World Health Organization

Dr Tlaleng Mofokeng **17 June 2022**
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
Special Procedures Branch
Office of the High Commissioner for Human Rights
Palais Wilson, Geneva
Switzerland

Re: Call for Input: thematic report on Racism and the right to health

Dear Ms Mofokeng:

1. WHO's mission to promote health, keep the world safe, and serve the vulnerable is based on Sustainable Development Goal (SDG) 3 and the associated Triple Billion Goals, reflected in WHO's 13th General Programme of Work, 2019 – 2023 (GPW13).1 GPW13 stresses the importance of the impactful integration of gender, equity and human rights as critical for progress on the Leave No One Behind (LNOB) pledge across all three levels of WHO, including the need for multisectoral "whole of society", "whole of government" and "Health in All Policies" approaches that deal comprehensively with all determinants of health. As part of its commitment to leave no one behind, WHO seeks to identify the most vulnerable among those who are being left behind and to identify and address the root causes2.

2. Below is a brief overview of some of the work that WHO has undertaken to address structural racial and ethnic discrimination, as well as its future work with the UN Forum on Indigenous Issues and its intersectional approach to addressing the multiple and compounding drivers of disadvantage and discrimination including gender, income, legal status, geographic location and other social stratifiers.

3. On 25 March 2021, the Gender, Equity and Human Rights Team organized a Webinar on *"Health inequities and racial and ethnicity-based discrimination: what COVID-19 is teaching us*" as part of the WHO's Global Webinars on the COVID-19 pandemic's impact on health equity and the social determinants of health.[1]

4. In 2021, WHO lead the LNOB Pillar of the UN Network on Racial Discrimination and Protection of Minorities (the UN Network), which included follow-up actions from the Frontier Dialogue. This encompassed: a) produced a dedicated capacity building session utilizing the outcomes of Frontier Dialogue process for the online training course for UNCTs on "Addressing Racial Discrimination, and Strengthening the Protection of Minorities, Indigenous Peoples and other Population Groups in UN Programming Processes", b) a commentary in *Nature Communications* to publicize the key findings and interventions to inform UN Common Country Analyses and Development Cooperation Frameworks with

[1] WHO. Health inequities and racial and ethnicity-based discrimination: what COVID 19 is teaching us. Available at: https://www.who.int/news-room/events/detail/2021/03/25/default-calendar/health-inequities-and-racial-and-ethnicity-based-discrimination-what-covid-19-is-teaching-us

Member States.[2] Between 4 and 28 October 2021, WHO, in collaboration with ILO, OHCHR, OSAPG, UNDESA, UNESCO, UNHCR, UNICEF, UNODC, and UNPFA, developed and delivered trainings for a total of 41 technical staff from 13 UNCTs in Albania, Botswana, Brazil, Central African Republic, China, Dominican Republic, Guyana, India, Jordan, Kyrgyzstan, Pakistan, South Africa, and Ukraine.

5. In 2022, WHO, as continued member of the Pillar LNOB of the UN Network is steering the following actions: a) systematizing the materials produced to make them available in the public domain for reaching a wider audience (forthcoming on OHCHR/ UN Network page ; b) Community of practice session (COP) for the participants from the 13 UNCTs who participated in the October 2021 UNCT Course, offering a platform for follow-up and regional expert input. This includes "deep dives" on areas such as criminal justice, indigenous languages, and country work on people of African descent, alongside dedicated sessions for reporting back progress from UNCTs (webpage forthcoming); c) Sensitization Session on Training Approaches for Tackling Racial Discrimination and Strengthening the Protection of Minorities to increase the capacity of UN technical staff in addressing racial discrimination and strengthen the protection of minorities.

