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**AL-HAQ SUBMISSION TO THE COMMITTEE ON THE
RIGHTS OF THE CHILD ON THE FIRST PERIODIC REVIEW
OF THE STATE OF PALESTINE**

83rd Session

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Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank. Established in 1979 to protect and promote human rights and the rule of law in the Occupied Palestinian Territory. The organisation holds special consultative status with the United Nations Economic and Social Council since 2000.

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1. Introduction

1. Al-Haq hereby submits its parallel report to the 83rd session of the United Nations (UN) Committee on the Rights of the Child (hereinafter ‘CRC’ or the ‘Committee’) focusing on the list of issues in relation to the initial report submitted by the State of Palestine (hereinafter ‘State report’),¹ involving the measures the State of Palestine (hereinafter the ‘State’ or ‘the State party’) has adopted to respect, protect, and fulfil the rights enshrined in the Convention on the Rights of the Child (hereinafter ‘the Convention’), and the State’s progress made on the enjoyment of these rights in line with Article 44 of the Convention. Al-Haq’s parallel report outlines important issues highlighted by the Committee in its list of issues on the State of Palestine’s initial report and focuses on the State of Palestine’s replies to the list of issues. Throughout this parallel report, Al-Haq provides a number of recommendations in relation to the issues raised by the Committee and the responses provided by the State party. Al-Haq hopes that the observations and recommendations presented in this report will contribute to a constructive dialogue with the State party and will serve to advance the realization of the rights enshrined in the Convention.

2. Overview

2. The State of Palestine did not submit its report on time and has not submitted its common core document. There is a continuous rift in the political system, a continued deterioration of the judicial system, including the Palestinian Supreme Constitutional Court. The Palestinian Legislative Council (PLC) has also been stripped from legislative power since 2007. In addition, the Supreme Constitutional Court dissolved the PLC through an unconstitutional decision rendered on 12 December 2017.
3. There is a grave deterioration in the human rights situation in the occupied Palestinian territory (OPT), mainly due to the spreading violations committed by Palestinian actors, including the Palestinian Executive Authority and its apparatuses, and their interference with Palestinian legislation and public policy. This is coupled the lack of transparency, monopoly over, and lack of community participation in decision-making, in addition to absence of accountability and effective remedies available for victims of human rights violations. Moreover, there is a need for serious reforms within the Palestinian political system. In particular, it is imperative and urgent to have a presidential decree calling for general and simultaneous presidential and legislative elections in the OPT, including East Jerusalem and the Gaza Strip.
4. To this date, no presidential decree has yet been issued in this regard, despite the preparedness of the Palestinian Central Elections Commission, and the affirmation given

¹ CRC, Initial report submitted by the State of Palestine under article 44 of the Convention, due in 2016, 25 March 2019, UN Doc. CRC/C/PSE/1



by president Mahmoud Abba to carry out the elections, in addition to the consensus reached by both acting authorities in the West Bank the Gaza Strip on the urgency to hold the elections. Failure to hold presidential and legislative elections has a major adverse impact on the State party's ability to fulfil the rights enshrined in the Convention.

5. According to a decision by the Palestinian Supreme Constitutional Court, the Convention, and other international treaties to which the State of Palestine has acceded, are not yet in effect in the OPT. The Court's decision also affirms that publishing the Convention in the Palestinian Official Gazette is not sufficient for the Convention to come into force. The Court's decisions in this regard were met with strong opposition from civil society organisations across the OPT. Meanwhile, laws and public policies issued in the West Bank in relation to children's rights, are only applied in the West Bank, but not in the Gaza Strip, and vice versa. Moreover, there is an absence of a comprehensive, unified, and rights-based national strategy that is in line with the general national budget and development goals, and which ensures the participation of children, youth, and persons with disabilities, to guarantee the protection of their rights under the Convention.
6. The State has not put in place sufficient criteria to ensure the best interests of the child. There is also a lack of public awareness relevant to the rights of the child, including with respect to custody. The state has also failed to genuinely involve children in determining their best interests. The State must issue regulations aimed towards enforcing laws related to children's rights. The State must also adopt new laws relevant to personal status, legal sanctions, and the protection of women from violence, in line with international conventions and standards. Al-Haq notes that the 2019 Law by Decree on determining the marriable age violates the rights of women and children protected under various international treaties. Furthermore, there are serious challenges facing the juvenile justice system and alternative care institutions (Dar Al Amal institution) in the OPT, which must be immediately addressed. Human rights defenders, including children, continue to be arbitrarily arrested and continue to face human rights violations on a regular basis. Other violations include those relevant to the registration of children immediately after birth, as well as the exploitation of children. Palestinian refugee children continue to suffer the prolonged denial of their inalienable rights, in particular their right of return to their homes and property as part of the collective right of the Palestinian people to self-determination.

3. **Al-Haq's recommendations to the Committee's list of issues**

a. Publishing the Convention in the Palestinian Official Gazette

7. The Committee requested the State of Palestine to provide information on measures taken to publish the Convention in the Palestinian Official Gazette. The State responded that it is acting to publish the Convention in the Official Gazette, following ruling No. 5 of 2017, which clarifies the hierarchy of laws, and affirms the precedence of international treaties over domestic legislation. The latter mentioned ruling also identifies a mechanism for the



implementation of international treaties within the Palestinian legal system through the adoption of a dual system whereby international treaties could be integrated into domestic laws.

