

**Joint Parallel Report to the United Nations Human Rights Committee on the State of  
Palestine's Initial Report**

**138<sup>th</sup> Session**

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## 1. Introduction

1. The Coalition of Palestinian Institutions (the ‘Coalition’)<sup>1</sup> respectfully presents this report to the 138<sup>th</sup> Session of the United Nations (UN) Human Rights Committee (‘the Committee’), providing an assessment of the initial report of the State of Palestine (SoP or ‘the State party’) on the International Covenant on Civil and Political Rights (ICCPR or ‘the Covenant’), which the SoP acceded to without reservation on 1 April 2014. Although the submission was due in 2015, the SoP’s report was submitted on 16 November 2020. Furthermore, and contrary to relevant international obligations, the SoP has not submitted the common core document.
2. This report examines the alignment between the official report and the Committee’s guidelines concerning the structure and substance of initial reports submitted by States parties to the ICCPR. Furthermore, this report evaluates the extent to which the SoP adheres to and implements these provisions within its legislative framework, procedural practices, and practical application. The preparation of this report is based on the comprehensive monitoring and documentation conducted by the institutions comprising the Coalition. It is important to note, however, that the information contained in this report may not fully depict the actual extent of rights violations protected under the Covenant by the State party.
3. We stress that the analysis presented in this report should not, and does not, in any manner absolve Israel, the occupying Power, of its legal obligations under the provisions of international law, particularly international human rights law, international humanitarian law, and international criminal law, as well as the 2004 Advisory of the International Court of Justice, and relevant resolutions of the UN General Assembly and Security Council. Likewise, this report does not exempt the SoP from its own responsibilities arising from its accession to the ICCPR.
4. The SoP has not acceded to the First Optional Protocol to the ICCPR, which grants individuals the right to lodge individual complaints with the Committee in cases where their rights under the ICCPR have been violated. However, the SoP has become a party to the Second Optional Protocol to the ICCPR, which aims at the abolition of the death penalty. Notably, the Second Optional Protocol has yet to be published in the Palestinian Official Gazette. Conversely, the SoP has published the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination in Issues 181 and 179 of the Palestinian Official Gazette on 27 July 2021 and 26 May 2021, respectively.

## 2. Historical background

5. The SoP has been under Israel’s protracted settler-colonisation, during which the Israeli occupying authorities have systematically violated norms of international law and deprived

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<sup>1</sup> The Coalition comprises a group of human rights organisations operating in the occupied Palestinian territory, working across various areas related to the rights enshrined in the ICCPR. These organisations perform a range of functions, including monitoring, documentation, and advocacy to safeguard human rights at the Palestinian, international, and UN levels.

the Palestinian people of exercising their right to self-determination, including the right of return for Palestinian refugees. Moreover, acts, such as arbitrary arrests, torture and ill-treatment of Palestinian prisoners and detainees, unlawful killings, forcible transfer, wanton destruction of property not justified by military necessity, and other acts that amount to international crimes, have been perpetrated.

6. Historic Palestine has been governed by various authorities, resulting in a complex legal landscape with a legacy of different legal systems. Certain legislative enactments remain in effect to this day. The SoP still enforces regulations that originated during the period of Ottoman rule. During the era leading up to 1948, the British Mandate implemented its own regulations. After the State of Israel was proclaimed on some 75 percent of historic Palestine following the 1948 *Nakba*,<sup>2</sup> the West Bank and Gaza Strip came under the rule of the Hashemite Kingdom of Jordan and Egyptian Administration, respectively. While Jordanian legislation was applicable to the West Bank, the legal system in force in the Gaza Strip continued to be effective until 1967. Then, Israel seized control of the rest of historic Palestine and imposed military orders over the West Bank and Gaza Strip, both constituting the occupied Palestinian territory (oPt).<sup>3</sup> Since its annexation in 1980, the eastern part of occupied Jerusalem has been governed by Israeli domestic law.<sup>4</sup> With the establishment of the Palestinian National Authority in 1994, consolidated legislation was promulgated in the West Bank and Gaza Strip. This was the case until the internal Palestinian political divide took place in mid-2007. Ever since, the Palestinian Legislative Council (PLC) has been inactive, and it was later dissolved by a decision of the Supreme Constitutional Court (SCC) on 12 December 2018.<sup>5</sup> While laws are passed by the Gaza-based PLC, regulations are enacted in the form of laws by decrees in the West Bank governorates. In addition to violating the Basic Law, this situation reflects an undemocratic system, which has been officially consecrated by the Law by Decree No. 5 of 2020 on the Palestinian President's Office in the West Bank and Law on the Committee for Follow-up on Government Functions in the Gaza Strip.
7. Despite the State party's accession to numerous international treaties, including core human rights conventions such as the ICCPR, the overall human rights situation within the SoP has experienced a concerning decline, particularly following its adherence to these international conventions. This deterioration is triggered by a set of factors, most notably, the ongoing internal Palestinian political divide and its consequences on the human rights system, dysfunctional PLC, the monopolisation of legislative and executive powers by the Executive branch of government, and lack of a peaceful transition of power through free

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<sup>2</sup> Gerry Liston, "The Historical Context of the Israeli Land and Planning Law Regime", *Al-Majdal*, No. 51, published by BADIL Resource Center for Palestinian Residency and Refugee Rights, available at: <https://www.badil.org/publications/al-majdal/issues/items/1511.html>.

<sup>3</sup> The Palestinian territory occupied since 1967, comprising the West Bank and the Gaza Strip, has been called the "State of Palestine" based on the UN General Assembly Resolution 67/19, adopted on 29 November 2012.

<sup>4</sup> Institute of Law at Birzeit University, "Legal Status in Palestine", available at: <http://lawcenter.birzeit.edu/lawcenter/en/homepage/legal-status-in-palestine>.

<sup>5</sup> Since the internal Palestinian political divide in 2007, regulations in the form of "laws by decrees" have been issued by the Palestinian President in the West Bank, whereas legislation in the Gaza Strip is enacted by the Gaza-based PLC. Regulations that are enforced in the West Bank do not apply in the Gaza Strip, and vice versa. Consequently, fragmented legislation has been implemented, leading to different legal frameworks for to Palestinians across the oPt.

and fair elections. The Executive branch's limited recognition of the value of collaborating with civil society in matters of law, policy, and decision-making processes has further hindered progress. Moreover, the dominance of the Executive over institutions within the justice sector has weakened the effectiveness of the judicial system. In addition, the absence of a culture of accountability, coupled with the lack of redress for victims of abuses, adds to the challenges faced. Furthermore, civil society organisations are subjected to ongoing harassment by ruling authorities in both the West Bank and the Gaza Strip.

8. **We strongly recommend the Committee to focus on underlying factors contributing to the decline in human rights situation throughout the oPt during its dialogue with the State party. It is crucial to highlight the significant increase in human rights violations following the SoP's accession to international conventions in 2014. Specifically, attention should be given to the connection between these abuses and the absence of a peaceful transition of power through free and fair elections. Moreover, the discussion should shed light on the Executive branch's monopolisation of legislative and law enforcement processes, despite the prolonged inaction of the PLC for 16 years. While the Hamas-affiliated parliamentary bloc continues to enact laws in the Gaza Strip, the Executive continues to introduce extraordinary legislation (laws by decrees) in the West Bank. As the judiciary has seen continued grave deterioration, over the past few years, plans and programmes have failed to reform the justice system, negatively impacting and sometimes involving discrimination against human rights guaranteed to all citizens under relevant international standards.**

