

الإئتلاف الفلسطيني لمناهضة التعذيب



The Palestinian Coalition Against Torture

The Palestinian Coalition Against Torture

Submission to the Committee Against Torture Regarding the Initial Report of the State of Palestine

74th Session

Submitted by:

Al-Haq

The Treatment and Rehabilitation Center for Victims of Torture

Addameer Prisoner Support and Human Rights Association

Jerusalem Legal Aid and Human Rights Center

Gaza Community Mental Health Programme

Human Rights and Democratic Participation Center “SHAMS”

The Civil Commission for the independence of Judiciary

The Center for Defense of Liberties and Civil Rights “Hurriyat”

Contact Person:

Ashraf Abu Hayyeh/ Al-Haq

Mobile: +970569928866

Phone: +97022954646

Email: ashraf@alhaq.org

Table of Contents

1. List of Abbreviations and Acronyms	4
2. Introduction	5
3. Historical Background	6
4. The Legal Value of the Convention in the Palestinian Legal System	8
5. The Definition of Torture in Relation to Article 1 of the Convention and the Guidelines for Initial Reports	10
6. Promoting the Absolute Prohibition of Torture in Relation to Article 2 of the Convention, the Committee's General Comment No. 2 and the Guidelines for Initial Reports	11
7. Expulsion, Return or Extradition in Connection with Articles 3 and 8 of the Convention, the Committee's General Comment No. 4 and the Guidelines for Initial Reports	15
8. Criminalization of Torture under Article 4 of the Convention and Guidelines for Initial Reports	17
9. Judicial Jurisdiction in Torture Crimes in Connection with Articles 7 and 5 of the Convention and Guidelines for Initial Reports	18
10. The Organized Review of the Rules of Interrogation in Reference to Article 11 of the Convention and the Guidelines for Initial Reports	21
10.1. Supervision of Officers with Judicial Powers	21
10.2. The Legal Basis for Arrest and Detention Centers	22
10.3. Detention Conditions and Detention Centers' Visits	23
10.4. Failure to Implement Court Rulings	25
10.5. Cases of Death in Detention Centers	26
10.6. The Death Penalty	26
10.7. The National Preventative Mechanism against Torture (NPM)	27
11. Consideration of Torture Allegations and Conducting Investigations Relative to Articles 12 and 13 of the Convention and Guidelines for Initial Reports	28
11.1 Receiving and Following up on Complaints of Alleged Torture and Ill-Treatment	28
11.2. Forms of Torture and Ill-Treatment Committed in Arrest and Detention Centers	31
11.3. Affidavits of Detainees Subjected to Tortured and Ill-Treated	32
A. Conditions of Detainees in the "Millennium Case"	32
B. Case of Detainees Accused of Theft in 2020	34

C. Sample of Various Testimonies of Detainees Subjected to Torture and Ill-Treatment in the West Bank and Gaza Strip	34
12. Redress, Compensation and Rehabilitation of Torture Victims in Relation to Article 14 of the Convention, the Committee’s General Comment No. 3 of 2012 on the Implementation of Article 14 of the Convention by the States Parties, and Guidelines for Initial Reports	38
13. Confessions Extracted Under Torture and Detention Conditions in Relation With Article 15 of the Convention	41
14. Prohibition of Cruel or Inhuman Treatment or Punishment, in Connection with Article 16 of the Convention	42
14.1. Detained Children	42
14.2. Detained Women	43
14.3. Medical Services in Detention Centers	44
15. Issues Relevant to the Implementation of the Convention	45
15.1. Human Trafficking	45
15.2. The Absence of a National Record for Torture Victims	45
15.3. Attacks on Journalists	46
15.4. Attacks on Peaceful Protests	47
16. Recommendations	49

1. List of Abbreviations and Acronyms

- The Convention: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984.
- The Optional Protocol/ OPCAT: Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002.
- The Committee/ CAT: The United Nations Committee against Torture.
- The Mechanism/ the NPM: The National Preventive Mechanism.
- The Guidelines: Compilation of Guidelines on the Form and Content of Reports to be Submitted by States parties to International Human Rights Treaties, issued by the United Nations in 2009.
- The Code of Conduct: Code of Conduct for Law Enforcement Officials, 1979.
- The Basic Law: The amended Palestinian Basic Law of 2003, which constitutes the basic document and serves as the constitution.
- The Constitutional Court: The Palestinian Supreme Constitutional Court.
- The initial report/ State report: The initial report submitted by the State of Palestine under Article 19 of the Convention, which was due submission in 2015.
- The State /State Party: The State of Palestine.
- The Coalition: The Palestinian Coalition against Torture.

2. Introduction

1. The Palestinian Coalition Against Torture,¹ submits this report to the United Nations (UN) Committee against Torture (CAT or ‘the Committee’) at its 74th session for consideration in its assessment of the initial official report submitted by the State of Palestine on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (‘the Convention’). According to Article 19 of the Convention and the procedures followed by the Committee, the initial report of the State, which acceded without reservations on 1 April 2014, had been due in 2015. Nonetheless, the State submitted its report to CAT on 14 June 2019. Furthermore, the State of Palestine failed to respect its obligations regarding submitting the common core document.
2. The Coalition’s report addresses the extent to which the State report harmonizes with the guidelines on the form and content of the initial reports submitted by State Parties to the Committee. The report also focuses on the substantive articles in the Convention and the extent of the State of Palestine’s commitment to its implementation at the legislative, procedural and practical levels.²
3. The Coalition’s report was prepared based on what has been monitored and documented by its member institutions, while noting that the information contained in the report does not necessarily reflect the actual reality of torture and ill-treatment in the State of Palestine. There are many institutions working in the field of human rights in the State of Palestine, including the national human rights commission “the Independent Commission for Human Rights” that has additional documentation of torture and ill-treatment. The report reviews the extent to which the State of Palestine fulfilled its obligations under the accession to the Convention, provides its recommendations to the Committee on each of the issues covered by the report, and wherever necessary, documents the information contained in the report in footnotes. The report will be divided into multiple sections: an introduction, historical background and a review of the substantive articles in the Convention with analysis to the implementation of each article on legislative, procedural and practical levels. Finally, the joint report provides general recommendations to the Committee regarding its concluding observations.

¹ The Palestinian Coalition Against Torture was formed in the beginning of 2009. Its membership includes a number of Palestinian NGOs working in the field of human rights in the West Bank and Gaza Strip, mainly aiming to respect international human rights principles and adhere to international humanitarian law and the provisions of the Convention against Torture, seeking to implement it and working by it. The work of the Coalition is focused on combating torture crimes committed by Israel, the Occupying Power, against the Palestinian people, as well as torture crimes committed by the organs of the State of Palestine, through advocacy work at the international and local levels, with the ultimate aim to halt the commission of torture crimes, hold perpetrators accountable, and provide justice to the victims.

² The Palestinian Coalition Against Torture includes: Al Haq, Treatment and Rehabilitation Center for Victims of Torture, The Center for Defense of Liberties and Civil Rights “Hurriyat”, Addameer Prisoner Support and Human Rights Association, Jerusalem Legal Aid and Human Rights Center, Gaza Community Mental Health Program, Human Rights and Democratic Participation Center “SHAMS” , The Civil Commission for the independence of Judiciary, Independent Commission for Human Rights - Observer Member.

3. Historical Background

4. The State of Palestine and the Palestinian people suffer an unlawful, prolonged Israeli occupation, during which the Israeli occupying authorities committed, and continue to commit, systematic and wide-spread violations of the international humanitarian law and international human rights law provisions. These violations include, *inter alia*, denying the Palestinian people from exercising their right to self-determination including the refugees right of return, and committing crimes of torture and ill-treatment against Palestinian prisoners and detainees in its prisons and detention centers; willful killings; displacement; forcible transfer; and the destruction of properties for unjustified military necessities, as well as other crimes that amount to war crimes and crimes against humanity.
5. The Israeli occupying authorities practice torture against Palestinian detainees systematically and on a large scale. The Coalition institutions documented acts of torture committed by the Israeli Security Agency (Shin Bet) investigators and the Israeli police investigators in the investigation centers, where detained-Palestinians had not been provided with any form of protection.
6. According to Israeli military orders, Palestinian detainees can be subject to an investigation for up to 75 days without any charges being brought against them. Such orders can also prevent the detainees from meeting their lawyers for a period that may reach 60 days. During the investigation and detention by the Israeli occupying authorities, Palestinian detainees are subjected to acts of physical and psychological torture, such as, isolation, beatings, exposure to being tied in painful and contorted positions for extended periods of time (what is commonly referred to as *shabeh*), sleep deprivation, sexual harassment and threats of rape, as well as other acts that fall within the concept of torture, ill and inhuman treatment. Moreover, the medical agencies, which follow up and evaluate the Palestinian detainees' health status in interrogation centers, also collude in the carrying out of such acts, through providing reports that state that the Palestinian detainees are "physically capable" to go under the investigation work.³
7. Israel, the Occupying Power, lacks an impartial and effective accountability system for torture complaints submitted by Palestinian and Israeli human rights organizations, in addition to the absence of fair trial guarantees. For example, none of the tens of complaints of torture cases in the Israeli investigation centers submitted by Addameer have been examined.
8. Historic Palestine has undergone multiple ruling systems, leaving a legacy of different legal systems. Some of its legislations are still in force in the State of Palestine until now, as it maintains legislations issued since the Ottoman rule and the subsequent legislations imposed by the British Mandate Administration until 1948. Although Israel established its

³ Addameer, "Addameer Collects Hard Evidence on Torture and Ill-Treatment Committed Against Palestinian Detainees at Israeli Interrogation Centers", 23 December 2019, available at: <https://www.addameer.org/news/addameer-collects-hard-evidence-torture-and-ill-treatment-committed-against-palestinian>.

state on approximately 75% of historic Palestine after the *Nakba* (Catastrophe) in 1948,⁴ the West Bank followed the rule of the Jordanian Hashemite Kingdom, while the Gaza Strip has been under Egyptian administration since that year. This led to the implementation of Jordanian legislation in the West Bank, while preserving the legal system applicable to the Gaza Strip until 1967. In 1967, the Israeli occupation controlled the remainder of historical Palestine by occupying the West Bank, including East Jerusalem, and the Gaza Strip (occupied Palestinian territory or OPT);⁵ and imposed Israeli military orders.⁶ Notably, Israel started its illegal annexation of occupied East Jerusalem in 1967, as it made East Jerusalem subject to its Israeli law since 1980. With the establishment of the Palestinian National Authority in 1994, legislations were issued uniformly for the West Bank and the Gaza Strip, until the Palestinian internal division which occurred in mid-2007. Since then, the Palestinian Legislative Council was suspended in the West Bank due to the internal division until it was eventually dissolved following the Palestinian Supreme Constitutional Court's decision of 12 December 2018.⁷

9. The amended Palestinian Basic Law of 2003 is perceived as the constitution, which defines the form of the Palestinian political system, adopts the principle of separation of powers, stipulates a list of basic rights and liberties, and guarantees the transfer of power through elections. Critically, however, the Palestinian political system has not witnessed any democratic change since 2007.⁸
10. According to the presidential decree No. 1 of 2020, president Mahmoud Abbas declared a state of emergency in the OPT on 5 March 2020. The decree was declared for 30 days and was issued to underline the applied procedures to prevent the possible outbreak of COVID-19. In accordance to section 7 of the Basic Law on the Declaration of a State of Emergency, a Law by Decree No. 7 of 2020 was issued to specify the applied procedures and measures of the state of emergency and the competent authorities assigned for implementation,

⁴ Gerry Liston, "The Israeli Land and Planning Law Regime in its Historical Context", *Al-Majdal*, No. 51, published by BADIL Resource Center for Palestinian Residency and Refugee Rights, available at: https://www.badil.org/cached_uploads/view/2021/05/06/al-majdal-51-1620308747.pdf.

⁵ The occupied Palestinian territory since 1967, which is comprised of the West Bank and Gaza Strip, has been called the "State of Palestine" since 29 November 2012 according to, and following the adoption of the UN General Assembly Resolution No. 67/19.

⁶ The Institute of Law at Birzeit University, "The Legal Status in Palestine", available in Arabic at: <http://lawcenter.birzeit.edu/lawcenter/ar/homepage/2013-08-31-07-08-03>.

⁷ Since the events of the Palestinian internal division in 2007, legislation in the West Bank is issued in the form of "laws by decrees" issued by the Palestinian President. These 'laws by decrees' are applicable in the West Bank and are not in force in the Gaza Strip. Furthermore, the Legislative Council continued to issue laws in the Gaza Strip, which are only applicable therein, and are not in force in the West Bank. Ultimately, this led to the lack of unity in the legislation applied to Palestinians living in the OPT.

⁸ The last presidential elections held in Palestine were in 2005, while the last legislative elections were held in 2006. For approximately 15 years, since the start of the Palestinian internal division in mid-2007, no presidential or legislative elections were held in the West Bank and Gaza Strip. Due to the division, the unified Legislative Council (PLC) was suspended, until it was dissolved in 2018 by the Supreme Constitutional Court (SCC), as it only continued to function in the Gaza Strip. During this period, the President acquired the powers to legislate in the West Bank. In 2019, the President issued a law by decree that dissolved the High Judicial Council and formed a transitional judicial council in violation of the Palestinian Basic Law, noting that the SCC was also formed in violation of the Palestinian Basic Law. Many of the decisions of this court have caused controversy in the Palestinian society, especially those affecting human rights.

prescribing penalties for any related violation, and outlining the relevant laws and instructions. On 3 April 2020, and considering the dissolution of the PLC by a decision of the SCC, the Palestinian president issued a second presidential decree to extend the state of emergency for an additional 30 days. This comes in violation to the Article 1(110) of the Basic Law stipulating the procedures set for extending the state of emergency, which has to be approved by two-thirds of the PLC members. On 5 May 2020, the President issued a third presidential decree declaring a state of emergency for another 30 days without any constitutional authority or reference as stipulated in the Basic Law, which had explicitly underlined the applied procedures to extend a state of emergency. This method of extension is still applied as of time of writing. Crucially, a state of emergency was declared and extended although the enforced Palestinian national legislations specify all required procedures and measure that enable the authorities to fulfill its duties while confronting the pandemic.

11. Based on information obtained by the coalition, the State of Palestine, through the UN Secretary-General, notified the States Parties to the International Covenant on Civil and Political Rights of its declaration of the state of emergency, and its intention to suspend the provisions of Articles 12 and 21, which protect the rights to movement and peaceful assembly respectively. However, the imposed restrictions during the state of emergency by the State of Palestine exceeded the set purposes of the state of emergency, further restricting other rights, including those relevant to property, education, freedom of opinion and expression.

4. The Legal Value of the Convention in the Palestinian Legal System

12. In accordance with SCC decision No. 4/2017 of 19 November 2017 and No. 5/2017 of 12 March 2018; the Convention and other international human rights conventions, after they are published in the Official Gazette and included in a national law, stand above national legislations. However, according to the same court, the implementation of international conventions' provisions depends on their compatibility with the "national, religious and cultural identity of the Arab Palestinian people".⁹ This addition may threaten the content

⁹ The Palestinian legal system is devoid of any rules related to international law and specifically those specialized in international agreements; whether related to the NPMs for enforcing these agreements or their place within the internal legal system, with the exception of Article 10 of the amended Palestinian Basic Law. The Palestinian SCC tackled in its constitutional Appeal No. 4/2017 to the place of international agreements in the Palestinian legal system, after referring to the case from one of the regular courts due to its apparent contradiction between the provisions of the Palestinian Basic Law and the provisions of the headquarters agreement of UNRWA. The SCC decided, with a majority of its members, on the "supremacy of international agreements over internal legislation, so that the rules of these agreements acquire a higher power than internal legislation, in a manner consistent with the national, religious and cultural identity of the Palestinian Arab people." As such, the court adopted, according to its constitutional decision, the supremacy of international agreements over internal legislation, without specifying what these legislations are, or their content, or the mechanism to integrate them into the Palestinian legal system, which raises many related legal problems. The court also linked this supremacy to the agreement's harmonization of national, religious and cultural identity of the Palestinian people, without specifying the concept of this unit or the criterion for its application, which is subject to the discretion of the judge. This was followed by the issuance of the SCC for its Constitutional Interpretation No. 5/2017, concerning the interpretation of Article 10 of the amended Basic Law of 2003. The SCC adopted in its aforementioned decision the principle of double legal rule, and ruled that "international agreements are not considered by themselves a law that applies in Palestine, and that it must gain strength through its passing through the formal stages that must be met to issue a specific internal law to enforce it." This means that

of the decision that calls for the transcendence of the international conventions, as it imposes a general restriction on its primacy by linking it to the prevalent Palestinian culture and traditions. Where the convention was not published in the Official Gazette, and no national legislations were issued on it, thus the convention is not enforced in the Palestinian legal system to date. The SCC exceeded its authorities specified in the regulations regarding its specialization i.e., the provisions of the Amended Basic Law of 2003, the Supreme Constitutional Court Law of 2006 and the law by decree amending its regulations. The mentioned SCC decision gave the primacy of international conventions adopted by the State of Palestine over its national legislations on basis of alignment with the religious and cultural identity of the Palestinian people. The SCC obstructs the implementation of the provisions of the international conventions, on the grounds of conflicting with the social norms of the Palestinian people. This is conducted by declaring general reservations to the international treaties. Critically, these general reservations abolish the purpose of such conventions. Additionally, this exceeds the specialization of the constitutional court according to the legislations regulating its operating procedures, as it is not responsible for defying the correlation between the Palestinian national legal system and public international law. This is in violation to its constitutional obligations stipulated in Article 9 of the 2003 Amended Basic Law, which states that: “human rights and freedoms are binding and must be respected”.

