**Maat for Peace’ submission on the Draft General Recommendation N° 37 on Racial Discrimination in the Enjoyment of the Right to Health**

**Preamble:**

Racial discrimination is a critical and complex problem that threatens the enjoyment of the right to health and a growing source of concern in many countries all over the world. Although the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) expressly prohibited all forms of racial discrimination in the enjoyment of all basic human rights, including the right to health, which stipulated in Article No. 5 (e) (iv) the need to guarantee the right of all a person without discrimination as to race, color, or national or ethnic origin in the enjoyment of public health services, medical care, social security, and other social services. However, Maat noticed that racial discrimination still systematically deprives vulnerable and marginalized communities of fair health care, and continues to lead to systemic disparities in access to quality health care and continues to perpetuate health disparities between societies and exacerbate social inequality.

Racial and ethnic minorities, for example, may face multiple obstacles and barriers to their access to health care services, including geographic barriers, whereby there are no health care services in remote or disadvantaged areas inhabited by ethnic and racial minority groups, while health care facilities are highly concentrated in wealthier regions, exacerbating health disparities, in addition to the barriers and obstacles caused by implicit biases and stereotypes that health care providers use against racial and ethnic minorities, which can lead to unequal treatment of racial and ethnic minority patients. These biases can also lead to poor diagnosis, delayed treatment and substandard care for these patients, exacerbating health disparities.

With the exacerbation of racial discrimination problem in the enjoyment of the right to health, and the inadequacy of the current international obligations that oblige states to eliminate all forms of racial discrimination in the enjoyment of the right to health, or the ambiguity of these obligations at times, it is urgent to adopt a general recommendation aimed at clarifying the obligations undertaken under ICERD in relation to the right to health, and providing guidance to States parties on the measures they should take to ensure that all individuals and groups under their jurisdiction enjoy the right to health without discrimination on the grounds of race, color, descent, or national or ethnic origin. Based on the invitation sent by the CERD to all stakeholders to submit written comments on the sections and paragraphs of the Draft General Recommendation n°37 on Racial discrimination in the enjoyment of the right to health, Maat for Peace, Development and Human Rights provides its contributions by commenting on some sections and paragraphs of the project is as follows:

**Meaning & Content of the Right to Health under Article 5(e)(iv): Paragraphs No. (6) (7) (8)**

Maat for Peace, Development and Human Rights generally agrees with Paragraph 6 of the Draft General Recommendation n°37 on Racial discrimination in the enjoyment of the right to health, which defines health as "the highest attainable level of physical and mental health", given that this definition is comprehensive and includes physical, mental, social and spiritual dimensions, and is in line with Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the definition of the World Health Organization (WHO).

Maat also agrees with what was included in the draft in the 6th paragraph, which indicated that there is a close link between the desecration of sacred places and the negative impact on the health of indigenous communities, as the destruction and assault on sacred places can have a profound impact on the physical, mental and spiritual health of indigenous peoples, and can disrupt frequent attacks on sacred sites and the traditional ways of life of indigenous communities and affect their connection to the land. For example, the repeated attacks committed by the Israeli occupation forces against the holy sites in East Jerusalem, including Al-Aqsa Mosque, have had a huge impact on the physical and mental health of thousands of Arab Palestinians who are the original inhabitants of the Occupied Palestinian Territories (OPT), including East Jerusalem. The systematic and repeated actions committed by the Israeli occupation forces against worshipers in Al-Aqsa Mosque over the past years have seriously injured thousands of them, which greatly affected their mental and physical health. On April 23, 2022, corresponding to the 21st of Ramadan, the Israeli occupation forces stormed the courtyards of Al-Aqsa Mosque, and for the first time used drones to fire tear gas, sound bombs, and rubber bullets to disperse the worshipers, which led to about 57 injuries among the worshipers.[[1]](#footnote-1)

However, Maat believes that the Draft General Recommendation should also consider the great impact of climate change on the health of indigenous peoples, and this impact is likely to increase significantly in the future. Therefore, the Draft General Recommendation n°37 is to provide specific recommendations to States on how to address the impact of climate change on the health of indigenous peoples.

The following are some specific amendments that Maat would like to propose to this section, as they will enhance the Draft General Recommendation n°37 and make it more effective in addressing the health of indigenous peoples:

* **Adding a paragraph that specifically addresses the impact of climate change on the health of indigenous peoples.**
* **Emphasizing the importance of protecting sacred places to protect the health of indigenous peoples.**
* **Adding a paragraph calling for the involvement of indigenous peoples in the implementation of the general recommendation.**

**Racial Discrimination in the Right to Control Health & Body: Paragraphs (17) & (18)**

Maat for Peace, Development and Human Rights generally agrees with Paragraph (17) of the Draft General Recommendation n°37 on Racial discrimination in the enjoyment of the right to health, which indicated that racial discrimination greatly affects the individual's right to control his health and body, and that mandatory testing HIV/AIDS is restricted only to non-citizens or based primarily on race, color, ancestry, or national or ethnic origin, which is racial discrimination harmful to basic rights, but Maat does not agree with the claim that testing HIV is not effective for public health purposes.