### **3. Legal standing of the ICCPR within the Palestinian legal system**

9. In accordance with SCC Decisions No. 4/2017 and No. 5/2017, international human rights conventions, including the Covenant, take precedence over domestic legislation once published in the Official Gazette and incorporated into national laws. However, the SCC stipulates that the application of the provisions within these international conventions is contingent upon their compatibility with the "national, religious, and cultural identity of the Palestinian people". This qualification limits the overall primacy of international conventions, as they are associated with the prevailing Palestinian culture and customs. Notably, neither the ICCPR nor the Second Optional Protocol have been published in the Palestinian Official Gazette, and without relevant national legislation, they are effectively inapplicable in the Palestinian legal system.
10. **We recommend that the Committee urges the SoP to affirm precedence of the ICCPR and other human rights treaties over Palestinian legislation, through publishing them in the Palestinian Official Gazette, and taking necessary measures to fully integrate and implement these international instruments, including aligning national regulations with the provisions of the ICCPR, and to ensure that the SCC interpretation will not preclude the accountability of violators under the ICCPR. This is in tandem with relevant concluding observations made to the SoP by the Committee on the Elimination of Racial Discrimination (CERD), Committee on the Elimination of Discrimination against Women (CEDAW), Committee against Torture (CAT), and Committee on the Rights of the Child (CRC), which have not yet been implemented**

**by the SoP.<sup>6</sup> Furthermore, we recommend that the Committee urges the SoP to accede to the First Optional Protocol to the ICCPR.**

#### **4. Anti-corruption measures**

11. The implementation of interventions outlined in the National Cross-Cutting Strategy for Promoting Integrity and Fight against Corruption 2020-2022 has been limited, as the implementation of proposed interventions by public institutions has remained limited to reduce opportunities for corruption and enhance integrity. The implementation of national cross-cutting plans has continued to be stalled for regulatory and financial reasons, due to the government's lack of complementary and participatory working mechanisms. **Therefore, we recommend that the Committee urges the State party to adopt the national anti-corruption strategy as a cross-cutting strategy through the mechanisms used by the Council of Ministers, oversee its implementation, and involve all government bodies in carrying out the prescribed procedures and activities outlined in the government strategic plan. This ensures collective responsibility and effective anti-corruption efforts beyond the Palestinian Anti-Corruption Commission (PACC).**
12. According to the PACC, 86 percent of corruption cases remained unresolved by the end of 2022. In 2022, only a small percentage (three percent) of cases brought by the Public Prosecution before the Corruption Crimes Court involved senior officials, while the majority (97 percent) targeted junior personnel. This demonstrates failure to prosecute senior staff suspected of having committed crimes of corruption. Notably, numerous cases referred by the PACC to the Public Prosecution and Corruption Crimes Court between 2020 and 2022 have not seen any action taken.<sup>7</sup>
13. **We recommend the Committee to urge the SoP to take necessary measures to disseminate data and reports related to anti-corruption efforts. This includes the annual report of the Public Prosecution, which should provide information on the nature, types, and extent of corruption crimes addressed, as well as the positions held by the suspects and the entities investigated. Furthermore, as a preventive measure, we recommend expanding the scope of the Regulation on Conflicts of Interest Disclosure, Gift Acceptance, and Financial Disclosure to encompass political authorities, and establishing committees within ministries and public institutions to enforce it.**
14. The Regulation on the Protection of Whistle-blowers and Witnesses was approved on 28 November 2019, and subsequently, the Whistle-blowers and Witnesses Protection Unit

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<sup>6</sup> See, 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; CEDAW, "Concluding observations on the initial report of the State of Palestine", 25 July 2018, UN Doc CEDAW/C/PSE/CO/1, paragraph 13(c); 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); and CAT, "Concluding observations on the initial report of the State of Palestine", 23 August 2022, UN Doc CAT/C/PSE/CO/1, paragraph 9(a).

<sup>7</sup> AMAN, "The State of Integrity and Combating Corruption in Palestine 2022" (AMAN, 2023).

was established within the PACC.<sup>8</sup> However, due to insufficient protection mechanisms provided by the regulation, the Coalition for Accountability and Integrity (AMAN) receives corruption cases from anonymous whistle-blowers or individuals who prefer to remain unidentified.<sup>9</sup> **Accordingly, we recommend that the Committee urge the State party to vest the PACC with the discretionary power to grant protection to individuals who have reported suspicions of corruption in the appropriate manner and subsequently faced threats or retaliatory actions, even if they do not formally apply for protection through official procedures.**

### **Article 1: Self-determination**

15. Since the *Nakba* of 1948, the Palestinian people has endured settler colonisation, resulting in the deprivation of their right to exercise self-determination. Furthermore, Palestinians are denied control over their natural resources and right to economic development, thereby impacting their enjoyment of other rights outlined in international human rights conventions. With the establishment of the Palestinian Authority in 1994, in accordance with the Oslo Accords, and the creation of a nucleus for a Palestinian state under UN resolutions, coupled with political changes and the failure of the international community and the Security Council to enforce international law and end colonisation in Palestine, all of these factors have contributed to the perpetuation of the occupation and the denial of the Palestinian people's right to self-determination.
16. The Israeli occupying authorities continue to undermine the rights of the Palestinian people, particularly their right to self-determination, including by denying them the ability to exercise sovereignty over their land and by preventing elections in the city of Jerusalem. This has had an impact on their right to political participation through general elections in the West Bank, including the eastern part of occupied Jerusalem, and the Gaza Strip. The most recent Palestinian elections were held in 2005 (presidential elections) and 2006 (legislative elections), and the planned elections in 2021 were cancelled due to the Israeli occupying authorities not permitting them to take place in Jerusalem. **To safeguard this right and others deriving therefrom, we recommend that the Committee request the SoP to schedule general (presidential and legislative) elections, in line with the concluding observations made by the CEDAW and CRC.**

### **Articles 2 and 25: Non-discrimination**

17. In light of the absence of comprehensive legislation to address discrimination encompassing all the grounds outlined in the Covenant, and in view of the persisting discriminatory provisions that undermine the equal enjoyment of rights, notably

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<sup>8</sup> In 2022, the PACC received 33 protection requests. For further information, see PACC's annual reports, available in Arabic at: <https://www.pacc.ps/Library/FlipperIndex/>.

<sup>9</sup> According to the results of an opinion poll conducted by AMAN, the main factors contributing to the hesitancy and reluctance of the public to report cases of corruption include the belief that sufficient and adequate protection is not granted to whistle-blowers and witnesses (16 percent), fear of reprisal and retaliation (13 percent), the perception that reporting corruption is ineffective due to a lack of action against corrupt individuals (11 percent), and limited awareness of the meaning and forms of corruption (11 percent). See AMAN, "The Public Opinion Poll on Corruption and Anti-Corruption Efforts for 2022", November 2022, available at: <https://shorturl.at/bquU3>.

concerning women's rights as governed by, *inter alia*, the Personal Status Law of 1976 effective in the West Bank and Family Rights Law of 1954 in force in the Gaza Strip, and laws that discriminate against specific societal groups, including persons with disabilities, as outlined in paragraph 27 of the Torture Coalition's report submitted to CAT,<sup>10</sup> **we recommend that the Committee request the SoP to adopt legislative measures ensuring equality, that encompass all the grounds stipulated in the Covenant. These will be to the benefit of women, gender, and persons with disabilities. and to provide effective remedies to these groups, in line of the approach outlined in the concluding observations made to SoP by the CEDAW.<sup>11</sup> Moreover, we recommend that the Committee request the State party to take effective measures to ensure remedies, reparations, and compensation.**

18. The criterion of “security clearance” reflects a discriminatory approach prevalent in the Palestinian legislative system and enforcement system. This criterion refers to the approval of security agencies for certain appointments, licenses, and permits; serving as a substitute for a certificate of non-conviction. It is closely linked to the interference of security agencies with public civil life and rights of individuals, based on their opinions and political affiliations. Consequently, it undermines impartial governance and encourages political corruption. Since the SoP's accession to the ICCPR and until 1 February 2023, the Coalition institutions documented (36) complaints against the security clearance requirement, which include instances of refusal or revocation of appointments in public service and promotions to senior public or judicial positions. For example, several applicants who successfully completed the required written exams and personal interviews for judicial positions were excluded due to rejection by security agencies. Moreover, the application of the security clearance condition resulted in the denial of registration or renewal of licenses for certain associations. Licences to practice an occupation or trade were not issued to some persons, as others were deprived of obtaining scholarships owing to disapproval of their applications by security agencies. This condition directly contradicts the provisions of the Basic Law and international standards, which are firmly rooted in the principle of equality and the provision of equitable opportunities for holding public offices and positions. Furthermore, it undermines individuals' fundamental rights to freedom of opinion and expression, political participation and association, as well as their rights related to education, work, and other relevant areas. Notably, the current criteria used for granting or denying security clearance are based on the political affiliation and opinion of the respective applicants. Despite the Council of Ministers' decision, in its Session 133 of 24 April 2012, to abolish this discriminatory practice, it continues to persist widely in practical implementation.
19. **We recommend that the Committee urges the State party to repeal recently adopted legislation that requires security agencies approval for appointment or registration**

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<sup>10</sup> The Palestinian Coalition against Torture, “Submission to the Committee against Torture, regarding the initial report of the State of Palestine”, paragraph 27, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNHS%2FPSE%2F49006&Lang=ar](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNHS%2FPSE%2F49006&Lang=ar).