13. The Coalition stresses the necessity for the State of Palestine to adhere to the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD) regarding the combined initial and second periodic reports. In particular, to adhere to paragraph 10(a), which states that the Committee recommends that the State of Palestine to “[f]ully and expeditiously incorporate the provisions of the Convention into its national law, including through publication in the Official Gazette, and take all possible measures to ensure its implementation throughout its territory”.¹⁰ The same was recommended by the Committee on the Elimination of Discrimination against Women (CEDAW) in paragraph 13(c) of the concluding observations on the first periodic report of the State of Palestine. Similarly, paragraph 7(a) of the concluding observations of the Committee on

international agreements governing human rights, including the Convention against Torture, are not in force in the OPT; as it was not promulgated according to a law issued by the PLC, or adopted according to a law by decree issued by the Palestinian President in the absence of the PLC. Thus, the court has exceeded many powers, which it is not authorized to exercise according to the legislations regulating its functions, including the provisions of the amended Basic Law of 2003, the Supreme Constitutional Court Law of 2006 and the Law by decree amending its provisions, when it granted supremacy to international agreements on Palestinian legislation by aligning them with the religious and cultural identity of the Palestinian people. By doing so, the SCC excludes the implementation of some provisions that violate some of the standards of the Palestinian people, and applies the impact achieved from the implementation of reservations to international conventions, including the Convention. In addition, this power does not fall within the jurisdiction of SCC, in accordance to the legislation governing its work. Moreover, it is not within the SCC’s competence to adopt a system of “dualism” to define the relationship between the Palestinian national legal system and public international law.

It is worth noting in this context that the committees concerned with following up on the implementation of core international human rights conventions have expressed, including in their concluding observations submitted to the State of Palestine about the initial reports, their concern about the position of the SCC which interpreted the supremacy of the international conventions over Palestinian laws only if they are compatible with the national, religious and cultural identity of the Palestinian people.

¹⁰ CERD, “Concluding observations on the combined initial and second periodic reports of the State of Palestine”, 20 September 2019, UN Doc CERD/C/PSE/CO/1-2, paragraph 10(a).

the Rights of the Child (CRC) on the initial report of the State of Palestine, provides that the State should “[e]xpeditely the implementation of the ministerial decision of 13 January 2020 to publish the Convention in the official gazette and to equally do so for other international human rights treaties.”¹¹ In this regard, the Palestinian Authority in its formal positions, expressed the same views of the SCC, specifically on gender-related concerns.

14. The Coalition urges the Committee to request the State of Palestine to expedite the publication of the Convention and all other international human rights conventions, that have not been published yet, in the Official Gazette; and to take all other steps necessary to integrate international human rights conventions into national law and fully implement them. The Coalition further requests that the Committee recommends the State of Palestine to ensure that the interpretation of the SCC decisions No. 4/2017 and No. 5/2017 does not allow the unaccountability of perpetrators for acts and violations stipulated in the Convention and other international human rights conventions, in what ensures the Convention’s primacy over national legislations.

5. The Definition of Torture in Relation to Article 1 of the Convention and the Guidelines for Initial Reports

15. The Coalition agrees with what is stated in paragraph 17 of the State’s report, highlighting the absence of all legislations in the West Bank and Gaza Strip, including penal codes, from a definition for torture or ill-treatment as contained in Article 1 of the Convention. Palestinian legislation considers each of these acts as a separate crime with separate elements; independent from other acts affecting the safety of the body.¹² Therefore, it is necessary to harmonize penal legislations in the State of Palestine with Article 1 of the Convention by providing a definition consistent with its provisions, provided that the definition includes all acts that could cause a person extreme pain; physical, psychological or mental, with the intention of committing torture or as ill-treatment, in all situations of detention or places subject to state control.¹³
16. Since 2007, and even in light of the disruption of the work of the PLC and being dissolved by a decision of the SCC, the Palestinian President issued more than 250 laws by decrees relating to various fields. However, and while the State of Palestine acceded, without reservations, to the Convention in April 2014, no law by decree was issued on the enforcement and implementation of the Convention at the national level within the Palestinian legal system, especially with regard to the legislative level, yet. In addition, no amendments to the relevant penal legislation were made pursuing the harmonization with the provisions of the Convention. This is being said despite noting the Coalition’s position

¹¹ CRC, “Concluding observations on the initial report of the State of Palestine”, 6 March 2020, UN Doc CRC/C/PSE/CO/1, paragraph 7(a).

¹² The Amended Basic Law of 2003; Jordanian Penal Code No. 16 of 1960; The Mandatory Penal Code No. 74 of 1936; Revolutionary Penal Code of the PLO of 1979; Palestinian Criminal Procedures Law and its Amendments No. 3 of 2001; Revolutionary Criminal Procedure Codes of the PLO of 1979; Law Concerning Correction and Rehabilitation Centers and its amendment No. 6 of 1998; Law by Decree on the Palestinian Juvenile Protection Law No. 4 of 2016; and Palestinian Child Law and its amendments No. 7 of 2004.

¹³ See paragraph 15 of the Committee’s General Comment No. 2.

regarding the laws by decree which are issued in violation of the provisions of the Basic Law.

17. The Coalition recommends the Committee to request information regarding the State's failure to take legislative measures with regard to the harmonization of the enforced Palestinian legislations with the Convention, and, in particular, to urge the State of Palestine to include a comprehensive definition of torture in consistence with Article 1 of the Convention.

6. Promoting the Absolute Prohibition of Torture in Relation to Article 2 of the Convention, the Committee's General Comment No. 2 and the Guidelines for Initial Reports

18. With reference to paragraph 18 of the State's initial report on the guarantees of arrest and detention contained in the legislation in force, the Coalition emphasizes that while Article 12 of the Palestinian Basic Law stipulates the defendant right to defense, the applicable Criminal Procedures Code does not include explicit provisions that allow detainees counsel lawyers upon arrest. In fact, Article 98 of the Code explicitly allows the prosecutor to interrogate the accused without the presence of their lawyer. Moreover, the practices applied systematically by the security services violate the provisions of these legislations and the obligations arising from the State of Palestine's accession to the core international human rights conventions, especially the International Covenant on Civil and Political Rights and the Convention. As of the time of writing, the member organizations of the Coalition documented 950 violations to the rights protected by the International Covenant on Civil and Political Rights and the Convention against Torture since the date of State of Palestine's accession to them in April 2014.¹⁴ The documented violations include, *inter alia*, obstructing the defendant access to legal assistance prior to being presented before the public prosecution, which further constitutes a constitutional offence.

19. While the initial report submitted by the State of Palestine to the Committee included the legislative measures taken by the State in respect of the guarantees of the accused fair trial, the State report did not address any information about the practices of the legislative system on reality. These include practices in terms of the insurance of a fair trial and the steps, measures and continuous monitoring of the extent to which the State and its agencies; including the security agencies, and particularly law enforcement officers, are committed to these guarantees. The testimonies documented by the member organizations of the Coalition also showed that the security forces detained and ill-treated people for exercising their rights; especially freedom of opinion and expression, and put them on trial accordingly, without informing them promptly and in details of the nature of the charges brought against them and their reasons, or guaranteeing their right to defense. The Coalition also documented cases where defendants were coerced to confess, and were tried on the basis of these confessions, which were extracted against their will, further constituting

¹⁴ The documents contained in this report represent the documentation of Al-Haq, Addameer Prisoner Support and Human Rights Association, and Treatment and Rehabilitation Center for Victims of Torture, and this information does not necessarily reflect all case of torture committed in the State of Palestine.

flagrant violations of the rights of detainees' personal freedom,¹⁵ and fair trial guarantees.¹⁶ These practices contradict with the State's responsibility to take all measures to ensure these guarantees are in accordance with national laws, including the amended Palestinian Basic Law and international human rights law, including the International Covenant on Civil and Political Rights and the Convention against Torture, especially Article 2 and Article 11 thereof respectively.

20. The Coalition recommends that the Committee requests the State of Palestine to ensure that all detained persons have access to all constitutional and legal guarantees stipulated within the legislations in force, and safeguarded in international human rights conventions to which the State of Palestine acceded without reservations, by virtue of the law and in practice, immediately since their arrest. These guarantees include their right to legal aid, to communicate and meet with their counsel and to adhere to the timeline stipulated in the law for detainees' presentation before the Public Prosecution and the Judiciary. Detainees should also enjoy their right to be informed with charges brought against them and the reasons for their arrest in a language they understand, as well as informing their relatives of their arrest and whereabouts, as the territorial jurisdiction should be considered when representing the detainees before courts.
21. The detention under the governors' custody is an approach that the State of Palestine follows. The Coalition organizations documented 300 cases of detention under the governors' custody since the State of Palestine acceded the Convention.¹⁷ These detainees were detained without following any of the procedures mentioned in the legislations referred to within the initial state report, including the provisions of the Basic Law and the Code of Criminal Procedures. As such, the governors exploit the Jordanian Crimes Prevention Law of 1954, which grants the governors the power to arrest people who refuse to sign a pledge not to commit any violation of laws. The governors in the State of Palestine draw on this law despite its contradiction with the Basic Law, which affirmed under its Article 11(1) that no person's freedom shall be restricted except by virtue of a judicial order, and stipulated in Article 119 to repeal all that contradicts the provisions of the Basic Law. However, this law is still in force and people are still being detained without judicial supervision nor charges. Notably, this practice is still common despite the fact that the Palestinian judiciary has emphasized the unconstitutionality and illegitimacy of the detention under the governors' custody in many decisions issued by the Palestinian High Court of Justice,¹⁸ which constitutes a firm judicial jurisprudence in this regard. Furthermore, this practice contradicts the obligations of the State of Palestine under core international human rights conventions. This was confirmed by the Committee in its concluding observations on the third periodic report of Jordan. Specifically, paragraph 22

¹⁵ Article 11 of the amended Palestinian Basic Law of 2003, and Article 9 of the International Covenant on Civil and Political Rights 1966.

¹⁶ Article 13 of the amended Palestinian Basic Law of 2003, and Article 14 of the International Covenant on Civil and Political Rights 1966.

¹⁷ The number of cases held under the governors' custody is based on documentation by the Coalition organizations.

¹⁸ The Palestinian judiciary affirmed the illegality of the arrest under governors' custody within a set of decisions issued by the Palestinian High Court of Justice with No. 110/2005, 119/2005, and 701/2010, which constitutes a firm judicial jurisprudence expressing the position of the judiciary regarding the unconstitutionality and illegality of detention under the governors' custody.

recommended a necessary amendment of the Jordanian Crime Prevention Law of 1954 and an end to the administrative detention under the governors' custody, in line with international human rights standards and the State party's (Jordan) obligations under the Convention.

22. The Coalition urges the Committee to call on the State of Palestine to prohibit administrative arrests under governors' custody and to necessarily commit to the Palestinian judiciary decisions regarding the illegality of detention under governors' custody. We further urge the Committee to request the State to release all those arrested under such custody or present them before the judiciary to address the legality of their detention. The State should also consider the Jordanian Crime Prevention Law repealed as it contradicts the provisions of the Basic Law and international human rights conventions to which the State of Palestine acceded without reservations.
23. Although chapter 7 of the Basic Law regarding the declaration of a state of emergency as well as the laws by decrees following it do not stipulate the absolute prohibition of torture and ill-treatment, the provisions of the Basic Law and the Law of Reform and Rehabilitation of 1998 state that torture is prohibited in all cases; the ordinary and exceptional. Since the Palestinian President declared a state of emergency in the OPT on 5 March 2020 under the Presidential Decree No. 1 of 2020,¹⁹ coalition members documented 80 complaints of torture and ill-treatment in detention centers and in peaceful protests during the state of emergency. Torture or ill-treatment practices were conducted for various reasons; including those relevant to criminal charges, on the grounds of freedom of opinion and expression, peaceful assembly, or other fundamental rights and freedoms; especially the criticism of the authorities in the West Bank or Gaza Strip regarding their public stances, their course of action during the pandemic, or regarding the deteriorating economic situation in the country, and others. In addition to many of the complaints that have been documented for violations of torture that took place under the pretext of citizens' violation of preventive and public safety measures, in contravention of the requirements of Article 2 of the Convention, and paragraph 5 of the General Comment No. 2 of the Committee, which emphasized that the absolute prohibition of torture and ill-treatment also includes the prohibition of invoking public safety or preventing emergency situations in all of these and all other cases as a justification for torture and ill-treatment.
24. The Coalition recommends the Committee to request the State of Palestine to impose an absolute ban on torture or ill-treatment in penal legislations; at ordinary and exceptional cases, and to open a thorough, effective and comprehensive investigation into all citizens' complaints of torture and/or ill-treatment, and ensure their redress.
25. Paragraph 23 of the initial State report, which includes the provisions of the Law of Service in the Palestinian Security Forces No. 8 of 2005, contradicts the concept contained in the Convention, and General Comment No. 2 issued by the Committee. The aforementioned law provides the exemption of those addressed in its provisions from the punishment if it

¹⁹ Presidential Decree No. 1 of 2020, issued on 19 March 2020, p. 13.

is proven that the security personnel who committed the violation had been following an order issued by their superior, despite alerting their superior about the violation.²⁰

26. The Coalition recommends that the State of Palestine is requested to fully harmonize the Palestinian national legislations with the Convention and general comments issued by the Committee, to explicitly ensure that no law enforcement agency invokes orders issued by higher authorities to justify torture or inhuman or degrading treatment. Notably, this was emphasized by the Committee in paragraph 10 of its concluding observations on the second periodic report of Jordan. The aforementioned paragraph underlined that the disciplinary legislation should be amended to explicitly stipulate that no order issued by a higher position employee or from a public authority may be invoked as a justification for torture in particular, with the need to provide protection for subordinates who refuse to obey orders that contradicts with the law.
27. The State report lacked any reference to the extent to which the State of Palestine took into account with regards to the obligations contained in General Comment No. 2 regarding Article 2 of the Convention, related to the protection of vulnerable groups and individuals due to discrimination and marginalization and the violations committed against them. The member organizations of the Coalition documented violations that may fall under torture and ill-treatment against people based on their sexual orientation or gender identity. On 17 August 2019, the Palestinian Police issued a press release regarding the prevention of any peaceful gathering of “Al-Qaws for Sexual and Gender Diversity in Palestinian Society” and called for reporting on any person involved in this gathering, which created a negative societal atmosphere that involved incitement to violence and hatred against them. While this statement was later withdrawn by the police, the Coalition does not know if an investigation or accountability measures were taken for the issuance of the statement. Furthermore, in December 2019, member organizations of the Coalition documented the arrest of a young man for 13 hours by the police. The young man was handcuffed with iron handcuffs and interrogated about his homosexual orientation and his participation in an Al-Qaws gathering. During his detention, he was further prevented from communicating with a lawyer, beaten, threatened and coerced to sign a statement that provides that he is gay.²¹ In October 2019, member organizations of the Coalition also documented violations by an educational institution against four university students for their sexual orientation.
28. The Coalition recommends that the Committee requests the State of Palestine to take measures to protect persons with diverse sexual and gender orientations, take appropriate

²⁰ Article 173 of the Law of Service in the Palestinian Security Forces No. 8 of 2005 states: “1. Every non-commissioned officer and officer who violates the duties stipulated in this law or in the decisions issued by the concerned minister, or deviates from the requirements of duty of his position work, behave, or appear in a way that violates the dignity of the job shall be punished by disciplinary action, and without failing to filing a civil or criminal lawsuit when necessary. No non-commissioned officer and individual shall be exempted from punishment according to an order. 2. The non-commissioned officer and officer are not exempt from punishment based on the command of their commander or official unless they prove that committing the violation was for implementing an order issued to them by this leader or official despite notifying him of the violation, and in this case, the responsibility is on the source of the order alone.”

²¹ Al-Haq maintains all information contained in a statement blocked from publication under No. 257/2019, and looks forward to sharing its details with the Committee, after obtaining the permission of the victim, if the Committee wishes to communicate with the State Party about it.

measures to ensure that other third parties do not violate their rights, and that effective means for justice are provided for them.

