

**Mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest  
attainable standard of physical and mental health**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health pursuant to Human Rights Council resolution 24/6.

In this connection, I would like to bring to the attention of your Excellency's Government information we have received concerning **alleged retrogressive measures and eventual phase out of harm-reduction services for people who use drugs implemented in Mauritius since 2006**.

According to the information received:

In 2006, Mauritius was the first African State to launch harm-reduction services for people who use drugs like the Needle and Syringe Programme and the Methadone Substitution Therapy, in a multi-sectoral approach. Long-term results have reportedly shown that these programmes are highly effective to decrease national HIV incidence amongst people who use drugs (most of whom come from areas of poverty) passing from 92% in 2005 to 31% in 2014. It is reported that these programmes have also facilitated users' social and professional reintegration and have improved users' physical and mental health. Moreover, police data from the period allegedly indicate a 60% reduction in all crime.

Since December 2014, the Government of Mauritius has reportedly reduced the availability and accessibility of methadone for opioid substitution therapy for people who use drugs by halting induction of new patients in prison and outside, creating waiting lists of hundreds. The Government would have also decreased the hours of opioid substitution therapy distribution, and positioned mobile distribution vehicles in front of police stations, which is reported to deter patients as they fear police monitoring and arrest.

In addition, the Mauritian Ministry of Health and Quality of Life has allegedly demanded that NGOs must disclose the name and national identity card number of all needles and syringe programme users. The measure is reported to imply that

non-compliance will result in cessation of government funding, disregarding that disclosing the users' identity violates their privacy and deters those who need the service due to fear of arrest and other negative consequences.

According to the information received, the Minister of Health has reportedly announced plans to phase out methadone, screen new service users, and use Suboxone (buprenorphine and naloxone) and Naltrexone to treat drug dependency for a period of 6 months which is claimed to eliminate risk of relapse to opioid use. However, no information has been reportedly provided in relation to the screening criteria for accessing the treatment, or the time frame for implementation, while on the other hand, clinical studies suggest that buprenorphine is no more effective than methadone in long-term cessation of heroin use, and in many doses has been statistically significantly less effective than methadone to retain patients in treatment.

All above mentioned measures have been allegedly taken up without any consultative process with the civil society involved in the field of drugs and HIV and appear to be drastically reducing coverage and access to harm-reduction services, putting people who use drugs at unnecessary and avoidable risk of HIV and blood-borne infections.

I would like to express serious concern at the alleged retrogressive measures taken in relation to the right to health in Mauritius which would put people who use drugs (many of whom come from poverty areas) at unnecessary and avoidable risk of HIV and blood-borne infections. I am also concerned that the alleged measures do not respect medical ethics and confidentiality of patients as well as about the lack of consultation with expert stakeholders.

While I do not wish to prejudge the accuracy of these allegations, they appear to be in contravention of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as set forth in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Mauritius on 12 December 1973.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility under the mandate provided to me by the Human Rights Council to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any information and comment you may have concerning these allegations.
2. Please specify the steps taken by the competent authorities with a view to ensuring the right to the highest attainable standard of health of the people who use drugs and are living with HIV or at risk of blood-borne infections.

3. Please provide details of the steps taken to ensure the availability and accessibility of harm-reduction services to all persons in need, without discrimination, specifying potential screening criteria, if any, for accessing current and future programmes and the programmes' implementation time-frame.
4. Please provide information about the steps taken to ensure that public health programmes for people who use drugs are based on epidemiological evidence and are periodically reviewed on the basis of a participatory and transparent process.
5. Please explain how current and future programmes for people who use drugs respect medical ethics and confidentiality of patients.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the people who use drugs and of those who are additionally living with HIV are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

I would like to recall that it is my prerogative to publicly express my concerns in the near future, as I am of the view that the information upon which a public statement on the present situation would be based is sufficiently reliable to indicate a matter warranting immediate attention. The potential public statement will indicate that I have been in contact with your Excellency's Government to clarify the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Dainius Pūras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable  
standard of physical and mental health

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, I would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

I wish to draw the attention of your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Mauritius on 12 December 1973, which recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The right to health involves prevention, treatment and control of such epidemic diseases as HIV. Considering that HIV has reached epidemic proportions within communities of people who use drugs, particularly in prisons, States are explicitly required to take direct action in this regard. In addition, article 15, paragraph 1 (b), of the Covenant states that everyone has the right to enjoy the benefits of scientific progress. As a significant body of evidence exists regarding the effectiveness of harm-reduction programmes and policies, States Parties are obliged to implement such interventions.

In this context, the Committee on Economic, Social and Cultural Rights has recognized that harm-reduction are a central part of national responses to illicit drug dependence and has made recommendations to various States Parties in this regards. Particularly, I would like to draw the attention of your Excellency's Government to the concluding observations made to Mauritius by the Committee in 2010, when drug-use related challenges were highlighted: "In order to achieve the progressive realization of the right to the highest attainable standard of physical and mental health for people who inject drugs and to ensure that this group may benefit from scientific progress and its applications (art. 15, para. 1(b)), the State party should implement in full the recommendations made by the World Health Organization in 2009 designed to improve the availability, accessibility and quality of harm-reduction services, in particular needle and syringe exchange and opioid substitution therapy with methadone." [E/C.12/MUS/CO/4, para. 27]

I wish to also draw your Governments' attention to Human Rights Council Resolution 12/27 which recognizes the need for "a comprehensive package of services for injecting drug users, including harm-reduction programmes in relation to HIV". [A/HRC/12/50, p 3], and to UN General Assembly Resolution on the Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS, where harm-reduction services are endorsed as an essential HIV prevention measure [A/RES/65/277, para. 59]. In addition, I would like to bring to the attention of your Excellency's Government the report presented by the Special Rapporteur on the right to health to the General Assembly on the international drug control [A/65/255], which observes that drug dependence should be treated as a medical condition requiring appropriate, evidence-based treatment, such as opioid substitution therapy [paras.15 and 52]. The report also indicates that imposition of treatment, at the expense of opioid substitution therapy and other harm-reduction interventions, increases the risk of disease transmission, particularly HIV/AIDS. [para.36].

I would like to also refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which holds that States have core obligations that are minimum essential levels of the right to health from which States cannot derogate [paras. 43 and 47], including measures to prevent, treat and control epidemic and endemic diseases as well as the adoption and implementation of a national public health strategy and plan of action, on the basis of epidemiological evidence that shall be further devised, and periodically reviewed, on the basis of a participatory and transparent process with particular attention to all vulnerable or marginalized groups. [para. 43(f)].

General Comment No. 14 also refers to general legal obligations of States parties to the ICESCR, noting that "As with all other rights in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible." [para.32]. Finally, the acceptability of the right to health specifically denotes respect for medical ethics and confidentiality of patients [para.12(c)]. In this regard, I wish to additionally refer your Excellency's Government to the International Code of Medical Ethics adopted by the World Medical Association, according to which it is a physician's duty to respect patients' confidentiality.