



# Assemblée générale

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## Conseil des droits de l'homme

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Point 7 de l'ordre du jour

**Situation des droits de l'homme en Palestine  
et dans les autres territoires arabes occupés**

## **Communication de la Commission indépendante pour les droits de l'homme de l'État de Palestine\***

### **Note du secrétariat**

Le secrétariat a l'honneur de transmettre au Conseil des droits de l'homme une communication soumise par la Commission indépendante pour les droits de l'homme de l'État de Palestine\*\*, qui est distribuée conformément à l'article 7 b) du Règlement intérieur du Conseil (voir résolution [5/1](#), annexe) et selon les modalités et les pratiques que la Commission des droits de l'homme a arrêtées dans sa résolution 2005/74.

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\* Institution nationale des droits de l'homme accréditée avec le statut « A » par l'Alliance mondiale des institutions nationales des droits de l'homme.

\*\* La communication est reproduite en annexe telle qu'elle a été reçue, dans la langue de l'original seulement.



## Annexe

### **Communication de la Commission indépendante pour les droits de l'homme de l'État de Palestine**

#### **Written statement of the Independent Commission for Human Rights of the State of Palestine on the Report of the Special Rapporteur on the rights of Indigenous peoples**

As a continuation of its systematic policies, Israeli occupation authorities continue blatant implementation of its arbitrary racial discriminatory policies and practices against the Palestinians over the year 2023 concerning their lives, properties, and control over their natural resources to erase their presence and prevent them from exercising their right to self-determination on their land. The Israeli occupation persists in depriving Palestinians of their basic rights and violating the rules of International Humanitarian Law and International Human Rights Law. It also continues its full control over all aspects of Palestinian lives and strengthens its hegemony over them within the framework of the current racist settler-colonial system. The occupation violations and arbitrary practices, most notably withholding the clearance funds owed to the State of Palestine are interpreted in its inability to fulfill its responsibilities and meet its liabilities towards citizens in terms of the economic and social rights and one of them is the right to health. Such policies and violations negatively impact the ability of the Ministry of Health to fulfill its responsibilities and liabilities towards the Palestinian citizens in terms of the availability of medicines and medical supplies.

#### **The Israeli Withhold of Clearance Funds**

Clearance funds are the tax revenues collected by Israel on goods entering Palestinian territories through the crossings it fully controls. These funds amount to approximated 700 million shekels (202 million dollars), approximated 102 - 276 million shekels per month, with a 3% commission fee deducted by Israel. Israel's deduction of "clearance funds" is part of the sanctions imposed by the Israeli government on the Palestinian Authority. On July 8, 2018, the Israeli Knesset enacted a law on freezing the benefits of Palestinian detainees, martyrs, and their families and it was approved in the three readings by the Knesset Foreign Affairs and Security Committee. This law aimed to deduct money from the tax revenues that the Israeli government transfers to the Palestinian Authority under the Paris Economic Protocol signed between the two sides on April 29, 1994. The deduction of these funds is roughly equivalent to the social benefits paid to the families of detainees and martyrs, which is one of the most significant duties of the State of Palestine towards its citizens and a cornerstone of its social protection system.

The Israeli occupation authorities seize clearance funds either to provide them as "compensation" to families of Israelis who were killed or injured or as an equivalent amount to the monthly benefits paid to the families of prisoners, martyrs, and wounded. The Israeli policymakers use the threat of deducting clearance funds that should be transferred to the Palestinian treasury as a pressure tactic on the Palestinian Authority, pushing it to adopt policies and measures that align with Israeli objectives. It is expected that further funds will be withheld under this pretext in the future.

According to the Palestinian Council of Ministers, it was announced in a session in early 2023 that the total deductions made by the Israeli occupation authorities related to the benefits paid to the prisoners and martyrs reached approximately 2 billion shekels since early 2019 until the end of 2022. Additionally, the occupation government deducted and continues to deduct a total of 350 million shekels annually as a commission for collecting funds owed to the Palestinian Authority from clearance funds. Israel also withholds the amounts due from the departure tax at the bridges, which exceeded one billion shekels.

According to media reports, the Israeli Minister of Finance, Bezalel Smotrich, decided in early May 2023 to seize 3.2 million shekels from Palestinian tax revenues for the benefit of Israeli families whose members were killed in Palestinian attacks. This amount is added to the 138.8 million shekels seized in January last year. This practice has been ongoing for three years. According to government and international reports, the funds that Israel deducts from

Palestinian funds can cover the annual budget deficit of the Palestinian Authority. This substantial deduction from Palestinian tax revenues has impacted the ability of the Palestinian Authority to meet its liabilities towards its citizens, including paying the salaries of its employees or paying for necessary service providers, including hospitals, medicines, and medical supplies.

