sustainability.aboutamazon.com/our-world-in-2020>

¹¹ According to Amazon’s Global Human Rights Principles: “We firmly believe it is in our employees’ and the company’s best interests to continue our direct communications, and the best way to effect positive change is for our employees to continue working directly with their managers throughout the company.”

<https://sustainability.aboutamazon.com/people/human-rights/principles>

¹² “[T]rade union rights, freedom of association and the right to strike are crucial means to introduce, maintain and defend just and favourable conditions of work”, General ESCR Committee, Comment no. 23

¹³ Amazon Global Human Rights Principles, <https://sustainability.aboutamazon.com/people/human-rights/principles>

However, safety concerns have been a longstanding concern raised by trade unions and others, even before COVID-19 brought major new risks to the workplace. In September 2020, the Reveal programme of The Center for Investigative Reporting published data on injury rates in Amazon warehouses in the USA.¹⁴ The data drew on internal safety reports and weekly injury numbers from its nationwide network of 150 fulfilment centres between 2016 and 2019. Reveal reported that in 2019: “Amazon fulfilment centres recorded 14,000 serious injuries – those requiring days off or job restrictions. The overall rate of 7.7 serious injuries per 100 employees was 33 per cent higher than in 2016 and nearly double the most recent industry standard.” Reveal also pointed to a link between the rise in injuries and workload during Prime week and the holiday peak.

Reveal states that Amazon did not reply to the specific allegations, but gave a general statement saying that “nothing is more important than health and safety of our teams” and highlighting that they have invested over US\$1 billion in safety measures in 2020 to protect people from COVID-19.¹⁵ Faced with similar reports in 2019, the company stated that injury rates are high because they are aggressive about recording worker injuries, and cautious about allowing injured workers to return to work before they are ready.¹⁶

Amazon also rejects the criticism made by unions and workers regarding their response to the COVID-19 pandemic. In a letter to Amnesty International dated on 12 October 2020, the company states: “Nothing is more important than the health and well-being of our employees, and we are doing everything we can to keep them as safe as possible. We’ve invested over \$800 million in the first half of this year implementing 150 significant process changes on COVID-19 safety measures by purchasing items like masks, hand sanitizer, thermal cameras, thermometers, sanitizing wipes, gloves, additional handwashing stations, and adding disinfectant spraying in buildings, procuring COVID testing supplies, and additional janitorial teams.”¹⁷

PRODUCTIVITY TARGETS

Amazon’s controversial use of aggressive productivity targets for workers has been well documented. For example, a 2019 report by the University of California described Amazon’s working practices as “far more labor intensive and time sensitive than traditional warehouse activities”.¹⁸ In October 2020, the UK Trades Union Congress also outlined how workers’ productivity performance is monitored, and how a failure to meet the targets results in disciplining or even dismissals of workers.¹⁹ “It has been reported that the high level of monitoring creates a culture of fear. Many workers do not take their legally entitled breaks because of the impact it has on productivity and the subsequent risk to hours and ultimately employment, particularly for the many temporary and agency workers Amazon hires,” the authors concluded.²⁰

During the course of the research for this briefing, Polish trade union Workers’ Initiative told Amnesty International that they had been fighting against compulsory productivity targets at Amazon for years. According to one worker:

“There are lots of posters reminding us about work safety. But then there is the practice when you get summoned by a manager twice a week and they tell you: ‘well you have to work faster’.”²¹

In July 2020, the Polish regional court of Poznań-Grunwald and Jeżyce ruled in favour of a former employee who complained against unfair dismissal in 2016 for an alleged failure to meet the productivity quota. The court held that “the system [of assessment of workers’] at Amazon... was designed to eliminate the least productive workers, which effectively amounted to a kind of ‘race’.”²² The court also found that the required targets changed over time and an employee could never be sure whether they met them, as they depended on the performance of other employees.²³

Amazon suspended productivity targets in March 2020 in the face of concerns that they were incompatible with health and safety measures required to prevent COVID-19 infections.²⁴

¹⁴ Will Evans, “Ruthless Quotas at Amazon are Maiming Employees”, The Atlantic, 25 November 2019, <https://www.theatlantic.com/technology/archive/2019/11/amazon-warehouse-reports-show-worker-injuries/602530/>

¹⁷ Amazon letter to Amnesty International, 12 October 2020

¹⁸ Beth Gutelius & Nik Theodore, *The Future of Warehouse Work: Technological Change in the US Logistics Industry*, University California Berkeley Center for Labor Research and Education and Working Partnerships USA, October 2019, p.19.

¹⁹ TUC, *Challenging Amazon*, October 2020, p.12. <https://www.tuc.org.uk/sites/default/files/2020-10/Challenging%20Amazon%20%28final%29.pdf>

²¹ Interview with Amnesty International, 17 October 2020.

²² *Gorajski v Amazon Fulfillment Poland*, 2 July 2020. Sygn. akt VIII Pa 135/19, p.18.

²³ The court clarified that Amazon’s system of productivity targets compares workers, who then effectively compete against each other.

²⁴ Talking points to managers in of Amazon warehouses in the US, on files with Amnesty International; Interviews with workers in Poland, 12 and 14 October 2020, AlJazeera, “Oppressive and dangerous: Amazon workers take company to court”, 15 October 2020, <https://www.aljazeera.com/economy/2020/10/15/oppressive-and-dangerous-amazon-workers-take-company-to-court>

However, ahead of the end of year holiday season, Amazon told workers in the US, UK and elsewhere that it was reintroducing these targets.²⁵ For example workers in the UK reported receiving a text message stating that, “starting 21 October we will resume measuring and delivering productivity performance feedback to ensure we are ready to deliver for customers in the coming weeks.”²⁶



Text message to workers in the UK announcing the resumption of productivity targets.