8. Al-Haq recalls its parallel report submitted to the UN Committee on the Elimination of Racial Discrimination (hereinafter ‘CERD’) on the combined initial and second periodic reports submitted by the State of Palestine to the Committee’s 99th session in August 2019, in which Al-Haq noted:

“The Convention, as well as further core human rights treaties to which the State of Palestine has acceded without reservations, has not entered into force in the [Occupied Palestinian Territory] OPT in what concerns the decisions of the Palestinian Supreme Constitutional Court. This was affirmed, on 12 March 2018, by the Supreme Constitutional Court in Decision No. 5 of 2017, when the Court was presented with a constitutional interpretation concerning Article 10 of the 2003 Amended Palestinian Basic Law and its amendments, stipulating that “[b]asic human rights and liberties shall be protected and respected” and that “[t]he Palestinian National Authority shall work without delay to become a party to regional and international declarations and covenants that protect human rights.” In its decision, the Court adopted the principle of dualism and ruled that “international treaties or conventions are not in themselves applicable in Palestine, but must gain strength by going through the formal stages required to pass specific domestic legislation to enforce them.” However, since the Convention has not been promulgated in domestic Palestinian legislation or published in the Official Gazette, it has not entered into force in the OPT.”²

9. Al-Haq also recalls its submission to the UN Committee on the Elimination of Discrimination Against Women (hereinafter ‘CEDAW’) on the first periodic review of the State of Palestine in June 2018, in which Al-Haq noted:

“On 19 November 2017, the Palestinian Supreme Constitutional Court (SCC) entered a decision on the Constitutional Appeal No. 4/2017, ruling by a majority vote for the “[p]recedence of international conventions over domestic legislation, ensuring consistency with the national, religious and cultural identity of the Arab Palestinian population”. This later phrase on “[e]nsuring consistency with the national, religious and cultural identity of the Arab People” can be interpreted as a general reservation, in violation of the Convention,

² Al-Haq, “Al-Haq Submission to the Committee on the Elimination of Racial Discrimination on the First Periodic Review of the State of Palestine,” 14 August 2019, para. 14, available at: <http://www.alhaq.org/advocacy/14840.html>.



the Basic Law, and the 2006 Law of the Supreme Constitutional Court, as it is not vested with this competence.”³

10. Al-Haq stresses that the State must comply with the concluding observations of CERD regarding the combined initial and second periodic reports of the State of Palestine, in particular with clause 9, which states that “...[T]he Committee is concerned... about the interpretation of the Supreme Constitutional Court, in its decisions No. 4 (2017) of 19 November 2017 and No. 5 (2018) of 12 March 2018, according to which international treaties acceded to by the State party take precedence over national legislation only insofar as they are consistent with the national, religious and cultural identity of the Palestinian Arab people, which may impede the enjoyment of the rights set forth in the Convention. The Committee is also concerned that the Convention has not yet been published in the Official Gazette to make it enforceable in the State party (arts. 1 and 2)”. In clause (10) of the same concluding observations, CERD recommends that the State party should:

- (a) “Fully 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;
 - (b) Ensure that the interpretation of the Supreme Constitutional Court, in its decisions No. 4 of 2017, of 19 November 2017 and No. 5 of 2018, of 12 March 2018 and their application, do not prevent persons or groups living in the territory of the State party, including Palestinian non-Arab people, from fully enjoying their rights under the Convention;”⁴
11. Al-Haq stresses that the State must comply with the concluding observations submitted by CEDAW regarding the initial report of the State of Palestine, where the Committee “[n]otes that, in accordance with the interpretation of the Supreme Constitutional Court, in its decision No. 4 (2017), of 19 November 2017, that international treaties acceded to by the State party take precedence over national legislation, the provisions of the Convention must be incorporated into national law. The Committee is concerned, however, that the Convention has not been published in the Official Gazette in order to make it applicable in the State party. It is also concerned about the interpretation of the Supreme Constitutional Court, in its above-mentioned decision, that international conventions take precedence over

³ Al-Haq, “Al-Haq Submission to the 70th Session of the Committee on the Elimination of Discrimination Against Women on the First Periodic Review the State of Palestine”, 7 July 2018, available at: <http://www.alhaq.org/advocacy/6173.html>

⁴ 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.



national law only insofar as they are consistent with the national, religious and cultural identity of the Palestinian people”. CEDAW also recommended that the State must:

- (a) “Fully incorporate the provisions of the Convention into its national law and ensure its implementation in the Gaza Strip and the West Bank, including in East Jerusalem;
- (b) Ensure that the interpretation of the Supreme Constitutional Court holding that treaties acceded to by the State party take precedence over national law only insofar as they are consistent with the national, religious and cultural identity of the Palestinian people, does not absolve the State party of its obligations under the Convention;
- (c) Take concrete steps to accede to the Optional Protocol and publish the Convention in the Official Gazette;
- (d) Train members of the judiciary, including judges of sharia courts, legal professionals and law enforcement officers, on the Convention, the Committee’s jurisprudence under the Optional Protocol and its general recommendations.”⁵

12. Al-Haq affirms that it is not within the jurisdiction of the Supreme Constitutional Court, to make reservations to international conventions, and that the "general" reservations made by the Court to the conventions, are incompatible with the purpose and content of the conventions. Al-Haq also notes that it is not within the jurisdiction of the Court to decide whether or not to adopt the dual system whereby international treaties are integrated into domestic laws.