6. WHO re-joined the inter-Agency Support Group (IASG) on Indigenous Issues and is developing initiatives to ensure the participation and engagement of indigenous peoples. WHO organized a side event at the 21st Session of the UN Permanent Forum on Indigenous Issues, "The social determinants of health inequities – entry points for action".[3] The event served as a platform to identity measures to tackle health inequities, including through: a) action on the social determinants of health; b) the strengthening of equity-oriented, rights-based health systems through the provision of intercultural care; and c) addressing the linkages between climate change and health. This space served to inform the next WHO World Report on Social Determinants of Health Equity, which aims to outline an agenda for the next ten years for action on the social determinants of health.[4]

7. WHO produced a research brief on "*Strengthening primary health care to tackle racial discrimination, promote intercultural services and reduce health inequities*" (publication forthcoming). The brief supports policy-makers, civil society organizations, researchers and other development partners to address racial discrimination, promote intercultural health services, and reducing health inequities in Primary Health Care (PHC). WHO outlines 14 strategic and operational levers for policy-makers to strengthen PHC. Within each lever, the brief presents multiple potential entry points for targeted actions to address racial discrimination in health, foster intercultural care, and reduce health inequities experienced by indigenous peoples as well as people of African descent, Roma and other ethnic minorities. The report contains examples of health inequities faced by populations experiencing racial discrimination, who are more likely to experience adverse socioeconomic conditions, often

[2] Linos N, Basset MT, Salemi, A. et al. Opportunities to tackle structural racism and ethnicity-based discrimination in recovering and rebuilding from the COVID-19 pandemic. Nature Communications 14 June 2022. 13:3277. https://doi.org/10.1038/s41467-022-30791-w.

[3] Indigenous peoples and tackling health inequities: WHO side event at the 21st session of the UN Permanent Forum on Indigenous Issues. Available at: https://www.who.int/news-room/events/detail/2022/05/03/default-calendar/indigenous-peoples-and-tackling-health-inequities--who-side-event-at-the-2022-session-of-the-un-permanent-forum-on-indigenous-issues

[4] WHO, Special Initiative for Action on the Social Determinants of Health for Advancing Health Equity. Available at : https://www.who.int/initiatives/action-on-the-social-determinants-of-health-for-advancing-equity

influenced by compounding and intersecting forms of disadvantage across many aspects of their lives.

8. In the following months, WHO is expanding its work on ethnicity across all regions with the active participation of indigenous peoples and ethnic minorities. WHO is convening an event on the International Day of World Indigenous Peoples (9 August) and the International Day of peoples of African Descent (31 August). Also, WHO, in coordination with civil society and other UN partners is collaborating on issues related to climate change, food security and indigenous peoples. This include a global consultation with indigenous peoples to inform the forthcoming report on *Health and Nature-Based Solutions*.

Sexual and Reproductive Health and Rights

9. Multiple and intersecting forms of discrimination against women's sexual and reproductive rights, including racial discrimination, has been documented by researchers, suggesting that the struggle for reproductive justice is not only a fight for gender equality but also an anti-racist agenda.

10. Historically, women have been disproportionately subjected to forced, coerced and otherwise involuntary sterilization, especially in connection with coercive population policies. Indigenous peoples and ethnic minority women are particularly vulnerable to acts of violence, including coercive sterilization. Some countries have in their population policies specifically targeted indigenous and ethnic minority women from the most deprived sectors of society for sterilization without their consent. Often indigenous girls and women are not provided with a full choice of contraceptive methods. Moreover, information relating to their sexual and reproductive rights is often not made available in accessible formats and in indigenous languages.[5]

11. Recent evidence reviews conducted by WHO on access to abortion care suggests similar multiple, intersecting forms of discrimination experienced by women seeking health care. The WHO Abortion care guideline states that:

> …abortion should be fully decriminalized. Regulatory, policy and programmatic barriers – as well as barriers in practice – that hinder access to, and timely provision of quality abortion care should be removed. These include grounds-based approaches, gestational age limits, mandatory waiting periods, third-party authorization requirements and provider restrictions. States should also protect access to and continuity of abortion care against barriers created by conscientious objection.[6]