29. The Coalition refers to the gender-based violence experienced by Palestinian women. The Palestinian NGO Forum to Combat Violence Against Women (Al Muntada), documented the death of 16 women in the West Bank and 6 women in the Gaza Strip in 2019. Similarly, Al Muntada documented the death of 37 women in the West Bank and the Gaza Strip in 2020, on various backgrounds, and the death of 27 women in 2021, indicating the continuing phenomenon of killing women in the Palestinian society.²² Part of this violence is due to the failure of Palestinian legislations in force to comply with international human rights standards, in addition to the fact that although a legislation for the protection of the family from violence was drafted and went through multiple rounds of discussions, it has not been adopted yet. Moreover, punitive legislations still lack a clear definition of gender-based violence.
30. The Coalition recommends the Committee to request the State of Palestine to take all measures to protect women from violence, including reviewing draft laws to ensure their compliance with the Convention. This includes the draft penal code, the draft personal status law and the draft law on the protection of the family from violence. It is also crucial to unify the legal systems in the Gaza Strip and the West Bank to ensure that all women and girls in the State Party have equal protection under the law.²³

7. Expulsion, Return or Extradition in Connection with Articles 3 and 8 of the Convention, the Committee's General Comment No. 4 and the Guidelines for Initial Reports

31. The Coalition affirms what was stated in paragraph 27 of the State report, that the enforced legislations in the State of Palestine in relevance to cases of extradition of persons is not regulated by any explicit reference to the prohibition of expelling, returning or extraditing a person to another country if there are real reasons to believe that they may be subjected to torture. However, the State only prohibited the expulsion of any Palestinian from the homeland or preventing him/her from returning to it,²⁴ as mentioned in Article 16 of the General Intelligence Law referred to in the State report. This is further mentioned in the

²² The Palestinian NGO Forum to Combat Violence Against Women (Al Muntada) was established in 2000 at the initiative of a group of Palestinian NGOs working in the areas of empowering women, and combating violence against them particularly. The practical experience of these NGOs found that many Palestinian women are exposed to all forms of psychological, physical, sexual, economic, political and societal violence. This was elaborated by studies and research which demonstrated the seriousness of the problem and its negative impact on women and the society overall. To reduce this, it was necessary for the efforts of organizations to be joined together to reduce this problem and to shift it out of the private and into the public sphere.

²³ CEDAW, Concluding observations on the initial report of the State of Palestine, 25 July 2018, UN Doc CEDAW/C/PSE/CO/1, paragraph 15.

²⁴ Article 28 of the amended Basic Law states: "No Palestinian may be deported from the homeland, prevented or prohibited from returning to or leaving it, deprived of his citizenship, or handed over to any foreign entity." However, the laws regulating extradition, including Article 6 of the Extradition Law of 1927 in force in the West Bank and Article 7 of the Extradition Law of 1926 in force in the Gaza Strip, prohibited extradition of a fugitive from justice if extradition was for a political matter. Articles 13, 15 and 16 of the Palestinian General Intelligence Law of 2005, stipulate that the agreements relating to the extradition of persons accused of extraditable crimes concluded between the authority or any other state should be respected, taking into account the Palestinian National law.

Anti-Money Laundering and Terrorism Financing – Law by Decree No. 20 of 2015 and its amendments, specifically in Article 45(2).²⁵ Notably, these laws did not associate such cases of prohibiting the extradition of individuals with fear from being victims of torture or ill-treatment.

32. The State of Palestine acceded to many regional and international conventions that included an obligation to extradite people, including joining Al Riyadh Arab Agreement for Judicial Cooperation on 28 November 1983, the Arab Convention for the Suppression of Terrorism on 6 July 2009, the Arab Convention on Combating Money Laundering and the Financing of Terrorism on 21 May 2013, and the Arab Convention against Transnational Organized Crime on 21 May 2003. The State of Palestine’s accession to these agreements was prior to its accession to the Convention against Torture. Moreover, since all of these agreements did not provide the refusal to extradite in cases where it is believed that the person would be exposed to torture in the event of their extradition, a conflict may arise between the obligations of the State of Palestine resulting from becoming party to these agreements and the Convention. Thus, the State is required to adhere to the provisions of the Convention and General Comment No. 4 when fulfilling its commitment under those agreements in accordance with the principle of non-refoulement.
33. **The Coalition recommends the Committee to call upon the State of Palestine to ensure, when concluding or joining a treaty or an agreement that includes the extradition of persons, the inexistence of a conflict between the Convention and that treaty/agreement. The State of Palestine should further include in the notification of accession or ratification of the convention relevant to the extradition of persons that the predominance of the application is to the Convention against Torture in the event of any conflict. We further urge the Committee to recommend that the State of Palestine’s obligation to extradite people in accordance with the agreements made prior to its accession to the Convention should be in accordance with the principle of non-refoulement. The Coalition further recommends the Committee to request the State of Palestine to reconsider issuing the declaration stipulated in Article 22 of the Convention.**

²⁵ Article 45 of Law by decree No. 20 of 2015 states: “1. The unit may exchange information with counterpart units based on the agreements signed on the condition of reciprocity or on the basis of memoranda of understanding concluded by the unit for this purpose and in a manner that does not conflict with the applicable laws in the State of Palestine, provided that the exchange of information is limited to combating the crime of money laundering or terrorist financing; 2. In accordance with the laws in effect in Palestine, and bilateral or multilateral agreements to which Palestine is a party, Palestinian judicial bodies may cooperate with non-Palestinian judiciary bodies in obtaining and providing mutual legal assistance, rogatory letters, freezing requests, extraditions of criminals, precautionary sequestration, or crime proceeds subject to the commission of the crime of money laundering or terrorist financing; 3. In accordance with the laws in effect in Palestine, and bilateral or multilateral agreements to which Palestine is a party, the Palestinian judicial authorities may implement the rulings issued by the competent non-Palestinian judicial authorities to confiscate proceeds of crime for the crime of money laundering or terrorist financing after ratification, provided that the confiscated funds are distributed in accordance with the provisions of this law by decree and the agreements concluded in this regard by the State of Palestine.”

8. Criminalization of Torture under Article 4 of the Convention and Guidelines for Initial Reports

34. The Coalition agrees with what is stated in paragraph 38 of the State report. This paragraph identifies the penalties stipulated in the legislation in force regarding the criminalization of torture, which regulates matters related to holding law enforcement officials and perpetrators of torture or those using violence accountable and responsible, as well as revolutionary punitive legislation. Notably, these regulations are non-detering in a way that responds to the criminal act. Furthermore, these legislations are not in line with the international standards mentioned in Article 4 of the Convention, as the legislations are confined to punish the perpetrator -without other involved persons- with the penalty of “misdemeanor”, as provided by Article 208 of the Jordanian Penal Code No. 16 of 1960,²⁶ Article 108 from the Mandatory Penal Code No. 74 of 1936,²⁷ and the same applies for Article 280 of the Revolutionary Penal Code of the PLO of 1979.²⁸
35. Article 32 of the Basic Law states that criminal and civil liability arising for the violation of rights and liberties, including torture, are not subject to statute of limitation. However, the absence of a definition of torture in accordance with Article 1 of the Convention in the enforced legislation in Palestine allows for impunity, especially with regard to both participants and accomplices in committing acts of torture.
36. The Coalition recommends the Committee to request the State of Palestine to amend punitive legislations to ensure that the punishment for the perpetrators of torture in the Palestinian legal system is increased, in a manner commensurate with the gravity of the acts committed, and in line with the provisions of Article 4 of the Convention. The scope of criminalization should also extend to include instances of initiation, incitement, participation and complicity in committing acts of torture as crimes. Furthermore, any punishment should not confine itself to punish the direct perpetrator, as it is currently provided in the relevant legislation in force. Rather, the legislation should expressly stipulate that the criminal liability resulting from the crime of torture is not subject to a

²⁶ Article 208 of the Jordanian Penal Code of 1960, which is applied in the West Bank, states that “1. Anyone who practices in any type of violence and intensity that the law does not permit with the intention of obtaining a declaration of a crime or information about it shall be punished by imprisonment from three months to three years; 2. If these violent and intense acts lead to illness or injury, the penalty shall become from six months to three years, unless such acts require a more severe punishment.”

²⁷ Article 108 of the Mandatory Penal Code of 1936, which is applied in the Gaza Strip, provides for criminalizing acts of torture, stating: “Every public servant who exposes another person to force or violence or orders the use of force and violence against a person in order to extract from him or any member of his family a confession of an offense or information related to an offense, is considered to have committed a misdemeanor.” Notably, crime is divided according to its gravity into: 1- a felony: it is the most serious crimes and the law punishes its committer with death, with hard labor, temporary, or imprisonment for a period of no less than three years; 2- Misdemeanor: which follows the felony in its gravity and it is punishable by law by imprisonment for a period not exceeding three years and a fine or by either of these two penalties; 3- Violation: it is the simplest and least serious crime and it is punishable by law by imprisonment for a period ranging from one day to ten days and a financial fine.

²⁸ Article 280 of the Revolutionary Penal Code of the Liberation Organization of 1979 states: “A. Anyone who practiced any type of cruelty against anyone that is not permitted by law in order to obtain confessions about a crime or information or ordered that, shall be punished by imprisonment for at least three months; B. If the violence leads to illness or injury, imprisonment becomes for at least six months C. If the torture leads to death, the punishment shall be hard labor for at least five years.”

statute of limitations, enabling the prosecution and punishment of perpetrators and participants of torture, regardless of time limits.

9. Judicial Jurisdiction in Torture Crimes in Connection with Articles 7 and 5 of the Convention and Guidelines for Initial Reports

37. Chapter 7 of the Basic Law defines the general structure of the judiciary and the formation of courts of various names, as well as the Public Prosecution, while referring the way they are formed and their competencies to their own laws.²⁹ The regular judiciary has the general jurisdiction to adjudicate all disputes and consider all crimes whatever they are, except for what is excluded from them by a special provision, according to Article 2(1) of the Law of Forming the Regular Courts No. 5 of 2001 and its amendments. The Judicial Authority Law No. 1 of 2002 organized all issues related to the independence of the judiciary and regular judiciary. The regular courts are divided into ordinary courts that adjudicate civil and criminal disputes in accordance to a certain hierarchy,³⁰ and administrative courts that are concerned with the consideration of administrative disputes and disciplinary cases.³¹
38. The political division in the State of Palestine has casted its repercussions on the judicial system in general. There are two Supreme Judicial Councils, in the West Bank and Gaza Strip, and there is an attorney general in the West Bank and another in the Gaza Strip. Thus, the Palestinian judiciary suffers from lack of independence and interference from the executive authority in the West Bank, while the *de-facto* authority in the Gaza Strip interferes in the judiciary. In light of the disruption and dissolution of the PLC, the cracks into the Palestinian political system, and the absence of legislative and presidential elections, the SCC in the West Bank was formed according to the Presidential decree No. 57 of 2016, in contravention of the provisions of the Basic Law and the substantive foundations and the formalities required for the formation of the SCC, and the appointment of its judges. The creation of the SCC was followed by its issuance of a number of decisions that contravene the Basic Law and the foundations of constitutional rulings decisions, which led many Palestinian civil society organizations to demand canceling the formation of the SCC. Moreover, the Palestinian President issued a Law by Decree No. 16 of 2019 amending the Judicial Authority Law and Law by Degree No. 17 of 2019 on forming a transitional Supreme Judicial Council on 15 July 2019, which were published in the Official Gazette. This was perceived as a serious slippage which violates the constitutional legitimacy, especially principles of the rule of law, the separation of powers, the foundations of judicial independence, and pillars of good governance. This also deprived public rights and freedoms from aspects of judicial protection, which require an

²⁹ Article 97 of the amended Palestinian Basic Law states: “The judiciary is independent, and it is assumed by the courts of all types and degrees. The law defines the method of its formation and its competencies and issues its rulings in accordance with the law. The rulings are announced and implemented in the name of the Palestinian Arab people.”

³⁰ Article 7 of the Law of Formation of Regular Courts No. 5 of 2001 states: “The regular courts are composed as follows: 1- Magistrate Courts. 2- Courts of first Instance. 3- Courts of Appeal. 4- Supreme Court.”

³¹ Article 102 of the amended Basic Law states: “It is permissible by law to establish administrative courts to consider administrative disputes and disciplinary cases, and the law defines its other competencies and the procedures that are followed before it.” Article 104 of the aforementioned Basic Law provides: “the High Court shall temporarily assume all tasks assigned to administrative courts and the Supreme Constitutional Court, unless it is within the jurisdiction of another judicial authority, in accordance with the laws in force.” This is the same direction provided by Article 33 of the Law of Formation of Regular Courts No. 5 of 2001, and Article 46 of the Judicial Authority Law No. 1 of 2002.

independent judicial authority to govern its formation and functions by law and the principle of legitimacy. As such, civil society organizations demanded the cancelation of these laws by decrees and for the executive authority to stop interfering in the judicial affairs.³²

39. The Public Prosecution represents the public right, as stipulated in the Palestinian Criminal Procedures Law No. 3 of 2001, which entrusted the Public Prosecution with the powers of judicial control and provided it with the authority to supervise all law enforcement officers. As part of the Public Prosecution's role in detecting torture crimes, Article 99 of the Criminal Procedures Law mandated the Public Prosecutor with the inspection of the defendant's body, and the documentation of all visible injuries and their causes before the start of the interrogation. According to Article 100 of the aforementioned law, the Public Prosecutor, if deems it necessary or upon a request from the defendant or their lawyer, has the right to order the conduct of medical and psychological examinations of the defendant by the competent authorities. However, the same law did not clarify what procedures are to be followed if the results of the examinations proved that the defendant had been subjected to torture and ill-treatment. The procedures that are currently implemented do not exceed beyond a memo preparation by the Public Prosecution indicating the results of the examinations and tests, followed by submission to the Public Prosecutor, without applying any further procedures. This unveils the absence of the independence of the judiciary, accountability and equity.
40. The Palestinian Criminal Procedure Law authorizes the Public Prosecutor to supervise all law enforcement officers. Furthermore, the Public Prosecutor has the right to ask the competent authorities to take disciplinary measures against anyone who proves to be violating his/her duties, or failing to commit to work, as well as the right to prosecute those officers. However, the competent authorities have not committed to doing so. According to the documentation of member organizations of the Coalition, only 33 cases were presented to the Public Prosecution. In these cases, the Public Prosecution documented 11 cases in which detainees stated that they were subjected to torture during detention and/or investigation. Out of these 11 cases, the Public Prosecution recommended medical and psychological examinations by the competent authorities for one defendant only. As for the performance of the judicial system, Al-Haq documented 31 cases where defendants subjected to torture were presented to the judiciary. With regards to these cases, the concerned-court documented the statements made by the detainees regarding torture in the court hearings for six detainees only, while only one case was referred to a medical committee formed to examine the defendant. In all the cases brought before the judiciary, all defendants' detentions were extended, except for one case, where the defendant was released on bail. This is in violation to the provisions of Article 13 of the amended Basic Law, which invalidates any statement or confession made under torture and is further considered a constitutional offence, which is not subject to statute of limitations according to Article 32 of the aforementioned law.

³² Al-Haq, "Position paper by Palestinian human rights organisations: The Law by Decree Amending the Law on the Judicial Authority and the Law by Decree on the Formation of a Transitional High Judicial Council", 29 July 2019, available at: <https://www.alhaq.org/advocacy/14752.html>.

