

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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PACIFIC COUNTRIES MUST NOT USE COVID-19 TO REGRESS ON HUMAN RIGHTS

Pacific Island countries reported their first cases of Covid-19 in March 2020. As of 10 April, six Pacific countries (Commonwealth of the Northern Marianas (CNMI), Papua New Guinea (PNG), Fiji, French Polynesia, Guam and New Caledonia) reported 225 cases of Covid-19 and six deaths. These figures do not include cases linked to the US military ship USS Theodore Roosevelt currently docked in Guam.

Cases have also been reported in Australia, New Zealand, Timor Leste and Hawaii.

Human rights must be at the centre of all prevention, preparedness, containment and treatment efforts in response to the virus. However, many of the measures to contain the spread of Covid-19 in the Pacific appear to have been proposed and implemented without full consideration of potential consequences for the enjoyment of all human rights by all, whether those who are infected, at risk, or part of the wider population. States' obligations include the guarantee of civil, cultural, economic, political and social rights, in accordance with the principle of interdependence and indivisibility of human rights.

The Covid-19 pandemic poses particular risks to Pacific Island countries and territories, many of which are geographically remote and have limited health services due to a lack of infrastructure, equipment and qualified personnel. The high rate of non-communicable diseases (such as diabetes, heart and respiratory conditions), lack of access to adequate housing, close community contact and limited access to clean water and safe sanitation are factors that could increase the risks of Covid-19 in the Pacific.

Only Fiji and Papua New Guinea have their own limited testing facilities for Covid-19, with other Pacific countries needing to send samples to other countries for analysis.

Many Pacific Island countries rely on the tourism sector as a primary source of income and reduced international travel is having a significant economic impact across the region that already has high rates of poverty.

Responses to the pandemic are varied across the Pacific. Samoa, Solomon Islands, PNG, Tonga, Tuvalu and Vanuatu have declared a national state of emergency. The Marshall Islands and Federated States of Micronesia have completely sealed their borders. The Commonwealth of the North Mariana Islands, Fiji, French Polynesia and Tonga have imposed evening curfews. Fiji has also used location-specific lockdowns around Lautoka and Suva, after the first reported cases emerged there. Kiribati, Niue and Papua New Guinea have stay-at-home policies in place.

International co-operation and assistance is required to ensure that Pacific governments can meet all health needs in response to Covid-19, consistent with human rights law and standards. Governments across the Pacific must effectively guarantee the right to health, including the right to health-related information and the right to health care whilst also protecting livelihoods and other human rights that might be affected by the pandemic.

This public statement highlights some of the key human rights concerns arising from Pacific Island countries' responses to Covid-19 and urges Pacific Islands and donor governments to co-operate and ensure that human rights are respected, protected and fulfilled at all stages of preparation, planning and responding to the crisis.

QUARANTINE, CURFEW AND MOVEMENT RESTRICTIONS

As stated above, Pacific nations have used quarantines, curfews and other movement restrictions with the stated aim to try and limit the spread of Covid-19.

Whilst some human rights, such as the right to freedom of movement, can be restricted on the grounds of public health, this can only be done “in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by the Covenant, in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare in a democratic society” (Committee on Economic, Social and Cultural Rights, General Comment 14).

In Fiji, hundreds of people have already been arrested and charged for breaching laws and regulations on self-isolation, quarantine or movement restrictions. Such a heavy handed policing response will often be disproportionate and should in any event be a measure of last resort. Many countries have effectively encouraged people to adopt voluntary social distancing measures without resorting to punitive fines or criminal sanctions, instead promoting health information and awareness. In addition, closed areas such as prisons and police cells can increase the risk of transmission of infectious illness such as Covid-19 because of the close proximity of detainees to each other as well as staff, and poor conditions such as overcrowding and lack of sanitary conditions can compound the risks of detention. Pacific nations’ response planning should consider the disproportionate impact on people who are detained and take steps to mitigate the risks detainees face, including temporary or conditional releases where appropriate.

Both Fiji and PNG have deployed armed military officers in response to the health crisis – in some cases to enforce quarantine, in others to maintain law and order. Whilst the security forces may play a role in disaster response, they must uphold the right to life, and respect the UN Basic Principles on the Use of Force and Firearms. Such a response may only inflame public fears and panic, which is not helpful to addressing the emerging health situation. There are also concerns if the military should be involved in the handling of public health emergencies as they are neither trained nor equipped to handle such situations. If – exceptionally – they are to be deployed, they must be fully trained and equipped to fulfil this task in compliance with international human rights law and standards, and they should be subject to a civilian authority.

Where quarantine and isolation measures are being implemented, they should be done in a safe and respectful manner, and mindful of the risks to the full enjoyment of human rights they pose. In order to enhance public trust and cooperation, and respect the right to dignity and give people as much control as possible over their lives, any measures restricting freedom of movement should be voluntary wherever possible.

If it is necessary to impose a quarantine system, governments nonetheless have an obligation to provide and carry it out in accordance to relevant international human right standards, in particular to ensure humane conditions for those subjected to such measures, and to install an effective monitoring and review system. The rights of those under quarantine should be respected and ensured, and people’s basic needs should be met, including the right to adequate housing, health care, food, water and sanitation.

