

AMNESTY INTERNATIONAL PUBLIC STATEMENT

01 September 2021 Index number: AFR 39/4653/2021

MAURITIUS: ANY VACCINATION REQUIREMENT MUST COMPLY WITH HUMAN RIGHTS

Amnesty International has concerns regarding the recent government position of the Mauritian government to introduce compulsory vaccinations in some sectors and the introduction of criminal sanctions for those who do not comply. New regulations under the Quarantine Act were published in the Government Gazette on June 2, 2021, require workers in certain sectors to be vaccinated with at least one dose of the Covid-19 vaccine or risk a fine of Rs 500,000 (approx. USD11,700) and a prison sentence of not more than five years. Amnesty International is also concerned with reports that workers in some sectors, such as the hospitality sector, have been required to show that their entire households are vaccinated as a condition of their employment.

In line with WHO recommendations, Amnesty International believes that governments should focus on voluntary uptake and that public awareness campaigns must be at the forefront of these efforts. To this end, the scientific benefits of vaccines must be explained and disseminated in a manner that is understandable in a range of social and cultural contexts. This is a crucial component of the right to health because individuals and communities can only make informed decisions about their health when they are given accurate, timely and accessible information.

Governments must not introduce blanket mandatory vaccine policies and must ensure that no one is forced to receive vaccination without their consent. At the same time, Amnesty International does recognize that several international instruments allow for limitations on rights for the sake of public health, provided these include safeguards that are consistent with international human rights law and these requirements must meet the principles of legality, legitimacy, necessity, proportionality, and non-discrimination. For example, states could justify certain vaccine requirements in particular contexts, as a necessary measure to prevent the spread of Covid-19, especially in situations of heightened risk. These requirements could include situations where people are not forced per se to be vaccinated, but their employment, schooling or freedom of movement may be contingent upon an immunization requirement.

Recommendations to the Mauritius Authorities:

1. The Mauritian authorities must not impose blanket mandatory vaccine policies and should seek to ensure that vaccination is voluntary for several reasons. First, states must guarantee that all individuals have the right to prior, free and informed consent for any medical procedure including vaccination.¹ http://portal.unesco.org/en/ev.php-URL_ID=31058&URL_DO=DO_TOPIC&URL_SECTION=201.htmlSecond, blanket mandates do not take into account specific contexts and the circumstances faced by particular populations. As a result, blanket mandates can have a discriminatory and disproportionate impact upon some groups, such as ethnic minority communities who may not trust health authorities due to historical marginalization² and abuses in clinical studies.
2. The state must embark on wide reaching education campaigns, educating citizens on the benefits of vaccination with the goal of building the confidence of citizens in the vaccines to be administered. As part of these efforts, the state must address the concerns of the people and conduct scientific investigations on the side-effects, quality, acceptability, and effectiveness of the vaccines being brought into the country.
3. As states carry the burden of justifying a limitation upon a right guaranteed under international human rights law, any potential mandatory vaccination policy must reflect the Siracusa Principles on the Limitation and Derogation of Provisions in the ICCPR (Siracusa Principles), an expert interpretation of the ICCPR:
 - o **A vaccine requirement must pursue a specific and legitimate aim based on scientific evidence and in consultation with those groups most likely to be affected.** A legitimate requirement may include situations involving higher risks of transmission (and therefore possible mortality/morbidity rates) due to unchangeable conditions. It is important for groups of affected individuals or collective representatives to

¹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, The Right to Health and Informed Consent, 10 August 2009, A/64/272

² <https://www.npr.org/sections/health-shots/2020/04/02/825730141/the-coronavirus-doesnt-discriminate-but-u-s-health-care-showing-familial-biases>

be consulted. States should promote voluntary vaccination for a reasonable period of time before considering potential requirements to ensure that their policies are data-driven and take into account evidence of uptake and refusal rates of particular populations.

- **A requirement must be necessary, proportionate and reasonable to achieve this aim.** States must engage in a transparent decision-making process and present an evidence-based rationale that explains the goal of such a vaccine requirement and why this goal cannot be achieved with less restrictive measures, for example, mask-wearing, frequent testing, and/or physical distancing. The nature of the requirement and any other human rights affected by it should also be considered, offering adequate opt-out options (for example, medical exemptions) or alternate solutions to mitigate or eliminate these risks.
 - **A requirement must exist under a limited scope and timeframe for the purpose of the specific, legitimate aim.** A requirement's timeframe should be reviewed as scientific evidence and understanding of Covid-19 improves, including considerations of the levels of vaccine coverage, potential impact on infection/morbidity/mortality rates, length of protection from vaccines and their effectiveness against different variants.
 - **A requirement must not have a discriminatory effect, especially on groups that experience historical and structural discrimination.** States must show how they have mitigated against any risks of discrimination or increased marginalization, especially where vaccine hesitancy is known to be higher among some marginalized groups. States should undertake a range of appropriate consultation, information and communication efforts with key communities. States must also ensure that no groups are excluded from vaccine access on other grounds, such as nationality or immigration status.
 - **A requirement must be subject to periodic review, with an accessible independent process that regularly reviews the effectiveness of such measures vis-a-vis their initial purpose and to ensure that these are based on the most advanced, up-to-date, accepted and verifiable science available at the time.** Reviews should allow for opportunities to revise the policy or implementation plan, for example, if an entire sector is affected due to high levels of vaccination hesitancy. Reviews should also allow for opportunities to challenge and receive a remedy for any abusive application, including the potential harmful effect on other rights.
 - **A requirement must be clearly crafted with sufficient precision.** This is important firstly to ensure any requirement does not lead to arbitrary interventions or penalties because of an unclear or broad framing. Secondly, to prevent misuse or abuse of personal information and unnecessary expanded surveillance. Thirdly, it also important to ensure that the requirement is adequately communicated to individuals and communities, so that they can understand the implications and regulate their conduct accordingly.
4. Amnesty International strongly opposes the use of threats or any other punitive sanctions against people who refuse vaccination. Amnesty International strongly believes that no criminal sanctions should be levelled against those who do not comply .