41. The Coalition recommends the Committee to request information from the State of Palestine regarding the judiciary status and the measures taken to reduce interference in the judicial affairs. We further urge the Committee to request information on the measures taken by the Public Prosecutor in the memorandums submitted by prosecutors regarding the defendants being subjected to torture and ill-treatment, in addition to the measures taken against prosecutors for their lack of commitment to check the defendants' body prior to interrogation.
42. The Basic Law stipulated the establishment of military courts, limiting its jurisdiction to military affairs, under Article 101(2). In 2018, the Law by Decree No. 2 of 2018 Concerning the Security Forces Justice Commission was issued, and emphasized that the jurisdiction of the military judiciary is solely limited to military affairs. The Palestinian military judiciary exercises its jurisdiction in accordance with the provisions of the Revolutionary Criminal Trials Act of 1979 and its amendments, and the Revolutionary Penal Code of 1979, which gives the military judiciary jurisdiction over all members of the security forces under the Service Law in the Palestinian Security Forces No. 8 of 2005, in relation to crimes they commit of military concern.
43. The SCC issued interpretative decision No. 2/2018 of 12 September 2018 regarding the legal nature of the Palestinian police, the concept of military affairs for the purposes of defining the jurisdiction of the military judiciary, and the competent court for police officers' trials. The SCC's decision was militant, as it considered the Palestinian police a force of a military nature that is subject to the military judiciary, retracting by that from a previous interpretative decision that considered the police's jurisdiction to be civilian. The interpretative decision of the SCC granted the military judiciary a broad jurisdiction over civilians, by unlimitedly expanding the interpretation of the military affairs, which defines the military judiciary jurisdiction, in violation of the Basic Law and international human rights standards. It also contradicts democratic regimes and best practices and even the global trend which considers the police a civilian force and prohibits bringing civilians before military courts.³³
44. The Coalition underlines that all constitutional and legislative regulations, international standards, best practices and the Principles Governing the Administration of Justice through Military Tribunals entail that regular courts have jurisdiction over all human rights matters and liberties. Thus, the military prosecution of civilians must be entirely prohibited, as it would violate the principles of transparency and impartiality, and to ensure that perpetrators do not enjoy impunity. Therefore, the Coalition recommends the Committee to request the State of Palestine to review its legislation on jurisdiction in torture crimes. The State should also align such legislation with international standards, especially bringing those accused of crimes of torture and ill-treatment to the regular judiciary, as confirmed by the Committee in the positive aspects of the concluding observations on the seventh

³³ Issam Abdeen, "Legal Reading in the Interpretative Decision of the Supreme Constitutional Court on the Military Issue and the Legal Nature of the Police and the Judiciary Assigned for Its Members Trials", (Al-Haq, 24 September 2018), available in Arabic at: http://www.alhaq.org/cached_uploads/download/alhaq_files/images/stories/PDF/946.pdf.

periodic report of Mexico,³⁴ and the report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mr. Peter Kooijmans, in his report in 1990 to the UN Commission on Human Rights.³⁵

10. The Organized Review of the Rules of Interrogation in Reference to Article 11 of the Convention and the Guidelines for Initial Reports

10.1. Supervision of Officers with Judicial Powers

45. Article 55 of the Criminal Procedures Law exclusively grants the Public Prosecution with the powers of investigation and interrogation. The Public Prosecution can delegate a member of the officers with judicial power from the security forces to carry out any of the investigation work, except for interrogation involving felonies. Furthermore, Article 20 of the aforementioned law granted the Public Prosecutor the power to supervise law enforcement officers. As per Article 19 of the aforementioned law, all members of the Public Prosecution have the power to supervise the officers with judicial power, each within their jurisdiction. In this regard, the Coalition emphasizes that the Public Prosecution does not comply with its duties assigned under the law in terms of conducting supervision of the officers with judicial power in all security forces. The Coalition indicates that, and in disregard of the law, the vast majority of detainees were arrested by the officers with judicial power, without arrest warrants, while the Public Prosecution considered the violations committed by officers with judicial power regarding arrest and detention to be insignificant and did not affect the completion of procedures. Moreover, the Public Prosecution did not also conduct any investigations into the violations of officers with judicial power, in accordance with the supervision powers granted to them by the law. This is in violation of the provisions of Article 11 of the Palestinian Basic Law, which prohibits arbitrary detention, and Article 128 of the amended Palestinian Criminal Procedures Law, which stipulates the powers of the Public Prosecutor or any of their assistants to order the initiation of an investigation, release of the arrested or arbitrarily detained person, and the issuance of a report of the legal measures taken.
46. The Coalition recommends the Committee to request information on the number of cases in which the Public Prosecution has reviewed the measures taken by the officers with judicial power, and information regarding the measures taken by the Public Prosecution with regards to these violations.
47. The Coalition emphasizes the need to regularly examine the interrogation procedures, as stipulated in the Convention. Moreover, the Coalition underlines the necessity to document all interrogation procedures, conducted by the Public Prosecution or officers with judicial power authorized by the Public Prosecution, through video (visual and audio), as affirmed by the Committee in its reports submitted to the UN General Assembly, including its UN Doc A/68/44, as well as its concluding observations on reports of State Parties. Such video documentation would effectively contribute to the prevention of torture and ill-treatment,

³⁴ CAT, “Concluding observations on the seventh periodic report of Mexico”, 24 July 2019, UN Doc CAT/C/MEX/CO/7.

³⁵ Federico Andreu-Guzman, “Military Jurisdiction and International Law: Military Courts and Gross Human Rights Violations”, (International Commission of Jurists, Geneva, January 2004), pp. 82-83.

strengthen evidence against perpetrators of torture and ill-treatment and criminal participants, support accountability procedures for these crimes and violations, and facilitate an effective remedy for victims.

10.2. The Legal Basis for Arrest and Detention Centers

48. Article 11 of the amended Palestinian Basic Law affirms that it is impermissible to detain or imprison in places where the laws governing prisons are not implemented. This means that the detention centers of the security services must implement the provisions of the Rehabilitation and Reform Centers Law No. 6 of 1998 regarding the detention of civilians, and the Correction Center Law of 1979 regarding the military, as provided in the Basic Law. The existence of a detention center within a security service does not constitutionally and legally entail that it is supervised by this security services apparatus. Rather, the detention center is subjected to the law of the reform center and the authorities responsible for supervising it under this law and according to its provisions, and not to the supervision of the security services apparatus. This is due to the fact that the legislations of the security services do not regulate the supervision of detention centers. Consequently, detention centers affiliated with the police and Preventive Security should be subject to the Correction Centers Law and the supervision of the Director General of correction centers under the aforementioned 1998 Law. If the law of security service does not stipulate that a center is a legal detention center because it is subject to the Correction Centers Law, then it is considered an illegal detention center. Thus, the detention centers of the General Intelligence Service are illegal because they are not considered places of detention under the law intelligence apparatus. The detention centers for the military are subject to the supervision of the Director General of Correction Centers in accordance with the 1979 aforementioned Law. Throughout the years, practical experience has proved that detention centers, except rehabilitation and reform centers (prisons), are subject to direct supervision by the security services, in violation of the Basic Law and the Correction Centers Law, which provisions include the detainees and convicted.
49. Paragraph 137 of the State report, which is listed under the conditions of correction and rehabilitation centers in the West Bank section, states that the detention centers (police centers) and the arrest of people therein is subject to the Law of Criminal Procedures. Crucially, the Coalition notes that the State report's reliance on the Law of Criminal Procedure as a legal basis for organizing police detention centers is misplaced. Furthermore, the Coalition underlines that Article 125 of the Law of Criminal Procedures refers to centers established by law; in other words, the Law of Correction and Rehabilitation Centers. However, the State report did not indicate whether there was a decision by the Minister of Interior to approve these centers as detention centers, in accordance to the Law of Correction and Rehabilitation Centers No. 6 of 1998.
50. Paragraph 138 of the initial State report stated that the number of detention centers of the Preventive Security Service in the West Bank reached 13 centers, and further mentioned that those centers were not subject to judicial oversight. Article 9 of the Law by Decree No. 11 of 2007 regarding Preventive Security Service stated that a decision must be issued by the Minister of Interior to designate such centers as legal centers for detention, as both of the Minister of Justice and the Public Prosecutor must be informed of the status of these

centers and the changes that occur to them. However, the initial report failed to indicate any decisions by the Minister of Interior to designate these centers in this regard. The Coalition insists that no detention center should be immunized from judicial oversight. Article 129 of the Criminal Procedures Law affirmed the powers of the Public Prosecution and the heads of First Instance and Appellate Courts to inspect the correction and rehabilitation centers and detention centers in their districts to ensure that no inmates or detainees are illegally detained in those centers.

51. Paragraphs 139 and 140 of the initial State report, refers to the detention centers of the General Intelligence Service and the Military Intelligence Service. However, the State report did not clarify the legal basis for these centers, as the General Intelligence Law did not address the authority of the General Intelligence Service to establish detention centers. The Revolutionary Criminal Procedures Law clarified that the detention centers of the Military Intelligence Service are perceived as reform centers and not detention centers. As such, a decision must be issued by the Minister of the Interior to approve the detention centers of this apparatus. In addition, the General Intelligence Law must stipulate and provide the intelligence services with the authority to establish detention centers. Thus, the detention centers of the General and Military Intelligence Services are illegal centers for arrest and detention.
52. The Coalition urges the Committee to request the State of Palestine to rectify the conditions of all detention centers in a manner that is consistent with the Law of Correction and Rehabilitation Centers and relevant international standards, and not to immunize detention centers from judicial control, the national commission and human rights organizations.

10.3. Detention Conditions and Detention Centers' Visits

53. While the initial State report presented the names of detention centers in the West Bank, it did not mention the detention centers in the Gaza Strip. Furthermore, the State report failed to include any information on the conditions of detention centers in the State party in terms of the reflection of international norms, standards and best practices relevant to the treatment of detained persons and prisoners. These standards include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), and their reflection in the enforced Palestinian legislation and practices of the State of Palestine.
54. A number of the member organizations of the Coalition have visited some detention centers, revealing the conditions of detention since the State's accession to the Convention in 2014. These visits included specific individual visits to detained persons, and general inspection visits to detention centers in the West Bank and Gaza Strip. The visits indicated that individuals, including children, are detained contrary to international standards relating to detention centers and the detainees' health and psychological conditions. The visits included centers of the General Intelligence Service,³⁶ the Preventive Security Service, the

³⁶ Al-Haq carries out unannounced visits to arrest and detention centers of the General Intelligence Service. These visits are coordinated within hours. Al-Haq researchers conduct the visits and meet the detainees separately, without the presence of the Intelligence Force officers during the visits.

Military Intelligence Service and the Police Force in the West Bank, as well as detention centers of the Police in the Gaza Strip.

55. The documentations of the member organizations of the Coalition indicate that these apparatuses hold detainees in very small solitary cells, often with an area of one square meter, or in detention rooms called “bus rooms”,³⁷ “locker” cells,³⁸ and other collective cells that are too crowded. In addition, many detainees might be detained in unsanitary conditions, in contaminated or damp cell walls, or in cells that have wet, sticky floor, or contain insects. The documented cases showed that detention in many cases was carried out in cells that does not include mattresses and blankets, or suffers from being insufficient due to the high number of detainees. Indeed, when mattresses and blankets are provided, many detainees complained about the humidity, contamination, and stinky smell of these mattresses and blankets. In some cases, it was found that those in charge of these centers did not give detainees access to health facilities and toilets when needed, and that they were not clean. It was also found that many detainees were prevented to shower for more than a week, and some for two weeks or more. The documented cases since 2014 indicated that many detention centers and conditions do not take into account climatic conditions, ventilation, heating and lighting standards for detainees. The detainees were subjected to extreme cold and heat, and were forced to strip, even during the very cold weather. Some were also held in dark cells without lighting or without a window entering light or allowing ventilation. These and other circumstances violated the right of citizens to dignity and humane treatment guaranteed under the relevant Convention and international standards, which may constitute an abuse or torture in accordance with the definition of the Convention against Torture.

56. Documentation conducted by member organizations of the Coalition indicate that PA security service detention centers lack the means to prevent the spread of the coronavirus pandemic. Since the outbreak of the global pandemic in 2020 and until today, detention authorities have failed to implement the required procedures to protect detainees from the spread of the virus. Addameer collected testimony from detainees who were arrested in 2020 amid a peaceful assembly against Palestinian Authority corruption and who were charged with violating emergency regulations and instructions to limit the spread of Corona. The interviewed detainees told Addameer that Palestinian security forces put all those arrested—19 people—in a room that was too small to accommodate a large number of detainees, and which had no ventilation. The detainees were even unable to sleep inside the cells due to overcrowding, forcing them to take turns sleeping. The room also had a foul-smelling bathroom, and malodorous sponge mattresses.

A university student arrested by the General Intelligence Service in the year 2020 also told Addameer that he was placed in a cell containing used and torn gloves and masks, without any measures taken to address the danger they posed to the health and life of the detainee. Palestinian authorities declared a state of emergency and extended it several times to confront the outbreak of the coronavirus epidemic, often restricting citizens’ rights for this

³⁷ According to the testimonies of victims of violations or their relatives; a “bus room” cell means a small room that contains compact seats in the form of bus seats, which is used by the Internal Security Service in the Gaza Strip to tie up detainees.

³⁸ According to testimonies of victims of violations or their relatives; a “locker” cell means a narrow square cell with a length not exceeding 70 cm.

purpose. Yet, the means of protection were not available in detention and detention centers, and detainees were placed in overcrowded and unventilated cells and rooms despite the risk to their health.

10.4. Failure to Implement Court Rulings

57. Since the accession of the State of Palestine to the international human rights conventions, including the Convention, in mid-2014, the member organizations of the Coalition have documented a total of 79 judicial decision that have not been implemented by security services apparatuses entrusted to enforce the law in the West Bank. The General Intelligence Service has refrained from implementing 38 judicial decisions, while the Preventive Security Service refrained from implementing 17 judicial decisions. Similarly, the Police failed to implement 15 judicial decisions, while the Military Intelligence Force refrained from implementing two judicial decisions.³⁹
58. All judicial decisions referred to in the previous paragraph, which the security services apparatuses refused to implement, relate to the release of detainees. Crucially, the Basic Law and the legislations in force explicitly state that judicial rulings must be implemented, as failing to implement them constitutes a crime under these legislations and requires the dismissal of the concerned-individual/s from the public office.⁴⁰ The failure to implement the judicial decisions relating to the release the detainees results in keeping them in detention without judicial control, and exposing them to possible torture and ill-treatment.
59. In order not to implement the judiciary's rulings, some security apparatuses demand that the governors arrest the defendants under their custody, in an attempt to circumvent the court's decision. As previous paragraphs of this report highlighted, governor-ordered detentions are in violation of the Basic Law and international standards contained in human rights treaties which the State of Palestine acceded to. Thus, governor-ordered detentions are perceived arbitrary, according to the concept of the UN Working Group on Arbitrary Detention.
- 60. The Coalition recommends the Committee to call upon the State of Palestine to ensure the security services' commitment to implement the judicial rulings related to the release of detainees. We further recommend the Committee to urge the State to halt governor-ordered detentions, due to its violation of the provisions of the Basic Law and its obligations of the State of Palestine under the International Covenant on Civil and Political Rights and the Convention.**

³⁹ Notably, Al-Haq, following up on the cases it documented, sent correspondences to the security apparatuses which refused to implement the judicial decisions. Al-Haq further sent notifications to the Public Prosecutor regarding the non-implementation of these decisions, to establish a criminal case against the agencies which failed and refrained from implementing the judicial decisions. Most of the responses received by Al-Haq from the concerned-apparatuses stated that they whether have implemented or will implement those decisions. Critically, none of the security apparatuses have been legally held accountable for not implementing these decisions.

⁴⁰ Article 106 of the amended Palestinian Basic Law states: "Judicial rulings are enforceable and refraining from their implementation or obstructing their implementation in any manner is a crime punishable by imprisonment and dismissal from office if the accused is a public employee or assigned with a public service. The detainee has the right to file a lawsuit directly to the competent court, and the national authority guarantees full compensation for him."

10.5. Cases of Death in Detention Centers

61. The initial State report did not refer to deaths in detention centers, as it failed to provide any data in this regard, and to indicate the measures taken to investigate these cases. Since the State's accession to the Convention, member organizations of the Coalition documented the death of 17 detainees while being held in correction and rehabilitation centers and detention centers in the West Bank and the Gaza Strip. With regards to geographical distribution, 12 deaths occurred in the Gaza Strip, whereas five cases occurred in the West Bank.
62. **The Coalition recommends the Committee to call upon the State of Palestine to provide detailed information on the deaths in detention centers, as well as the measures taken to investigate these cases. The State should further report the results obtained in the event an investigation has been opened, indicating the actions the State took against the detention center administrations if they had failed to perform their tasks, as well as any information on remedies for the families of deceased detainees.**

10.6. The Death Penalty

63. The initial State report did not refer to the death penalty and its execution in the State of Palestine, nor did it provide any information regarding the legislation in force in this regard. The Coalition confirms that the legislations in force in the State of Palestine still include provisions that calls for the death penalty. Notably, the Jordanian Penal Code of 1960 in force in the West Bank, and the Mandatory Penal Code of 1936 in force in the Gaza Strip, and the Revolutionary Penal Code of 1979 in force in the West Bank and the Gaza Strip⁴¹ include provisions on the death penalty. Since the State's accession to human rights treaties, including the Convention, member organizations of the Coalition documented the issuance of 126 death sentences. Of these, 125 rulings were issued in the Gaza Strip, and one ruling in the West Bank, 32 rulings of death sentences were carried out the majority of those who were sentenced to death were males, between the ages of 15 to 69, as one death sentence was for a 15-year-old defendant.⁴²
64. The Basic Law stipulates that the President must ratify death sentences before they are carried out, and in the event of non-ratification, the sentence shall not be carried out. However, Since the state of Palestine's accession to the basic human rights convention, the

⁴¹ It is worth noting in this context that the Palestinian legal system inherited Ottoman, British, Jordanian, Egyptian laws and Israeli military orders, in a contradictory and heterogeneous formation, that strengthens legal randomness and detracts from the unity of the legal system and sovereignty in the State of Palestine. The death penalty is still valid in these old inherited laws in contradiction with human rights, modernization, and requirements for temporal and intellectual development. Notably, the British Mandatory Penal Code No. 74 of 1936, which is applied in the Gaza Strip, punishes 15 different crimes with death sentences, the Jordanian Penal Code No. 16 of 1960, which is applied in the West Bank, punishes 16 different crimes with death sentences, the Jordanian Amended Law No. 23 of 1963, punishes one crime with death sentence; and the Revolutionary Penal Code No. 5 of 1979, which was approved by the Palestine Liberation Organization and applies to employees of the security establishments, punishes 45 different crimes with the death penalty.