13. Al-Haq affirms that the Supreme Constitutional Court violated article 10 of the Palestinian Basic Law (provisional Constitution), which stipulates that "[B]asic human rights and liberties shall be protected and respected". Accordingly, Al-Haq recommends the Committee to request the State to act, without delay, to set a clear timeframe for publishing the Convention, and other core international human rights treaties to which it acceded without reservations, in the Palestinian Official Gazette, and to ensure their enforcement and precedence over domestic legislation. The State should also be requested to conduct fundamental reforms in the judiciary and justice systems, and to hold simultaneous legislative and presidential elections without delay.⁶

⁵ CEDAW, Concluding observations on the initial report of the State of Palestine, 25 July 2018, UN Doc. CEDAW/C/PSE/CO/1.

⁶ Al-Haq, “Position Paper by Palestinian Civil Society Organizations and the Independent Commission for Human Rights on the Decision by the Supreme Constitutional Court to Dissolve the Palestinian Legislative Council and to



b. Ensuring the application of child-related laws in the Gaza Strip

14. The Committee requested the State of Palestine to provide information on the measures taken to ensure the application of child-related laws in the Gaza Strip. The State responded, among other things, that it is making efforts to end the internal political division and to achieve Palestinian reconciliation. The State also reaffirmed its commitment to work on forming a government of national unity in order to consolidate the Palestinian political system. The State party further noted that the Palestinian President had officially announced preparations for holding general elections, and that consultations are ongoing with a view to holding elections in the near future.
15. Al-Haq affirms that the Palestinian legislations issued by the Palestinian President since the beginning of the internal division in 2007 (i.e. Laws by Decree), including dissolving the PLC, are applied only in the West Bank and not in the Gaza Strip, including Palestinian legislations related to children. Similarly, legislations issued by the Parliament of Gaza are applied only in Gaza Strip, but are inapplicable in the West Bank. The same applies to public policies related to the implementation of the Convention referred to by the State of Palestine's report in response to the list of issues published by the Committee. The same also applies to the practical enforcement of the Convention in the Gaza Strip.
16. In December 2019, all Palestinian political parties in the West Bank and the Gaza Strip, including the Palestinian National Liberation Movement (Fatah) and the Islamic Resistance Movement (Hamas), have consented, in writing, on holding legislative and presidential elections within four months of the issuance of the presidential decree by president Mahmoud Abbas. The presidential decree calls for holding general elections, in accordance the Election Law by Decree of 2007. Despite the full preparedness of the Palestinian Central Elections Commission to hold the elections in the West Bank and the Gaza Strip, the presidential decree has not yet been issued.
17. In its concluding observations on the initial report of the State of Palestine, CEDAW reaffirmed the "[c]rucial role of the legislative power in ensuring the full implementation of the Convention... It invites the State party to take all appropriate measures to urgently convene the Palestinian Legislative Council and ensure that the Council, in line with its

Call for Legislative Elections," 27 December 2018, available at: <http://www.alhaq.org/advocacy/topics/palestinian-violations/1338--qq->. See also Al-Haq, "Position paper by Palestinian human rights organizations: 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: <http://www.alhaq.org/advocacy/14752.html>.



mandate, takes the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report”.⁷

18. Al-Haq urges the Committee to request the State of Palestine to act, without delay, on issuing the presidential decree calling for simultaneous legislative and presidential elections, in accordance with the Election Law by Decree of 2007. Al-Haq also urges the Committee to reaffirm the urgent need for the State to provide an environment where democratic and fair elections are guaranteed, to enable all citizens, especially youth, to exercise their right to vote, and to respect the results of the elections, while taking into account the crucial role of legislative power in implementing measures of good governance.

c. The resources necessary for the effective application of the Palestinian Child Law

19. The Committee requested the State to provide information on the measures taken to ensure the availability of the resources necessary for the effective application of the Palestinian Child Law, adopted in 2004 and amended in 2012. The State responded, among other things, that it had established the Department of Child Protection within the Ministry of Social Development, where specialized child protection counsellors were appointed. The State also affirmed that the Ministry of Social Development runs several child-related programs, including a cash assistance program and a marginalized categories program. In addition, the State affirmed the establishment a child protection network chaired by the Ministry of Social Development to provide protection for child victims of violence, ill-treatment, neglect and exploitation.
20. The State of Palestine indicated in its initial report submitted to the Committee the financial figures of the total budget of the Palestinian Government, including the budget allocated to social assistance as part of the budgets of the Ministry of Social Development and the Ministry of Health.
21. Al-Haq notes that since the beginning of the political division in 2007, the general budget of the State has been prepared and approved only by the Palestinian Executive Authority (the Government and President), in the absence of an active legislative power. Al-Haq also asserts that the Palestinian civil society is never granted involvement in the State’s budget cycle, including planning, approval, implementation and follow up. Al-Haq further notes that, as of the writing of this report, the Palestinian Executive Authority has not yet submitted the general budget of the State for fiscal year 2020, in contravention of Article 61 of the Palestinian Basic Law and article (3) of the Palestinian General Budget Regulation and Financial Affairs Law No. 7 of 1998 and its amendments, which stipulate