<sup>11</sup> CEDAW, “Concluding observations on the initial report of the State of Palestine”, 25 July 2018, UN Doc CEDAW/C/PSE/CO/1, paragraphs 11, 15, and 27.

procedures. This includes the Bylaw on Non-profit Companies of 2022,<sup>12</sup> Law by Decree No. 40 of 2020 Amending the Judicial Authority Law, and Law by Decree on Administrative Courts of 2020. The SoP should cease to use this condition in appointments, licences, and permissions insofar as it has been annulled under the aforementioned Council of Ministers' decision and the principle established by the Palestinian Administrative Court, most recently in Case No. 49/2022, dated 17 October 2022.

### **Article 3: Equality between men and women**

20. Article 9 of the Amended Basic Law (Constitution) prohibits all forms of discrimination, including those based on gender and disability. However, despite CEDAW's recommendation to "[a]dopt, without delay, national legislation that includes a comprehensive definition of discrimination against women", such a definition has not yet been established. Consequently, all forms of discrimination, including those based on gender or disability, are not considered criminal offenses. Furthermore, existing penal and family legislations continue to perpetuate discrimination against women, as they continue to be denied legal personality, and discrimination persists in the majority of cases covered by the existing legislations.
21. **We urge the Committee to request the State party to provide detailed information on the measures taken to implement the recommendation of the CEDAW regarding the incorporation of a comprehensive definition that criminalises all forms of discrimination against women, and to establish a timeline for the realisation of this recommendation.**

### **Article 4: State of emergency**

22. On 5 March 2020, the Palestinian President issued Presidential Decree No. 1 of 2020,<sup>13</sup> formally declaring a state of emergency to address the COVID-19 outbreak. Crucially, the state of emergency was extended for a period exceeding two years, in violation of the Basic Law. Most recently, Presidential Decree No. 15 of 2022 renewed the state of emergency for 30 days, expiring on 25 September 2022. These renewals violate Article 110(2) of the Basic Law, which requires a two-thirds majority vote of the PLC members for approval. Notably, the PLC was unconstitutionally dissolved in late 2018 by a decision of the SCC.
23. During the state of emergency, numerous restrictions were imposed on human rights and freedoms. These restrictions contradicted the primary objective of the state of emergency, which was to limit the exercise of rights protected by Articles 12 and 21 of the Covenant, as the SoP had informed the UN Secretary-General that the restrictions would primarily impact the rights to freedom of movement and peaceful assembly. However, constraints extended beyond these areas and encroached upon other rights, including property, education, and freedom of opinion and expression. Along this vein, the Coalition institutions documented violations committed by law enforcement agencies across the oPt,

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<sup>12</sup> Bylaw on Non-profit Companies No. 20 of 2022, Articles 13, 21, and 23.

<sup>13</sup> Decree No. 1 of 2020 Concerning the Declaration of the State of Emergency, Palestinian Official Gazette, Issue 165, 19 March 2020, p. 13.



affecting all individual rights and freedoms enshrined in the ICCPR. These abuses surpassed the extent necessary to achieve the objectives of the state of emergency. According to the Covenant, certain rights, such as the prohibition of inhuman or degrading treatment and inhuman treatment of persons deprived of their liberty, were excluded from the scope of restrictions during the state of emergency. Nevertheless, infringements of these rights reached their peak after the cancellation of general elections in April 2021, leading to subsequent mass arrests and use of force and abuse to disperse peaceful assemblies.<sup>14</sup>

24. **We recommend that the Committee request the SoP to provide detailed information on the state of emergency, including pertinent information on emergency budgets and regulations that were implemented, leading to the curtailment of rights and freedoms. Furthermore, the provided information should encompass the findings of inquiry and fact-finding commissions, including into the COVID-19 vaccine swap arrangement with Israel, and the extent to which these commissions brought about accountability and provided effective redress. Moreover, we urge the Committee to request that the State Party strictly adhere to Covenant requirements when declaring a state of emergency, both in terms of legal provisions and practical implementation.**

#### **Article 6: Right to life**

25. While the SoP acceded to the Second Optional Protocol to the ICCPR in 2018, existing legislation continues to prescribe the death penalty for a number of crimes. As documented by the Coalition institutions, (164) death sentences were issued between mid-2014 and 1 February 2023. Among these sentences, (162) were pronounced in the Gaza Strip, and two in the West Bank. Notably, a significant number of these sentences, (71), were issued after SoP's accession to the Second Optional Protocol to the ICCPR. The individuals who received death sentences were predominantly males ranging in age from 15 to 69 years, with one sentence pronounced against a 15-year-old boy.<sup>15</sup> **As such, we recommend prompt and expedited action to introduce necessary legislative amendments to penal laws, ensuring alignment with the ICCPR and Second Option Protocol. Specifically, all provisions relating to capital punishment should be repealed and alternative penalties should be put in place. It is crucial that capital punishment is not practiced in reality. Furthermore, the SoP should enhance due process of law and strengthen legal safeguards at all stages of judicial and criminal proceedings. In line with the CAT's concluding observations made to the SoP (paragraph 49), every possible measure should be taken to prevent military courts from exercising jurisdiction over civilians in the Gaza Strip.**
26. While the SoP's report does not provide any information regarding deaths in detention centres, the Coalition institutions have documented the death of (44) individuals within correction and rehabilitation centres and detention facilities under the jurisdiction of security agencies. These cases include (23) deaths in the Gaza Strip and (21) deaths in the

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<sup>14</sup> Al-Haq, "Al-Haq Condemns Continued Assaults by Security Agencies On Peaceful Assemblies And Arrest of Protestors", 5 July 2021, available in Arabic at: <https://www.alhaq.org/ar/advocacy/18597.html>.

<sup>15</sup> Figures and data provided by Al-Haq, PCHR, and Al Mezan.

West Bank.<sup>16</sup> All of the deceased individuals were males, including both civilians and military personnel, and had been arrested on criminal, security, or political grounds. It is worth noting that one of the deceased detainees had a physical disability. The reported causes of death varied and included heart attacks, cell fires, deteriorating health conditions, electric shocks, and suicides.

27. According to the Coalition institutions' documentation, between 2020 and 2022, a total of 29 persons were extrajudicially killed in the West Bank and Gaza Strip, both within and outside detention facilities. Among these cases, there were incidents of gender-related killings targeting women, occurring under different pretexts, including so-called honour killings.<sup>17</sup> **Therefore, we urge the Committee to request the State party to amend existing penal regulations in accordance with international standards and incorporate and implement recommendations put forward by the CEDAW to the SoP (paragraphs. 15 and 27).**
28. Along the same vein, according to the Coalition institutions' documentation, law enforcement agencies, in both regular and emergency situations, employed various forms of excessive force, particularly during the dispersal of peaceful assemblies, as well as in instances of arrest and detention. Examples include the use of firearms, stun grenades, tear gas canisters, pepper spray, and physical assaults with batons against citizens and journalists. The use of excessive force reached critical point when activist Nizar Banat was killed by Palestinian security personnel on 24 June 2021.<sup>18</sup>
29. **We further urge the Committee to request the SoP to provide information on the outcomes of investigation into complaints filed with the Public Prosecution regarding the use of force in both regular and emergency situations, and to provide information concerning deaths that have occurred within detention centres, including details on the investigative procedures undertaken, findings derived from these investigation, measures implemented for accountability, and actions taken to provide redress to the families of deceased detainees.**
30. In the context of ensuring the right to life, it is crucial to draw attention to the issue of abortion, which is regulated within specific boundaries in penal and public health legislation. **We recommend the Committee to request the State party to amend relevant regulations to ensure access to safe and legal abortions. To this avail, the SoP must ensure that women have effective access to medical facilities and that abortion procedures are only performed by the voluntary consent of women, in line with the Committee's concluding observations made to Jordan, which enforces the same law.**<sup>19</sup>

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<sup>16</sup> Figures and data provided by Al-Haq, PCHR, and Al Mezan.