⁴² Data on death sentences in the West Bank and Gaza Strip are based on the documentation of Human Rights and Democracy Media Center (Shams), and Al-Haq.

Palestinian president have not ratified any of the death sentences that were issued either in the West bank or the Gaza Strip. As such, the aforementioned executions of death sentences are considered extrajudicial executions. Furthermore, the State of Palestine ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights in April 2019, which aims at the abolition of the death penalty in the State party. However, the State, since its accession to the aforementioned Protocol, has failed to make any amendments to the penal legislations regarding the abolition of the death penalty.

65. The Coalition recommends the Committee to urge the State of Palestine to expedite the required legislative amendments to the penal laws to ensure their compatibility with international agreements, especially the Second Optional Protocol to the International Covenant on Civil and Political Rights, and to abolish all provisions on the death penalty and replace them with imprisonment.

10.7. The National Preventative Mechanism against Torture (NPM)

66. The State of Palestine acceded to the Optional Protocol to the Convention against Torture and Other Cruel or Inhuman Treatment (OPCAT) on 28 December 2017. In accordance with Article 17 of OPCAT, the State of Palestine is to maintain, designate or establish a national preventive mechanism against torture (NPM) within a year of the date of the entry into force of aforementioned Protocol. The Palestinian government formed a governmental task force to prepare a draft law by decree on establishing the NPM. In 2019, the governmental task force held a round of national consultations, and presented a draft law by decree on establishing the NPM for discussion with civil society organizations. During the national consultations, the governmental task force expressed great openness to the proposals and observations of human rights organizations. Al-Haq, a member of the Coalition, presented and submitted written observations on the draft law to the governmental task force. Most of these observations were included in the draft law. In 2020, a second draft law was prepared, as the Organizations submitted a second round of observations, based on the OPCAT provisions and the relevant international standards.
67. Although the State of Palestine is considerably late to implement its obligation to establish the NPM, human rights groups and civil society organizations were surprised by the promulgation of the Law by Decree No. 25 of 2022 on the National Commission against Torture. This enactment is in conflict with the key principles agreed to during the dialogue between these actors and the government taskforce mandated to develop a draft NPM law. It is also in contravention to the State of Palestine's obligations under the OPCAT and Guidelines on NPMs. It maintains the Executive's approach to taking over and dominating national commissions, rendering them unable to deliver assigned tasks independently and impartially. Under the said law by decree, the NPM will not be capable of passing the test of independence and impartiality, turning the Mechanism into an additional formal body at the expense of the agony and suffering of the victims of torture and ill-treatment.
68. Human rights groups and civil society organizations consider that many provisions of the law by decree undermine the principles of NPM independence. It views the NPM as a State institution and government agency, to which all laws and regulations on official institutions are applicable. The enactment also deems that the chairperson and staff members of the

Commission against Torture as civil servants, who are subject to the Civil Service Law. Procurement and tendering transactions are governed by the Public Procurement Law, treating the Commission as a full government body. Every time, NPM members are appointed by the President based on a recommendation of the Council of Ministers, contradicting the State of Palestine's obligations under the OPCAT. These require the adoption of the highest standards of transparency and independence. When NPM members are chosen, the same approach applicable to the selection of commissioners of national human rights institutions will be in place. Many irregularities deprive the NPM of independence, impartiality, and objectivity at all levels.

69. The Coalition recommends the Committee to urge the State of Palestine to expedite the establishment of the NPM, while ensuring its administrative and financial independence. The selection and recruitment of the NPM members should follow professional and transparent criteria, as it should further take fair and equitable gender and geographical distribution. It is further crucial for the State to take into account all observations submitted by the Coalition, the Palestinian human rights organizations, and the observations of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) to ensure the independence of the NPM when carrying out its tasks in accordance with State's obligations under the OPCAT.

11. Consideration of Torture Allegations and Conducting Investigations Relative to Articles 12 and 13 of the Convention and Guidelines for Initial Reports

11.1 Receiving and Following up on Complaints of Alleged Torture and Ill-Treatment

70. Paragraph 43 of the State report indicated the total number of torture cases received by the Military Judicial Commission, including two complaints submitted by Al-Haq, and 14 complaints submitted by the Independent Commission for Human Rights. However, the State report did not clarify the mechanism for receiving complaints for other cases. Notably, Al-Haq filed 45 complaints of torture, on behalf of the complainants, to various security apparatuses since the State's accession to the Convention. Responding to the majority of these complaints, the relevant security apparatuses denied the allegations of torture and ill-treatment made by the detainees. Crucially, however, these responses did not indicate the nature of the measures taken by these apparatuses to verify what was stated in these allegations, and led them to conclude the alleged inaccuracy of these allegations. On March 19 2015, during the national consultations held by the Ministry of Interior regarding the preparation of the initial State report on the Convention, Al-Haq submitted 16 affidavits from detainees claiming that they were subjected to acts of torture and ill-treatment, according to a correspondence, with the reference No. 28/2015, which included the number of the aforementioned affidavits. However, the initial State report did not address those testimonies received by the competent authorities from Al-Haq during the national consultations, nor did it indicate any measures taken to follow-up on these cases.
71. Al-Haq produced a documentary film titled "A Message to the President" which documents the cases of four detainees held by the General Intelligence Service, the Preventive Security Service and the Police. In the film, each detainee recounts acts of torture and ill-treatment

he endured, as well as the security apparatus that committed these violations, the persons alleged to have committed acts of torture, and the places of detention where those acts took place. On 26 March 2018, Al-Haq sent a letter, with a reference No. 22/2018, to the President; the Prime Minister, the Minister of Justice, the Minister of Foreign Affairs and Expatriates, the Minister of the Interior, and the Secretary of the Executive Committee of the PLO. The letter was attached to the film's CD, and demanded that the State's respect for the principle of the absolute prohibition of crimes of torture and ill-treatment, to ensure that those found to be involved in committing these crimes are held accountable, and to provide redress to the victims. These demands are in line with the directions of the Palestinian President issued on 14 May 2013, reaffirming the commitment to prohibit all forms of torture,⁴³ and with the obligations of the State of Palestine following its accession to the Convention. Notably, Al-Haq did not receive any responses from the aforementioned authorities regarding the cases mentioned in the film.⁴⁴

72. Member organizations of the Coalition, in particular Al-Haq, the Treatment and Rehabilitation Centre for Victims of Torture, and Addameer Prisoner Support and Human Rights Association documented 234 affidavits of persons claiming to be subjected to acts of torture and ill-treatment. Moreover, the Independent Commission for Human Rights documented 124 complaints of torture 51 complaints of cruel and inhumane treatment by law enforcement officials. These allegations included detainees from various Palestinian cities in the West Bank and the Gaza Strip. Crucially, the number of cases documented by members of the Coalition does not necessarily reflect the actual number of cases of torture and ill-treatment. Rather, the documented cases merely represent those who have submitted complaints to member organizations of the Coalition or those in which detainees have been able to reveal the torture and ill-treatment they were subjected to.

73. In 2020, 29 cases of alleged torture were monitored before judges of the West Bank Magistrate's Courts;⁴⁵ constituting 2.2% of the accused brought before these courts. Of these, 17 cases were confirmed by the courts in the transcripts of the hearings, whereas the remaining 12 were ignored. Out of the cases in which signs of torture appeared or the accused declared, the courts decided to submit only ten to medical examination. In any event, the judges of the Magistrate's Court did not take any targeted measures to refer those accused of torture to the competent authority for their legal accountability.⁴⁶

74. On 24 June 2021, a preventive service- security force raided the house of Nizar Banat in the southern of Hebron to arrest him. The arrest was accompanied by a wave of violent and severe beatings using sharp tools which led to his death. In light of this incident, The

⁴³ Wafa, "The President Issues Instructions to Abide by the Laws that Prohibit All Forms of Torture", 14 September 2015, available in Arabic at: http://www.wafa.ps/ar_page.aspx?id=fEREr4a622165694865afEREr4.

⁴⁴ When participating in the session discussing the report of the State of Palestine, Al-Haq will present the Committee with a copy of the documentary film, which is translated into English.

⁴⁵ The Coalition was unable to monitor actual cases of torture and ill-treatment in the Gaza Strip, as not all of the defendants appeared before the court.

⁴⁶ The National Commission for the Independence of the Judiciary and the Rule of Law in the West Bank, and the Regular Bar Association in the Gaza Strip, "An Oversight Report on the Extent of Respecting Guarantees of the Accused in Arrest and Pretrial Detention Procedures in Magistrate Courts", 2021, pp. 32-33.

Palestinian government announced the formation of an official commission of inquiry headed by the Minister of Justice to investigate Nizar's death. On 29 June 2021, the commission announced the completion of its investigation and remitting the results of its report to the competent judicial authorities. On 2 July 2021, 14 members of the preventive security, who participated in arresting, Nizar were detained without charging any of the security officials responsible of the killing. The 14 detainees' case was remitted to the security services judiciary.

75. The security services judiciary held its first session to put the accused of killing Nizar into trial on 4 September 2021. The trial hearings were public and the human rights organizations, official national organizations and diplomatic missions were allowed to attend the hearings, which are still held until the time of preparing this report. Moreover, the Independent Commission for Human Rights and Al-Haq published a fact-finding report on the killing of Nizar Banat.
76. Through its work in documenting acts of torture and ill-treatment and the experience it has accumulated for years, the Coalition underscores that many victims of torture and ill-treatment refused to testify to member organizations of the Coalition out of their fear of reprisals against them and their families due to giving these affidavits. Member organizations of the Coalition maintain many affidavits that are withheld from publishing or sharing with any party due to this fear. Furthermore, many torture victims refrain from filing complaints to the Public Prosecution and the Military Prosecution, since both require the victims' physical presence at the Public Prosecution and the Military Prosecution buildings to submit written statements, which keeps them in a state of great fear of being subjected to harassment and reprisals by members of those agencies in an official and unofficial capacity. Furthermore, member organizations of the Coalition received complaints from persons who were threatened by the perpetrators of torture, after they filed complaints to the Military Prosecutor, to withdraw these complaints. This reflects the absence of a special system with clear mechanisms, which enables and ensures the protection of victims, witnesses and reporters of torture.
77. According to the documentation of member organizations of the Coalition, acts of torture and ill-treatment were mostly concentrated in the detention centers of the Preventive Security Service; the General Intelligence Service; the Police, and the Military Intelligence Service in the West Bank, and the detention centers of the Police, and the Internal Security Service in the Gaza Strip. Within the West Bank, acts of torture and ill-treatment were committed in the detention centers of these apparatuses in Hebron, Bethlehem, Ramallah, Nablus, Jenin, Tulkarm, Jericho, and Qalqilya. In particular, many of the complaints of acts of torture and ill-treatment were filed about the Central Investigation Center of the General Intelligence Service in Jericho, and the Investigation Center of the Security Commission in Jericho. In the Gaza Strip, arrest and detention centers affiliated with the Internal Security Service and the Police in Gaza City, Jabalia, and Deir al-Balah are among the most frequent centers in which torture and ill-treatment is practiced.
78. The Coalition recommends the Committee to urge the State of Palestine to provide information on the measures taken by the governmental task force concerned with preparing the official and preliminary report on the 16 cases it received during the national

consultations. The task force should respond if an investigation has been opened, or if the cases were referred to the competent authorities. We further recommend the Committee to call upon the State to provide information on measures taken by the security forces as a result of complaints received from civil society organizations with allegations of torture and ill-treatment. The Coalition further recommends the Committee to urge State to establish an independent complaints system to address allegations of torture and ill-treatment and a special system to protect reporters and witnesses of torture and ill-treatment allegations.

11.2. Forms of Torture and Ill-Treatment Committed in Arrest and Detention Centers

79. The forms and practices of torture and ill-treatment contained in the report were concluded through a documentation methodology based on interviews with detainees who were subjected to torture and ill-treatment. The documentation included detainees from different cities who were detained in all security services apparatuses in the West Bank and Gaza Strip for various reasons and backgrounds. The documentation included persons who were detained for practicing freedom of opinion and expression, political activists, participants in peaceful gatherings, bloggers on social media, journalists, and detainees accused of criminal offenses, including theft, murder, and drug use. The affidavits were taken while the detainees were still in detention centers or after their release from detention. Taking all of this into consideration allowed to maintain accuracy of information and validity of conclusions reached by the Coalition regarding forms of torture and ill-treatment, detention centers where those acts were committed, apparatuses that practices these acts, and the persons who committed acts of torture and ill-treatment. Notably, most of the documented testimonies from detainees, which highlighted the forms of torture and ill-treatment, and the security personnel who committed such acts, were similar.
80. The documented testimonies by member organizations of the Coalition indicate that forms of torture and ill-treatment are very similar in arrest and detention centers throughout the West Bank and the Gaza Strip, with some differences in some centers. Physical torture is the most common, in addition to psychological torture, ill-treatment, threatening to use physical harm or a family member. The documented testimonies further highlighted the usage of verbal insults which humiliate human dignity, including by insulting the detainees and calling them names, insulting their families, with a particular focus on insulting women of the family, especially the wife, sister, and mother, and threatening to arrest them. Detainees were further threatened with bringing them to trial by accusing them of being agents of the Israeli occupation, which would affect their reputation and social status if they refuse to confess.
81. Forms of physical torture varied, and included beating with hands and kicking with legs on different parts of the body, and using a stick to hit the detainee on different parts of the body, especially the sole of the foot (*al-falaqa*). The detainees were also hanged from their hands, which were tied from behind, with a rope to the ceiling of the room, or to the top of the room's door or window. Detainees were then pulled, forcing them to stand on top of their toes while the entirety of their body weight lay on their shoulders, and hanged in this position for several hours. Detainees were also forced to stay standing for long hours, while

raising their hands, and beaten on their thighs as long as they are standing. Detainees had also smelly head cover placed on their heads, and their hands are handcuffed from the back, with plastic and iron restrictions, throughout the investigation. Testimonies further showed that pouring cold and hot water on the detainees is another used-technique, as well as beating detainees' heads against the walls of the interrogation rooms or with a sharp object, which caused some of them to lose their conciseness. Some detainees were placed on a table in the form of a bed and were tied to it. Then, they are hit with a stick, on different parts of their body, especially their genitals. Torture forms also included the removal of body hair, sleep deprivation, in addition to extinguishing cigarette butts on the detainees' bodies, and burning plastic and dropping it on their bodies. Weapons were directed at detainees, as they were threatened with death, and denied to drink water and have food.

82. Similarly, forms of psychological torture of detainees varied according to the affidavits they made to member organizations of the Coalition, from threats to harm their wives and women of the family, to the accusation of collaborating with the occupation. In addition, family women were also accused of having extramarital relations with men. Detainees were also put in solitary confinement for long periods and were not allowed visits or communication with their families and lawyers. Detainees were placed in small cells, denied access to the bathroom, and deprived from their senses by covering the head. Detainees were also humiliated based on their beliefs, and their family were verbally insulted. Detainees were also threatened with death, as well as harassed, including by hinting or threatening with rape. Detainees were further threatened with prolonged pretrial detention, as male detainees had their masculinity insulted.

11.3. Affidavits of Detainees Subjected to Tortured and Ill-Treated

83. The following is a brief summary of cases documented by Al-Haq, the Treatment and Rehabilitation Center for Victims of Torture, and Addameer Prisoner Support and Human Rights Association of detainees who came forward with allegation of torture and ill-treatment carried out by members of the various security apparatuses in the West Bank and Gaza Strip.