⁷ CEDAW, Concluding observations on the initial report of the State of Palestine, 25 July 2018, UN Doc. CEDAW/C/PSE/CO/1.



that a general budget draft should be submitted at least two months prior to the beginning of the upcoming fiscal year.

22. Al-Haq asserts that despite the repeated calls made by civil society organizations demanding the Executive Authority to involve the civil society in the drafting of the Palestinian general budget prior to its final approval, the Executive Authority continues to exclude the Palestinian civil society from taking part in the process.
23. Al-Haq urges the Committee to request the State of Palestine to adhere to the provisions of the Palestinian Basic Law, including the law regulating the public budget and the State's budget cycle. These include ensuring transparency, participation, and accountability in financial policies. The non-compliance with these provisions by the State explains the absence of a budget allocated specifically to child-related rights within the public budget presented in the State report.
24. Al-Haq affirms that the public plans and policies referred to in the State report and in the State's response to the list of issues are 'distinct' from the general state budget, which is in contravention with what is stipulated under the Convention and under General Comment No. No. 19 of 2016 issued by the Committee on public budgeting for the realization of children's rights.
25. Al-Haq urges the Committee to request the State to act, without delay, to fulfil the rights of the child enshrined in the Convention, in the planning, approval, implementation and follow up of the general budget, in accordance with the general principles of the Convention, and in accordance with General Comment No. 19 of 2016. This includes the involvement of children, and ensuring non-discrimination between the West Bank and Gaza Strip in the application of the Convention. The State should also demonstrate how the best interests of the child are taken into account in the decision-making process relevant to the public budget, and the criteria used to identify best interests of the child.
26. The State should demonstrate the progress made relevant to budget allocation, since acceding to the Convention on 1 April 2014. The State should present clear and consistent quantitative and qualitative goals and indicators, to demonstrate the progress made in the realization of children's economic, social and cultural rights, and must detail the measures taken to protect those rights to the maximum extent of the State's available resources, as stipulated under the Convention. These should include the progress made relevant to children with disabilities, as detailed under the Committee's General Comment No. 9 of 2006, street children as detailed under General Comment No. 21 of 2017, the children's justice system as recommended under General Comment No. 24 of 2019, as well as refugee children, and others living in vulnerable situations, with the primary consideration being the best interests of the child.

4. Legal Harmonization Committee

27. The Committee requested the State party to provide information on the activities of the legal harmonization committee regarding child rights. The State responded that it has amended and submitted recommendations regarding several child-related laws including the Draft Law on the Protection of the family from violence, the Palestinian Labour Code (Act No. 7 of 2000), the Law by Decree No. 10 of 2019 on cybercrimes, and the Draft Law by Decree on raising marriageable age.

a. The Draft Law on the Protection of the Family from Violence

28. Al-Haq notes that the Draft Law on the Protection of the Family from Violence (referred to as ‘the draft law’ in this sub-section) has been under discussion for over five years, and is yet to be finalised. To this date, several contradictory versions of the draft law have been circulated. These received objections from the head of the Sharia Judiciary Department on the basis of their supposed inconsistency with Sharia Law. Civil society organisations have received no confirmation that the latest version of the draft law is consistent with the CEDAW convention, and other international human rights treaties to which the State of Palestine has acceded without reservations, including the Convention. Moreover, no specific timeframe has been put in place for the completion and publishing of this draft law in the Official Gazette.

29. Al-Haq recalls the concluding observations issued on 25 July 2018 by CEDAW on the initial report of the State of Palestine.⁸ Notably, CEDAW expressed concerns as to the failure of the legal harmonization committee to set a timeframe for the review of Palestinian laws to ensure their consistency with the international treaties to which the State of Palestine has acceded.⁹ In particular, CEDAW was concerned that “[n]o time frame has been adopted for the review and adoption of draft laws such as the draft penal code, the draft personal status code and the draft family protection law.”¹⁰ In addition, CEDAW recommended that the State of Palestine “[e]xpeditely the review of draft laws to ensure their compliance with the Convention, including the draft penal code, the draft personal status code and the draft family protection law, and their adoption.”¹¹

30. Al-Haq recommends the Committee to request the State of Palestine to set, without delay, a timeframe for the completion of the draft penal code, the draft personal status code, and the draft family protection law. Al-Haq also recommends the Committee to request the State of Palestine to ratify the aforementioned laws, including by publishing them in the

⁸ CEDAW, Concluding observations on the initial report of the State of Palestine, 25 July 2018, UN Doc. CEDAW/C/PSE/CO/1.

⁹ *Ibid.* para. 14.

¹⁰ *Ibid.* para. 14(c).