12. Studies suggest that some of these barriers disproportionately impact certain groups. For example, Hispanic and Black minors may be disproportionately impacted by mandatory waiting periods, and where mandatory waiting periods have an effect on birth rates, this effect disproportionately impacts people of colour, especially when requiring two visits. Increased birth rates associated with parental consent laws are disproportionately experienced by black teens. Minors requesting abortion by judicial bypass compared with parental consent vary significantly, but minors obtaining abortion under judicial bypass as compared with

[5] WHO. Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement. OHCHR, UN Women/UNAIDS/UNDP/UNFPA/UNICEF/WHO, 2014. At: https://apps.who.int/iris/handle/10665/112848.

[6] WHO. Abortion Care Guideline. World Health Organization, 8 March 2022, Geneva. At: https://cdn.who.int/media/docs/default-source/reproductive-health/abortion/supplementary-material-1.pdf.

parental consent are significantly more likely to be racial or ethnic minorities and of low socioeconomic status. Additional information on the evidence and incorporation of the multiple human rights issues engaged in access to abortion services are available in the law and policy Evidence-to-Decision tables in the background materials to the Abortion Care Guideline and Annex A: Key Human Rights Standards on Abortion.[7,8]

Migration and Health: Discrimination based on racism, migrant status

13. Equality and non-discrimination in the right to health includes prohibiting discrimination based on health, racial identity or legal status. However, discriminatory policies based on racial or migrant status often result in exclusion from health care services and health systems more broadly.[9]

14. The health impacts of policy and governance restrictions for individuals based on race or migrant status, have been demonstrated by the border closures in Europe at the beginning in 2015,[10] as well as the US-Mexico Border,[11] global border closures during the COVID-19 pandemic;[12] and increased used of detention and offshore facilities globally. There have been increasing challenges to accessing healthcare for those in transit, and often on arrival in destination countries.

15. Migrant or refugee status is often as a barrier to accessing healthcare, with migrant groups (especially those in transit/without formal status) unable to access health care, or only able to access emergency healthcare. Restrictions on access to health services result in an inability to access public health prevention services too and are therefore also ineffective in the long term and may cost more for the health system than inclusive policies.[13]

WHO Programme on Health and Migration (PHM)

16. The COVID-19 pandemic only exacerbated the already dire working, living and transiting conditions, conditions that are primarily rooted in structural, political, social, and

[7] WHO. Abortion Care Guideline, Supplementary Material 1: Evidence to Decision Frameworks for Law and Policy Recommendations. World Health Organization, 8 March 2022, Geneva. At: https://cdn.who.int/media/docs/default-source/reproductive-health/abortion/supplementary-material-1.pdf?sfvrsn=5bc94f18_7.

[8] WHO. Abortion Care Guideline, Annex A: Key international human rights standards on abortion. World Health Organization, 18 March 2022, Geneva. At: https://apps.who.int/iris/bitstream/.pdf.

[9] OHCHR. Protecting the rights of migrants in irregular situations. OHCHR, At: https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/IrregularMigrants.pdf.

[10] Orcutt M, Mussa R, Hiam L, Veizis A, McCann S, Papadimitriou E, Ponthieu A, Knipper M. EU migration policies drive health crisis on Greek islands. Lancet. 2020 Feb 29;395(10225):668-670. doi: 10.1016/S0140-6736(19)33175-7. Epub 2020 Jan 13. At: https://pubmed.ncbi.nlm.nih.gov/31948786/.

[11] Médecins du monde. Title 42's harmful impact on the health and safety of migrants. Médecins du monde, 12 April 2022, Paris. At: Title 42's harmful impact on the health and safety of migrants.

