

# State of Palestine

Permanent Observer Mission to the United Nations  
Geneva



# دولة فلسطين

البعثة المراقبة الدائمة لدى الأمم المتحدة  
جنيف

Geneva 03 August 2023

The Permanent Observer Mission of the State of Palestine to the United Nations Office and other international organizations in Geneva present its compliments to the Secretariat of the Committee on the Elimination of Racial Discrimination CERD and has the honor to submit herewith the inputs of the State of Palestine on the draft general recommendation No. 37 on racial discrimination in the enjoyment of the right to health.

The Permanent Observer Mission of the State of Palestine to the United Nations Office, and other international organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the Committee on the Elimination of All Forms of Racial Discrimination the assurances of its highest consideration.





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Ministry of Foreign Affairs and Expatriates

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Ref: Ma-202307-UN070

**Comments on the Draft General Recommendation n.37 on racial discrimination in the enjoyment of the right to health**

1. The State of Palestine appreciates the efforts of the Committee on the Elimination of Racial Discrimination (Hereinafter: CERD Committee) to draft a general recommendation on racial discrimination in the enjoyment of the right to health; and welcomes its call to present further comments on the draft.
2. The State of Palestine appreciates the references made in the first draft to a range of international conventions and instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Durban declaration, and the Constitution of the World Health Organization. These references underscore the significance of a comprehensive and inclusive approach in addressing racial discrimination in the enjoyment of the right to health. We are pleased to note that the definition of health used in the draft encompasses a broad perspective, recognizing that health is not merely the absence of illness, but a state of complete physical, mental, and social well-being.
3. The State of Palestine firmly emphasizes the utmost importance of addressing the profound impact of foreign domination and occupation on the enjoyment of the right to health. This critical concern finds recognition and support in various key international instruments, including *inter alia* the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Durban Declaration, and the Fourth Geneva Convention. These instruments underscore the need to safeguard and uphold the enjoyment of the right to health for all individuals including those living under foreign occupation.
4. In the case of Palestine, it has been widely recognized that the presence, policies, and practices of the foreign occupation have significantly disrupted the healthcare infrastructure and hindered access to health services. The fragmentation of the territory through administrative and physical subdivision, coupled with the isolation of Palestinian communities and the requirement to obtain permits from



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the occupying power for movement and medical care, has all significantly contributed to this negative impact.<sup>1</sup> Moreover, the constant violence practiced by the occupation has further burdened the healthcare system through diverting resources and attention towards emergency humanitarian interventions. This shift in focus has come at the expense of developing the health system and effectively addressing diseases and disasters.

5. The State of Palestine emphasizes the vital importance of ensuring the respect of occupying powers' obligation to protect the well-being of the population under their control and uphold the right to health. According to international law, the Occupying Power has certain duties and obligations, which have been clearly outlined in the 1907 Hague Regulations, the Fourth Geneva Convention, and Additional Protocol I to the Four Geneva Conventions. This responsibility is further affirmed by the International Court of Justice, which concluded that occupying powers remain bound by human rights treaties they have ratified in all areas under their jurisdiction, including outside their own territory.<sup>2</sup> Additionally, UN treaty bodies mentioned that *"an occupying power continues to bear responsibility for implementing its human rights treaty obligations in areas it is occupying to the extent that it continues to exercise jurisdiction in those territories"*.<sup>3</sup>
6. Once again, the State of Palestine reiterates its full support and appreciation for the unwavering efforts of the CERD committee in addressing racial discrimination. The thorough and comprehensive first draft presented by the committee serves as a crucial foundation for advancing the protection and promotion of the right to health for all, irrespective of race, ethnicity, or national origin. We express our profound gratitude for the opportunity to provide our comments and insights. The State of Palestine looks forward to continuing its collaboration with the committee and actively participating in future opportunities aimed at promoting human rights, combatting racial discrimination, and ensuring the realization of the right to health for all.

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<sup>1</sup> World Health Organization, *Right to Health*, World Health Organization Reports, 2018, pages: 16, 49, 52.

<sup>2</sup> ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, ICJ Reports 2004, paras. 111-113.

<sup>3</sup> Human Rights Council, Report of the detailed findings of the Independent Commission of Inquiry established pursuant to Human Rights Council resolution S-21/1, para. 41, referencing CCPR/C/ISR/CO/4.