

**Statement by Dr. Tlaleng Mofokeng**

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

**Expert Workshop on Good Practices in**

**Ensuring Access to Medicines, Vaccines**

**and Other Health Products**

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**Geneva (virtual)**



Distinguished delegates,

Colleagues,

It a great pleasure to join you for this workshop on Good Practices in

Ensuring Access to Medicines, Vaccines and Other Health Products.

The Right of everyone to the enjoyment of the highest attainable standard of physical and mental health is related to other multiple human rights and is **indivisible**, (a) right to dignity; (b) right to information, (c) freedom and security of the person; (d) right to equality and non-discrimination (e) right to bodily autonomy (f) the right to benefit from scientific progress.

I have continued highlighting the need to reduce poverty and inequalities by adopting an anti-racist, anti-coloniality and intersectional analysis of the gap between the impact of COVID-19 and other emergent health issues around the world, the gap between opportunities of recovery from COVID-19 and the reality between evidence, policies and practices and between obligations of duty bearers and effective implementation of national plans.

**I caution the global eagerness to move to a post-COVID world without taking stock of successes but also what I view as some of the failures to guarantee human rights of all people everywhere when they needed it most.** The issue of access to medicines is a fundamental component of the full realization of the right to health. 2023 marks the year of commemorating the **75th anniversary** of the adoption of the Universal Declaration on Human Rights. Since then, extraordinary progress has been made and currently a vigorous global human rights system is our common heritage, a heritage that should unite us, not divide us.

The right to health in all its forms and at all levels contains the interrelated and essential elements; **Accessible, Acceptable Affordable, Quality** health and the precise application of these are key to advance the realization of the right to health and specifically access **to Medicines, Vaccines and Other Health Products**. Medical care in the event of sickness and the prevention, and treatment and control of diseases, depends largely on timely and appropriate access to quality medicines.

Yet, despite progress made, many people still lack access to essential medicines. This is due to the obstacles that block access to medicines of good quality, in an affordable and timely way, mostly in developing countries. This challenges human dignity and the basis of all human rights, including the rights to life, health and development of all persons.

Lockdowns lead to limited **access** to in-facility care – healthcare workers were moved to COVID-response units leading to some services being disrupted such as **chronic illnesses** management for diabetes, mental health, Hypertension and HIV management.

Due to certain restrictive interpretations of religious and cultural values and beliefs and recent regressions in laws protecting autonomy —which dominate the political discourse and praxis in certain countries—women and girls do not always have adequate access to comprehensive sexual and reproductive health services or education. **Reproductive health** commodities and services such as abortion care, gender affirming care, and screening tests for cervical cancer became less available during COVID-19 lockdowns. The **quality** of contraception methods was limited, some reporting method mixing or interruption impacting **acceptability** outcomes for many. This is true for those living in areas of war and conflict.

**Gender-based violence** is associated with adverse consequences on the physical and mental health of those affected. The militarisation of public health response to lockdown, the lack of public transport, curfews impacted access and **availability** of **post-rape medico-legal** care for example. Some of the community-based organisations led mostly by women were not classified as essential services and that created another barrier to receiving STI management, Post-exposure prophylaxis for HIV and emergency contraceptives.

The prevention of **child mortality** should remain a global priority. But beyond sheer survival, children have a right to thrive, develop in a holistic way to their full potential, and enjoy good physical and mental health in a sustainable world. Their rights must safeguarded through good practices like planned, safe pregnancy and childbirth; **vaccines** for the prevention of diseases; and protecting children from all forms of violence, neglect and abuse.

The complexity and diversity of circumstances throughout the **migration cycle** may render migrant populations highly vulnerable to poor physical and mental health outcomes, compromising the enjoyment of other rights.

COVID-19 complications such as **“long-COVID”** present new challenges to diagnosis, long-term care including disability care. Ableism makes it possible for global health institutions and health insurers to turn a blind eye to the needs of these groups of people. Many people who were economically active are no longer able to function at their previous baseline and extractive capitalistic practices discards people and offers little accommodation in the workplace, loss of medical insurance, higher costs of medicines and access to supportive tools.