¹¹ *Ibid.* para. 15.



Palestinian Official Gazette, in accordance with the international conventions to which the State has acceded without reservations.

b. Law by Decree on Cybercrimes

31. Al-Haq notes that the Palestinian Law by Decree on Cybercrimes No. 10 of 2018 is in direct contravention with the right to freedom of opinion and expression, the right to privacy, and the right to access to information. Those rights are protected under several international treaties, including the Convention, as well as the International Covenant on Civil and Political Rights (ICCPR), which the State of Palestine has acceded to without reservations, and its General Comment No. 34 of 2011.
32. On 17 October 2019, the Palestinian Authority (PA) blocked 59 electronic websites, including websites publishing news or opinions critical to the PA. The State had previously blocked nearly 30 websites of similar content in 2017. The websites continue to be blocked to this date, in violation of international human rights conventions and standards. The PA has also placed journalists on trial under the Palestinian Judiciary in accordance with the Law by Decree on Cybercrimes, on the basis of their work in journalism and publishing activities.
33. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye, sent a written communication to the PA on 16 August 2017, expressing deep concern that the Palestinian Law by Decree on Cybercrimes excessively uses vague terms that lack adequate and clear definitions, allowing the PA to criminalize the expression of opinions on the internet, and to impose severe sanctions on those who do not complying with its terms. In addition, and in the absence of a law on the right to access to information, the Law by Decree on Cybercrimes may result in high censorship and self-censorship practiced by media outlets and individuals, particularly those who criticize the Executive Authority. Mr. Kaye raised another concern regarding the multiple references to severe sanctions imposed by the Law by Decree, that are inconsistent and noncompliant with the requirement of proportionality established under article 19 of the ICCPR. Mr. Kaye called on the PA to “to take all steps necessary to review and revise the Law by Decree to ensure its compliance with the obligations of the State of Palestine under international human rights law”.¹²
34. Al-Haq published an updated position paper identifying the articles that need to be amended within the Law by Decree on Cybercrimes, to ensure its consistency with international human rights conventions and standards. Al-Haq also highlighted the legislative aspects and policies in practice, which must be tackled in order to protect and promote freedom of opinion and expression within the State of Palestine. Al-Haq

¹² Al-Haq, “Measures Taken by Al-Haq to counter the Law by Decree of Cybercrimes,” 1 March 2018, available at: <http://www.alhaq.org/publications/8055.html>.



recommends the Committee to demand the State to act, without delay, to consider Al-Haq's recommendations presented in its position paper on the Law by Decree on Cybercrimes and blocked websites.¹³

c. The Law by Decree on raising marriageable age in the State of Palestine

On 3 November 2019, Palestinian President, Mahmoud Abbas, issued a Law by Decree on the determination of marriageable age in the State of Palestine, in a manner that applies to all religious groups in the West Bank and the Gaza Strip. The Law by Decree consists of five legal provision. The most notable provision is stipulated under Article 2 of the Law by Decree, which states that “1. The eligibility of the marriage requires that both parties to the marriage contract are sane, and that each of them must be at least eighteen years of age. 2. As an exception to aforementioned provision, the competent court may, in cases where marriage is deemed to be in the interest of both parties, and with the approval of the head of the Sharia Judiciary, or the other religious authorities, authorize the marriage. Article 4 of the Law by Decree, stipulates that “[An]y provision that contradicts this Law by Decree shall cease to have effect”.

35. Despite the specification provided under Article 1 of the Law by Decree, which specifies eighteen years as the legal marriageable age, and which stipulates that it is applicable to all religious groups, Article 2 of the Law by Decree sets an exception. This exception is provided under vague and general terms, without any clear and measurable criteria as to what constitutes “the interest of both parties”. This ambiguity is also reflected in discretion given to the Sharia Chief Justice and/or to the religious groups and authorities across the OPT, in determining whether the marriage under the age of eighteen is within the “best interest of both parties”.
36. The exception, in this case, which includes giving discretion on determining marriageable age to religious groups in the West Bank and in the Gaza Strip, gives legal ground to the applicability of the Ottoman Civil Code, or “Majalla”, which was in effect under the Ottoman rule in the Palestinian territory, and which continues to be in force as part of the Personal Status Law until this day. Under Article 986 of the Majalla, the age of majority is nine years for girls, and at 12 years for boys. Accordingly, the exception provided under Article 2 of the Law by Decree allows marriage between minor girls and boys.
37. Moreover, this broad exception regarding the age of marriage is in contravention with the Palestinian Child Law No. 7 of 2004, and its amendments, which under Article 1 defines a child as “every human being who has not reached the age of eighteen years.”. Article 4 states: “[T]he following should be taken into consideration: 1. The best interests of the child should be taken into consideration in all actions taken in relation to the child, whether

¹³ Al-Haq, “Al-Haq’s Position Paper on the Law by Decree on Cybercrimes and Blocked Websites,” 1 November 2019, available at: <http://www.alhaq.org/advocacy/16110.html>.



undertaken by the legislature, courts, administrative authorities, public or private social welfare institutions. 2. The child's mental, psychological, physical and literary needs in accordance with his/her age, health and other relevant needs”.