[12] Machado, S. and Goldenberg, S. Sharpening our public health lens: advancing im/migrant health equity during COVID-19 and beyond. Int J Equity Health 20; 20:57. 8 February 2021. At: equityhealthj.biomedcentral.com/articles/10.1186

[13] Bozorgmehr K, Razum O. Effect of Restricting Access to Health Care on Health Expenditures among Asylum-Seekers and Refugees: A Quasi-Experimental Study in Germany, 1994–2013, PLoS One. 2015; 10(7): e0131483. Published online 22 July 2015. At: https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0131483.

economic determinants, contributing to a negative effect on migrant physical and emotional well-being.[14,15]

17. The WHO Programme on Health and Migration (PHM) mapped trends in public health and migration policies and found that the majority of countries which implemented public health measures either included migrants generically – without specific inclusion in preparedness plans – or lacked universality or regional cohesion. Moreover, most migration policies, rather than being inclusive, had deterrence policies for incoming migrants and asylum seekers as their pandemic preparedness and response strategy.[16]

18. Direct or indirect forms of discrimination of migrant populations influence migrants' ability to enjoy the highest attainable standard of health and well-being. With global reports of increased discrimination of people on the move during COVID-19, the WHO's AparTogether survey (2020) also demonstrated that among 30,000 individuals representing all WHO regions, on average participants perceived the same degree, or deterioration, in discrimination during the pandemic. Irregular migrants reported: unfair treatment (16%), feeling more anxious (23%), being avoided by members of the local community (27%) and reported being treated differently because of their country of origin (22%).[17] The cumulative impact of direct, indirect, and perceived forms of xenophobia, racism or discrimination towards migrants either through punitive and restrictive migration policies, limited or absent service provision, apparent exclusion from social and economic national programmes, exclusion of certain groups from health systems and amplified boreoarctic requirements has direct health implications, such as increasing the risk of prolonged illness, avoidable death and unnecessary emotional harm.[18]

WHO PHM Normative Work

19. Racism and xenophobia are important components in the discrimination against migrants, refugees and ethnic minorities. National policies and programmes need to be planned and implemented with due regard for the legitimate rights of persons belonging to minorities including respect for the beliefs, knowledge and language of the beneficiaries, as well as attention to their right to participate in matters concerning their health and development. Policies should use an intersectoral perspective for effective targeting marginalized communities in order to reduce health inequalities and in the light of international human rights obligations, for which government as a whole is the prime duty-bearer.[19]

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[14] Orcutt, M et al., Global call to action for inclusion of migrants and refugees in the COVID-19 response. The Lancet https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7988131/.

[15] WHO. Fact Sheet: Refugee and migrant health. WHO, 2 May 2022, Geneva. At: Fact-sheet/refugee-&-migrant-health.

[16] WHO. Refugees and migrants in times of COVID-19: mapping trends of public health and migration policies and practices. WHO, 17 June 2021, Geneva. At: Refugees and migrants in times of COVID-19: Mapping Trends

[17] WHO. Apart Together Survey: Preliminary Overview of Refugees and Migrants Self-Reported Impact of COVID-19. WHO, 18 December 2020, Geneva. At: www.who.int/publications/item/9789240017924.

[18] Forthcoming (WHO, World Report on Health and Migration, 2022).

[19] WHO. Fact Sheet: Human Rights and Health. WHO, 2017, Geneva. At: https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health; Committee on Economic, Social and Cultural Rights (CESCR). General Comment 14 on Art 12 (the right to health). OHCHR, 2000, Geneva. At: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FGC%2F20&Lang=en; General Comment 20: Non-discrimination in economic, social and cultural rights. OHCHR, 2000,

WHO Regional Office of the Americas (AMRO/Pan-American Health Organization)

20. The WHO regional office for the Americas (PAHO) has prioritized ethnicity as a cross-cutting theme for PAHO, in addition to gender, equity and human rights. This is reflected in different guidelines, projects and initiatives at all levels of PAHO. In September 2017, at the 29th Pan American Sanitary Conference (69th Session of the Regional Committee of WHO for the Americas), PAHO Member States unanimously approved the *Policy on Ethnicity and Health*.[20] With this policy, Member States agreed to guarantee an intercultural approach to health and the equitable treatment of indigenous peoples, Afro-descendants, Roma populations, and members of other ethnic groups. They also embraced the need for inclusive, collaborative solutions to address the gaps in access to health for these populations. Representatives from indigenous peoples, Afro-descendants, and Roma populations, ministries of health, and multilateral organizations participated in the development of this policy and committed to supporting its implementation, the first formal policy to adopt an intercultural approach to address health inequities.