#### **The impact of Israel's Withhold of Clearance Funds on the Palestinian Health Sector:**

The Israeli deductions from the clearance funds are one of the major challenges facing the Palestinian Authority, as they have exceeded \$102 million per month. This has had negative repercussions on the Palestinian government's ability to pay the salaries of its employees and fulfill its financial liabilities. In 2022, the government was only able to pay approximately 80% of the salaries, resulting in increased debts to its employees and difficulties in meeting its liabilities to governmental institutions. This situation led to strikes by certain categories of employees (such as teachers, doctors, engineers, and assistive health-profession workers, which further obstructed the provision of basic services to citizens.

The ongoing financial crisis the Palestinian government faces due to the policies of withholding clearance revenues, coupled with the failure of many international donors to fulfill their financial commitments to the State of Palestine, has negatively affected the government's ability to meet its liabilities to its citizens, particularly to a higher and disproportionate degree the poorest and most marginalized groups of the Palestinian society.

The health sector is one of the most vital sectors that directly affects the lives of Palestinian citizens because it provides healthcare and humanitarian services, and ensures the right to the highest attainable standard of health the Palestinians can access. The Palestinian government's health sector is the primary provider of healthcare services in Palestine to ensure that all individuals have access to healthcare services equitably and equally. The Ministry of Health is the key operator of healthcare services in addition to the non-governmental organizations and the private sector. It provides specialized medical services in its hospitals and ensures providing essential medicines, and patient-external referrals for services not available within the Palestinian territories of the West Bank and Gaza Strip. Therefore, the Ministry of Health is responsible for leading, managing, and organizing the Palestinian healthcare sector, as well as ensuring its development and its required sustainable resources, and establishing partnerships with other sectors.

#### **The Financial Crisis and the ability of the Ministry of Health to Provide Medicines:**

The Israeli practices have placed a burden on the Palestinian Authority's public finance and have been a major obstacle to the Ministry of Health's ability to enhance healthcare services amidst continuous deductions and repeated withholding of clearance revenues by the occupation government. This has weakened the capacity to fund healthcare service expenditures so that the government became obligated to cover spending gaps from its public budget. The government covers the mandatory contribution programs and systems for healthcare by 45-47% of total healthcare spending.

Since the beginning of 2023, the Palestinian Ministry of Health hospitals have been suffering from a severe shortage of medicines, especially cancer drugs. The cause of this shortage lies in suppliers ceasing to provide the Ministry of Health with medicines due to accumulating debts and the financial crisis, which posed a threat to the lives of thousands of patients. For several months, the Ministry of Health warehouses experienced shortages and fluctuations in the supply of certain types of essential medicines for chronic diseases due to the financial crisis resulting from Israeli occupation measures and deductions from clearance revenues.

The debt of the Ministry of Health was affected by the debt of medicine suppliers who were prompted to borrow from the local banks. Due to the high interest rates, this has led to an increase in medicine prices in the Palestinian market. Although the Ministry of Health makes monthly payments of the due debts to suppliers to continue the supply of medicines, not all companies can withstand this debt. The big companies can withstand such debts but not the small ones that might be forced to leave the market. The Ministry pays around 30 million shekels monthly to the supplying companies, which covers their monthly needs but does not cover the overall debt substantially.

Failure to pay financial dues to suppliers companies may lead to a health disaster because they are unable to provide medicines and medical supplies to the Ministry of Health, which will lead to the failure of the state to provide treatment for the Palestinian citizen, and affect

the lifeblood of citizens, and rob them of their most basic rights to obtain treatment. And as a result of the lack of medicines, the Ministry will have to transfer patients to private hospitals at home and abroad, which will burden the state treasury many times the cost of treatment if it was obtained in government hospitals.