38. Al-Haq recommends the Committee to request the State of Palestine to further the discussion on amending and ratifying the Personal Status Law, the Law on the Protection of the Family from Violence, and the Penal Code. The amendments should be in compliance with CEDAW’s concluding observations issued on 25 July 2018 on the initial report of the State of Palestine, as well as the State’s obligations under international conventions, including the Convention. It should also be mentioned that CEDAW has requested the State to submit a follow-up report within two years of its review of the initial report of the State submitted to CEDAW, to be reviewed by the CEDAW committee in 2020. However, no serious progress has yet been made in relation to the recommendations made to the State by CEDAW.

5. The National Policy Agenda and the National Child Protection Strategy

39. The Committee requested the State party to provide information on the draft strategic plan for the protection of children 2018–2022. The Committee also requested information on how children’s rights are guaranteed in the national policy agenda 2017–2022 and how the State party ensures the coordination among and implementation of the different national sectoral strategies regarding children’s rights. The State was also requested to clarify the roles and mandates of the National Council for Children and the Ministry of Social Development as the governmental entities responsible for the implementation of children’s rights. The State only responded by giving a general content of the agenda for the national policies and national strategy for the protection of children.
40. Al-Haq emphasizes that, although there are many programs and plans in relation to children's rights, there has been no “unified, comprehensive and rights-based national strategy to enforce the Convention on the Rights of the Child”. The formation of such strategy should be based on partnership, clarity, transparency, and active participation of children at all stages. The strategy should also be in harmony with the general budget to ensure the allocation of the necessary financial resources needed for the implementation, data collection and analysis, as well as developing measurable and applicable indicators at the national level. The strategy should also include quantitative and qualitative studies, detailed and classified statistics, problems indicators and means to resolve them, as well as on-going evaluations, as stipulated under the Convention.
41. Al-Haq recommends the Committee to request the State to work, without delay, to set a timeline for the completion of a strategy that prioritizes the fulfilment of the rights of the child in accordance with the Convention and the General comments issued by the Committee, including the general comment No. 5 of 2003 on general measures on the implementation of the Convention.

6. Arbitrary Detention of Human Rights Defenders and Children

42. The Committee requested the State of Palestine to provide information on cases of arbitrary arrest, detention and harassment of human rights defenders, including children, working on children's rights and the measures taken to protect them from such abuses.
43. The State party replied, among other things, that the Palestinian police has had no recorded cases of arbitrary arrests against either children or adults. All arrest procedures require the issuance of a judicial warrant, either by the courts or the Office of the Public Prosecutor, after a crime has been committed that is punishable under national law. It also stated that according to the records of the Office of the Public Prosecutor for the State of Palestine, including those of the Office of the Public Prosecutor for Children, there have been no cases of arrests of human rights defenders, adults or children, over the past three years. The State also mentioned that "As regards arbitrary arrests of children, the Prosecutor General recorded four cases in which children were arrested at the behest of governors during 2017. They were followed up with an intervention by the Office of the Public Prosecutor for Children to put an end to the detention".¹⁴ The State of Palestine's responses. However, did not explain whether the process of solving these cases included measures of accountability, equity and justice for the child victims.
44. In this regard, Al-Haq reverberates the written communication sent by the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Palestinian government regarding the law by decree on Cybercrimes and violations of freedom of opinion and expression in Palestine, dated 16 August 2017. In the written communication, Special Rapporteur, Mr. David Kaye concludes that he expresses: "[c]oncern at the reported arrests for "insulting the president" and other political statements made on social media, the lifting of parliamentary immunity of PLC members, and an alleged order by the Prosecutor General to confiscate a new book from the local market under the charge of "offending general values". Mr. Kaye also voiced concern that the "[n]ew law will enable these and similar actions to grow in number. In view of the aforementioned comments Mr. Kaye called on the State to take all "[s]teps necessary to review and revise the law to ensure its compliance with the obligations of the State of Palestine under international human rights law".¹⁵
45. Between 2014 and 2019, Al-Haq has documented tens of violations against women and men human rights defenders, including children, ranging from arbitrary detention, torture, ill-treatment and repeated summons over the phone or through warrants issued by the security apparatuses, without the presentation of judicial warrants, contrary to the

¹⁴ CRC, Replies of the State of Palestine to the List of issues in relation to its initial report, 25 November 2019, UN Doc. CRC/C/PSE/RQ/1.

¹⁵ Al-Haq, "Measures Taken by Al-Haq to Counter the Law by Decree on Cybercrimes," 1 March 2018, available at: <http://www.alhaq.org/publications/8055.html>.



provisions of the amended Palestinian Basic Law; which explicitly states in its article 11 that “1. Personal freedom is a natural right, shall be guaranteed and may not be violated, and 2. It is unlawful to arrest, search, imprison, restrict the freedom, or prevent the movement, of any person, except by a judicial order in accordance with the provisions of the law”.