HAZARD PAY

Recognising the increased risks faced by workers during the first phase of the pandemic, Amazon increased by US\$2 the hourly pay of some workers in the USA, the UK, Canada and many EU countries, including France, Germany, Italy, and Poland. In most of these countries, however, this hazard pay was withdrawn at the end of May, even though Amazon workers still faced – and continue to face – clear and ongoing workplace hazards in almost every country where Amazon operates. The decision ignored calls from unions and workers’ organizations to continue the additional payment. It also came at a time when Amazon’s revenues had increased by 40 per cent.²⁷ Amazon stated that the hazard pay was an incentive that enabled it to deliver essential items to communities during “unprecedented times” and during increased demand.²⁸

Amnesty International has called on Amazon to respect workers’ rights and to recognize the increased health and safety risks workers faced during the ongoing pandemic.²⁹ A fair hazard pay should compensate workers who face significant exposure to COVID-19 because they work in conditions – such as in Amazon warehouses or delivery – where protective devices do not afford complete protection. This would be in line with the Committee on Economic, Social and Cultural Rights’ clarification that: “... fair wage is not static since it depends on a range of non-exhaustive objective criteria, reflecting [among other things]... the impact of the work on health and safety of the worker, specific hardships related to the work and impact on the worker’s personal and family life.”³⁰

²⁵ Annie Palmer, “Amazon has resumed policies that penalize workers for taking too many breaks, just in time for Prime Day”, CNBC, 14 October 2020. <https://www.cnn.com/2020/10/14/amazon-resumes-policy-that-dings-workers-for-taking-too-many-breaks.html>; “Amazon workers say Prime Day rush breaks pandemic safety vows”, LA Times, 14 October 2020. <https://www.latimes.com/business/story/2020-10-14/amazon-workers-say-prime-day-rush-breaks-covid-safety-vows>

²⁶ Screen shot of a text message from 15 October 2020 on file with Amnesty International.

²⁷ Dave Lee, “Amazon doubles quarterly profit despite Covid-19 costs”, *Financial Times*, 30 July 2020, <https://www.ft.com/content/7a42b1d8-9ca7-4827-aaae-729fdb7637f5>

²⁸ “Amazon extends bonus pay for front-line workers but says it ends in June”, *Vox*, 13 May 2020, <https://www.vox.com/recode/2020/5/13/21256756/amazon-pay-increases-frontline-warehouse-workers-covid-19-coronavirus-pandemic-may>

²⁹ Letter to Amazon dated 21 September 2020.

³⁰ General Comment no. 23, para.10.

2. RIGHT TO ORGANISE

“We have to organize from outside the gates of all Amazon’s facilities [in the UK]. They know when we are there and threaten us with letters from their solicitors if we were to go onto the premises without a ‘prior agreement or reason’.”

Stuart Perry, a GMB Union organizer in the UK, September 2020

All companies have a responsibility under the UN Guiding Principles on Business and Human Rights (UN Guiding Principles) to respect human rights.³¹ This responsibility “... is a global standard of expected conduct for all business enterprises wherever they operate... and it exists over and above compliance with national laws and regulations protecting human rights.”³² Among the human rights that businesses have a responsibility to respect are the eight International Labour Organization (ILO) core conventions; the ILO Declaration on Fundamental Principles and Rights at Work and the International Covenant on Economic, Social and Cultural Rights (ICESCR).³³

The ICESCR makes clear that workers have the right to join and form trade unions.³⁴ General Comment 23 on the ICESCR highlights that “trade union rights, freedom of association and the right to strike are crucial means to introduce, maintain and defend just and favourable conditions of work.”³⁵

Included in the ILO core conventions are Convention no. 98, which provides obligations to ensure adequate protection against acts of anti-union discrimination in respect of their employment³⁶, and Convention No. 87, which states that workers have the right to establish and join organisations of their own choosing without previous authorisation.³⁷ Under the ILO Conventions 98 and 87, neither management nor government should interfere in the internal affairs of a trade union.

The ILO Declaration on Fundamental Principles and Rights at Work notes that in a “situation of growing economic interdependence... the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve

³¹ OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, (UN Doc. HR/PUB/11/04), 2011, <https://sustainability.aboutamazon.com/governance/amazon-global-human-rights-principles>

³² OHCHR, *Guiding Principles on Business and Human Rights*, Foundational Principle 11.

³³ OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* (UN Doc. HR/PUB/11/04), 2011, Principle 12

³⁴ Article 8 of ICESCR

³⁵ General Comment No. 23 (2016) on the Right to just and favorable conditions of work, para 1.

³⁶ “Our approach on human rights is informed by international standards; we respect and support the Core Conventions of the International Labour Organization (ILO)...” Amazon’s response to Amnesty International dated 12 October 2020.

³⁷ Article 2 of the ILO Convention 87

fully their human potential". These rights include "freedom of association and the effective recognition of the right to collective bargaining."³⁸

Amazon has recognised its responsibilities under the UN Guiding Principles and has publicly committed itself to respecting human rights through its operations, including in relation to the ILO core conventions. On its website, Amazon notes that:

"[...] Amazon recognizes our responsibility to respect and uphold internationally recognized human rights through the ethical treatment of our workforce and those within our value chain. Guided by the United Nations Guiding Principles on Business and Human Rights, we commit to embedding respect for human rights throughout our business. We continuously evaluate our operations and value chain to identify, assess, and address salient human rights risks; engage key stakeholders; and prioritize key areas where we have the greatest opportunity to have a positive impact on workers and communities. Our approach on human rights is informed by international standards; we respect and support the Core Conventions of the International Labour Organization (ILO), the ILO Declaration on Fundamental Principles and Rights at Work, and the UN Universal Declaration of Human Rights."³⁹

In practice, however, although Amazon states that that "we respect our employees' right to join, form or not to join a labor union",⁴⁰ the company's pattern of behaviour portrays a corporate culture that is adversarial towards workers' rights to join a trade union and organize collectively.⁴¹ This is highlighted by the fact that Amazon's annual reports to shareholders for 2018 and 2019 even lists "the existence of works councils and labour unions" as a business risk.⁴²

The company's whole approach to deterring unionisation was unintentionally revealed by training video in 2018 for managers at Amazon-owned Whole Foods, which was subsequently leaked. In the video, Amazon encourages managers to look for "warning signs" of union activity, stated that unions were incompatible with Amazon's business model, and advised managers on ways to discourage workers from joining unions, all while ensuring they respect local and national legislation.⁴³ The video states that:

"We are not anti-union, but we are not neutral either... We do not believe unions are in the best interest of our customers, our shareholders, or most importantly our associates... Our business model is based on speed, innovation and customer obsession. Things that are not generally associated with unions"

In the video Amazon states that a direct connection with its employees - without the involvement of union - is "the most effective way to support the rapid innovation and operational flexibility that are a key to [Amazon's] success", and makes the union connection unnecessary.⁴⁴

In its response to media coverage of the leaked video, Amazon asked why anyone would object to it wanting to "drive innovation on behalf of the customer in a caring and inclusive environment".⁴⁵ The response did not address the statement from the video about the incompatibility of Amazon's business model with union activity.