A. Conditions of Detainees in the “Millennium Case”

84. One of member organizations of the Coalition documented the case of what is commonly referred to as the “Millennium Case”, which constituted a public opinion issue. Between 3 March 2018 – 13 April 2018, four citizens between the ages of 20-51 were detained, against the background of killing Raed Al-Ghrouf. They were detained at the Ramallah Police Station and Junaid prison in Nablus of the West Bank. On 13 August 2018, Al-Haq visited the detainees, listened to their testimonies unilaterally, inspected their bodies, and documented the conditions of the four detainees. The detainees are currently being tried before the Ramallah First Instance Court in Case No. 119/2019 Offenses. According to what the four detainees reported, they were held in a cell measuring no more than 120 square centimeters, in the dark without lighting, the walls were black, and the cell did not contain mattresses or blankets. During their interrogation, the detainees were subjected to various forms of torture and inhuman treatment, as the detainees recalled that they were severely beaten, with specialized tools, all over their bodies, including the back of the head

and sensitive areas. The detainees further reported that they were beaten with a stick on the soles of the foot (*al-falaqa*) for long hours, as they were further stripped during investigation. Furthermore, the detainees were subjected to torture methods known as “diving”,⁴⁷ “pigeon”,⁴⁸ and “hanging”.⁴⁹ One of the detainees stated that he was admitted to a room called “the slaughterhouse”, which contains a flat table surrounded by many torture tools, in Junaid prison. The detainee was placed and tied on the table, and he was severely beaten with plastic and metal hoses while being burned with cigarette butts and burnt ends of a hose. Detainees were also subjected to sleep deprivation for long days, while being deprived of food and drinking water. When asking for water, the interrogators intentionally poured water on the ground in front of the detainees, and told them to drink the spilled water. In many instances, detainees were also deprived of using sanitation facilities, which caused them to urinate in their clothes. Due to the severity of the pain inflicted on them by such acts, some of the detainees lost consciousness. Furthermore, the detainees were exposed to severe psychological torture, and were threatened with death, as they had weapons pointed to their chests. Detainees were asked to paint a staircase and a window on the wall of the interrogation room, and then were asked to go up the stairs and look from the painted window. Furthermore, and to pressure one of the detainees to confess, his wife was called to the headquarters of the General Investigation Service and threatened with beating and assault during the presence of the Public Prosecutor. One of the detainees was also tortured by the General Investigation Service for contacting Al-Haq.

85. Several security apparatuses participated in the torture and ill-treatment of the four detainees, namely: the Palestinian Police, the General Intelligence Service, the Preventive Security Service, and the Military Intelligence Service, in the General Detective Center (Police headquarters) in Ramallah, and in the headquarters of the ‘Joint Security Committee’ in Junaid prison in Nablus. Critically, this was carried out with the knowledge of military service doctors, who ignored the visible signs of torture on the detainees’ bodies, failed to record them in the relevant medical reports despite clearly examining the injuries, and failed to provide the necessary health care to the detainees. The status of the four detainees was documented following a visit to the detainees in Betunia Correction and Rehabilitation Center and the General Detective (Police) headquarters in al-Bireh City. Accordingly, Al-Haq prepared a comprehensive report on what the four detainees and the wife of one of them were exposed to. Al-Haq then sent the report to the Prime Minister and Minister of the Interior (correspondence No. 50/2019), the Public Prosecutor (correspondence No. 49/2019); the Minister of Justice (correspondence No. 52/2019), the Director General of the Police (correspondence No. 51/2019), and the Human Rights and Democracy Unit in the Ministry of Interior (correspondence No. 53/2019). Until present,

⁴⁷ According to testimonies of victims or their relatives; “diving” is a stress position in which the detainee’s knee is placed into a wheel, with two empty iron boxes placed under the detainee’s knees, as the detainee’s arm is attached to the foot at the same time.

⁴⁸ According to testimonies of victims or their relatives, “the pigeon” is a stress position in which the hands of the detainee are tied far apart with iron restraints hanging from high window, as the detainee is forced to stand with his legs apart, while being blindfolded.

⁴⁹ According to testimonies of victims or their relatives, “hanging” is a stress position in which the detainee’s hands are tied with a belt behind his/her back, hanging the detainee on the door of one of the rooms. Notably, one of the feet is attached to the arms of the detainee, whereby the detainee is standing on the tiptoe. In some cases, an empty iron can is placed under the detainee’s feet, so that further harm is done if it was to be removed.

Al-Haq did not receive a response from any of the aforementioned authorities regarding following up on the torture allegations contained in the report.⁵⁰

B. Case of Detainees Accused of Theft in 2020

86. Al-Haq documented the statements of four detainees accused of stealing an ATM in al-Bireh city in the West Bank, highlighting the conditions of their detention. In addition, Al-Haq documented the violations suffered by two wives of the four defendants in connection to this incident. All detainees reported that, while being detained at the General Intelligence Service, Preventive Security Service, and the Police, they were subjected to numerous methods of torture and/or ill-treatment that included *shabeh*, *al-falaqa*, and slaps on the face. The effects and signs of torture they endured were documented in the trial session record No. 47/2020. The court decided to extend their detention and asked the police to present them to a medical committee. Notably, on 10 June 2020, Al-Haq prepared and sent a detailed report on the allegations of torture to the official authorities, urging the initiation of an investigation of such allegations. Until today, no response of the official authorities was received regarding the report.

C. Sample of Various Testimonies of Detainees Subjected to Torture and Ill-Treatment in the West Bank and Gaza Strip

87. The case of a 22-year-old detainee, from Hebron Governorate in the West Bank, who was arrested five times by the General Intelligence Service and Preventive Security Service, for political and student activities. Following his release from the an arrest by the Palestinian Intelligence Service, he decided to enroll in the university, before he was arrested again the next day. He was detained at the headquarters of the Palestinian Intelligence Service in Hebron, where he was threatened to be transferred to the headquarters of the Joint Security Committee in Jericho if he does not cooperate during the interrogation on charges of participating ‘in coordinating’ a book fair at the university. Two days later, the detainee was transferred to Jericho prison, where the investigator Abu Malik was waiting for him. Abu Malik, which was repeated in many testimonies, is a pseudonym used by the security forces to conceal their real names. Abu Malik welcomed the detainee, saying: “do you know where you are?” The detainee was blindfolded, tied, and moved to a place where they urinate. He was threatened by Abu Malik with physical torture and was informed of the various types of torture methods that they resort to, such as hanging, *al-falaqa*, and the electric stick. These methods soon started in his first interrogation session where he was tortured by another investigator Abu Rakan, which is also a pseudonym, as he was beaten with an iron stick on his toes. The detainee was then taken to a room, and tied to the ‘chair’. Notably, the officers and one of the medical personnel cooperated in tying him and his hands up to the ceiling of the room. This stress position caused severe pain throughout his body, leading him to from the severity of the pain, while the investigators, officers and the medical staff member were laughing. He was hanged in the same position four times, during which he almost lost consciousness and this caused bleeding in his left wrist, swelling of his hands and acceleration of his heartbeats. He was held in solitary

⁵⁰ Al-Haq notes that it maintains a comprehensive documentation of the four detainees’ statements, as a copy of the report can be shared with the Committee upon request.

confinement without a mattress. Before a visit to the prison by the International Committee of the Red Cross, the interrogator asked the detainee not to mention or speak about what he had been subjected to during interrogation in exchange of his release. The following day, he was brought to court and released on bail, after spending 20 days in detention.⁵¹

88. The case of a 38-year-old detainee, a blacksmith resident of Jenin city in the West Bank, who lives with his mother and two sisters and is their sole breadwinner. He was detained on 1 May 2017 by the Criminal Investigation Department of the Palestinian Police in the city of Jenin, on charges of property theft. The interrogation began after three days of his detention, as members of the service and interrogators tied, beat, and hanged him from his hands, as his face and body were slapped and hit, and he was deprived of sleep, which caused severe pain in his body. He was hanged repeatedly for periods of time ranging from one hour to two hours. Due to the repetition of such act for several days, the detainee lost his consciousness and was transferred to the hospital, before being transferred again to the General Investigation Service headquarters for further investigation. He was threatened with bringing his mother and sisters to interrogate them, and was hanged and beaten again by the interrogators. One of the detectives directed many hits to his face with both hands. His head was placed inside a bucket full of water, and he was hit with the help of other members of the force with their feet and hands severely on various parts of his body for an hour, which caused nose bleeding. Members of the force cooperated to hang him, as they also stood on his back amid his screams as a result of his severe pain. One of the investigators directed electrical strikes with an electric stick to the lower part of his body, especially in the heels and feet from the back, and as a result, he collapsed and lost consciousness several times during the investigation. During his detention, he was unable to take care of himself, and to eat food by himself. Thus, one of the detainees helped him to do so. Critically, this continued after his release, as he was no longer able to work and is left in difficult economic and psychological conditions and could not support his family anymore.⁵²

89. The case of the 18-year-old detainee, from the Jenin Governorate in the West Bank, who was accused of assaulting a Palestinian police officer and stealing his weapon. The Joint Security Committee detained him at the headquarters of the Preventive Security Service in Jericho. Upon his arrival, he was beaten with hands and feet all over his body for an hour, which caused him to lose consciousness and to bleed from his nose and mouth. The officers dragged him from his clothes up the stairs, then tied him with a chair and shaved his head hair, amid his crying from the severity of sadness and physical pain. The interrogator, Abu

⁵¹ Al-Haq affidavit No. 67/2017, taken on 4 February 2017. Al-Haq sent correspondences to the General Intelligence Service and the Public Prosecutor regarding allegations of acts of the torture and ill-treatment the detainee endured. It has received responses and is documented by Al-Haq from the Attorney General and General Intelligence Service, indicating that an investigation committee was formed. The committee's work did not prove the allegations that the detainee was subjected to any torture or ill-treatment. Al-Haq has records of many responses received from the official authorities, especially the security services, which indicate that the detainees' allegations of torture and ill-treatment were not validated. No clarification regarding the measures taken by these forces to deal with these complaints of torture were given.

⁵² Al-Haq affidavit No. 85/2017, taken on 13 February 2017. Al-Haq wrote to the Public Prosecutor and the Police regarding the allegations of torture and ill-treatment which the detainee was subjected to. It received a response from the Public Prosecutor indicating that the Military Prosecution opened an investigation into the incident without any additional information about the course of the investigation or any actions taken against the officers.

Karam, which is a pseudonym, severely beat him with a small glass object on the head, which caused the detainee to lose consciousness for the second time and to bleed from his head and face. The detainee was then put in a room known as “the locker”, which is a very small room with an area of about 120 square centimeters without a mattress. During detention, the detainee was sexually harassed by an investigator, in the presence of a number of officers, and was photographed while the investigator was doing so. Amid his crying about the horror of what was happening to him, he began beating his head against the wall screaming “kill me, kill me”. The investigator kept the detainee’s clothes removed during his transfer between the rooms, and the same interrogator asked the officers to beat him all over his body and ordered him to walk in the corridor while he was blindfolded. This caused him to fall off the stairs, hitting his head on the edges of the stairs. Even after this happened, the officers continued to severely hit him, as he was hit with a plastic stick on the back of his head. He was also tied up for long hours (*shabeh*), a plastic bag was placed on his head and he was hit against the wall of the interrogation room several times, which caused him severe pain and fell on the ground. The officers then tied him up again, as one of the officers hit his face and genitals by his feet, causing the detainee to cry and scream from the pain. The officers told the detainee: “you have not seen anything yet”. The detainee was also subjected to insults and curses during detention, and food was served in a humiliating manner. When the citizen had been referred to a medical examination, he was brought into a room containing some medical equipment. There, the doctor held a medical needle and placed it in front of the index finger of the left hand of the detainee and pushed it firmly under the fingernail. This was repeated on the detainee’s thumb finger, shoulder and left thigh, which caused the detainee sharp pains. Upon his release, after he spent four months in detention, he was informed that he was wanted by the Criminal Investigation Service, when the detainee threatened them that he would hang himself.⁵³

90. The case of a 29-year-old detainee from Bethlehem Governorate in the West Bank, who was detained by the Palestinian police because of a family quarrel on 28 October 2017 and was placed in Bethlehem Reform and Rehabilitation Center for 16 days. When he was released, the security officers pulled him violently into their cars, and took him to the Joint Security Committee, which is based in the headquarters of the Preventive Security Service in Jericho. There, his head was violently beaten against the wall and he was cursed with offensive words that offend his sisters. The director of the Joint Security Committee ordered an officer to bring a knife to cut off the head of the detainee. He then brought a shaving machine, and shaved the detainee’s head and beard, while violently hitting his head with the machine. The detainee was then placed in the “99 VIP locker”, which is a small iron chair that has no backrest nor armrest. The officers then handcuffed the detainee’s hands behind his back and tied his right foot to his hands, and kept him in this condition for hours, causing him severe pain. The detainee was also placed in a small solitary cell which smells horrible, and he was tied up by the “pulley” on the wall for several hours a day for continuous days. Each time the detainee cries from the severity of his pain, one of the investigators increases the tie, and therefore, increasing the pain inflicted upon the detainee. Upon his release, the director of the Joint Security Committee gave the detainee

⁵³ Al-Haq affidavit No. 99/2017, taken on 6 March 2017.

a perfume as a ‘present’ and asked him not to mention or talk to anyone about what happened to him during his detention.⁵⁴

91. The case of a 40-year-old detainee living in Gaza City, who works as a journalist for Palestine TV and as a reporter for several other news sites, and was summoned by the Internal Security Service of the *de-facto* authority in the Gaza Strip. After he showed up at the headquarters of the Internal Security Service, west of Gaza City, he was taken to the “bus room”, which is a small-sized room used for a tying up detainees’ hands to their legs behind their back resembling a bus seat, where he stayed for three hours, causing him severe pain in his back and feet. He was interrogated by the investigator Abu Hamza, which is a pseudonym, for preparing for the 54th anniversary festival of establishing Fatah movement. The interrogator threatened to bringing and interrogating his wife, and ordered the officers to put him in a cell and “take care of him”, which is commonly used to recommend his ill-treatment. Four officers began to severely hit the detainee all over his body with sticks, a water hose, fists and feet. The officers then blindfolded his entire face with a smelly cloth bag, and screamed and yelled offensive and humiliating words. They further grabbed him from the bag, and shook him violently forward and backward, until he started to feel suffocated. The detainee was kept in a very cold place, and exposed to the extremely cold air while he was hanged on the wall or on the “bus room” chair.⁵⁵
92. The case of a 38-year-old detainee from the north of Gaza City, who was detained by the Police for participating in a peaceful demonstration, and was placed in Jabalia camp police station for three days. There, the detainee was beaten with hands and fists on various parts of his body. He was blindfolded with a cloth, and was severely beaten with sticks and batons all over his body for about half an hour continuously. His hands and feet were tied, as he was hanged by his feet (head down, and feet up). The beatings concentrated on the bones of the legs, feet and back. Following his release, it was found that he had a fracture in the left leg, severe bruises, and bloody masses in the places of the beating.⁵⁶
93. The case of a 16-year-old child from the Gaza City, who was being held at the Beit Lahia city police station due to a fight. Notably, the director of the station refused to transfer him to Dar al-Rabee Juvenile Rehabilitation Center. Rather, the director of the police station kept him in detention for more than two months with adults accused of criminal offenses. The child had complained to his family about his beating and repeated abuse by members of the police as well as adult detainees. He further informed his family that he is forced to clean the room and bathroom, and that he is being beaten inside the detention center bathroom. The child had told his family that he will kill himself if he was not released from detention, as he cannot bear his deteriorating psychological state and humiliation by adults inside the detention center. Despite repeated beatings and intimidation took place before the eyes of the police officers and with the knowledge of the director of the center, the family’s attempts to mediate his release from detention center or transfer him to Dar al-Rabee Juvenile Rehabilitation Center were rejected. Soon later, he was found hung on the

⁵⁴ Al-Haq affidavit No. 1049/2017, taken on 25 December 2017.

⁵⁵ Al-Haq affidavit No. 3/2019, taken on 8 January 2019.

⁵⁶ Al-Haq affidavit No. 60/2019, taken on 27 February 2019.

bathroom's window by his underwear, which caused his heart to stop, and caused him to go into a clinical death and deep coma.⁵⁷

94. Al-Haq sent several correspondences regarding allegations of detainees being subjected to torture and ill-treatment. The correspondences were sent to the concerned security apparatuses and the civil and military prosecutors, as well as the Minister of Justice and the Minister of Interior. The responses of the aforementioned agencies varied. Some responses indicated the initiation of investigations into these allegations and the implementation of disciplinary measures by the verbal warning. Other responses indicated that investigations were opened by the military prosecutor, and others indicated that the security apparatuses checked the allegations and concluded their inaccuracy. However, in most of the responses, the provided information was not sufficient for Al-Haq to know the taken procedures, the investigation mechanism, the formation of committees, the number of officers who were subject to investigation, or the number of officers who were referred to the judiciary.
95. The Coalition recommends the Committee to call upon the State of Palestine to take immediate action by issuing a formal declaration affirming the absolute prohibition of torture and ill-treatment, and to expedite the harmonization of domestic legislation with the Convention. We further recommend the Committee to urge the State to ensure the formation of an independent committee to receive and follow-up on complaints, criminalize torture, compensate victims, and redress them. The State should also provide the Committee with information about the formation of the Joint Security Committee, on which the Minister of Interior and the Prime Minister at that time, Dr. Rami Al-Hamdallah, issued a decision to dissolve it on 4 June 2018. However, this committee is still operating without committing to this decision. The State should also provide information about the central investigation centers of the General Intelligence and Preventive Security Services in the city of Jericho, the nature of cases that are transferred to these centers and the internal control mechanism over them. Additionally, there is a need to provide all of these centers with surveillance cameras, ensuring that no locations other than those equipped with surveillance cameras are used for interrogations.