46. Al-Haq affirms that the arrests carried out by the various Palestinian security apparatuses in the West Bank and the Gaza Strip, with the absence of judicial warrants, are in direct contravention with the provisions of the Palestinian Basic Law, the ICCPR, the Convention other international treaties and conventions that the State of Palestine has acceded to. Additionally, denying detainees contact with their lawyers prior to being brought before Public Prosecution, is a common practice, which constitutes serious violation of the rights enshrined in the Basic Law and international conventions.
47. Al-Haq has documented tens of cases of harassments and arbitrary arrests of human rights defenders in the West Bank and Gaza Strip; among them, the harassment of a human rights defender and forcing him into an early retirement from his job within the public sector. This human rights defender has been repeatedly summoned by the security apparatuses and has been arbitrarily detained in accordance with the Law by Decree on Cybercrimes. His home was further searched by security apparatuses, and his personal belongings, including his personal computer were confiscated, in violation of his constitutional rights and the rights guaranteed under international conventions.¹⁶
48. Similar cases were also documented in the Gaza Strip, including the summoning of a human rights defender by the security apparatuses in Gaza, for criticizing the acting authority in the Gaza Strip, and voicing criticism over the inhuman living situation therein. This human rights defender was coerced into logging in to his Facebook account, and was forced to sign a pledge not to participate in any peaceful assemblies criticizing the performance of the acting authority in Gaza. This amounts to arbitrary detention, and is a serious violation of the right to freedom of expression and opinion, as well as the right to privacy, guaranteed under the Basic Law and international conventions.¹⁷
49. In 2019, Al-Haq documented 49 cases of arbitrary arrests carried out by the Palestinian security apparatuses in the West Bank and the Gaza Strip, which included children between the ages of nine and 17 years. These arrests are in violation of the provisions of the Palestinian Child Law No. 7 of 2004 and its amendments, and the Juvenile Protection Law No. 4 of 2016, regarding the age of criminal responsibility (set at 12 years). These arbitrary arrests are also in violation of the rights and guaranteed under Palestinian domestic laws,

¹⁶ Al-Haq Affidavit No. S135/2019.

¹⁷ Al-Haq Affidavit No. S55/2019.



as well as those protected under the Convention and under other international conventions to which the State acceded without reservations. While the aforementioned refer to the cases documented by Al-Haq, they do not necessarily paint a full picture of the all the cases on the ground.

50. Most of the arbitrary arrests cases against children documented by Al-Haq in the West Bank and the Gaza Strip were carried out without judicial warrants. In all cases, children were detained in regular adult prisons, rather than in juvenile detention centres. In some cases, children were arrested under governor-ordered detentions, which is a form of administrative detention that amounts to arbitrary detentions, and were not presented to the Prosecution of the Juvenile Justice System. The grounds of these arrests ranged from criminal charges, to posts on social media, participations in peaceful demonstrations, among others, which constitute blatant violations of the Convention and other international conventions to which the State of Palestine acceded without reservations.
51. Al-Haq refrains from disclosing children's names in this report, in accordance with the rules of confidentiality stipulated under the Convention and its General comments. Al-Haq affirms that it has data and statistics concerning cases of torture and ill-treatment of children within detention centres from the date the State has acceded to the Convention in 2014, until the end of 2019. Al-Haq affirms its readiness to provide the Committee with information on such cases, if requested by the Committee, and in accordance with the principles and procedures specified by the Committee in this regard.
52. Al-Haq recommends the Committee to act, without delay, to prohibit, criminalize and hold the Palestinian security apparatuses accountable for any detentions conducted without a judicial warrant. The Committee must also insist that the detainees should have a lawyer present at the preliminary arrest stages, where human rights violations are frequently committed by members of the security apparatuses. Al-Haq also recommends the Committee to demand the prohibition and criminalization of governor-ordered arrests, and to hold accountable all of those involved in conducting governor-ordered arrests, noting that such attests are in direct violation of the Palestinian Basic Law, which prohibits the arrest, imprisonment, or restriction of any human being's freedom in any manner except by a judicial order. Al-Haq stresses that this systematic pattern of violations requires enforcing accountability measures and ensuring effective justice remedies for the victims.
53. Al-Haq recommends that the Committee demand the State of Palestine to act, without delay, to establish an independent organization to monitor the application of the Convention and to ensure its effectiveness in relation to the promotion and protection of children's rights, as outlined in the Convention's general recommendation No. 2 of 2002, in a manner that ensures having an effective complaints and investigation mechanisms relevant to child-related rights, where perpetrators are held accountable. Such organization should strive to achieve means of effective remedy for child victims, while ensuring non-repetitio. It should also publish regular reports and recommendations relevant to public



legislation and policies in accordance with the general provisions provided under the Convention and its General Commend No. 5 of 2003.