2.1 USE OF TECHNOLOGY TO COUNTER UNION ACTIVITIES

Another indicator of Amazon's aversion to trade union activity is the use of intrusive surveillance of its workforce. Monitoring and surveillance by a company over the activities of its workforce, such as the use of CCTV in the workplace or monitoring the use of company devices, can be carried out lawfully as part of legitimate business practices. However, such monitoring can interfere with workers' right to privacy, as well as their right to freedom of association and expression. Moreover, the increasing use of sophisticated surveillance and data analytics technologies, coupled with expanded data collection in the workplace, heightens the capabilities of employers to track their workforce in more targeted and intrusive ways.⁴⁶

³⁸ ILO, ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, <https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>

³⁹ Amazon, "Amazon's Global Human Rights Principles", <https://sustainability.aboutamazon.com/people/human-rights/principles>

⁴⁰ Amazon's response to Amnesty International dated 12 October 2020.

⁴¹ Olivia LaVecchia and Stacy Mitchell, "Amazon's Stranglehold: How the Company's Tightening Grip Is Stifling Competition, Eroding Jobs, and Threatening Communities," November 2016, Institute for Local Self-Reliance, p. 41

⁴² Amazon, 2019 Annual Report, p8, https://www.annualreports.com/HostedData/AnnualReports/PDF/NASDAQ_AMZN_2019.pdf; Amazon, 2018 Annual Report, p.8 https://s2.q4cdn.com/299287126/files/doc_financials/annual/2018-Annual-Report.pdf.

⁴³ Bryan Menegus, "Amazon's Aggressive Anti-Union Tactics Revealed in Leaked 45-Minute Video", Gizmodo, 26 September 2020, <https://gizmodo.com/amazons-aggressive-anti-union-tactics-revealed-in-leake-1829305201>; Link to the video: <https://www.youtube.com/watch?v=uRpwVwFxyk4>

⁴⁴ Link to the video: <https://www.youtube.com/watch?v=uRpwVwFxyk4>

⁴⁵ Michael Sainato, "Amazon training videos coach Whole Foods staff on how to discourage unions", The Guardian, 27 September 2018.

<https://www.theguardian.com/business/2018/sep/27/amazon-whole-foods-training-video-union-busting-efforts-staff>

⁴⁶ Alexandra Mateescu and Aiha Nguyen, *Explainer: Workplace Monitoring & Surveillance*, Data & Society, February 2019, https://datasociety.net/wp-content/uploads/2019/02/DS_Workplace_Monitoring_Surveillance_Explainer.pdf

Amnesty International is concerned that Amazon is using technologies to engage in inappropriate surveillance and data collection from its workforce, including to undermine workers' right to organize. In its 12 October 2020 letter to Amnesty International, Amazon did not answer questions about such practices.

Amazon has published job advertisements for intelligence analysts responsible for monitoring risks including "labor organizing threats against the company" in the USA, according to an expose by Vice News in September 2020.⁴⁷ Amazon then removed the advertisements and claimed that their posting was an error. However, they had in fact been on Amazon's own portal since January 2020, according to Vice News.⁴⁸

Also revealed in September 2020, leaked internal Amazon documents showed that the company had been secretly monitoring and analysing Amazon Flex drivers' private Facebook groups, including to track plans for strike actions or protests.⁴⁹ Amazon have never denied that the documents, which were also published by Vice News, were genuine.⁵⁰

Amazon's monitoring and collection of worker data in such a manner breaches international standards with respect to the protection of workers' personal data and privacy. The ILO guide to protecting workers privacy, *Protection of workers personal data*, lays out the principles to protect workers' data, with which Amazon appears not to have complied.⁵¹ The guide notes that "[i]f it is necessary to collect personal data from third parties, the worker should be informed in advance, and give explicit consent". As reported by *Vice News*, the workers collecting information from the closed Facebook groups were instructed to treat the information as confidential.⁵² This suggests that Amazon workers did not give "explicit consent" for their data shared on closed Facebook groups to be collected and stored by their employer in such a manner.

The ILO privacy guide also states that "[e]mployers should not collect personal data concerning the worker's membership in a workers' organization or the worker's trade union activities, unless obliged or allowed to do so by law or a collective agreement".⁵³ While Amazon Flex drivers, who are treated as "contractors", not employees, are currently not unionized in most countries, the reports that Amazon was tracking their attempts to protest, strike or talk to researchers "for their project/thesis" suggests possible attempts to monitor and neutralize any attempts to form trade unions or associate with trade union or labour researchers.⁵⁴

Moreover, interference with an individual's right to privacy is only permitted under international human rights law if it necessary and is neither arbitrary nor unlawful.⁵⁵ Amazon's monitoring of its workers' activities for the purpose of undermining their right to organize can never be a permissible interference with the right to privacy.

