



**Al-Haq Main Recommendations to the Committee on the Rights of the Child on the First  
Periodic Review of the State of Palestine  
83<sup>rd</sup>. Session**

**Contact persons:**

Dr. Isam Abdeen: [Isam@alhaq.org](mailto:Isam@alhaq.org)

Cathrine Abuamsha: [Cathrine@alhaq.org](mailto:Cathrine@alhaq.org)

In respect of Al-Haq submission to the Committee on the Rights of the Child (herein and after as the Committee) on the first periodic review of the State of Palestine (herein and after as the state), within this paper, Al-Haq presents its main recommendations made to the Committee given in its mentioned submission. Al-Haq remains positive the following recommendations may be of value and use for the constructive dialogue between the Committee and the State, for Al-Haq upcoming meeting with the Committee members of the task force, as well as the Committee's concluding observations on the first periodic review of the state.

• **Reforming the Palestinian Political System and Calling for General Elections**

The State should take serious and effective measures for reforming the Palestinian political system that has been suffering from great deterioration, in both the West Bank and Gaza Strip. In addition the state should take measures to ending the division, unifying the Palestinian political system, through a timely framed, clear, and transparent plan that insures openness to the civil society.

In addition, it is necessary that a presidential decree is issued calling for simultaneous legislative and presidential elections, in the West Bank and Gaza in accordance with the Election Law by Decree of 2007, to which all Palestinian political parties including Hamas and Fatah movements, have agreed on in writing, in December 2019. This comes in light of the Palestinian president Mahmoud Abbas's public and multiple mentions, about his willingness for conducting the general



legislations, in addition to the Palestinian Central Elections Commission's expressed readiness for holding these election.

Noting that this should take into consideration that conducting the mentioned elections has been delayed for many years in violation of the timeframe set for the elections by the amended Palestinian basic law, which has continuously denied the Palestinian people, particularly the youth from their constitutional and democratic right elections and free decision making throughout these many years.

- **Unifying and Reforming the Judicial System**

The necessity for working to end the deterioration in the judicial power, unifying it between the West Bank and the Gaza Strip, and promoting the constitutional principles and values of the rule of law, the separation of powers and the independence of the judiciary. In addition to the need for halting the executive power and its apparatus from the interference in the Judiciary and justice sector matters, which includes both the Constitutional and the Regular Judiciary as well as the personal status related judiciary to which is highly connected with the fulfilment of the rights enshrined in the international treaties the state has acceded including the Convention on the Rights of the Child (herein and after as the Convention).

- **Publishing the Convection in the Palestinian Official Gazette**

The necessity for affirming the supremacy of the international core human rights treaties to which the state has acceded without reservations, over the Palestinian local legislations. This is clearly important in regard to the measures the Palestinian Supreme Constitutional Court has taken, where this court has introduced general reservations to the treaties acceded, within its decisions No. 4 of 2017, and No. 5 of 2017, which has led to impeding the substance of the treaties as well as making it unenforced until today.

Such court decision have set reservations to these conventions, with no mandate allowing for so, neither according to the Palestinian Basic Law (constitution) and its amendments, nor the law of the Palestinian Supreme Constitutional Court Law No. 3 of 2006 and its amendments.

It is also worth mentioning that both the Committee on the Elimination of Discrimination against Women (CEDAW), and the Committee on the Elimination of Racial Discrimination (CERD) have expressed their concerns over these mentioned Supreme Constitutional Court decisions in their concluding observations made regarding the committees' first review over the relevant conventions in 2018, and 2019 respectively.

- **Adopting a child rights-based approach in enforcing the convention**

The State should work, without delay, to adopt such approach in the West Bank and the Gaza Strip, as well as establishing a national database in connection including West Bank and the Gaza Strip, while clearly connecting this approach with the general budgeting establish, and the sustainable development goals and ensure the transparent participation of the civil society including children and create roles and responsibilities for ensuring the fulfilment of these roles, and to set a timeline framework for ensuring this implementations and continuous follow up and evaluation.

- **Activating the role of Harmonization Committee with the international treaties**

Ensuring the effective role of the harmonization committee, over all the legislations; whether valid or in process, including those relevant to the children rights. This includes the necessity for the inclusive participation of the civil society within the membership of this committee, where all the membership standards should be based on professionalism and transparency.

The state should set a timeframe for the completion of the draft penal code, the draft personal status code, and the draft law on the family protection from violence. In addition to ratifying and publishing these legislations in the Palestinian Official Gazette, all in accordance with the international treaties to which the State has acceded without reservations. In addition to harmonizing other valid legislations including the law by decree on raising the marriageable age issued in 3 November 2019, with these treaties.

This as well in regard to harmonizing the law by decree on Cybercrimes No. 10 of 2018, to be fully in line with international human rights and standards, including those contained within the Convention; particularly the right to freedom of opinion and expression, the right to privacy, as well as the right to access to information, which have been stressed by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye, in his legal memorandum sent to the Palestinian Government on 16 August 2017, to which Al-Haq submission to the Committee refers to.

- **Arbitrary Detention of Children and Human Rights Defenders**

The state should prohibit, criminalize and hold the Palestinian security apparatuses accountable for any arbitrary detentions conducted including those without a judicial warrant, which has been followed as an approach recently and stands in violation of article 11 of the Palestinian basic law and international treaties and standards acceded. The state should ensure detainees guarantees of a fair trial; particularly in the preliminary arrest stages, where human rights violations are frequently committed by members of the security apparatuses, which has been problematic within the reality of the Palestinian situation.