<sup>17</sup> Figures and data provided by SHAMS.

<sup>18</sup> Al-Haq, "Joint Fact-Finding Report of Al-Haq and Independent Commission for Human Rights on the Killing of Political Activist Nizar Banat", 7 March 2022, available in Arabic at: <https://www.alhaq.org/ar/advocacy/19632.html>.

<sup>19</sup> Human Rights Committee, "Concluding observations on the fifth periodic report of Jordan", 4 December 2017, UN Doc CCPR/C/JOR/CO/5, paragraphs. 20 and 21. This follows in the footsteps of recommendations made by CEDAW to the State of Palestine, CEDAW, "Concluding observations on the initial report of the State of Palestine", 25 July 2018, UN Doc CEDAW/C/PSE/CO/1, paragraph 39.

## Article 7: Prohibition of torture

31. Between mid-2014 and 1 February 2023, the Coalition institutions have documented 624 affidavits from individuals, aged 15-55, claiming to have been subjected to torture and physical and psychological ill-treatment.<sup>20</sup> Notably, this figure represents only the cases that have been officially reported to the Coalition institutions in the West Bank and Gaza Strip, while others have refrained from filing complaints, due to fear of reprisals, or pressure exerted on them and their families by various parties.
32. Throughout Palestinian governorates, torture was mainly inflicted in detention facilities of the Preventive Security, General Intelligence, Police General Directorate for Investigations, and Military Intelligence agencies in the West Bank, and in detention centres of the Police Investigations Department, Internal Security, and Anti-Narcotics Department in the Gaza Strip. A joint Palestinian parallel report, prepared by Palestinian civil society organisations and submitted to CAT, provides a detailed information on the techniques and methods of torture employed in these facilities.<sup>21</sup>
33. As part of monitoring human rights violations, the State party's report inaccurately stated, in its paragraph 156, that Al-Haq had submitted only two complaints involving claims of torture and ill-treatment of detainees between 2014 and 2017. Data shows that, during the aforementioned period, Al-Haq lodged some 16 complaints to various security agencies on behalf of complainants. On 19 March 2015, Al-Haq sent Letter No. 28/2015 to the Ministry of Interior (MoI), containing 16 affidavits from detainees claiming to have subjected to torture and ill-treatment. Addressing another three torture cases, Al-Haq also produced and shared a documentary film with relevant ministries and security agencies. Nonetheless, no response has been received regarding these cases.<sup>22</sup>
34. As part of the Coalition institutions' monitoring of the trial proceedings of individuals who have been subjected to torture, it has been evident that the court, while listening to their testimonies, did not take any legal action to ensure justice, despite the presence of visible bruises on their bodies. Rather, the court merely documented their statements in the court session records. In specific cases only, tortured persons were referred to a specialised medical committee for examination. Nonetheless, there has been no indication of any follow-up by the judges on the results of those medical reports.
35. The enactment of the Law by Decree No. 25 of 2022 on Establishment of the National Preventive Mechanism against Torture is in contravention to the SoP's obligations arising from its accession to the Optional Protocol to the Convention against Torture and Guidelines on National Preventive Mechanisms (NPMs). The aforementioned Law by

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<sup>20</sup> Figures and data provided by Al-Haq, TRC, Al Mezan, and Addameer.

<sup>21</sup> The Palestinian Coalition against Torture, "Submission to the Committee against Torture, regarding the initial report of the State of Palestine", paragraphs 68-71, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNHS%2FPSE%2F49006&Lang=ar](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNHS%2FPSE%2F49006&Lang=ar).

<sup>22</sup> *Ibid*, paragraphs. 62, 63, and 65.

Decree undermines the independence of the Palestinian NPM in carrying out its functions and hampers its ability to achieve its objectives.

36. **We recommend that the Committee request the State party to review its criminal legislation to ensure compliance with the definition and penalties for torture under the ICCPR. Moreover, the SoP should provide updated and disaggregated information on complaints received regarding torture and ill-treatment, entities responsible for committing such acts, investigations conducted, convictions rendered, penalties imposed, compensations granted, and rehabilitation measures. Furthermore, the SoP should provide clarifications on the 24 cases that resulted in convictions, as referenced in paragraph 156 of the State party's report. Moreover, an independent mechanism should be established to receive complaints, investigate torture cases, and provide redress. A special system should be developed to protect whistle-blowers and witnesses in torture and ill-treatment allegations. We also recommend expediting the necessary legislative amendments to operationalise and activate the NPM.**

#### **Article 9: Liberty of person**

37. The causes of arbitrary detention of citizens in SoP varied, ranging from the state and its institutions violating legal rules and international standards regarding arrest and detention. Citizens were frequently summoned through phone calls or by warrants issued by security agencies, while others were detained under the authority, and by the orders, of the Joint Security Committee. Using detention as a punishment, security agencies held some individuals in pretrial detention, without conviction, and for an extended period. Meantime, the Public Prosecution and the judiciary failed to fulfil legal obligations as prescribed by penal laws. Notably, some women have been detained, without conviction, for seven years, and in some instances, for ten years, due to limited legal representation and concerns by the state authorities about their ability to provide protection if they were to be tried and released.<sup>23</sup> Triggered by the right to freedom of opinion and expression or political affiliation, arbitrary detention continues unabated, affecting university students and activists. These violations have escalated due to security agencies' non-compliance and failure to enforce court decisions ordering the release of detainees. According to Al-Haq, (88) court decisions related to personal freedom have not been executed between mid-2014 and 1 February 2023.<sup>24</sup>
38. Over the past years, security agencies in the West Bank have utilised governor-ordered administrative detention to by-pass court decisions on releasing detained citizens. The Coalition institutions have documented over 300 cases of detention carried out under governor-issued orders, since the SoP's accession to the Covenant until the end of 2022. In several instances, the imposed sentences lasted up to three months.<sup>25</sup> Notably, governor-ordered detention relies on the provisions of the 1954 Jordanian Law on the Prevention of Crimes, which directly contradicts the Basic Law, Penal Procedure Law, and relevant international conventions. In its Decision No. 18/2022, dated 25 January 2022, the SCC

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<sup>23</sup> Figures and data provided by the TRC.

<sup>24</sup> Figures and data provided by Al-Haq.

<sup>25</sup> Figures and data provided by Addameer.

declared these provisions unconstitutional.<sup>26</sup> However, we have not had the opportunity to assess the extent of compliance among the governors following the implementation of the recent SCC ruling.