There is also evidence that Amazon is increasingly deploying data analytics tools and technology to facilitate its activities to counter workers' efforts to organize or form unions. On 6 October, a leaked internal memo included plans by Amazon to invest hundreds of thousands of dollars to monitor union "threats" through a new technology system called geoSPatial Operating Console, *Recode* reported.⁵⁶ Amazon did not comment on whether the memo was genuine, but its spokesperson told *Recode* that the company respects "employees' right to join, form or not to join a labor union or other lawful organization of their own selection, without fear of retaliation, intimidation or harassment."⁵⁷

In April 2020, internal documents showed how Amazon-owned Whole Foods used an interactive "heat map" tool to monitor workers who were organizing and to assign risk scores to individual stores, according to *Business Insider*.⁵⁸ The heat map calculates the risk score using metrics drawn from multiple data points, monitoring three main areas: "external risks," "store risks", and "team member

⁴⁷ Lorenzo Franceschi-Bicchierai, "Amazon Is Hiring an Intelligence Analyst to Track 'Labor Organizing Threats'", *Vice*, 1 September 2020, https://www.vice.com/en_us/article/qj4aqw/amazon-hiring-intelligence-analyst-to-track-labor-organizing-threats

⁴⁸ Lorenzo Franceschi-Bicchierai, "Amazon Is Hiring an Intelligence Analyst to Track 'Labor Organizing Threats'", Lauren Gurley and Joseph Cox, "Amazon Is Spying on Its Workers in Closed Facebook Groups, Internal Reports Show", *Vice*, 2 September 2020, https://www.vice.com/en_ca/article/3azegw/amazon-is-spying-on-its-workers-in-closed-facebook-groups-internal-reports-show

⁴⁹ Lauren Gurley and Joseph Cox, "Amazon Is Spying on Its Workers in Closed Facebook Groups, Internal Reports Show". *Vice*, 2 September 2020.

⁵⁰ The documents are available here: <https://drive.google.com/file/d/1YeKhuvFZk1OZH0L2djqRgtaMcHq6BFd/view>

⁵¹ ILO Code of practice on the protection of workers' personal data, International Labour Office, Geneva, 1997, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/normativeinstrument/wcms_107797.pdf

⁵² Lauren Gurley and Joseph Cox, "Amazon Is Spying on Its Workers in Closed Facebook Groups, Internal Reports Show".

⁵³ ILO Code of practice on the protection of workers' personal data, para. 6.6.

⁵⁴ Lauren Gurley and Joseph Cox, "Amazon Is Spying on Its Workers in Closed Facebook Groups, Internal Reports Show"

⁵⁵ A/HRC/27/37, paras.21-27.

⁵⁶ Jason Del Rey and Shirin Ghaffary, "Leaked confidential Amazon memo reveals new software to track unions", *Recode*, 6 October 2020, <https://www.vox.com/recode/2020/10/6/21502639/amazon-union-busting-tracking-memo-spic>

⁵⁷ Jason Del Rey and Shirin Ghaffary, "Leaked: Confidential Amazon memo reveals new software to track unions".

⁵⁸ Hayley Peterson, "Amazon-owned Whole Foods is quietly tracking its employees with a heat map tool that ranks which stores are most at risk of unionizing," *Business Insider*, 20 April 2020, <https://www.businessinsider.com/whole-foods-tracks-unionization-risk-with-heat-map-2020-1>

sentiment". It also identifies locations where the stores "must take action to address risks". In response, Whole Foods stated it "recognizes the rights of our Team Members to decide whether union representation is right for them."⁵⁹

Amazon did not respond to the specific allegations about surveillance of workers and unions with the exception to allegations concerning a job post for intelligence analysts. In a letter to Amnesty International on 12 October 2020, Amazon said that the job advertisement "was not an accurate description of the role – it was made in error and has since been corrected."⁶⁰

2.2 UNIONS IN FRANCE TAKE AMAZON TO COURT OVER SAFETY

"When we run a media campaign, they are afraid of us. Otherwise we don't exist for them."

A member of the CFDT union, describing their relationship with Amazon.⁶¹

The requirements of France's labour law mean that trade unions are usually represented at the workplace level alongside directly elected workplace representatives, while in Amazon's case it must also comply with industry-level collective agreements for the non-food retail sector.⁶² A number of trade unions including the National Federation of Transport Unions (CGT), the French Democratic Confederation of Workers (CFDT) and Solidaires are actively representing workers at Amazon facilities. Yet despite this legal framework, representatives interviewed by Amnesty International reported a lack of meaningful engagement from Amazon with the unions.

As COVID-19 infections grew rapidly in France in March 2020, representatives of CFDT and Solidaires told Amnesty that they alerted Amazon's management about serious and imminent risks for their health. They said the company refused to engage in dialogue with unions to address these concerns until legal action was taken in April.⁶³ According to Adrien Guellec, National Secretary of CFDT:⁶⁴

"During the [first wave] of the pandemic, we wanted to sit around the table to find solutions... They didn't want to have any discussion and refused a dialogue. What they do is double-speak: there is their media position and their claim to be open to the unions, and then there is our reality [Amazon's refusal to engage in a discussion]."

Following the French government's declaration of a public health state of emergency on 23 March 2020, the Ministry of Labour issued recommendations for companies to introduce working from home as the norm, and where not possible, to re-organize the work as necessary to guarantee safety of workers.⁶⁵ Between 30 March and 7 April 2020, in response to employees' complaints over health and safety, the Labour Administration, the national regulator, sent letters to Amazon. It noted that after field inspections into warehouses, employee protection measures were inadequate considering the number of workers present at the sites.⁶⁶

Subsequently, in April 2020, trade union Solidaires successfully launched a complaint on public health grounds to force S.A.S. Amazon France Logistique⁶⁷ to take more stringent measures to protect workers' health at warehouses during the onset of the COVID-19 pandemic.⁶⁸ A worker who was part of the Solidaires team that lodged the complaint against Amazon told Amnesty International:

⁵⁹ Jay Peters, "Whole Foods is reportedly using a heat map to track stores at risk of unionization", *The Verge*, 20 April 2020, <https://www.theverge.com/2020/4/20/21228324/amazon-whole-foods-unionization-heat-map-union>

⁶⁰ Response from Amazon from 12 October 2020 on files with Amnesty International.

⁶¹ Amnesty International interviews with CFDT, 16 October 2020

⁶² Boewe, J. and Schulten, J. *The Long Struggle of Amazon Employees*. Rosa-Luxemburg-Stiftung, 2017, p32.

⁶³ Amnesty International interviews with CFDT, 16 October 2020; CGT, 7 October 2020; Solidaires, 1 July and 6 October 2020.

⁶⁴ Amnesty International interviews with CFDT, 16 October 2020

⁶⁵ TJ Nanterre, ord., 14 April 2020, pp. 3-4

⁶⁶ Brief for amici curiae of Solidaires, *Palmer et al. v. Amazon*, p.4.