21. As a follow up to this important achievement for the PAHO region, in 2019, a *Strategy and Plan of Action on Ethnicity and Health* was approved unanimously by all Member States to prioritize actions ensuring that all communities have access, without discrimination, to comprehensive, appropriate, timely, and quality health services. [21]

22. Other measures adopted in the region of the Americas, include promotion of differentiated approaches in health and tackling discrimination, such as:

- *Health Plan for Afro-descendant youth in the LAC Region*. PAHO provided technical support to Afro-descendant youth in the region in the development of a health plan with the priorities identified by youth.[22]
- Technical work in the context of COVID-19. In the context of the pandemic, it is important to highlight the *Considerations on Indigenous Peoples, Afro-descendants and other ethnic groups during the COVID-19 pandemic*. This technical report includes some of the concerns expressed by afro-descendant people in the region, through PAHO country offices. [23]
- At the sub-regional level, PAHO is working at the South and Central American levels to address the health of afro-descendant populations. In this regard, a health plan addressing the health of Afro-descendant population in the South American region was developed with ORAS CONHU ("Organismo Andino de Salud") and is being implemented in 2022. In Central America, a project has been developed to address the health situation of afro-descendant and indigenous peoples as well as the policies in place to address them, with emphasis on access to health and health outcomes in women and girls.

[20] PAHO/WHO Policy on Ethnicity and Health (29th Pan American Sanitary Conference), available at: https://www.paho.org/en/documents/policy-ethnicity-and-health-29th-pan-american-sanitary-conference

[21] PAHO/WHO Strategy and Plan of Action on Ethnicity and Health 2019-2025, available at: https://iris.paho.org/handle/10665.2/51744

[22] PAHO/WHO, Health Plan for Afro-Descendant Youth in Latin America and the Caribbean, available at: https://www.paho.org/en/documents/health-plan-afro-descendant-youth-latin-america-and-caribbean

[23] PAHO/WHO, Considerations on Indigenous Peoples, Afro-Descendants, and Other Ethnic Groups during the COVID-19 Pandemic, 4 June 2020, available at: https://iris.paho.org/handle/10665.2/52251

- In 2022, PAHO produced a methodology on knowledge dialogues aimed at improving access to health services and building intercultural health, with emphasis on solving previously raised problems and their causes, promoting mutual understanding and the creation of solid links through the participation and empowerment of indigenous peoples, Roma populations, and Afro-descendants.[24] The methodology can be applied to working with any group (migrants, displaced persons, adolescents, the elderly, etc.) that presents problems of universal access to health and universal health coverage.

WHO Regional Office in Europe (EURO)

23. The WHO regional office for EURO produced a quarterly Roma Inclusion newsletter o share information and resources relevant for Roma inclusion, and thereby support current efforts to strengthen the different components of national Roma integration strategies or policy measures in the EU and action plans for the Decade of Roma Inclusion.[25]

24. WHO/EURO has also produced a Toolkit on social participation which includes methods and techniques for ensuring the social participation of Roma populations and other social groups in the design, implementation, monitoring and evaluation of policies and programmes to improve their health, available in English and Română.[26]

25. WHO/EURO has also produced Roma case studies on different aspects of Roma health care at the national and regional level, including:

- Roma health mediation in Romania to improve the health status of Roma and their access to health care services - Case studies series No. 1.[27]
- Review and reorientation of the health programme for active health protection of mothers and children in the former Yugoslav Republic of Macedonia - Case study series No. 2.[28]
- Review and reorientation of the Serbian national programme for early detection of cervical cancer towards greater health equity - Case study series No. 3.[29]
- Brief on how health systems can address health inequities linked to migration and ethnicity produced through the WHO/European Commission equity project.[30]

WHO Eastern Mediterranean Region (EMRO): Lebanon Good Practice Country Example

[24] PAHO/WHO. The Knowledge Dialogues Methodology. https://iris.paho.org/handle/10665.2/55863
[25] WHO/EURO. Roma Inclusion Newsletter. Available at: https://www.euro.who.int/en/health-topics/health-determinants/roma-health/roma-inclusion-newsletter.
[26] WHO/EURO. Toolkit on Social Participation: Methods and Techniques for ensuring the social participation of Roma populations. WHO/EURO, 2016, Copenhagen. At: WHOEUROtoolkitRoma_DecadeofRomaInclusion.
[27] WHO/EURO. Roma health mediation in Romania. At: https://www.euro.who.int/__data/assets/pdf_file/0016/235141/e96931.pdf
[28] WHO/EURO. Review and reorientation of the "Programme for active health protection of mothers and children" for greater health equity in the former Yugoslav Republic of Macedonia. At: https://apps.who.int/iris/handle/10665/164586?locale-attribute=pt&
[29] WHO/EURO. Review and reorientation of the Serbian national programme for early detection of cervical cancer towards greater health equity. At: http://apps.who.int/iris/bitstream/10665/181169/1.
[30] WHO/EURO. How health systems can address health inequities linked to migration and ethnicity. At: https://www.euro.who.int/__data/assets/pdf_file/0005/127526/e94497.pdf

Lebanon: Good Practice Country Example[31]

Lebanon's National AIDS program (NAP) provides HIV services for all population residing in Lebanon. With the partnership of local non-governmental organizations, the program supports outreach and raising awareness activities on HIV and STI as well as providing preventive tools and HIV testing kits to ALL: Lebanese and non-Lebanese residing in the country including refugees - Palestinians and also Syrians fleeing the country since the beginning of the Syrian crisis - as well as migrants of different nationalities without any discrimination.

The NAP reaches all types of population for HIV awareness, prevention, diagnosis, enrolment to care and treatment, regardless of age, sex, gender identity, sexual orientation, disability, migration / refugee status or social status. The target audiences addressed include youth, key populations such as LGBTIQ+ people, sex workers, injecting drug users as well as prisoners and other key populations.

Besides awareness and prevention, the program actively supports enrolment in care for all people living with HIV in Lebanon through specialized physicians, provides testing services free of charge including PCR Viral load tests and other laboratory services to ensure that all people living with HIV will start their antiretroviral treatment (ART) provided for free from the NAP - ART Dispensing centre.

The NAP mission is that all people across Lebanon have access to the tools and education to prevent HIV transmission and that every person diagnosed with HIV deserves immediate access to treatment care that is non-stigmatizing, competent, and responsive to the needs of the diverse populations impacted by HIV.

26. WHO will continue supporting efforts and initiatives, in coordination with Member States, UN system actors, private sector, civil society, and philanthropic organizations to address racial and ethnic discrimination, inequities and health disparities to achieve health for all.

Please accept the above submission from the World Health Organization for consideration to your 2022 report to the Human Rights Council.

With best regards,

Submitted by:
Erin Kenney, Gender, Equity and Human Rights lead, a. i.

Focal Points:
Theadora Koller, Senior Technical Advisor on Equity
Susana Gomez, Ethnicity and Health Consultant
Rodney Kort, Senior Human Rights Consultant
Gender, Equity and Human Rights (GER) team, HQ/DGO/GER

[31] WHO/EMRO. Additional information on the National HIV/AIDS Control Programme in Lebanon is available at: https://moph.gov.lb/en/Pages/2/4000/aids.