Supporting **older persons** to remain physically, politically, socially and economically active for as long as possible will benefit not only the individual, but also the society as a whole.

The **health-related impact of discrimination based on sexual conduct and orientation** is far-reaching, the infringement of other human rights impacts on the realization of the right to health, such as by impeding access to employment or housing. Stigmatization prevents legislative and policymaking institutions from adequately addressing health-related matters in communities that are especially vulnerable to the infringement of the enjoyment of the right to health.

**Criminalization, stigma, discrimination** represent structural barriers to accessing services, establishing therapeutic relationships and continuing treatment regimes, leading to poorer health outcomes for sex workers, as they may fear legal consequences or harassment and judgement.

The **criminalization of drug use** and related activities have had a negative impact in the realization of the right to health of people who use drugs. Evidence shows that decriminalization**,** in culmination of harm reduction and other measures, can contribute to reducing stigma and marginalisation, and consequently reduce mortality rates and other harms associated with drug use.

The obligation to provide access to controlled medicine for pain relief, palliative care, drug dependency and other medical purposes is a core in the enjoyment of the right to health. whether they are related to the access to treatment, health care, harm reduction; or related to the access to controlled medicine- States must ensure that all drug control measures are human rights compliant.

The extraordinarily speedy production of safe and effective vaccines for COVID-19 showed that in fact there is capacity to respond timeously in the face of some of the greatest challenges to humanity. This **scientific progress** has not been followed by swift action to ensure equitable access across all countries and regions. Unfortunately, maximising profits and unfairly protecting industry led to protracted negotiations and extensive blockages to the TRIPS waiver proposal.

**Epistemic injustice**

I wish to briefly discuss how for example someone’s knowledge or experience is not taken into seriously or considered credible based on an analysis of power and associated stereotypes, which has increasingly been applied in the context of health care as seen during COVID. The history of western medicine is marred by racism, unethical medical experimentation and practices, still to be fully addressed and thus we must make a distinction between people who have centuries of mistreatment, leading to current distrust and hesitancy to engage western medicine and those people who are anti-truth, anti-science and anti-scientific developments.

The preference of many people **to indigenous health knowledge** and systems must be taken into consideration when communicating health information and options for care as well as their social, economic, and political contexts.  This is key to understand as we discuss access to medicine

Opportunities:

The **life-cycle approach** ensures a systematic approach that pays attention to the needs of people at various life stages, with the aim to meet the obligations to protect, respect and fulfil the right to health of everyone.

Many people have worsened or developed new co-morbidities and States should include **access to controlled essential medicines** in national health plans and policies and on national essential medicines lists. States should raise public awareness about long-COVID. Particularly important is to ensure the special provision of controlled medicines for children, including appropriate paediatric formulations.

**Healthcare workers** must not be attacked, intimidated or harassed for doing their job, and States must ensure a safe and healthy work environment, fair remuneration, as healthcare workers are essential to the realization of the right to health.

States must **address corruption**, as it has direct and indirect impact on the right to health and underlying determinants of health.

As indicated in the **Guiding Principles on Business** and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, private actors have the responsibility to “respect” human rights.

States must address practices that impeded equitable access; the **pharmaceutical value chain**, including during research and development, manufacturing, registration, distribution, procurement and marketing of medicines must be subject to policy regulation that safeguards rights especially of those in the developing contexts, where the costs to the end-user is exorbitant.

I strongly urge all Member States to **ratify the ICESCR**. Under the right to health, States are obliged to develop national health legislation and policies, and to strengthen their national health systems.

From a human rights perspective, access to medicines is intrinsically linked with the principles of equality and non-discrimination, transparency, participation, and accountability. There remains an intrinsic link between poverty and the realization of the right to health, where developing nations have the greatest need and the least access to medicines.

A **rights-based approach** requires simultaneous attention to immediate health interventions and the longer-term social transformation required and agility of health systems to affirm the right to a system of health protection that provides equality of opportunity for everyone to enjoy the highest attainable standard of physical and mental health.

Thank you.