⁶⁷ Amazon France Logistique employs 6,459 employees on permanent or fixed-term contracts, plus 3,612 temporary staff, spread across the head office and six warehouses in France. Source: Brief for amici curiae of Solidaires, Fédération Nationale des Syndicats de Transports CGT, and Fédération Nationale des Transports et de la Logistique Force Ouvrière, *Palmer et al. v. Amazon*, US District Court for the Eastern District of New York, Case No. 1:20-cv-02468-BMC, 10 June 2020, p.3, on file with Amnesty International.

⁶⁸ See "At Amazon, safety and wellbeing do not come first, Nanterre Tribunal rules", *Europe Solidaire San Frontières*, http://www.europe-solidaire.org/spip.php?article53044#outil_sommaire_0

"The Labour inspectors recognized that the warehouses were not up to the required standard [for health and safety]. But their conclusions were not binding [and] nothing [happened]. It went on for two or three weeks until we [filed a complaint in] court."⁶⁹

On 14 April, the Court of Nanterre ordered Amazon to carry out a comprehensive evaluation of the occupational risks posed by COVID-19, together with employee representatives. It also ordered Amazon to restrict the operations at its warehouses and to process and dispatch only orders for food, hygiene and medical products. Non-compliance would be penalized by a fine of 1 million euros per day.⁷⁰ On 24 April, the Court of Appeal of Versailles upheld the order of the Court of Nanterre.⁷¹ As a result of the complaint, Amazon temporarily closed the warehouses on 16 April⁷² and began reopening them on 19 May, after reaching agreement with unions.⁷³

"It was only after the ruling that Amazon was forced by the court to consult the unions. [...] After Amazon appealed the [Nanterre] ruling, other unions joined us," added the Solidaires member.⁷⁴

The successful complaint against Amazon in France is a good example of a labour union's ability to defend the rights of workers, despite the company's initial refusal to discuss health and safety concerns with them.

2.1 LACK OF ENGAGEMENT ON HEALTH AND SAFETY IN POLAND

In Poland, two trade unions – Workers' Initiative (Inicjatywa Pracownicza, IP) and Solidarity (Solidarność) – are active in organizing and representing Amazon employees. Under the law, in Poland a union can become active in a workplace if they have at least 10 members.⁷⁵ In March 2020, both unions called on Amazon to take an action to improve health and safety at the beginning of the COVID-19 pandemic, including the closure of warehouses on the grounds that workers' health was at risk due to a lack of social distancing and other measures.⁷⁶ The unions argued that workers come into contact with each other not only while working but also in smoking rooms, canteens, changing rooms or on entering or exiting the workplace, where the health and safety measures were not adequate. On 16 March 2020, they sent letters to five regional governments where Amazon warehouses are located, demanding their intervention to close the warehouses.⁷⁷ On 20 March, after receiving no response from Amazon's management, Workers' Initiative and Solidarity published a statement highlighting that the company had refused to discuss their demands. The unions wrote in a joint statement: "The company presented to us its proposal of a bonus of 4 złoty before taxes [EUR 0.9] for every hour worked between 15 March and 30 April but was not open to negotiating the bonus amount or working conditions."⁷⁸

In early April, Amazon released a statement, quoted in national media, announcing the health and safety measures it had introduced in response to the pandemic, which included two metre distancing, provisions of PPE as well as reorganization of the work to enable physical distancing.⁷⁹

Five workers interviewed by Amnesty International confirmed that by early April, Amazon did provide warehouse workers with PPE and re-organized arrival and departure times at workplaces.⁸⁰

However, more recently they raised concerns over an announcement in October that the company planned to hire an additional 14,000 workers ahead of the Christmas period.⁸¹ Agnieszka Mróz, a member of Workers' Initiative, said that in some places it may result in as

⁶⁹ Interview with Amnesty International, 6 October

⁷⁰ Brief for amici curiae of Solidaires, *Palmer et al. v. Amazon*, p.4.

⁷¹ Decision of the Court of Appeal of Versailles, 24 April 2020, https://cdn2.nextinpact.com/medias/ca-versailles---24_04_2020-amazon.pdf

⁷² Alex Hern, "Amazon closes French warehouses after court ruling on coronavirus", *The Guardian*, 16 April 2020.

<https://www.theguardian.com/technology/2020/apr/15/amazon-to-close-french-warehouses-over-coronavirus-concerns>

⁷³ *New York Times*, *Amazon Reaches Deal With French Unions in Coronavirus Safety Dispute*, 16 May 2020 <https://www.nytimes.com/2020/05/16/business/amazon-france-unions-coronavirus.html>

⁷⁴ Interview with Amnesty International, 6 October

⁷⁵ Law on Unions, Dz. U. 1991 Nr 55 poz. 234, Art. 12.1; <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19910550234/U/D19910234Lj.pdf>

⁷⁶ Marta Glanc & Tomasz Pajaczek, "Pracownicy Amazona chcą zamknięcia magazynów. "To jedna wielka wylegarnia koronawirusa", "Onet, 26 March 2020, <https://wiadomosci.onet.pl/kraj/pracownicy-amazona-chca-zamknienia-magazy-now-to-jedna-wielka-wylegarnia-koronawirusa/zwtmgc3>

⁷⁷ "Apelujemy do wojewodów o zamknięcie magazynów Amazon, Zdrowie i życie tysięcy pracowników, ich rodzin i mieszkańców miast i wsi, z których pochodzą jest zagrożone", 16 March 2020, <https://www.ozzip.pl/informacje/pilne-akcje/item/2600-apelujemy-do-wojewodow-o-zamknieniu-magazy-now-amazon-zdrowie-i-zycie-tysiecy-pracownikow-amazon-ich-rodzin-i-mieszkan-cow-miast-i-wsi-z-ktorych-pochodza-jest-zagrozone>

⁷⁸ Post by Workers' Initiative, 20 March 2020, <https://www.facebook.com/IPAmazon/posts/scandal-amazon-refuses-to-discuss-workers-health-and-safety-concerns-with-unions/1066162633741437/>

⁷⁹ Anna Łukaszek, "Zakażenie koronawirusem w Amazonie. Pracownicy: "Boimy się, brakuje procedur" 7 April 2020, *Radio Szczecin*, <https://radioszczecin.pl/1,403766,zakazenie-koronawirusem-w-amazonie-pracownicy-bo>

⁸⁰ Interviews with Amnesty International on 11, 12, 14 and 15 October 2020.