39. Our documentation clearly shows violations of the accused individuals' rights to access justice, fair trial guarantees, and the right to a defence by the SoP, Palestinian agencies, and law enforcement entities. Oftentimes, security officers tasked with judicial duties, rather than the Public Prosecution, assume investigation responsibilities, disregarding the legally prescribed rules and procedures governing investigations and interrogations. Access to legal counsel is denied in some cases, while certain trials proceed in the absence of legal representation. In other documented instances, some detained persons are presented before the court with their hands shackled.
40. **We urge the Committee to request the SoP to implement immediate measures to cease the practice of summons service by security agencies, which is in violation of the provisions of the Penal Procedure Law that require warrants issued by the Public Prosecution as a guarantee for arrests and detentions. Safeguards for arrest and detention should be upheld, as pretrial detention should not be used as a punishment, and the right to early legal representation should be respected. The SoP should further empower the Attorney General to supervise security officers tasked with judicial duties and activate accountability mechanisms for law enforcement officers who commit violations in the course of their assigned functions. We further stress the cruciality of SoP's compliance with the concluding observations made by the CAT on fair trial guarantees (paragraph 21), arbitrary detention (paragraph 23), detention conditions (paragraph 37), and pretrial detention (paragraph 39). Furthermore, the SoP should abolish administrative detention orders issued by governors, the President, Minister of Interior, or Prime Minister and release all individuals detained under these orders for them to be presented before a court.**

#### **Article 10: Treatment of persons deprived of their liberty**

41. During visits to detention centres, including specific visits to detained individual and general inspection visits to detention centres in the West Bank and Gaza Strip, the Coalition institutions observed signs that individuals, including children, were detained in violation of international standards, and that the health and psychological conditions of detainees are not being taken into consideration. Documentation confirmed that adult detainees were held in solitary confinement or in other overcrowded cells under unsanitary conditions, thereby violating their right to humane treatment.
42. Documentation also indicates that female inmates, who work in vocational workshops within correction and rehabilitation centres, do not receive wages for their work, contrary to the provisions of the law. This leaves them in a state of constant need, especially since the majority of them are abandoned by their own families.<sup>27</sup>

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<sup>26</sup> SCC Judgement No. 18/2022.

<sup>27</sup> Figures and data provided by the TRC.

43. **We recommend that the Committee request the SoP to provide disaggregated information on the outcomes of visits to detention facilities, which were mentioned in paragraph 224 of its report, as well as the follow-up actions taken to ensure effective remedies and guarantees of non-recurrence. Moreover, SoP should clarify the extent to which detention centres comply with best practices recommended by the World Health Organisation and Office of UN High Commissioner for Human Rights (OHCHR), and provide updates on efforts to separate pretrial detainees from convicted individuals and children from adults in all places of detention, as recommended by CAT (paragraphs 37 and 39).**

#### **Article 11: Inability to fulfil a contractual obligation**

44. As confirmed in paragraph 243 of the State’s report, existing legislation permits the imprisonment of debtors solely based on their inability to fulfil contractual obligations. **Therefore, we recommend that the Committee request the SoP to abolish these legal provisions due to their explicit contradiction with the provisions of the Covenant.**

#### **Article 12: Right to liberty of movement and freedom to choose his residence**

45. The Coalition institutions have documented a set of violations of Palestinian citizens’ right to freedom of movement and residence. In many cases, travel bans were imposed on citizens, in contravention to the Basic Law and due process of law. On other occasions, the West Bank-based MoI obstructed the issuance of passports to citizens from the Gaza Strip.
46. According to documentation of the Coalition institutions, Palestinian security agencies set up barriers at the entrances of cities to prevent citizens from traveling to other cities to participate in peaceful gatherings. For example, in March 2023, barriers were placed at the entrances of cities to prevent teachers from reaching Ramallah for a peaceful assembly to protest the Palestinian government’s failure to fulfil its obligations towards teachers’ employment rights.
47. Often, restriction and denial of the right to travel run counter to the Basic Law, which prohibits travel bans, except after obtaining a judicial order. In the Gaza Strip, travel bans can be imposed on unmarried women based on a request from their male “guardian” if it is deemed that the travel will cause an “absolute harm,” according to Circular No. 1/2021 issued by the High Council of Family Courts on 14 February 2021.<sup>28</sup> This Circular also places additional discriminatory restrictions on women’s freedom of movement, including requiring permission from their “guardian” for travel and other restrictions related to custody and children’s travel.<sup>29</sup>

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<sup>28</sup> Rothna Begum, “Gaza Authorities Issue Travel Restrictions for Unmarried Women: Guardians Should Not Have Power to Bar Women from Travel”, 17 February 2021, published by Human Rights Watch, available at: <https://www.hrw.org/news/2021/02/17/gaza-authorities-issue-travel-restrictions-unmarried-women>.

<sup>29</sup> Under Article 2 of Circular No. 1/2021, a father is granted the right to travel with his children without the mother’s consent in the event that she loses custody due to marriage, subject to obtaining permission from the court. However, regardless of the circumstances, a woman is prohibited from traveling with her children without the father’s approval, demonstrating unjustifiable discrimination. The Circular disregards the rights of non-custodial women to provide consent for their children’s travel.

48. **We recommend that the Committee request the SoP to provide detained information on travel ban cases in violation of the Constitution and measures taken in this regard. Moreover, we urge the Committee to request the State party to outline the procedures implemented to ensure non-discrimination in passports acquisition by all Palestinian citizens, amend relevant regulations in tandem with the Basic Law and ICCPR, and cease the policy of setting up checkpoints to restrict travel, expression of opinions, and peaceful assemblies protected by the law and Covenant.**

#### **Article 14: Right to seek judicial remedy**

49. In the absence of the PLC and the dominance of the Executive authority, the Palestinian President has issued numerous laws by decrees, which undermine the judiciary's independence, and diminish guarantees of a fair trial. These laws are an extension of the legislation enacted during the years 2019 and 2020, and provided for the creation of a transitional High Judicial Council (HJC), in contrariety with the Basic Law and Judicial Authority Law. As a result, the institutional structure of judicial bodies has been eroded, providing much leeway to isolate and remove judges, and compromise their independence and role in upholding the rule of law.
50. One of the prominent interferences that undermine the independence of the judiciary is the establishment of the Palestinian President of the Supreme Courts, namely the Constitutional Court (2016) and the Administrative Court (2020), where he appoints and accepts the resignation of judges through a unilateral decision. This has resulted in structural changes to these courts, their jurisdictions, and amendments to the governing legislation. These interventions reached their peak in November 2020 when the Palestinian President promulgated Law by Decree No. 40 of 2020 on the Amendment of the Judicial Authority Law, Law by Decree No. 39 of 2020 on the Amendment of Law on the Formation of Regular Courts, and Law by Decree No. 41 of 2020 on Administrative Courts. Later, a presidential decree was enacted, providing for the establishment of a permanent HJC, with the President responsible for appointing its head. Shortly thereafter, another presidential decree was issued, establishing the High Council of Judicial Bodies, which is chaired by the President. All of these provisions explicitly violate the constitutional principles and provisions that guarantee the independence of judges in the performance of their judicial functions, particularly regarding their appointment, transfer, secondment, loan referral to investigation, and retirement on pension of judges. This legislative deviation from the established rules governing the judiciary occurred in non-transparent circumstances. Moreover, it contravenes international standards, principles, and covenant provisions that regulate the judicial process and uphold the rule of law,<sup>30</sup> as well as the recommendations issued by the Special Rapporteur on the independence of judges.

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<sup>30</sup> Al-Haq, "Al-Haq's Comments on the 2020 Laws by Decrees Amending the Judicial Authority Law, Administrative Courts, and Formation of Regular Courts", 10 February 2021, available in Arabic at: <https://www.alhaq.org/ar/advocacy/17892.html>; Al-Haq, "PNGO and PHROC Support Palestinian Bar Association's Steps In Rejection of the Law by Decree Amending the Judicial Authority Law", 25 January 2021, available at: <https://www.alhaq.org/ar/palestinian-human-rights-organizations-council/17840.html>; Al-Haq, "Position paper of the PHROC on the 2020 Laws by Decrees Relating to the Judiciary", 14 January 2021, available in Arabic at: <https://www.alhaq.org/ar/palestinian-human-rights-organizations-council/17768.html>; and Musawa,

51. The Executive Authority has tightened its grip on the Judicial Authority, undermining citizens' right of access to justice, through laws adopted in 2022 related to litigation and fair trial procedures. These laws violate the principles of the rule of law, separation of powers, and the independence of the judiciary, while at the same time compromising the normal course of prosecution. These regulations include the Law by Decree Amending the Law of Evidence in Civil and Commercial Cases, Law by Decree Amending the Law by Decree on the Formation of Regular Courts, Law by Decree on the State Cases, and Law by Decree Amending the Law by Decree on Administrative Courts. The HJC also amended some existing laws. For instance, Circular No. 20/755, dated 2 March 2023, amended the Penal Procedure Law and Civil and Commercial Procedure Law, obstructing the judiciary's role in guaranteeing fair trials and serving as a tool to expropriate rights.<sup>31</sup> Other amendments have increased court fees, effectively abolishing free litigation and jeopardising and undermining citizens' right to access justice.<sup>32</sup>
52. **We urge the Committee to request the SoP to repeal all laws by decrees that have impaired the Judicial Authority, as they violate the principles of the rule of law, the independence of the judiciary, and the independence of individual judges. These laws and decisions are not aligned with the international principles concerning the independence of the judiciary, the right to access justice, and the guarantees of a fair trial.**

