

Submission – Call for Input for the CERD General Recommendation No.37

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Esteemed Committee Members,

At the outset I wish to commend you for the important consultative process towards the elaboration of a general recommendation on racial discrimination and the right to health. I would like to echo the Committee's observations reflected in the draft text, in particular concerns with regards to structural social and economic, as well as historical and cultural contexts that preserve and even reinforce existing patterns of hierarchies, classifications, discrimination on all grounds, including racial discrimination, as well as inequalities in representation and in power and resources distribution worldwide, all of which have serious adverse effects on peoples' full enjoyment of all human rights. Such destructive to human dignity and rights patterns exacerbate and widen global divides, and this is also the context in which my mandate operates by highlighting the adverse humanitarian and human rights impact of unilateral actions by state and non-state actors, in the form of various type of coercive measures and sanctions targeting specific countries and peoples.

In the course of my work as the UN Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights I have been reporting on numerous cases demonstrating the adverse humanitarian impact of unilateral sanctions and over-compliance with such measures, and their broad socio-economic disruptive dimensions in countries under sanctions, including in critical sectors such as healthcare, the right to health and its underlying determinants. In particular, I have demonstrated that comprehensive sanctions-induced restrictions have a disproportionate impact all on those in vulnerable situations like children, people with disabilities, people suffering from rare and severe deceases, women, thus further deepening social inequalities.

Imposition and implementation of unilateral sanctions and zero-risk policies violate a broad number of international treaty and customary obligations of states including obligation "... to promote universal respect for, and observance of, human rights and freedoms" in accordance with the UN Charter.

Under art. 1 CERD "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

As I have mentioned during the meeting with the Committee around a year ago, unilateral sanctions, due to their direct non-selective effect and the effect of over-compliance fall under the definition of racial discrimination and constitute a violation of the Convention.

I believe that that the development of General Recommendation on Racial discrimination in the enjoyment of the right to health is very timely and important.

In response to your call for contributions for the review of the First draft of the General recommendation No. 37(2023), I convey some observations and proposals which I believe are

important for the promotion and protection of human rights in the context of multifaceted challenges posed by unilateral coercive measures, including sanctions.

On your kind invitation to contribute to the topic I wish to propose the following amendments to the draft.

- **Para. 5.** After the second sentence I propose to introduce the following one: *People living in countries targeted by economic, trade and other restrictive measures, including as result of unilateral sanctions, face serious challenges in access to healthcare, adequate and appropriate medicines and medical equipment, despite repeated calls by international organisations, human rights mechanisms and civil society for cooperation and solidarity¹, and appeals to refrain from enforcing such policies, in particular in situations of public health and humanitarian crises.*
- In **para. 9** in the sentence “Health laws and policies fail to measure and take into account intersectionality and fail to mirror how gender, age, disability, migratory status, class, social status, or income, and other grounds of discrimination operate inseparably with race, colour, descent, or national or ethnic origin, resulting in lower availability of health for groups within the purview of the Convention, or even exclusion, and in strengthening racial barriers.” After words “social status” I propose to include words “*country of origin or residence*”.
- *Intersectionality and complexity of the racial discrimination issues (para 9 of the draft)* also adhere to the negative effect of sanctions as far as the latter mean *a priori* exclusion and deprive wide groups of people from traditional and commonly accessible goods and services. Unavailability or shortage of medicine and medical equipment, adaptive equipment, appropriate medical treatment, as well as challenges in maintaining effective systems of disease control and prevention, including in emergency situations, all result in rising mortality rates, growing levels of physical and mental suffering, and reduced life expectancy in particular for people suffering from chronic and severe diseases. A 2017 analysis of UN and US sanctions found a significant reduction in the life expectancy in countries affected by sanctions, with every additional year under sanctions increasing adverse effects by 0.3 and 0.2 years respectively ².
- Exacerbating effects of over-compliance with sanctions represent a new form of division in societies. We face discrimination on physical and mental health at the *interstate and transboundary* level in addition to the *micro-level and the macro-level* which are developed in *para 11 of the draft*. There is a high concern on the sanctions-induced obstacles in the delivery of medicines, medical equipment, consumable and spare parts and pharmaceutical reagents to targeted by sanctions countries. The healthcare system as a whole is highly vulnerable to the imposition of unilateral sanctions and relevant zero-risk policies due to the deterioration they cause in the

¹ United Nations Secretary-General, “[Remarks at G-20 Virtual Summit on the COVID-19 Pandemic](#),” 26.03.2020; UN General Assembly resolution [74/270](#) on “Global solidarity to fight the coronavirus disease 2019 (COVID-19)” called for multilateral cooperation, unity and solidarity; Statement of the UNHCHR of 23 March 2020; see also Special Rapporteur’s report on the Negative impact of unilateral coercive measures on the enjoyment of human rights in the course of the COVID-19 pandemic ([A/75/209](#))

² Gutmann, J.; Neuenkirch, M.; Neumeier, F., ‘Sanctioned to Death? The Impact of Economic Sanctions on Life Expectancy and its Gender Gap’, ILE Working Paper Series, No. 11, University of Hamburg, Institute of Law and Economics (ILE), 2017 cited in Zoë Pelter, Camila Teixeira, Erica Moret, Sanctions and their impact on Children. Discussion paper, UNICEF, 2022

<https://www.unicef.org/globalinsight/media/2531/file/%20UNICEF-Global-Insight-Sanctions-and-Children-2022.pdf>

population's standards of living, high inflation, and problems pertaining to the purchase, payment for and delivery of necessary medicines, medical equipment, spare parts, reagents or software. Therefore, *I propose to include after words "hate speech" words "unilateral coercive measures and over-compliance"*.

To date, unilateral coercive measures and their enforcement may have not been sufficiently linked to the notion of "discrimination". This has become timelier and more relevant nowadays with the proliferation of these measures and their comprehensive and multifaceted nature.

My thematic report to the upcoming 54th session of the Human Rights Council, focuses on the impact of unilateral sanctions on the right to health and will be presented on 14 September 2023. It clearly demonstrates that UCMs and over-compliance of banks and private businesses with UCMs have a detrimental effect on the right to health, including as regards the access to medicine, medical equipment, adaptive equipment, qualified medical assistance, obstacles to international scientific cooperation in the area of health, brain-drain of health professional leaving the targeted by sanctions countries, challenges in the development of mechanisms for disease control and prevention, as well as of emergency plans in the course of pandemics (COVID-19), epidemics (Ebola, Dengue), natural disasters (Earthquake in Turkey and Syria in February 2023, earthquakes in Iran); challenges in the delivery of humanitarian assistance and restrictions that undermine fundamental humanitarian principles including non-discrimination and non-selectivity among others.

I take this opportunity to express my appreciation for your work in the elaboration of the General recommendation No 37 (2023), and I stand ready to further engage with you on issues pertaining to our respective mandates.

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