⁸¹ Anita Błaszczak, "Gigant e-handlu, Amazon szykuje się na przedświąteczną gorączkę. Właśnie rozpoczął rekrutację ponad 10 tys. sezonowych pracowników, których zatrudni w swoich centrach logistycznych w Polsce", *Cyfrowa*, 14 October 2020, <https://cyfrowa.rp.pl/biznes/52956-amazon-zatrudni-w-polsce-10-tys-osob-wiemy-ile-zarabia>

much as a 50 per cent increase in the number of workers. She fears this will make it difficult for workers to comply with social distancing, including when queuing for lunch or using the shuttle bus.⁸²

In response to Amnesty International's letter on 12 October 2020, Amazon stated that "In Poland, we strictly followed the guidelines of the government and sanitary authorities to ensure the implementation of appropriate procedures in all our locations throughout the country. It is worth mentioning that the State Sanitary Inspectorate has visited four Amazon Fulfilment Centers in Poland to verify the level of protection of employees against possible coronavirus infection in the workplace. The independent inspections approved the measures we have applied and found no deficiencies in our processes."

A member of Worker's Initiative also claimed that in recent years Amazon has issued reprimands to some of its active members. In one example that was eventually taken to court, they said Amazon reprimanded one of its members for trying to recruit union members during working hours and for leaving her post to use the toilet.⁸³ Amazon used as evidence against her union membership forms that she received from several employees.⁸⁴ In January 2019, the Regional Court in Poznań-Grunwald and Jezyce overturned the reprimands and explained that trade unions must be treated by the employer not as a "necessary evil" but rather as a party to work with in partnership. The court stated that Amazon should refrain from confrontational actions that escalate tensions in the workplace.⁸⁵

2.2 THREATS OF INJUNCTIONS AGAINST UNIONS IN THE UK

"Amazon refuses to have a relationship with us, they communicate only via their solicitors."

Amanda Gearing, GMB union officer.⁸⁶

The GMB Union is one of the largest unions in the UK with over 620,000 members across several sectors of the economy.⁸⁷ It has been seeking to organize workers at Amazon warehouses around the UK for a number of years, while facing hostility from the company.⁸⁸ Restrictive trade union legislation in the UK means that if a company rejects a request to recognise a trade union voluntarily, a high bar is set on the number of workers needed to join and vote in favour of union recognition to overcome this with an application for statutory recognition.⁸⁹ In the absence of voluntary recognition, attempts to have the union recognised thus rely on being able to access sufficient numbers of workers to talk to them about membership and to support a ballot. Union organisers have repeatedly not been allowed on site to recruit members, and GMB staff have told Amnesty about a number of incidents at Amazon facilities in which the company has actively undermined their organizing efforts, and refused to engage in dialogue.⁹⁰

Specifically, Amazon has repeatedly sought to prevent GMB organisers from recruiting new members and picketing at Amazon's facilities, for example during activities around Amazon Prime Day or Black Friday. In November 2018, July 2019, August 2019 and November 2019, Amazon's solicitors sent legal notices regarding alleged trespass, and threats of injunctions for unlawful trespass should they seek to enter the premises.⁹¹ The notices also illustrate that Amazon monitors the social media profiles of the union members as their screenshots are attached as evidence of "planned" demonstrations. On other occasions, GMB organizers told

⁸² Interview with Amnesty International, 14 October 2020

⁸³ "Amazon przegrywa trzy kolejne procesy sądowe", 21 January 2019, <https://www.ozzip.pl/informacje/ogolnopolskie/item/2453-amazon-przegrywa-trzy-kolejne-procesy-sadowe>

⁸⁴ "Amazon przegrywa trzy kolejne procesy sądowe", 21 January 2019

⁸⁵ "Amazon przegrywa trzy kolejne procesy sądowe", 21 January 2019e

⁸⁶ Interview with Amnesty International, 2 September 2020.

⁸⁷ GMB Union, "What we do": <https://www.gmb.org.uk/what-we-do>

⁸⁸ Boewe, J. and Schulten, J. The Long Struggle of Amazon Employees. Rosa-Luxemburg-Stiftung, 2017, p.29 For details about the difficulties of earlier attempts to organizer Amazon workers by the Graphical, Paper and Media Union in 2001, see: "Amazon accused in row over ballot", The Guardian, 11 September 2001. <https://www.theguardian.com/technology/2001/sep/11/news.tradeunions>

⁸⁹ To apply for statutory recognition, a union must have members making up at least 10% of a 'bargaining unit', show evidence that the majority of employees support union recognition (ie through a petition), and then win a ballot of employees, with an added condition that at least 40% of all eligible workers vote in favour.

<https://www.gov.uk/trade-union-recognition-employers/statutory-recognition>

⁹⁰ Interviews with Amnesty International, 2 and 17 September.

⁹¹ On 8 November 2018, 12 July 2019 and 29 August 2019.

Amnesty International that staff from Amazon's human resources have confiscated and ripped up their pro-union leaflets handed out to workers once the worker was onsite.⁹²

Union representatives say that they are allowed to access Amazon warehouses when they attend disciplinary hearings or other hearings on other labour-relations issues that affect their existing members. Stuart Perry, an organizer working for GMB Union, described to Amnesty International an atmosphere of mistrust, based on his visits to Amazon warehouses where he represents union members in disciplinary or other proceedings.

"It is very hard on a human level, the feeling that you are constantly watched from the moment I enter the car park... Once I get on site I am constantly watched and escorted around the building... They take me to the room where I am supposed to talk [in confidence] with the worker and the worker asks me whether we are not being watched in the room, whether there is no camera. The pressure the workers are under makes my work very difficult."⁹³

GMB organizers also claimed that on a number of occasions Amazon's human resources staff have informally warned union contacts inside fulfilment centres and dissuaded them from further union engagement.

Amnesty International communicated these allegations to Amazon in a letter on 21 September 2020. Amazon's response on 12 October did not address these specific incidents.