#### **Articles 16 and 23: Legal personality and right to marry**

53. Ensuring the right of all to equality, the Basic Law recognises legal personality and right to exercise legal agency and standing, both of which are intrinsically linked to and fall within the realm of jurisdiction. Of note, however, many regulations and practices are in clear contravention of the provisions of the Basic Law and Covenant. Within this context, persons with disabilities are deprived of their legal agency. The *Mejelle* (Ottoman Courts Manual) and Palestinian Civil Law No. 4 of 2012 treat persons with intellectual disabilities as lacking legal capacity in legal transactions. Similarly, the Jordanian Personal Status Law and Law on Family Rights allow the marriage of individuals with intellectual disabilities if the judge deems it in their best interest. Furthermore, the instructions issued by the Palestine Monetary Authority regarding banking transactions for persons with disabilities, also express their legal capacity through guardians or custodians. The same applies to women's right to marriage, which requires approval of the guardian in accordance with the personal status laws in force, thereby undermining their legal personality and exhibiting blatant discrimination against them. **Therefore, we recommend that the Committee request information from the SoP on the measures taken to enable individuals with**

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“Position Paper Demanding the Abolishment of Decree-Law on Administrative Courts and its Amendment”, 10 March 2022, available at: <https://musawa.ps/post/position-paper-demanding-the-abolishment-of-decree-law-on-administrative-courts-and-its-amendment.html>.

<sup>31</sup> Musawa, *Rescinding instructions by the appointed High Judicial Council is duly important to maintain rights and foundations of the State of law*, <https://madanews.ps/41103/> (in Arabic).

<sup>32</sup> Musawa, “The High Judicial Council Oversteps and Abuses Its Power as It Amends a Law by Instructions, Circumvents the President’s Decision to Abolish a Decree-Law, and Violates the Principle of Separation of Powers”, 21 February 2023, available at: <https://musawa.ps/post/the-high-judicial-council-oversteps-and-abuses-its-power-as-it-amends-a-law-by-instructions-circumvents-the-president-s-decision-to-abolish-a-decree-law-and-violates-the-principle-of-separation-of-powers.html>.



**intellectual disabilities to express their will and to abolish guardianship and legal custody concerning their legal actions, as well as regarding women's rights in marriage.**

#### **Article 18: Right to freedom of thought, conscience and religion**

54. Practices perpetrated by public institutions in the State Party continue to be rooted in discrimination based on belief, resulting in the restriction of Palestinians' rights. One such example is the circular issued by the Gaza-based Directorate General of Oration and Guidance of the Ministry of *Waqf* and Religious Affairs in 2020,<sup>33</sup> as well as previous instances of annulment of marriage contracts due to apostasy in the West Bank, based on the affiliation of the spouses to the Ahmadiyya sect.<sup>34</sup> **Hence, we recommend that the Committee request the SoP to uphold the respect for freedom of thought, conscience, and religion, and the practice of religious rituals, and to rescind the aforementioned decisions.**

#### **Articles 17 and 19: Rights to privacy and freedom of opinion and expression**

55. Article 19 of the Palestinian Basic Law provides that “[f]reedom of opinion may not be prejudiced. Every person shall have the right to express his opinion”. Article 27(3) of the aforementioned Law further prescribes that “[c]ensorship of the media shall be prohibited. No warning, suspension, confiscation, cancellation or restriction shall be imposed upon the media except by law, and pursuant to a judicial ruling”. However, the Cybercrime Law by Decree No. 10 of 2018, as amended,<sup>35</sup> imposes restrictions on the exercise of freedom of expression and impinges on the rights to privacy and access to information. Overbroad provisions of this Law by Decree, particularly Article 45, lay the foundation for arbitrary detention and trial of citizens, including journalists. Pursuant to Article 39 of the Law by Decree, many news websites were banned and blocked. Loosely defined provisions of the Jordanian Penal Law of 1960 and British Mandate Penal Law of 1936 also serve as an additional means of crippling freedom of expression, using such terms as “libel and slander”, “defamation”, and “insulting a higher authority”. As confirmed in paragraph 344 of the SoP's report, “[t]he legal provisions relevant to such offences can constitute a challenge to freedom of opinion and expression due to errors committed when seeking to define the behaviour of an accused person using the terms set forth in the law”. Likewise, restrictions were further exacerbated by the regulations enacted during the state of emergency, particularly the Law by Decree No. 7 of 2020.

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<sup>33</sup> Al-Haq, “PHROC strongly Condemns the Circular Issued by the Gaza-Based Directorate General of Oration and Guidance of the Ministry of Waqf and Religious Affairs”, 21 December 2020, available in Arabic at: <https://www.alhaq.org/ar/palestinian-human-rights-organizations-council/17681.html>.

<sup>34</sup> Donia al-Watan, “A Precedent in the Palestinian Territory: Dissolution of a Marriage Contract of a Palestinian Couple on the Pretext of ‘Apostasy’”, 11 January 2011, available in Arabic at: <https://www.alwatanvoice.com/arabic/news/2011/01/11/165480.html>.

<sup>35</sup> Al-Haq, “Al-Haq's Comments on the Draft Law by Decree Amending the Law by Decree on Cybercrimes”, 25 January 2018, available at: <https://www.alhaq.org/advocacy/6282.html>.

56. In the same vein, Al-Haq, Addameer, and Al Mezan documented a total of 1,705 violations concerning the right to freedom of opinion and expression in the West Bank and Gaza Strip spanning from mid-2014 to 1 February 2023.<sup>36</sup>
57. As part of documenting violations against journalists, we note that the Palestinian Centre for Development and Media Freedoms (MADA) has documented a series of violations against journalists and media freedoms in the West Bank and Gaza Strip, since the SoP's accession to core human rights conventions. Both Palestinian and Israeli authorities have abused journalists while performing their work. Regarding the violations by Palestinian authorities, the numbers were as follows: 114 violations in 2014, 192 in 2015, 134 in 2016, 154 in 2017, 129 in 2018, 22 in 2019, 123 in 2020, and 55 in 2022. These violations varied between arrests, torture and ill-treatment, house raids and searches, physical assaults during media coverage, recurrent summoning by security agencies, prosecution, confiscation and destruction of media equipment, and restrictions on their use of social media platforms.<sup>37</sup> These infringements were mainly committed by the General Intelligence and Preventive Security agencies in the West Bank, and by Internal Security, Investigations and Police agencies in the Gaza Strip. Most recently, on 1 March 2023, non-uniformed security personnel raided the headquarters of the Wattan Media Network and prevented a convention of the Popular Palestinian Conference, obstructing the work of journalists, and denying them entry to the conference hall.<sup>38</sup>
58. The restrictions have also extended to curtail the freedom of judges and HJC administrative staff in expressing their opinions, further tightening the grip on their independence and conscience. This, in turn, constitutes interference and censorship over their judicial performance through circulars issued by the Transitional Chair of HJC,<sup>39</sup> prohibiting judges from participating in any societal or professional activities and depriving them of expressing their opinions or posting on their personal pages regarding public affairs and authorities under the threat of prosecution, as stated in Circular No. 20/94 (1 January 2023) and Circular No. 20/1758 (11 June 2020). In light of the practices committed by the HJC against judges, such as referring them to investigation and disciplinary action for publishing articles on social media,<sup>40</sup> and forcibly retiring them without a judicial decision to that effect, depriving them of their right to defence, or seconding judges to non-judicial positions without consultation or consent, even without any need or title for the appointed

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<sup>36</sup> Namely, 446 by Addameer, 1,139 by Al Mezan, and 100 by Al-Haq.