FREEDOM OF EXPRESSION AND RIGHT TO INFORMATION

Vanuatu’s emergency law requires all media outlets not to publish any article on Covid-19 unless it has authorization from the national disaster management office, after consultation with the World Health Organization. Papua New Guinea’s emergency laws state that only the Police Commissioner and the Prime Minister can release information on novel-coronavirus. Such restrictions hinder the flow of health information to the public and may amount to an unreasonable restriction on the right to freedom of expression, including to receive information.

Fiji has used existing public order laws to prosecute those posting information about the virus on social media. On Friday 27 March 2020, Fiji opposition MP Lynda Tabuya was detained by the Fiji police over a social media post which commented on the government’s response to the virus; criticized people who engaged in victim-blaming of the person first known to contract Covid-19; and urged people to be prepared. She was granted conditional bail on Monday 30 March and ordered to deactivate her social media account. Her trial is still pending.

Tabuya is facing charges under Fiji’s public order law that prohibits maliciously providing false information. These laws have been widely criticized for being overly broad and incompatible with human rights, especially the right to freedom of expression. Tabuya may be fined and imprisoned if convicted under these charges. At least three other people have been charged by the police after making social media posts expressing fears about unconfirmed cases in their area.

Whilst governments have a responsibility to counter the spread of misinformation, they should not undermine the right to freedom of expression. Freedom of expression can only be limited in a public health emergency if it is reasonable,

necessary and proportionate and for the aim of protecting public health. Blanket prohibitions on the dissemination of information based on vague and ambiguous concepts, such as “false news” or “spreading misinformation”, do not meet this test. Likewise, limiting criticism of government responses or cracking down on those who express fears about the virus is not a legitimate reason and violates human rights.

The best way to combat misinformation is to ensure that people have access to accurate and reliable health information through a variety of mediums, including through mainstream and social media. Governments of the Pacific should work with all journalists and media outlets to disseminate public health information to wider audiences. Consideration should be given to communicating these messages on a wide variety of platforms that considers the practical challenges and limitations of technology in reaching people who are living in poverty, in informal settlements, or on remote or outer islands.

PROTECTING INDIVIDUALS AND ADDRESSING INEQUALITY

People who were among the first to test positive for the virus in Fiji and Papua New Guinea were reportedly vilified and harassed in the media and online. Similar reports emerged when Samoa reported its first suspected case (the person was later found not to have Covid-19).

People who are infected by or suspected of being so or having been exposed to Covid-19 must have their rights to privacy, dignity and non-discrimination protected by governments. Fear of stigma and discrimination (or even violence) means that people may not report symptoms or seek medical care when necessary, hindering their right to health care but also the public health response.

During the health crisis governments must ensure they have a comprehensive response to protecting individuals who might be more at risk because of existing societal inequalities. This may include older persons, people with disabilities, women, homeless people, lesbian, gay, bisexual, transgender or intersex (LGBTI) people and people living in poverty or without access to adequate water and safe sanitation, among others. For example, women experiencing intimate partner violence will find it more difficult to leave that relationship and seek help during a health crisis, especially when restrictions are placed on their freedom of movement because of quarantine, lockdown or stay-at-home orders. Governments must address these issues in response to the emerging health situation.

INTERNATIONAL CO-OPERATION AND ASSISTANCE

The vast majority of the world’s states have recognized that human rights obligations include the obligation of international cooperation and assistance, including with respect to the right to health. A global pandemic is something that affects everyone, but some nations – due to economic, social or political instability – may require external assistance to respond to this health crisis.

States must address the Covid-19 health crisis collectively, including through regional institutions such as the Pacific Islands Forum where appropriate. Economically developed states (including existing key donors to the Pacific region) should, where possible and feasible, swiftly step up and assist Pacific Island states to tackle the situation. The mutual solidarity and support should include sharing relevant information on the extent of the spread of the virus; consequences and information about treatments; sharing resources such as medical supplies and equipment, but also maintaining promised commitments.

Under the right to health, “coordinated efforts for the realization of the right to health should be maintained to enhance the interaction among all the actors concerned, including the various components of civil society” (Committee on Economic, Social and Cultural Rights, General Comment 14).

Australia – currently the largest aid donor to the Pacific – has been accused of not doing enough to help its Pacific neighbours. In February this year, Australia slashed health funding in the Cook Islands by 75%, Fiji by 22%, in the Solomon Islands by 13% and in Samoa, which has been devastated by a measles outbreak that claimed the lives of more than 80 people, by 36%. To date, the Australian government has only committed to ‘redistributing’ existing development commitments to the Pacific in order to assist in the Covid-19 response, rather than providing additional support. As a result, other critical projects that may negatively impact on people’s rights may be cut to support the health aid across the Pacific.

Existing aid commitments must be maintained, and various donors should work together, with Pacific Island countries, in the spirit of mutual cooperation and assistance, particularly in ensuring that health professionals have access to appropriate equipment, expertise and resources, including personal protective equipment and testing facilities.

Pacific nations should also co-operate and share information with each other on the effectiveness of various measures to address and reduce the spread of Covid-19.

International assistance to the Pacific region must be consistent with human rights principles and ensure equality and non-discrimination in access to health care.