One of the issues consistently raised by GMB is of health and safety. In February 2020, drawing on Freedom of Access to Information requests to healthcare facilities, the GMB Union revealed that over 240 reports of serious injury or near misses were sent to the Health and Safety Executive in 2019, and 622 reports between 2016 and 2019. Amazon rejected these reports, saying that Amazon is a safe place to work and that critics are determined to paint a false picture.⁹⁴

2.3 WORKERS' ORGANIZERS FIRED IN THE US

In the United States, Amazon does not have recognition agreements with any trade union, with efforts by some of the most established unions in the country to gain recognition so far falling short.⁹⁵ Nonetheless, a number of grassroots workers' organizations such as Amazonians United have run of campaigns to try and improve conditions at Amazon facilities in Sacramento, Chicago, New York and other locations in 2019.⁹⁶

In addition to failing to recognise trade unions, Amazon has been accused in 2020 of firing several individuals who raised concerns about health and safety conditions or other working conditions during the COVID-19 pandemic, namely:

Emily Cunningham and **Maren Costa**, two designers who were active in the Amazon Employees for Climate Justice group, who were fired after internally circulating a petition about health risks for Amazon workers.⁹⁷ Amazon said it had dismissed them on 17 April after "repeatedly violating internal policies" with respect to external communication.⁹⁸

Bashir Mohamed, an Amazon warehouse worker in Minnesota, who was dismissed for refusing to speak to his supervisor, a claim that he did not deny, according to media reports. However, he also stated that he was being targeted for his advocacy to ensure there was better cleaning, and other measures to protect the workers during the pandemic.⁹⁹

Samir Quasir, an Amazon employee in Chicago, who alleged that he has been "retaliated" against after participating in labour rights activities.¹⁰⁰ Similarly, numerous complaints have been filed with the National Labor Relations Board in Chicago.¹⁰¹

⁹² Interview with Amnesty International, 2 September 2020.

⁹³ Interview with Amnesty International, 17 September 2020.

⁹⁴ BBC News, "Hundreds of staff injured at Amazon UK warehouses, GMB claims", 18 February 2020, <https://www.bbc.co.uk/news/business-51539329>

⁹⁵ Katie Schoolov, "How Amazon is fighting back against workers' increasing efforts to unionize", CNBC, 22 August 2019, <https://www.cnbc.com/2019/08/22/how-amazon-is-fighting-back-against-workers-efforts-to-unionize.html>; Olivia LaVecchia and Stacy Mitchell, "Amazon's Stranglehold: How the Company's Tightening Grip Is Stifling Competition, Eroding Jobs, and Threatening Communities," Institute for Local Self-Reliance, November 2016, <https://ilsr.org/amazon-stranglehold>, p. 41

⁹⁶ DCH1 Amazonians United, 7 August 2020, <https://www.facebook.com/DCH1United/photos/a.700184560403321/972366976518410/>;

⁹⁷ Kari Paul, "Amazon fires two employees who condemned treatment of warehouse workers", The Guardian, 14 April 2020,

<https://www.theguardian.com/technology/2020/apr/14/amazon-workers-fired-coronavirus-emily-cunningham-maren-costa>

⁹⁸ Jay Greene, "Amazon fires two tech workers who criticized the company's warehouse workplace conditions", The Washington Post, 13 April 2020,

<https://www.washingtonpost.com/technology/2020/04/13/amazon-workers-fired/>

⁹⁹ Caroline O'Donovan, Amazon Fired An Employee Involved In Workplace Organizing In Minnesota, Sources Say, BuzzFeed, 14 April 2020,

<https://www.buzzfeednews.com/article/carolineodonovan/amazon-fired-employee-involved-in-workplace-organizing-in>

¹⁰⁰ Caroline O'Donovan, The NLRB Is Looking Into Claims That Amazon Violated Employees' Rights During The Coronavirus Pandemic, BuzzFeed, 18 April 2020,

<https://www.buzzfeednews.com/article/carolineodonovan/federal-labor-regulators-are-looking-into-claims-that>

¹⁰¹ Caroline O'Donovan, The NLRB Is Looking Into Claims That Amazon Violated Employees' Rights During The Coronavirus Pandemic, BuzzFeed, 18 April 2020

In a letter to Amazon on 24 April 2020, Amnesty International raised concerns about the case of **Christian Smalls**, an assistant manager who was fired for ostensibly not abiding by policies related to quarantine. Smalls first raised concerns about the lack of adequate COVID-19 protocols internally, and subsequently led a walk-out protest at the JFK8 Amazon warehouse in New York City demanding better health and safety conditions with respect to then-emerging pandemic.¹⁰² Amazon alleges that he did not quarantine after he came into contact with a worker who tested positive for COVID-19.¹⁰³

However, a letter to Amazon from a group of US Senators notes inconsistencies in Amazon's justification of Chris Smalls' dismissal,¹⁰⁴ inconsistencies that Smalls also confirmed in an interview with Amnesty International¹⁰⁵ and that were corroborated by an employee working under Smalls at Amazon¹⁰⁶. According to the Senators, the timeline doesn't support the allegation and makes the violation of "ordered quarantine after coming into contact with a worker who tested positive... [not] possible."¹⁰⁷

Smalls, who had written numerous communications to national and local health authorities seeking implementation of stronger COVID-19 procedures at his Amazon warehouse,¹⁰⁸ told Amnesty International:

"We protested... it was successful. A lot of people walked out and voiced their concerns to the media. It was a very powerful day, a historical day. And then two hours later that's when I received a phone call saying that they had terminated me".¹⁰⁹

On 21 September, Amnesty International wrote to Amazon setting out its findings and asking the company for further information about these cases, and the way that Amazon has treated its workforce during a period when workers were facing high health risks and hazards in the workplace. On 12 October, Amazon replied specifying the measures it had taken globally to ensure the health and safety of its employees, which include voluntary testing for employees in the USA; two weeks of paid leave to those diagnosed with COVID-19; and a relief fund for partners (for example, delivery drivers) and seasonal workers facing financial hardship or quarantine. Amazon also said that, "We support every employee's right to criticize their employer's working conditions, but that does not come with blanket immunity against any and all internal policies. We terminated these employees for repeatedly violating internal policies".¹¹⁰

Despite this response and further media attention on the US cases,¹¹¹ Amazon has still not explained satisfactorily how its actions against each of the five do not qualify as retaliation against individuals for expressing concerns about human rights at their workplace.