<sup>37</sup> For further information, *see*, MADA's annual reports, available in Arabic at: <https://rb.gy/6tj67>.

<sup>38</sup> Wattan Media Network, "A Statement By Wattan Media Network", 1 March 2023, available in Arabic at: <https://www.wattan.net/ar/news/396967.html>; Wattan Media Network, "PNGO: the Raid on Wattan's Headquarters is Another Violation of Public Freedoms and the Right to Peaceful Assembly", 1 March 2023, available in Arabic at: <https://www.wattan.net/ar/news/396961.html>; and Wattan Media Network, "Palestinian Civil Society Organisations Condemn the Security Services' Raid on the Headquarters of Wattan in Ramallah", 1 March 2023, available in Arabic at: <https://www.alwatanvoice.com/arabic/news/2023/03/01/1512732.html>.

<sup>39</sup> Al-Haq, "Al-Haq Expresses its Disappointment Over the Palestinian Presidency's Disregard to the Civil Society Demands on Judicial Reform and Publishes its Letter to the President in This Regard", 10 February 2021, available at: <https://www.alhaq.org/advocacy/17760.html>.

<sup>40</sup> Al-Haq, "Prosecuting Judges for Exercising their Right to Freedom of Expression is a Violation of the Law and International Standards", 5 November 2019, available at: <https://www.alhaq.org/advocacy/16161.html>.

position, turning it into a punitive measure driven by political considerations.<sup>41</sup> These administrative circulars have also impacted judges' rights to freedom of peaceful assembly and association. For instance, a warning was issued to the Judges' Club Association, which was followed by the dissolution of the Judges' Club, thereby depriving the judges of the ability to form their own union.<sup>42</sup>

59. Restrictions imposed on the right to freedom of opinion and expression has affected all civil servants. Subject to administrative accountability, public employees are deprived of their right to use social media platforms. This constraint has been placed by amending the Code of Conduct and Ethics of Public Service by a decision of the Council of Ministers.<sup>43</sup> As a consequence, several public employees have been summoned and questioned by superiors regarding their expressed opinions on social media platforms, and in some instances, investigative committees have been formed to inquire into these matters.
60. **We urge the Committee to recommend the SoP to promptly undertake a review of its legislation to ensure that no penalties are imposed on individuals who express critical views of the authorities, that no restrictions are placed on press activities and media outlets, and that regulations are in tandem with the ICCPR. This particularly involves the Cybercrime Law by Decree No. 10 of 2018 as pledged by the SoP in its submission to the then-Special Rapporteur on freedom of opinion and expression in September 2017. We further urge the Committee to recommend the SoP to lift the block on news websites, provide redress for victims of arbitrary detention, provide information regarding the investigations carried out into the restrictions and assaults on journalists in both regular and emergency situations, and take necessary measures to protect and enable journalists to carry out their media activity in full freedom and without constraints. Moreover, we urge the Committee to recommend the State party to rescind circulars and provisions that restrict judges' right to freedom of opinion and expression, and to review the measures taken in accordance with relevant Palestinian, regional, and international standards on judicial independence.**
61. The Law by Decree on Cybercrime has served to undermine the right to privacy. For example, Article 31 of this Law by Decree permits service providers to disclose subscribers' privacy based on overbroad criteria ("reveal the truth") at the request of the Public Prosecution, rather than of an independent judicial authority. This provision, along with others, have placed a heavy burden on the Coalition institutions in receiving and following up on complaints related to private life. Targeting journalists, political opponents, and human rights defenders, these restrictions include home inspections, seizure of belongings, and monitoring correspondence and calls. The magnitude of these abuses is confirmed by the indicators outlined in paragraph 311 of the SoP's report.

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<sup>41</sup> Instances include presidential decisions 33 and 26 of 2020 on the secondment of judges to perform legal functions in State institutions. Also, presidential decisions 88 (2019), 87 (2019), and 5 (2021) also provided for the retirement of judges on pension.

<sup>42</sup> Al-Haq, "PHROC and PNGO Demand that the Warning Served to the Judges' Club Association be Revoked and Right to Freedom of Association be Honoured", 20 December 2017, available in Arabic at: <https://www.alhaq.org/ar/palestinian-human-rights-organizations-council/2299.html>.

<sup>43</sup> Decision of the Council of Ministers No. 3 of 2021 on the Repealing of Article 22 of the Decision of the Council of Ministers No. 4 of 2020.

**Therefore, we recommend that the Committee request the SoP to clarify the mechanism used to address complaints related to privacy violations, particularly those committed by law enforcement officers, address effective remedies granted to victims, and ensure that the aforementioned Law by Decree is amended in line with the provisions of Article 17 of the ICCPR.**

#### **Article 21: Right of peaceful assembly**

62. Despite the guarantees provided by Article 26 of the Basic Law and Law on Public Meetings No. 12 of 1998, which ensure the right of peaceful assembly, the Decision of the Minister of Interior No. 1 of 2000 on the Bylaw of the Public Assemblies Act, which governs the regulations for peaceful assembly, contradicts the constitutional and legislative regulation, as well as the provisions of the Covenant, particularly Articles 1, 3, 4, 5, 9, and 11.
63. Law enforcement agencies and non-uniformed security personnel in the West Bank, as well as security forces in the Gaza Strip have utilised various methods of force and violence to suppress certain peaceful assemblies. Between mid-2014 and 1 February 2023, the Coalition institutions monitored 149 violations of the right of peaceful assembly in the West Bank and the Gaza Strip.<sup>44</sup> These violations occurred in both open and closed spaces, with a predominant political nature, and their intensity has increased, particularly in the West Bank following the cancellation of elections and demands for justice for the killing of Nizar Banat. Likewise, Hamas in the Gaza Strip has imposed restrictions on indoor gatherings, requiring prior permission from the Hamas-affiliated MoI.
64. Various forms of violence and mistreatment have been employed to suppress peaceful assemblies, including the use of excessive force, tear gas, and physical assault with batons, leaving many protestors with injuries. Some demonstrators were unlawfully detained and subjected to trial in contravention to the provisions of the Basic Law and existing legislations. Coercive measures were imposed, compelling them to sign written pledges, renouncing further participation in peaceful assemblies. Organisers and participants were also summoned for questioning. Some women and girls were assaulted and harassed by security personnel,<sup>45</sup> who seized and leaked the contents of their phones, violating their right to privacy. Journalists covering peaceful assemblies were also targeted, detained, and had their equipment confiscated. In many cases, restrictions were imposed to impede the access of participants to the venues of peaceful assemblies, often through the establishment of security checkpoints. Most recently, on 13 March 2023, barriers were placed to obstruct access to the peaceful assembly organised by the Teachers' Movement in front of the Council of Ministers in Ramallah, where they called for the implementation of the agreements concluded with the government to guarantee teachers' rights.<sup>46</sup>

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<sup>44</sup> Data and figures provided by Al-Haq, Al Mezan, and Addameer.

<sup>45</sup> Documented testimonies by Al-Haq on violations during the dispersal of the peaceful gathering in Ramallah, related to the lifting of sanctions on the Gaza Strip, the killing of Nizar Banat and the cancellation of legislative and presidential elections.

<sup>46</sup> Al-Haq, "Al-Haq Denounces Restrictions on Teachers' Rights to Freedom of Peaceful Assembly and of Opinion and Expression", 13 March 2023, available in Arabic at: <https://www.alhaq.org/ar/advocacy/21304.html>.