12. Redress, Compensation and Rehabilitation of Torture Victims in Relation to Article 14 of the Convention, the Committee's General Comment No. 3 of 2012 on the Implementation of Article 14 of the Convention by the States Parties, and Guidelines for Initial Reports

96. The legislations in force in the State of Palestine regulate the general rules that grant the injured individual the right to claim compensation regardless of the identity of the perpetrator, or the type of crime which led to this compensation, without singling out acts that constitute a crime according to the pillars and conditions specified under Article 1 of the Convention. Ensuring the right to civil compensation for criminal and civil attacks in the legislation in force does not absolve the State of Palestine of its obligation to provide

⁵⁷ Al-Haq affidavit No. 734/2017, taken on 7 September 2017.

justice and redress to any torture and ill-treatment victim, as stipulated by Article 14(2) of the Convention.

97. Legislations referred to in the initial State report were limited to guaranteeing one form of redress for those torture victims, which is the financial compensation, without providing other guarantees given under Article 14(1) of the Convention. One of the most important guarantees is restoring the rights of victims of torture and ill-treatment and their rehabilitation and satisfaction, as well as ensuring that violations are not repeated, while guaranteeing the rights of detainee's successor or whoever his/her rights are conferred in the event of his/her death due to torture.
98. The initial State report did not provide any data on the number of compensation requests, the number of requests that had been responded to, or compensation values decided by the courts, if any. Likewise, the report did not include the means of reparation available for the victims, nor any indication of the adoption of programs for the social, medical and psychological rehabilitation of victims, to ensure their integration into society.
99. The Coalition underlines that the State report did not refer to the "condemnation" of perpetrators of torture for the practices committed since the State's accession to the Convention. Rather, paragraph 43 of the initial State report, which stated that "[i]n 2015, four convictions were handed down [by the military court], with sentences ranging from three to six months. Two cases resulted in acquittal for lack of evidence and another in a disciplinary penalty", refers to acts of alleged 'abuse' by members of Palestinian security services – and not torture. Thus, while the table included in paragraph 43 of the State report is titled "case of torture and inhuman practices (2014 to 2017)", the 'torture' section does not refer to any case of documented torture and of perpetrators held accountable in 2015, which proves that the statistics included in paragraph 43 do not apply to cases of torture.
100. Paragraph 43 of the State report indicates, in a table titled "persons charged with maltreatment of detainees or extraction of information by force (2016 to 2018)", that the number of accused persons from the security services of maltreatment or extraction of information by force is 162 between 2016 and 2018, without clarifying the extent of any of the accused's association with the crime of torture. The following table, titled "number of cases, by legal action taken", indicates that 24 cases resulted in conviction. However, the State did not provide a copy or a quote from a single court ruling confirming the conviction of any of the persons accused of the crime of torture nor did the State provide information on the punishment imposed against him/her. Likewise, this table did not address the extent to which victims who were subjected to such criminal acts are guaranteed a right to redress or compensation, as regulated under Article 14 of the Convention and the Committee's General Comment No. 3 of 2012. Furthermore, the State report did not provide any information on fairness or lack of equity and redress for victims, or the obstacles that prevent the availability of effective complaints and investigations mechanisms.
101. The Palestinian legal system does not facilitate justice and compensation for victims of torture and ill-treatment based on the provisions of the Convention. In fact, the Palestinian Government Claims Law No. 25 of 1958 and its amendments pursuant to Law by Decree

No. 18 of 2014, which are applied in the West Bank, do not allow lawsuits to be filed against the Palestinian government and its agencies to compensate for violations committed by state agencies, including those who committed crimes of torture and ill-treatment, as compensation for violations related to torture or ill-treatment is not included in the ‘exclusive’ cases in the aforementioned law.⁵⁸ Similarly, the implementation of judicial rulings against the government, which are set out exclusively in the aforementioned law, does not take place until after obtaining the approval of the Palestinian Prime Minister,⁵⁹ which cannot be enforced in practice, as there are many judicial rulings that oblige the government to compensate that have not been implemented. Therefore, the Coalition recommends the Committee to urge the State of Palestine to review, without delay, the Government’s Claims Law and its amendments, to ensure the right of torture victims to seek compensation from the government and its agencies for human rights violations in general and violations related to torture and ill-treatment, and to ensure effective domestic remedies for victims. The Coalition recommends the Committee to call upon the State to amend its national legislations to explicitly guarantee all victims of any physical, mental, psychological, or economic harm as a result of any act that constitutes a crime as provided in Article 1 of the Convention, who are subject to the jurisdiction of the State, redress without any discrimination between them, including by fair and appropriate compensation for any assessable harm,⁶⁰ according to the definition in the Committee’s General Comment No. 3 of 2012.⁶¹ Furthermore, the Coalition recommends the Committee to call upon the State to ensure the rehabilitation of victim torture through programs dedicated to the rehabilitation and integration of victims into society, with the allocation of the necessary financial resources from the State budget for such programs.⁶² We further recommend the Committee to urge the State to have legislative provisions to guarantee

⁵⁸ Article 2 of the law by decree No. 18 of 2014, amending the Palestinian Government Claims Law No. 25 of 1958: “The courts shall not hear any lawsuit against the government, whether it is original or opposite, unless for the following purposes: 1. Obtaining movable property or compensating for it according to its value; 2. Owning, disposing of, dispossessing, recovering, or compensating for immovable property according to its value or rent; 3. Obtaining money or compensation arising from a contract to which the government is a party; and 4. Preventing the claim on condition that the claimant pays the amount claimed or provides a guarantor”.

⁵⁹ Article 11 of the Government Claims Law No. 25 of 1958 states: “When the judgment against the government acquires a final degree, a certified copy of the final judgment shall be submitted to the Prime Minister, who shall order its implementation. As for the judgments that are issued against the king, they are submitted to His Majesty to order their implementation, and the procedure departments have no right to carry out any procedural treatment in order to implement those judgments”.

⁶⁰ The compensation includes medical expenses for the rehabilitation and compensation of the victim, as well as all costs associated with filing complaints and others. For more, see paragraphs 9-10 of the Committee’s General Comment No. 3 of 2012.

⁶¹ Paragraph 3 of the Committee’s General Comment No. 3 of 2012 defines ‘victims’ as “persons who have individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute violations of the Convention. A person should be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted or convicted, and regardless of any familial or other relationship between the perpetrator and the victim. The term “victim” also includes affected immediate family or dependants of the victim as well as persons who have suffered harm in intervening to assist victims or to prevent victimization”.

⁶² Rehabilitation aims to restore the dignity of the victim who has been subjected to torture or ill-treatment, to reach their physical, mental and social independence, and integrate them into society, through the adoption of effective rehabilitation programs, without affecting in any way their right to access medical, psychological and social services. For more, see paragraphs 11-15 of the Committee’s General Comment No. 3 of 2012.

restitution to victims' rights,⁶³ satisfaction and the right to truth,⁶⁴ and a guarantee of non-repetition.⁶⁵

13. Confessions Extracted Under Torture and Detention Conditions in Relation with Article 15 of the Convention

102. While the provisions of the legislation in force in the State party recognizes that statements and confessions extracted from the defendants under torture and coercion are invalid and unaccepted, the practical reality is different. Member organizations of the Coalition documented many cases where defendants gave their statements before the Public Prosecution while being threatened by security forces with torture if they changed their statements in front of the Public Prosecution. Likewise, they are threatened not to disclose to the Public Prosecution any acts of torture or ill-treatment they have suffered. In addition, sometimes defendants are brought to court for charges other than those that were investigated by the security apparatuses, most of which relate to political affiliation and freedom of opinion and expression. The security apparatuses use this approach to keep the validity of legal procedures in line with the legislative texts referred to in the initial State report. However, the Palestinian Court of Cassation clarified the shortcomings in the Palestinian legislations regarding the validity of statements and confessions made by the defendants before the Public Prosecution without coercion. Rather, it considered that all statements and confessions that were extracted from the defendants before the security apparatuses under torture void even if the same confessions are presented before the Public Prosecution without coercion, and considered it an extension of the circumstances in which those confessions were extracted under torture.⁶⁶

103. The Coalition notes that what was indicated in the initial State report regarding Article 477 of the Code of Criminal Procedure, which regulates cases of invalidity of procedures, is inaccurate, as the aforementioned Article did not consider that an invalid procedure invalidates all subsequent measures. Rather, the provisions of the aforementioned Article meant to nullify the part related to the invalid procedure only. Accordingly, this means that statements obtained under torture can be nullified and not relied upon in conviction, but the accused can still be detained or tried despite torture if there is other evidence, because subsequent proceedings to torture are not considered invalid.

104. Notably, after the State's accession to international human rights conventions, security apparatuses, especially the General Intelligence and Preventive Security Services, used the policy of referring the accused to the Public Prosecution on charges that differ from the charges being investigated by those apparatuses. In Al-Haq's affidavit No. 1049/2017

⁶³ See paragraph 8 of the Committee's General Comment No. 3 of 2012.

⁶⁴ Satisfaction refers to, *inter alia*, investigation and criminal prosecution of the perpetrators of the crime of torture or ill-treatment. For more, see paragraphs 16-17 of the Committee's General Comment No. 3 of 2012.

⁶⁵ Paragraph 18 of the Committee's General Comment No. 3 of 2012 stated that non-repetition of the crime requires the application of preventive measures to prevent torture, as well as measures to combat impunity.

⁶⁶ Palestinian Court of Cassation Decision No. 315/2014 issued on 26 January 2015.

(highlighted in paragraph 85 of this report), the detainee stated that he was brought before the judge of Jericho Magistrate Court, where he stated before the court that he was tortured by the Preventive Security Service at the headquarters of the Joint Security Committee in Jericho. The court, nonetheless, extended his detention for 15 days. When this period ended, the detainee was presented to the same court on charges that differ from what he was interrogated about by the Joint Security Committee, and his detention was extended for another 15 days. This behavior is usually followed by the security apparatuses in many cases in the State party.

105. **The Coalition recommends the Committee to call upon the State of Palestine to harmonize its procedural legislations to ensure that the statements and confessions extracted under torture are not considered of value. Furthermore, the State should extend circumstances for statements and confessions given before the prosecution, in which the detainees are still under the threat of the security apparatuses, as it further should bring the perpetrators of torture to trial.**

14. Prohibition of Cruel or Inhuman Treatment or Punishment, in Connection with Article 16 of the Convention

14.1. Detained Children

106. The provisions of the Law by Decree No. 4 of 2016 on the Protection of Juveniles included guarantees for the best interests of juveniles that are in accordance with international standards. These provisions relate to conditions of arrest and trial procedures, and the prohibition of subjecting juveniles to inhuman treatment, physical or mental torture or cruel punishment, as well as corporal and alternative punishments. However, the mechanism for its implementation and enforcement at the Palestinian national level still faces some problems, the most important of which is that the Law by Decree applies spatially to the West Bank, as it is not enforced in the Gaza Strip. Rather, juveniles in the Gaza Strip are subject to the British Juvenile Delinquents Act No. 2 of 1937, which does not explicitly include any legal regulations prohibiting subjecting juveniles to cruel or inhuman punishments. Furthermore, the law applied in the Gaza Strip did not impose many legal guarantees that take into account the interests of the juvenile, such as dedicating specific courts for juveniles. Furthermore, the law set the legal age for criminal responsibility for a juvenile at nine years, whereas the Law by Decree No. 4 of 2016 on the Protection of Juveniles applied in the West Bank raised it to 12 years.
107. Law enforcement forces did not commit to respecting the legislative provisions regulated by the Law by Decree No. 4 of 2016 on the Protection of Juveniles. In 2018, 176 Palestinian children were arrested by the Palestinian security forces, as 47 of them were tried without being separated from adults. During the same year, some of the detained children were subjected to cruel treatment, as 35 children were beaten and kicked, and 47 children were handcuffed, while some were subjected to poor detention conditions, such as not being separated from adults.⁶⁷

⁶⁷ Defense for Children International – Palestine et al., “Joint Alternative Report to the State of Palestine's Initial Report to the Committee on the Rights of the Child”, 20 April 2019, paragraph 9.43, available at:

108. The initial State report did not include the measures taken by the State of Palestine aimed at ensuring that juvenile detainees enjoy all the legal guarantees in practice since their deprivation of liberty began. Furthermore, the State report did not include the actual measures taken to implement a comprehensive system of alternative measures to corporal punishment for minors,⁶⁸ or the complaints mechanisms available to minors in the event of abuse or torture.
109. **The Coalition recommends the Committee to urge the State to harmonize the Palestinian legal system applied in the West Bank and Gaza Strip. The State should also work on standardizing the minimum criminal responsibility to conform to generally accepted international standards, and take all necessary measures to develop and implement a comprehensive system of alternative measures to ensure that deprivation of liberty is used only as a last resort, and to ensure that the juveniles are tried in the juvenile courts and that juveniles are separated from adults.**

14.2. Detained Women

110. The tables included in the State report on the number of detainees in correction and rehabilitation centers do not reflect the number of women in pretrial detention, and the time periods during which they are still held without a judicial ruling. The Treatment and Rehabilitation Center for Victims of Torture conducted a study, identifying the needs of women in detention between 22 November 2015 to 3 December 2015. The study included female inmates at the Reform and Rehabilitation Centers of the Ramallah and Jericho governorates, including two female detainees who had been detained for ten years without a ruling against them, and held at the Jericho Correction and Rehabilitation Center since 2005. Furthermore, six female detainees continue to be detained for more than seven years without a judgment against them, as two detainees continue to be detained for more than two years without a court ruling against them. This confirms the absence of their rights to a fair trial, as it is concluded that the social reality of the lives of these female detainees is the reason for the lack of rulings in their cases. Notably, most of them lack good relationships with their families, and are threatened by their families, which means that they are at risk. It seems that the continued postponement of their cases is carried out in coordination and cooperation between the governors and the judiciary. Seemingly, this is done to prevent the issuance of a judicial decision, which might result in release sentences, and thereby, exposing the detainees to danger. Rather than continuing their detention on

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/PSE/INT_CRC_NGO_PSE_34737_E.pdf

⁶⁸ In its concluding recommendations submitted to the State of Palestine, the Committee on the Rights of the Child expressed its concern on the legality of the corporal punishment of minors specifically under Article 62 of the Penal Code No. 16 of 1960, which is applied in the West Bank, as well as not explicitly prohibiting it in legislation regulating the right to education. Specifically, paragraph 37(a) recommended the State of Palestine to: “[a]mend article 62 of the Penal Code No. 16 of 1960 and the Law on Education (2017) to explicitly and fully prohibit all corporal punishment, however light, in law, in all settings, particularly in the home, educational and residential settings, and in all parts of the State party, and fully implement and enforce article 29 (4) of the Basic Law (2003) that prohibits corporal punishment of children.” CRC, ‘Concluding observations on the initial report of the State of Palestine’, 6 March 2020, UN Doc CRC/C/PSE/CO/1, available at: <https://www.un.org/unispal/document/committee-on-rights-of-the-child-concluding-observations-on-the-initial-report-of-the-state-of-palestine-advance-unedited-version-crc-c-pse-co-1/>.

the pretext of ‘protection’, the State of Palestine should take urgent steps and measures to ensure the protection of Palestinian women.

111. Furthermore, the aforementioned study notes that a number of female detainees have not met their lawyers for over a year, resulting in their lack of knowledge of court procedures and the reason why no ruling has been issued against them. In addition, in cases in which female detainees have family issues, no legal assistance was provided. The aforementioned study further indicated that female detainees need to be provided with healthcare services from female gynecologists, since this position is often filled by male gynecologists at rehabilitation and correction centers. Furthermore, female detainees also suffer from scarcity of financial resources and social aid received from the Ministry of Social Development.
112. The Coalition recommends the Committee to call on the State of Palestine to provide statistical data and information on the number of female detainees in correction and rehabilitation centers, including the number of female detainees who are still in pretrial detention without having judicial decisions issued against them. The State should also provide these detainees with healthcare services while providing female medical staff that responds to their needs.