¹⁰² Paul Blest, "Vice News, Amazon Fired the Warehouse Worker Who Organized a Walkout Over Coronavirus", 31 March 2020

https://www.vice.com/en_us/article/5dmea3/amazon-fired-the-warehouse-worker-who-organized-a-walkout-over-coronavirus

¹⁰³ Kenya Evelyn, "Amazon fires New York worker who led strike over coronavirus concerns", The Guardian, 31 March 2020, <https://www.theguardian.com/us-news/2020/mar/31/amazon-strike-worker-fired-organizing-walkout-chris-smalls>

¹⁰⁴ Amazon Letter, 8 April 2020, <https://www.booker.senate.gov/imo/media/doc/Amazon%20Letter-4.8.pdf>

¹⁰⁵ Skype interview with Amnesty International, 22 April 2020.

¹⁰⁶ Skype interview with Amnesty International 3 May 2020.

¹⁰⁷ The letter continues: "The employee was ordered into quarantine on 28 March and fired on 30 March. Amazon's own spokesperson has stated that the diagnosed employee in question last reported for work on 11 March. That timeline would suggest that a 14-day quarantine would have ended on 25 March, and that the fired employee was not ordered into quarantine until more than two weeks after coming into contact with the diagnosed employee and after they had begun organizing their colleagues to demand more workplace transparency and stronger workplace protections."

Amazon letter dated 8 April 2020, <https://www.booker.senate.gov/imo/media/doc/Amazon%20Letter-4.8>.

¹⁰⁸ Alina Selyukh, "Amazon Warehouse Safety 'Inadequate,' N.Y. Attorney General's Office Says", NPR, 27 April 2020, <https://www.npr.org/2020/04/27/846438983/amazon-warehouse-safety-inadequate-n-y-attorney-general-s-office-says>

¹⁰⁹ Skype interview with Amnesty International, 22 April 2020.

CONCLUSION

Amazon has a responsibility to ensure that it respects human rights. This responsibility is articulated in the UN Guiding Principles on Business and Human Rights, and includes the right of workers to organize, and to safe and healthy working conditions. Amnesty International's research points to Amazon's shortcomings to meet these standards and its own commitments to respect and uphold internationally recognized human rights. These shortcomings affect its workforce, their families and in the context of the COVID-19 pandemic also the general public. As a global company with significant resources and clout in its sector, it should not only comply with international human rights standards but also set up an example for other businesses.

AMAZON'S FAILURES

The experiences of unions and workers in France, Poland, UK and US documented in this report support the long-term allegations of Amazon's practice of union avoidance. Although Amazon claims that it respects the employees' right to join, form or not to join a labor union or other lawful organization of their own selection, without fear of retaliation, intimidation or harassment, it also stated in response to Amnesty International that "Across Amazon we place enormous value on having daily conversations with each associate. Direct engagement with our employees is a strong part of our work culture."

In practice, such an approach is difficult to square with Amazon's commitments to respect international human rights standards, including ILO Conventions. These standards provide for protection against acts of anti-union discrimination (ILO Convention no. 98), and outline the freedom to establish or join organization of their own choosing to represent them in communication with the employer (ILO Convention no. 87). Instead of respecting the spirit of these provisions, Amazon pursues a model of "direct engagement" with workers that removes the collective power of organized union action.

Lack of respect to the workers' rights to form and join trade union affects workers' ability to engage with Amazon on other substantive rights, including the right to safe working conditions. There have been longstanding concerns around health and safety, often linked to the pressure Amazon places on workers to meet harsh productivity quotas. In addition to these continuing concerns, workers and union representatives interviewed by Amnesty International have also said that Amazon has not sufficiently prioritized procedures to control the spread of COVID-19 across all of its facilities worldwide, notably during the early stages of the pandemic.

RECOMMENDATIONS

TO AMAZON

- Comply fully with international labour standards, including respecting the right of workers to join and form trade unions.
- Refrain from anti-union discrimination or acts of interference against worker organizations.
- Ensure that workplaces, tools, machinery and processes are safe and without risk to health.
- Provide transparent and up-to-date information to workers at each facility regarding any new COVID-19 cases that have been recorded at their facility.
- Implement policies that support these workers' needs, including providing generous and flexible work, leave, sick leave and sick pay packages. Temporary absence because of illness is not a valid reason for termination of employment.
- Guarantee fair hazard pay to compensate workers who face significant exposure to COVID-19 because they work in conditions where protective devices do not afford complete protection.
- Cease all collection of electronic data of employees that has been gathered without their explicit consent.
- Ensure that the privacy of workers is respected, including in relation to their trade union membership and workplace activism.
- Ensure that the human rights of employees, and the right to freedom of expression and criticism of internal policies, are respected.

TO STATES WHERE AMAZON OPERATES

- Enforce the right to secure just and favourable conditions at work and sanction non-compliance by public and private employers.
- Ensure that Amazon takes all practicable steps to make its workplaces safe for workers, including by putting in place rules on physical distancing, and adapting working protocols to ensure protection against the current health risks.
- Protect workers' right to remove themselves from a work situation that they reasonably believe presents an imminent and serious danger to their life or health, including because they feel they do not have adequate PPE, and protect them from any undue consequences if they exercise this right.
- Ensure that all health and essential workers (including those working at Amazon) who have contracted COVID-19 or are asked to quarantine because they are suspected of having COVID-19, are entitled to paid sick leave as long as they are unable to work.
- Ensure that productivity quotas derived by algorithm do not interfere with workers' right to just and favourable conditions at work.
- Ensure that all workers can exercise their right to freedom of expression and association without fear of reprisals, and ensure that employers put in place systems that allow workers to report on health and safety risks.
- Where workers have faced reprisals or disciplinary action at their workplace for raising health and safety concerns, or have lost their jobs as a result, the action against them should be investigated properly by competent authorities and, where relevant, they should be granted adequate reparations, including the possibility of being reinstated.