

MALAWI HUMAN RIGHTS COMMISSION



STATEMENT ON MANDATORY COVID-19 VACCINATION

The Malawi Human Rights Commission (the Commission) has noted with concern Government's announcement, through the Minister of Health, who is also Co-Chair of the Presidential Task Force on Covid-19, to introduce mandatory vaccination by January, 2022. According to the statement, this will affect all public servants, frontline workers, and those working in the social sector, including journalists.

These new measures have direct impact on the enjoyment of human rights. A fundamental principle within international human rights law is that vaccinations, like any other medical interventions, must be based on the recipient's free and informed consent. Compulsory vaccination is an interference with the human right of bodily integrity, which is a part of the right to private life enshrined in the Universal Declaration of Human Rights. Ultimately, international law provides a strong indication that the right not to be subjected to medical treatment is an absolute right that cannot be limited. This ought to set a very high bar on any attempt to mandatory forms of medical treatment — including vaccination. Government should consider multiple interests, that is, individual human rights and collective rights – All protected by human rights law – and strike a fair balance between them.

In this regard, the Commission is not in support of mandatory Covid-19 vaccination as it violates fundamental human rights as guaranteed by the Constitution of the Republic of Malawi and other international human rights instruments, even if the issue of collective or public rights is brought into the equation. While the Commission has always supported voluntary vaccination, it is of the view that the public by now should be able to assess the greater benefits for itself in being vaccinated, and should weigh these benefits against defending their rights.

The Commission therefore advises Government to maintain its current position that Covid-19 vaccination is voluntary and embark on massive civic education and campaigns, aimed at demystifying the myths of vaccines so that people can make informed decisions regarding the vaccine. The strategy should aim at making as many people as possible access vaccination services voluntarily, and not by coercion.

The Commission holds that any attempt to adopt mandatory Covid-19 vaccination (“with exceptions”) should be the last resort after exhausting all less coercive and non-punitive means.

The Commission is not convinced that all efforts have been exhausted by the State (and other actors) to educate the people on the need for and workings of the vaccines in an effort to convince them to voluntarily vaccinate.

The Government should fully satisfy the six (6) World Health Organization (WHO) Ethics and Covid-19 Working Group preconditions (vaccine safety; efficacy and effectiveness; necessity and proportionality; sufficient supply; public trust; and ethical processes of decision making) to necessitate any decision for the introduction of mandatory Covid-19 vaccination). For example, can the Government prove that it has the capacity to vaccinate every person who needs the vaccine when a mandate is introduced? Can the Government demonstrate that it has so far put up the best and comprehensive public education on the Covid-19 vaccines? Can the Government demonstrate that it has put in place exceptions to the mandate that takes into considerations non-derogable rights such as freedom of conscience or belief? Can the Government demonstrate that it has done thorough, transparent consultations and engagement with all relevant stakeholders including affected parties such as non-vaccinated and vulnerable groups before arriving at introducing a mandate? Only if the answer to these questions is in the affirmative can the Government consider introducing mandatory vaccination.

The Commission therefore finds mandatory vaccination not only intrusive and coercive but also a violation of human rights. This measure can only be considered if voluntary mechanisms have clearly failed, and which is not the case at the moment. All efforts must be made by Government and all its partners to propagate the benefits of accessing Covid -19 vaccines for the greater good of every Malawian.



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Scader Louis
CHAIRPERSON
21st December 2021