While the Ministry of Health's debt is not recent, as it has been accumulating over several years, the Israeli occupation government's withholding of clearance revenues has exacerbated this debt and its implications on the human rights situation in Palestine and highly affected the healthcare services provided by the Ministry. The Ministry of Finance has sought to provide monthly financial payments to pharmaceutical and medical equipment providers, as well as hospitals and cleaning companies, based on prior agreements between the Ministry and these sectors. However, the government was unable to settle the accumulated debt over the past 36 months. The total debts for companies regarding medicines in 2019 did not exceed (300 million Shekels) according to the statement of the Pharmaceutical and Medical Equipment Suppliers Association. By the end of February 2023, the suppliers asked the Palestinian government, represented by the Ministry of Finance to immediately comply with the agreement between the two parties and to pay the due amounts which amounted to 750 million shekels up to that date since more than 36 months in order to be able to continue and sustain to prevent the collapse of the Palestinian pharmaceutical sector which is at risk. According to the Pharmaceutical Suppliers Association, the debt has caused some suppliers to lose liquidity and their ability to sustain drug imports. The Ministry of Health has reported that 70 types of medicines have not been tendered by pharmaceutical companies, mainly due to the accumulated debt owed by the Ministry for drug supply.

#### **The Deterioration of Health Situation in the Gaza Strip:**

The healthcare situation in the Gaza Strip has deteriorated significantly due to the ongoing blockade and its negative repercussions on the healthcare system. The blockade, which has been in place for 17 years, has resulted in a significant decline in the quality of medical services within Gaza hospitals and a deterioration of healthcare services for its residents in light of shortages of medicine and medical supplies. Restrictions on medicines and medical supplies have obstructed the possibility of meeting the healthcare needs of Gaza population. Furthermore, the continued hindrance of drug supplies and the unavailability of necessary medical devices and parts for defective medical equipment have made it difficult for medical teams to work effectively in emergency departments, operation rooms, and intensive care units to provide healthcare for patients.

According to the Director of the Pharmacy Department at the Ministry of Health, the main reason for the unavailability of all medications in primary healthcare is the blockade and the financial situation the Ministry faces. The Ministry lacks sufficient financial resources to cover all its budgetary needs, as the pharmaceutical budget is one of the highest costs in the health sector, representing around two-thirds of the Ministry's operational budget. Procurement depends on the availability of financial amounts from the Ministry of Finance in Gaza or the West Bank or other institutions, but they do not cover all of the Ministry's needs for providing medicines and healthcare services to patients in the Gaza Strip. There is a shortage in medicines due to the shortage in the central warehouses of the Ministry of Health in the Gaza Strip, with approximately 219 drug types out of 522 being unavailable during the first half of 2022, which resulted in a drug shortage rate of 9.41%. This shortage has had particularly negative impacts on cancer patients and those with blood diseases, where the drug shortage rate reached 12%.

Health facilities experience huge challenges in providing healthcare for cancer patients due to a shortage of approximately 60% of drugs, which poses a serious risk to the chances of their treatment. This situation has also increased the suffering of the Gaza Strip patients and put their lives at risk, particularly those with lung diseases, tumors, kidney failure, and thalassemia, which threatens the entire healthcare sector in the Gaza Strip.

Last year, the Israeli occupation authorities have hindered the travel of 5,001 patients who were referred for treatment outside the Gaza Strip. The Israeli restrictions have caused deterioration of the health situation of dozens of patients due to the prolonged waiting period for permits to pass through the "Erez" crossing. Cancer patients in the Gaza Strip have struggled to access the necessary medical treatment both inside and outside the Gaza Strip where 9 cancer patients, including 3 children, died due to the shortage of medical services and restrictions imposed by the occupation on the entry of medical equipment and devices.

The Ministry of Health has reported an increase in the number of cancer patients in the Gaza Strip in 2022, which reached 12,600, of which 53% are females and 47% are males. The humanitarian and health situation of those patients threatens their right to treatment, given the ongoing shortage of drugs and medical supplies, which poses real risks to their lives.

**Conclusion**

The continued ongoing deduction of Palestinian clearance revenues by the occupation authorities have significant negative repercussions on the right to health for the Palestinian people, that impact the ability of the State of Palestine to spend in the healthcare sector, and ensure the right to health for its citizens. These measures also hinder Palestine's ability to ensure the economic and social rights of its citizens and fulfill its liabilities towards them in addition to the violation of the obligation of the occupying state under the provisions of international law and contractual agreements.

Therefore, the Independent Commission for Human Rights “ombudsman” calls upon your esteemed council to exert pressure on the Israeli occupation to stop withholding tax revenues and to return the previously deducted amounts due to the repercussions that contribute to the deterioration of the fundamental rights of the Palestinian people and their ability to live in dignity.

We also advocate for seeking a resolution from the United Nations General Assembly (UNGA) to request an advisory opinion from the International Court of Justice to confirm the illegitimacy of these deductions and their legal implications regarding the Palestinian Authority's ability to fulfill its liabilities towards its citizens.

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