65. We urge the Committee to recommend the SoP to respect the right to peaceful assembly and its regulations as provided under national legislation and international conventions, including by amending the Bylaws of the Public Assemblies Act , as it runs counter to the SoP’s international obligations, and taking necessary measures to ensure that the restrictions imposed on the freedom of peaceful assembly fully align with the provisions of the Covenant, with a careful consideration not to subject this freedom to any political considerations. We further call upon the Committee to recommend the SoP to provide detailed information on the outcomes of investigations into violations of the right to peaceful assembly, measures taken to pursue and hold those involved accountable, and mechanisms for providing redress and rehabilitation for victims, including journalists. Moreover, we urge the Committee to request the State party to provide information regarding the recommendations of the fact-finding commission formed in response to the attacks on the peaceful assembly held on 12th March 2016 in protest against the trial of activist Basel al-Araj, who was killed by the Israeli occupying forces, and five others at the Ramallah Magistrate Court.<sup>47</sup> Notably, in addition to compensating journalists, the aforementioned commission recommended that non-uniformed security personnel and some officers be held accountable. Furthermore, we urge the Committee to request the SoP to clarify the procedures implemented by the Public Prosecution regarding the criminal petition filed by civil society organisations to the Attorney General, which included evidence of individuals in civilian clothing assaulting citizens during peaceful assemblies in the context of the killing of activist Nizar Banat.<sup>48</sup>

## **Article 22: Right to freedom of association**

66. In the oPt, the right to freedom of association is enshrined in Article 26(2) of the Basic Law, which emphasises the right of every citizen to engage in political participation and to form and establish unions, associations, societies, clubs and popular institutions. Legally, associations are governed by the Law No. 1 of 2000 on Charitable Societies and Civil Society Organisations, passed by the elected PLC, and its Bylaw No. 9 of 2003, issued by the Council of Ministers. Notably, some associations are registered as non-profit companies, and are subject to these regulations.
67. The Executive has consistently interfered with the right to freedom of association by obstructing their work, imposing restrictions on their registration, and exerting control over their financing sources. The Coalition institutions have monitored and documented some relevant abuses, including the requirement of obtaining prior licenses from various executive and security bodies before carrying out the activities and events of these institutions. Contrary to the provisions of Articles 25 and 26 of the Basic Law, the right to form independent trade unions is obstructed. Official authorities have continued to prevent the establishment of unions of teachers and lawyers appearing before family courts.

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<sup>47</sup> A fact-finding commission was established at the request of the President and by a decision of the Prime Minister and Minister of Interior. Members of the commission included the MoI Undersecretary, Director General of the ICHR, and Chair of the Palestinian Bar Association.

<sup>48</sup> Al-Haq, “Human Rights Organisations File a Criminal Petition to the General Attorney to Investigate Assaults on Participants in Peaceful Assemblies”, 1 July 2021, available in Arabic at: <https://www.alhaq.org/ar/advocacy/18585.html>.

Moreover, security forces raided the venues of institutional activities. For instance, in Gaza, security forces dispersed by force an event organised by the OHCHR on the occasion of the World Human Rights Day, ostensibly because a prior permit had not been obtained. Such acts contravene relevant constitutional and international standards,<sup>49</sup> and pose a threat to the sustainability of Palestinian civil work and violate the right to freedom of association and trade union activities.

68. The Bylaw on Non-Profit Companies No. 20 of 2022 continues to be applicable to institutions registered as non-profit companies, further shrinking the space available for institutions in the Palestinian public sphere. In the West Bank, official authorities require information and reports from organisations operating in the Gaza Strip. As a result, these organisations submit reports to the two Palestinian authorities, so that they can access funding and aid and sustain operations. Similar procedures are also implemented in the Gaza Strip, where the so-called Institutional Security Department requires registered civil society organisations in the West Bank to undergo a second registration process in Gaza, contrary to the provisions of the Law on Charitable Associations and Civil Society Organisations.
69. **We urge the Committee to recommend that the SoP undertake necessary measures to ensure that any restrictions imposed on the freedom of association fully comply with the provisions of the Covenant, and to align the Bylaw on Non-Profit Companies with the provisions of the Basic Law, and international conventions to which the SoP acceded, and all international standards and principles pertaining to the right to freedom of association. This alignment should also be in accordance with the regulations and procedures established to combat money laundering and terrorist financing. Notably, and with regards to these matters, Al-Haq has submitted its comments and sent letters to relevant authorities, but has not received a response.<sup>50</sup> Furthermore, we call upon the Committee to recommend the SoP to safeguard the right to form associations, including the right to establish and join unions, without any interference. This recommendation is made in light of observed infringements, such as the dissolution of the Public Sector Employee Union and Judges' Club, and the denial of teachers' right to form their own union.**

#### Article 24: Children's rights

70. In the context of violations against children and their rights, Al-Haq documented a written complaint submitted by the family of a child born in February 2018.<sup>51</sup> The MoI refused to register the child on civil records due to their non-recognition of the parents' ecclesiastical marriage contract. According to the MoI, the marriage contract was deemed an essential

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<sup>49</sup> In 2011, the Palestinian President made amendments to the Law on Charitable Associations and Civil Society Organisations by the Law by Decree No. 6 of 2011 without consulting relevant bodies, particularly civil society actors. Since early 2021, interference has escalated owing to the Law by Decree No. 7 of 2021 Amending the Law on Charitable Associations and Civil Society Organisations. Amendments were put on hold following objections by civil society.

<sup>50</sup> Al-Haq, "Al-Haq's Comments on the Bylaw on Non-profit Companies No. 20 of 2022", 9 January 2023, available at: <https://www.alhaq.org/advocacy/20864.html>.

<sup>51</sup> Al-Haq Affidavit 68/2019. Names withheld for privacy.

prerequisite for issuing a birth certificate and establishing parentage of the child. This discriminatory practice has resulted in the denial of the child's rights enshrined in the ICCPR, particularly receiving a birth certificate that entitles them to a legal personality. **Therefore, we urge the Committee to recommend the SoP to ensure respect for and realisation of children's rights, and provide a clarification elucidating the reasons behind the failure to issue a birth certificate for the aforementioned child.**

## **Article 25: Political participation**

71. Many members of the Coalition actively participated in the observation of local elections in 2021 and 2022. Based on the Council of Ministers' decision of 6 September 2021, local elections were held in two phases. The elections were held in the West Bank but were not conducted in the Gaza Strip.<sup>52</sup> Following the elections, security agencies launched a campaign of arrests, which targeted political opponents and featured large-scale abuses of citizens' rights in arrest and detention procedures, including arbitrary detention. The Coalition institutions monitored and documented these violations, and closely followed-up on these cases.
72. For over 15 years, Palestinians have been deprived of exercising their right to political participation in general (presidential and legislative) elections. Despite the initial hope sparked by Presidential Decree No. 3 of 2021, which called for the scheduling of elections, that hope quickly dissipated when the elections were postponed and eventually cancelled by another presidential decree. The Central Elections Commission affirmed its readiness to conduct the elections, and Palestinian political parties and civil society organisations emphasised the imperative of holding the elections, challenging Israel and organising the electoral process in Jerusalem through all available means. However, no signs of oncoming elections are looming on the horizon. General elections play a role in implementing the conventions to which the SoP acceded, reforming the Palestinian political system, and restoring national unity. In the absence of the PLC, the significance of these elections is further magnified. Moreover, legislation is being promulgated without the participation of civil society, with the Executive infringing on and dominating all State institutions. Human rights and freedoms have, therefore, been negatively impacted. With dwindling constitutional legitimacy of governing institutions, illegitimate *de facto* situation has been consolidated and transformed.
73. Notwithstanding the affirmation of Palestinians' right to establish and join political parties in Article 26 of the Basic Law, and the presence of the Jordanian Political Parties Law, enacted in 1955 and applicable in the West Bank, which governs the MoI's involvement in the registration procedures for political parties, the MoI declines to process numerous additional applications for the registration of political parties.
74. **Accordingly, we recommend that the Committee urge the SoP to promptly schedule general (presidential and legislative) elections, recognising the pivotal role of the PLC in implementing international conventions and provisions of the ICCPR, as local**

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<sup>52</sup> Al-Haq, "Al-Haq's Observation Report on Local Elections (First and Second Phases)", September 2022, available in Arabic at: <https://www.alhaq.org/ar/advocacy/20549.html>.

**elections in the Gaza Strip should also be scheduled. With a view to promoting political and partisan pluralism and strengthening the political system, the SoP should provide the reasons preventing the registration of new political parties, and ensure the establishment of a registration mechanism. Furthermore, it is crucial to halt the issuance of laws by decrees in the West Bank and regulations in the Gaza Strip, as this entrenches the internal Palestinian political division.**