Maat also agrees with Paragraph (18) of the Draft General Recommendation, which indicated the importance of the right to informed consent, which means that every individual has the right to be informed before undergoing medical treatment, and to obtain his consent before providing any treatment, as Maat believes that this right is necessary to protect the health and independence of individuals, especially those subject to racial discrimination.

The following are some specific amendments that Maat would like to propose to this section, which it believes will strengthen the Draft General Recommendation and make it more effective in addressing the impact of racial discrimination on the individual's right to control his health and body:

* **Providing examples or additional evidence to support the claim that HIV testing is not effective for public health purposes.**
* **Adding a paragraph specifically addressing the impact of racial discrimination on the right to sexual and reproductive health.**

**Obligations under the ICERD: Paragraphs 23-31**

Maat for Peace, Development and Human Rights agrees with the general principles set out in this section of the Draft General Recommendation, whereby racial discrimination in the enjoyment of the right to health is a serious problem, which is the responsibility of the state parties to take concrete steps to eliminate.

Maat emphasizes its agreement in general with all the obligations contained in this section, in particular the obligations contained in Paragraph No. 28 of the Draft Recommendation related to the need for States to take concrete measures to encourage the multidimensional representation of groups protected by the Convention within their jurisdiction, which is necessary to ensure that the voices of these groups are heard, and taking their needs into account when developing and providing health services, in addition to the commitments contained in the text of Paragraph 29 of the Draft Recommendation, which referred to the need to work to ensure the participation and consultation of groups protected under the Convention in health decision-making, which is necessary to improve the quality of decisions taken and builds trust between health institutions and groups within the scope of the Convention.

While Maat also agrees with Paragraph 31 of the Draft General Recommendation, which stresses the need for countries to adopt special measures to ensure progress and equality in the enjoyment of the right to health for groups protected under the Convention, however, Maat believes that it may be useful to provide additional guidance on the specific types of special measures that states should adopt and their effectiveness in addressing racial discrimination.

The following are some specific amendments that Maat would like to propose to this section, which it believes will strengthen the Draft General Recommendation n°37 and make it more effective in defining the general obligations imposed on states to eliminate all forms of racial discrimination:

* **The draft recommendation should include specific examples of how States Parties are implementing the general principles and obligations set out in this section. This would help make the recommendation more concrete and actionable.**
* **This section should include a reference to the possibility of holding States parties accountable for the progress they have made in eliminating racial discrimination in the enjoyment of the right to health.**

**Data & Statistics: Paragraphs 44 & 46**

Maat for Peace, Development and Human Rights agrees in general with the importance of collecting data and statistics related to racial discrimination in the field of health, Maat firmly believes that such data is necessary to identify and address the root causes of racial discrimination in the health system.

However, Maat would like to add some comments to the following paragraphs:

**Paragraph 44:**

Maat generally agrees with this paragraph, which states that countries should monitor health-related racial inequalities and racial discrimination based on demographic and health indicators in collaboration with the WHO and other UN and regional organizations and agencies.

However, Maat believes that countries should not only cooperate with the WHO, UN and regional organizations, but also involve relevant civil society organizations and academic institutions in monitoring racial inequality and discrimination in the field of health, as cooperation with diverse groups of stakeholders will contribute in a more comprehensive and accurate assessment of health status.

Maat also believes that in addition to demographic and health indicators, data collection should include social determinants of health, such as socioeconomic status, education, and geographic location, in order to better understand the intersecting nature of racial discrimination and its impact on health outcomes. It is also important for countries to ensure that data collection is done in a manner that respects the privacy of individuals and in compliance with applicable data protection regulations.

**Paragraph 46:**

Maat generally agrees with this paragraph, which states that disaggregated health statistics should at least include data collected by hospitals, community health centers, doctors, and health insurance companies, and health quality should be measured and evaluated based on survey data with communities. However, Maat suggests that data collection should also include other relevant actors, such as public health agencies and NGOs, to ensure a comprehensive and multi-sectoral approach to data collection. Maat also suggests that the measurement and evaluation of health quality should go beyond survey data with communities to include feedback mechanisms that allow communities under the convention to provide input on their experiences with health care services, as this participatory approach ensures that their views and needs are taken into account.

1. Israeli police attack worshipers in Al-Aqsa with “marches,” Asharq Al-Awsat, April 23, 2022, link: <https://bit.ly/3GGX5qq> [↑](#footnote-ref-1)