Al-Haq as well recommends the Committee to demand the prohibition and criminalization of governor-ordered arrests, and to hold accountable all those involved in conducting governor-ordered arrests, noting that such arrests are in direct violation of the Palestinian Basic Law.

Al-Haq stresses that the mentioned violations of; the arbitrary arrest without a judicial warrant, the denial of lawyers presence in the preliminary arrest stages, as well as the governor-ordered arrests, including for children, constitute a systematic pattern of violations and requires enforcing accountability measures and ensuring effective justice remedies for the victims.

- **Custody and the Best Interests of the Child**

The State of Palestine shall establish clear principles and criteria for assessing the best interests of the child in all procedures and decisions relative to the child, including in the issue of child custody. The best interest of the child should not be linked to the age of the child only, as done in the contexts and reality of the Palestinian situation but should be evaluated on a case by case basis, and in light of the circumstances and conditions related to each case. Such evaluation should also include the personal characteristics of the child in terms of age, sex, maturity, experience, disability, social and cultural living situation, as well as the relationship between the child and his/her family, or with alternative care providers, and the level of safety of the surrounding environment, among other circumstances, which shall all be in line with the convention and the general comments issued by the Committee.

- **Domestic and Societal Violence against Children**

The state should act, without delay, to repeal article 62 of the Penal Code No.16 of 1960, valid within the West Bank, which considers corporal punishment of children by their parents permitted, stating that: “[T]he act authorized by law is not considered a crime. (1) that the law permits (2) a. Disciplinary measures inflicted on children by their parents as permitted by public custom...”. and to adopt a new penal law in full compliance with international human rights conventions, and international human rights standards and best practices in the West Bank and Gaza and shall criminalize and ensure accountability measures and effective justice remedies for the victims. In addition to activate the state role societal awareness raising in this regard.

- **Alternative Care Institutions and Child Justice**

The state should allocate a budget for “Dar Al-Amal for Observation and Social Welfare”, separate from the State’s general budget, to enable it to carry out all its activities and programs in full, and to eliminate the limitations caused by bureaucratic delays. It is also integral that the institution is enabled to open other branches in various governorates to ensure full access and protection for all

juveniles. Accordingly, Al-Haq recommends the Committee to request the State of Palestine to provide updates on the progress made in this regard in both, the West Bank and the Gaza Strip.

- **Rights of Persons with Disabilities**

The State should act, without delay, to develop a rights-based national plan to promote, protect and ensure the full and equal realization of all human rights and fundamental freedoms and to ensure the respect of human dignity for persons with disability. Where the state should provide a clear timeline for the finalization of the plan, and the allocation of the financial resources necessary for its full implementation. The State should also be required to provide a clear timeline for the adoption of the law on the rights for persons with disabilities, including establishing an independent Supreme Council for Persons with Disabilities. The State should also demonstrate the measures taken to involve persons with disabilities, including children, in the formation of legislation. The State should also work immediately to form the "Special Financial Fund" as required under the Palestinian Council of Ministers Resolution No. 40 of 2004 of the executive regulations of Law No. 4 of 1999 regarding the rights of persons with disabilities. The State of Palestine should provide clarifications regarding its failure to respond to the demands presented at the persons with disabilities sit-in at the Palestinian Legislative Council.

Additionally, the shelter homes for the persons with disabilities is in critically miserable situation in Palestine, which lacks supervision, and where these persons are victims of human rights within these shelters, without insuring the accountability. In addition to the lack access and enjoyment of health services within these shelters.

- **The Right to Child Registration Upon Birth**

Al-Haq recommends the Committee to call upon the state to act immediately and without delay to enforce the provisions of article 7 of the Convention, regarding the child's right to registration, name, nationality, and to know and be cared for by, his or her parents, all immediately after birth.

- **Protecting Children from Exploitation**

The State of Palestine should present a clear and unified plan to combat the phenomenon of disguised child begging in the West Bank and the Gaza Strip, which shall guarantee the protection of exploited child victims informed by a rights-based and multi-sectoral approach.

- **Family Unifications in Occupied East Jerusalem**

Al-Haq recommends the Committee to call on the State of Palestine to outline the measures taken to protect and to promote the civil, political, economic, social, and cultural rights of Palestinian children and their families in Jerusalem, providing quantitative and qualitative data and indicators.



In addition to providing statements of independent financial allocations from the public budget put for protecting and promoting the rights of Palestinian children in Jerusalem and ensuring their enjoyment of the rights guaranteed to them in the Convention. Where this should be provided in light of Palestinian Capital Law No. 4 of 2002.

- **Lifting the Blockade and the Sanctions Imposed on the Gaza Strip**

The state should elaborate on the measures and practical procedures it has taken to ensure the implementation of the recommendations of the UN Commission of Inquiry on the 2018 protests in the Occupied Palestinian Territory, in particular with regard to lifting the blockade on the Gaza Strip with immediate effect. In addition, the Palestinian Authority should lift the series of financial sanctions it has imposed over the Gaza Strip, since April 2017, which has led to serious repercussions on the civilian population, including children and their families, within the disastrous situation in the Strip. This should take into consideration, the United Nations multiple mentions that the Gaza Strip is no longer inhabitable for the human living.