14.3. Medical Services in Detention Centers

113. The Palestinian legislative system is devoid of any regulation regarding the competence of ‘military medical services’ to provide medical services to detainees, which contravenes relevant international standards, including the Nelson Mandela Rules, and the recommendations of the Committee against Torture and the Committee on Human Rights to States parties, the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Istanbul Protocol of 1999.
114. The Coalition notes that, during visits conducted by some of its member-organizations to detention centers, the majority of detainees are presented to military medical services before being placed in detention centers. The nature of the medical services provided to detainees, however, is limited to routine checks for detainees.⁶⁹ Detainees who are subjected to torture and ill-treatment are also referred to military medical services which is present in most detention centers of the security apparatuses. However, the Coalition notes that detainees subjected to torture and being presented to military medical services do not receive the needed treatment. The documentation of the member organizations of the Coalition confirms that the military medical services located in these centers provide assessments indicating the detainees’ ability to continue their interrogation, which contributes to the risk of re-exposure to torture and ill-treatment.⁷⁰

⁶⁹ Routine checks include blood pressure, body temperature, and asking the detainee if they have any chronic diseases.

⁷⁰ Documented testimonies by Al-Haq and Addameer Prisoner Support and Human Rights Association.

115. Al-Haq documented some cases in which detainees claimed that nurses and doctors provided assistance to interrogators while committing acts of torture and ill-treatment. Furthermore, some nurses were present in interrogation rooms while detainees were subjected to torture and ill-treatment.
116. The Coalition recommends the Committee to call upon the State of Palestine to take effective measures to enable detainees to be checked by medical teams and not only military medical personnel, and to allow detainees to access specialist doctors, whether in the public or private sectors. We further recommend the Committee to urge the State to take measures to supervise the role of doctors and nurses in military medical services and in security services to conduct investigations into complaints of shortcomings of medical personnel, and to hold medical staff involved, assisted, or practiced in committing acts of torture and ill-treatment accountable for their actions. The Coalition further recommends the Committee to call on the State to integrate the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in its national legislation.

15. Issues Relevant to the Implementation of the Convention

15.1. Human Trafficking

117. The State of Palestine acceded to the UN Convention against Transnational Organized Crime on 2 January 2015; and to the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime on 29 December 2017, with the aim of strengthening cooperation to prevent and combat such crimes more effectively on the national level, and protecting some societal groups, including by the formation of the national team to combat human trafficking. Yet, the initial State report did not refer to any achievements in the field of Palestinian national legislations or practical measures adopted in this regard.
118. The Coalition recommends the Committee to urge the State of Palestine to adopt national legislation to regulate the fight against human trafficking in Palestine as soon as possible, and to ensure that its legislations guarantee the international obligations contained in relevant international agreements. Such legislation should ensure that trafficking victims have access to medical, social, and legal services, including counseling services, as appropriate. The legislations of the State should further enable them to exercise their right to file complaints, provided that immediate, impartial and effective investigations are conducted into all allegations of trafficking. Furthermore, the State should ensure that perpetrators are brought to justice and punished with penalties commensurate with the nature of the crimes committed.

15.2. The Absence of a National Record for Torture Victims

119. The State of Palestine does not have an official “national record” of torture cases, which monitors the implementation of the Convention at the national level, including by

monitoring and evaluating cases of torture and ill-treatment, disaggregated by sex and age. Furthermore, the national record should include information on complaints related to torture and ill-treatment cases, administrative detention, human trafficking, domestic and sexual violence, and the perpetrator of torture. It should also monitor the procedures for the investigation of torture cases, the mechanism for prosecuting and convicting the perpetrators, the mechanisms for redress used to fulfil justice for victims of torture and their rehabilitation services, and other statistics and data to ensure the implementation of the Convention. Therefore, the Coalition recommends the Committee to call upon the State of Palestine to adopt a national record of torture cases to ensure transparency and integrity in following up on these cases.

15.3. Attacks on Journalists

120. During their work, journalists are subjected to many violations, including detention, torture and ill-treatment, house raids, physical attacks during press coverage, website blocking, repeated summons to appear before the security apparatuses, and confiscation of equipment. During the second half of 2014, the Palestinian Center for Development and Media Freedoms (Mada) documented 114 violations against journalists in the West Bank and the Gaza Strip. Of these violations, 34 were attacks against journalists.⁷¹ In 2015, Mada documented 192 violations against journalists. Notably, 31 of which were attacks against journalists. Similarly, in 2016, 134 violations against journalists were documented, as 29 of the violations were attacks against journalists. In 2017, 154 violations against journalists were documented, including 20 attacks on journalists. In 2018, Mada documented 129 violations, 22 of which were attacks against journalists. In 2019, 200 violations against journalists were documented, including 32 attacks against journalists.⁷² Similarly, 96 violations against journalists were documented in 2020. Notably, 7 of which were attacks against journalists.⁷³ In 2021, Mada documented 123 violations against journalists, including 35 attacks against journalists.⁷⁴
121. The period that followed the State's accession to international human rights conventions witnessed a serious setback in the exercise of rights and freedoms in the State party, especially the right to freedom of opinion and expression. Journalists were pursued, as they were summoned by the security apparatuses, detained, and brought to trial because of their journalistic work. Since the State of Palestine acceded international human rights conventions. Furthermore, this period witnessed the blocking of websites, as member organizations of the Coalition documented the blocking of 81 websites between 2016 – 2019. In 2018, Law by Decree on Cybercrimes was enacted, which granted powers to the Public Prosecutor to call to block websites, within 24 hours and for six months, in

⁷¹ Attacks on journalists include assaults in the field and being subjected to torture and ill-treatment in detention centers in the West Bank and the Gaza Strip.

⁷² Mada, "2019 Annual Report: Violations of Media Freedoms in Palestine", available at: <https://www.madacenter.org/files/server/annualRepE2019.pdf>.

⁷³ Mada, "2020 Annual Report: Violations of Media Freedoms in Palestine", available at: <https://www.madacenter.org/files/image/2020/AnnualReport2020Eng.pdf>.

⁷⁴ Mada, "2021 Annual Report: Violations of Media Freedoms in Palestine", available at: <https://www.madacenter.org/files/Annual%20Report%20%20Eng-%20%202021.pdf>.

contravention of the Basic Law and the State's obligations under international human rights conventions.

122. The year of 2021 witnessed grave violations that journalists were subject to, especially while covering the peaceful protests that broke out following the killing of the political activist, Nizar Banat, by a preventive security force in Hebron. Journalists and human rights activists were physically assaulted, their equipment and phones were confiscated, and some of their phones content were publicly published on social media platforms especially those belonging to female journalists, in order to pressure them and impede their work.
123. The Coalition recommends the Committee to call on the State of Palestine to provide information on the attacks against journalists by the security apparatuses, including torture and ill-treatment, prosecutions and summonses directed to them because of their journalistic work, and to provide information regarding blocking websites. We further recommend the Committee to urge the State to harmonize the 2018 Law by Decree on Cybercrimes in line with international human rights standards, to halt all summonses and prosecutions of journalists by the security apparatuses, and to effectively work to promote the right to freedom of opinion and expression and media freedoms.

15.4. Attacks on Peaceful Protests

124. From the legislative point of view, Articles 1,3, 4, 5, 9, and 11 of the executive regulations of the Law on Public Meetings No. 1 of 2000, which regulate peaceful assembly, violate the constitutional and legislative organization, and international human rights conventions to which the State of Palestine acceded that guarantee this right.
125. Law enforcement agencies have used different methods of force and violence to suppress some peaceful gatherings in the State of Palestine. Between 2014 and 2020, Al-Haq monitored 38 violations of the right to peaceful assembly. The forms of violence and abuse used to suppress peaceful gatherings included using weapons and tear gas, assaulting protesters with batons, detaining, and forcing them to sign written pledges not to participate in other peaceful gatherings, and summoning the organizers or participants. Furthermore, some young girls and women have also been attacked and harassed by security forces.⁷⁵ Journalists covering the gatherings have also been attacked, as some were detained, and had their belongings confiscated. In many cases, restrictions were imposed to prevent participants from reaching the location of the peaceful assembly, as security checkpoints were installed.
126. In the context of dispersing peaceful gatherings, the Palestinian security forces forcibly assaulted the peaceful gathering that took place in front of the Courts Complex in al-Balou area in al-Bireh city on 12 March 2016. The gathering was organized to protest the trial that took place that day in front of Ramallah Magistrate Court for Basil Al-Araj, who was killed by the Israeli occupying forces on 6 March 2017, and his companions. The security

⁷⁵ Al-Haq documented statements on the exposure of some girls and women to physical and verbal abuse and harassment during dispersing the peaceful assembly in the center of Ramallah demanding lifting sanctions imposed on the Gaza Strip.

forces hit protesters with batons, fired sound, sprayed pepper gas on some of them, and chased the participants to disperse the peaceful gathering. This attack resulted in the injury of 16 citizens of the male and female participants, as others were arrested, and some of the attorneys and journalists participating in covering the peaceful gathering were assaulted and had their equipment destroyed. The fact-finding committee, which was formed to follow up on this attack, recommended several recommendations, the most important of which is holding the security personnel in civilian uniform and some other officers and individuals accountable for their actions. The fact-finding committee also asked for the compensation of journalists and ensuring respect for their rights, as well as reviewing the executive regulations of the Public Meetings Law to comply with the provisions of the Public Meetings Law of 1998, and relevant international conventions.⁷⁶

127. Following the issuance of the President's Advisor for Governorate Affairs of an unconstitutional memo banning any peaceful protests during the holidays, which is in violation of the Palestinian Basic Law, the relevant national legislation, and the International Covenant on Civil and Political Rights, the Palestinian security forces, masked persons, and people in civilian clothes suppressed a peaceful gathering on al-Manara Square in Ramallah city on 13 June 2018. This peaceful gathering demanded the lifting of financial sanctions imposed by the State of Palestine on the Gaza Strip since April 2017. These forces used many means of violence including batons, electric sticks, tear gas and sound bombs, and arrested more than 56 protesters.
128. Regarding dispersing peaceful assemblies during the year of 2021, the security services attacked nine peaceful assemblies (eight of them were in Ramallah and one in Bethlehem) which broke out condemning the killing of Nizar Banat and requesting to hold the perpetrators accountable. These violations included firing sound and tear gas canisters, beating the protesters with batons, dragging them on the ground, sexual harassment, confiscating phones and violating the privacy of some of them by publishing their personal photos on social media platform, especially female protesters. Many Palestinians were injured with different injuries as a result of the physical assault they were subjected to.

The security services in their official uniform as well as in the civilian attire attacked journalists who were covering the peaceful assemblies by beating them, damaging their cameras and confiscating their phones. These attacks aimed at restricting the journalists' work and preventing them from covering such events. They have also attacked employees of national and international human rights organizations who took part in these protests to monitor and document the violations.

These attacks were followed by a wide arresting campaign against participants in these peaceful assemblies as they arrested around 70 people while heading to the assemblies or participating in them, including women, elderly people, activists, human rights defenders, doctors, lawyers, university lecturers and es-detainees. Most of them were beaten, dragged and were subjected to harsh arresting conditions. They were detained in cells that lack the

⁷⁶ A fact-finding Committee was formed upon the request of the President and in accordance with the decision of the Prime Minister and the Minister of Interior. It consists of the Deputy Minister, Director General of the Independent Commission for Human Rights, and the President of the Palestinian Bar. More information on the committee's decision is available here: https://cdn1.ichr.ps/cached_uploads/view/ichr-files/files/000000784.pdf.

minimum health and environmental standards, especially lacking the preventive measures to protect them from Covid-19.

129. The Coalition recommends the Committee to demand the State of Palestine to respect the right to peaceful assembly and its controls detailed in its national legislation and international conventions, and to amend the executive regulations of Public Meetings Law No. 1 of 2000 for its violation of international obligations. Furthermore, the Coalition recommends the Committee to call on the State of Palestine to provide detailed information on the measures taken to implement the recommendations of the fact-finding committee related to the incident of peaceful assembly in front of the court complex, and the measures taken to follow up on the incident and the rulings issued against those violators. We further recommend the Committee to urge the State to provide detailed information about the peaceful assembly demanding the lifting of financial sanctions on the Gaza Strip, the cases of violence, and abuse and assault that have occurred, as well as the measures that the State took to prosecute and hold those involved in those abuses accountable, and to ensure justice and redress to the victims.

16. Recommendations

130. The Coalition emphasizes the need to take into account the Palestinian unique context represented by the existence of the prolonged Israeli occupation on the Palestinian territory, and its impact on human rights of all Palestinians, and their rights to physical integrity and personal freedom, including their right not to be subjected to torture or ill-treatment. This can be achieved through a constructive dialogue between the Committee and the Palestinian delegation, and within the concluding observations of the Committee, as an outcome of the constructive dialogue.
131. The Coalition recommends the Committee to call on the Palestinian official delegation to provide clear answers and specific timeframes with regards to the holding of the presidential and legislative elections, especially that the constitutional mandate of the President and the Legislative Council has ended, as regulated by the Basic Law. This, in turn, will positively reflect on the unified Palestinian legislative system between the West Bank and the Gaza Strip.
132. The Coalition recommends the Committee to urge the State of Palestine to work without delay to enforce international human rights conventions to which the State acceded to without any reservations, including the Convention against Torture, to ensure the supremacy of international conventions over local legislation, to enforce them in the Palestinian legal system and to publish them in the Official Gazette.
133. The Coalition recommends the Committee to call on the State of Palestine to make the declaration provided in Article 22 of the Convention, and therefore, to recognize the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by the State of the provisions of the Convention.

134. The Coalition recommends the Committee to urge the State of Palestine to provide written information (a follow-up report) to amend the legislations that are currently in force to ensure their full compatibility with the Convention.
135. The Coalition recommends the Committee to call upon the State of Palestine to adopt the absolute prohibition of torture in its national legislation, to adopt a definition of torture that includes all the elements contained in Article 1 of the Convention, and to ensure that its legislations related to combating torture is aligned with the Convention. This include, for example, that the punishment of the perpetrator of the crime of torture is increased in proportion to the gravity of the acts committed, and that acts of torture are not subject to the provisions of general or private amnesty or statute of limitations. The State should further extend the scope of criminalization to include attempting, inciting, participating and complicity in the commission of acts of torture, ensure that the orders issued from higher ranks are not invoked to justify torture, and ensure the effective redress and rehabilitation of all victims of torture.
136. The Coalition recommends the Committee to call upon the State to Palestine to establish an independent complaints and investigations mechanisms, while ensuring that it meets the condition of institutional independence, that all complaints submitted are promptly investigated in a manner that fulfills integrity and independence, and that suspected perpetrators of torture and ill-treatment are suspended for their actions until the investigation is completed, and are then brought to trial.
137. The Coalition recommends the Committee to urge the State of Palestine to ensure that law enforcement officials accused of acts of torture and ill-treatment are tried in civil courts. The fact that the police is perceived as a civilian body must be revised, according to the Palestinian Supreme Constitutional Court's interpretative decision No. 2/2018 issued on 12 September 2018, which decided that the Palestinian police is a "regular security force of a military nature subject to the jurisdiction of the military judiciary".
138. The Coalition recommends the Committee to call upon the State of Palestine to ensure that detainees enjoy all the basic legal guarantees under the rule of law, and to abolish governors-ordered detentions, which is a form of administrative detention as well as the Jordanian Crime Prevention Law of 1954. It is further crucial for the State to improve the conditions of detention, including by improving the health facilities of detainees, enhancing the quality of food and health services and facilitation available to them, and applying alternative measures other than imprisonment. This should be done while ensuring the implementation of the Standard Minimum Rules for the Treatment of Prisoners, in line with international human rights standards.
139. The Coalition recommends the Committee to urge the State of Palestine to provide statistics, disaggregated by age, gender, type of crime and geographical location, about complaints related to torture, administrative detention and the bodies that committed them. The State should further provide information on the taken-mechanisms to follow up on complaints, as well as the measures taken, if any, for reparation and compensation, which were decided by courts for the victims and their families, including the amounts they decided and means of their rehabilitation.

140. The Coalition recommends the Committee to call upon the State of Palestine to improve its training programs Coalition for all officials, including law enforcement, security and intelligence personnel, prisons and medical personnel, to ensure that they are fully aware of the provisions of the Convention. All concerned individuals should also be trained on the methods of investigating and documenting cases of torture and ill-treatment. The State should further continue to evaluate the effectiveness of the accredited training programs.
141. The Coalition recommends the Committee to urge the State of Palestine to adopt some national legislations related to torture, particularly those related to combating human trafficking, and to protecting women and children from violence. These legislations should be consistent with the legal provisions contained in the Convention, especially after approving the domestic violence protection Act.
142. The Coalition recommends the Committee to call upon the State of Palestine to document all interrogation procedures, whether conducted by the Public Prosecution or officers with judicial powers, and to preserve the records in secured facilities. The State should further shall enable investigators, detainees, or lawyers from accessing such information when needed.
143. The Coalition recommends the Committee to request the state of Palestine to amend its law by decree on establishing the NPM in order to accommodate the NPM establishment standards according to the Protocol. Thus, ensuring the independence of this NPM and those working in it, setting out the measures of appointing its members in compliance with Paris Principles for National Commissions, ensuring the independence of its own budgets, publishing its annual reports and applying it on all those deprived of their freedom.