7. Custody and the best interests of the child

54. The Committee requested the State of Palestine, among other things, to provide information on ensuring that the best interests of the child are taken as a primary consideration in all matters affecting them, in particular, child custody. The State party responded affirming that primary consideration is given to the best interests of the child in all matters affecting them, particularly that of custody.
55. The full application of the concept of the child's best interests requires the development of a rights-based approach, while engaging all related actors to secure the holistic physical, psychological, moral and spiritual integrity of the child, and promote his or her human dignity.
56. The child's best interests is a threefold concept: (a) A substantive right: The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered, in reaching a decision on the issue at stake, (b) A fundamental, interpretative legal principle: choosing the interpretation which most effectively serves the child's best interest, if a legal provision is open to more than one interpretation, and (c) A rule of procedure: assessing the rights and guarantees of the child, and explicitly taking them into consideration whenever a decision affecting a child or children is to be made.¹⁸
57. Law by Decree No. 4 of 2016 regarding juvenile protection states, in its Article 2, that: "[T]he court assesses the best interest of the child based on the report of the Childhood Protection Advisor and the evidence it considers, provided that this is in respect for the protected rights of the child, means for reforming the child, and the speed of his/her integration into society," however, the text does not include clear foundations and criteria, which are used to determine the best interest of the child, roles, responsibilities, and partnerships in this regard, and the child's role in assessing his/her best interests, which affects implementation.
58. Regarding the issue of child custody, and, according to the Personal Status Law in force in the West Bank and the Family Rights Law in force in the Gaza Strip, the age of a child (boy or girl) determines custody. This also means that the personal status laws in force in the State have a different definition for the concept of the best interest of the child than that of the Law by Decree on the protection of juveniles, concerning the issue of custody.

¹⁸ CRC, General recommendation No. 14 on Article 3 and the right of the child to have his or her best interests taken as a primary consideration, adopted by the Committee at its sixty-second session in 2013, contained in UN Doc. CRC/C/GC/14.



However, in practice, the best interests of the child are determined by the age of the child (boy or girl), in accordance with the provisions of the personal status laws in affect.

59. Al-Haq recommends the Committee to demand the State of Palestine to establish clear principles and criteria for assessing the best interests of the child in all procedures and decisions related to the child, including in the issue of child custody. The best interest of the child should not be linked to the age of the child only, but should be evaluated on a case by case basis, and in light of the circumstances and conditions related to each case. Such evaluation should also include the personal characteristics of the child in terms of age, sex, maturity, experience, disability, social and cultural living situation, as well as the relationship between the child and his/her family, or with alternative care providers, and the level of safety of the surrounding environment, among other circumstances.
60. All elements should be taken into account when assessing the best interests of the child. These include the views and identity of the child, maintaining the family environment and relationships, child care, protection and safety, the state of vulnerability (taking into account child victims of violence and abuse, vulnerable children and street children.) and his/her right to health and education, in accordance with the Convention's General recommendation No. 14 of 2013, on the right of the child to have his or her best interest taken as a primary consideration.

8. Domestic and Societal Violence against Children

61. The Committee requested the State of Palestine to provide information on measures taken to prevent violence, including domestic violence and corporal punishment, at homes and schools. The State responded by listing activities implemented by the Palestinian Police to prevent violence in homes and schools. The State also referred to the mechanism of receiving complaints cases of child abuse and the referral thereof to the competent prosecutor is the basis for legal action before any measures are taken by the police to prevent violence against children. The State also referred to the programs developed by the Ministry of Health and the Ministry of Education, including awareness raising programs, to protect children from violence, ill-treatment and neglect.
62. Al-Haq notes that there are a number of factors contributing to the rising number of cases of domestic and societal violence. These include Israel's prolonged occupation of the OPT, and the apartheid regime imposed by the Israeli authorities in the occupied territory, as detailed in the 2017 report of the UN Economic and Social Commission for Western Asia (ESCWA).¹⁹ The daily violations committed by the Israeli occupation against the protected Palestinian people include extrajudicial killings, persecution, discrimination, racial segregation and apartheid, the fragmentation and annexation of Palestinian cities, villages,

¹⁹ ESCWA, Israeli Practices towards the Palestinian People and the Question of Apartheid Palestine and the Israeli Occupation, Issue No. 1, 2017, UN Doc. E/ESCWA/ECRI/2017/1.



and towns, in addition to house demolitions, confiscation of property, the denial of family unifications, the exploitation of natural resources, and regular harassment by the Israeli Occupying Forces (IOF) at Israeli checkpoints within and around the OPT. Other politically-induced, contributing factors to the rising rates of domestic and societal violence include the 12-year long blockade imposed on the Gaza Strip, the rising rates of poverty and unemployment, especially among the youth, the continued denial of the right of return, the right to self-determination and to permanent sovereignty over natural wealth and resources.

63. In its second chapter on public rights and freedoms, the Palestinian Basic Law states, in Article 29, that: “[M]aternal and childhood welfare are national duties. Children shall have the right to:

1. Comprehensive protection and welfare.
2. Not to be exploited for any purpose whatsoever, and not to be permitted to perform work that might damage their safety, health or education.
3. Protection from harmful and cruel treatment.
4. Not to be subjected to beating or cruel treatment by their relatives.
5. To be segregated – in cases where they are sentenced to a penalty that deprives them of their freedom – from adults, and be treated in a manner that is appropriate to their age and aims at their rehabilitation.

64. Article 32 of the Basic Law affirms that “[A]ny violation of any personal freedom, of the sanctity of the private life of human beings, or of any of the rights or liberties that have been guaranteed by law or by this Basic Law shall be considered a crime. Criminal and civil cases resulting from such violations may not be subject to any statute of limitations. The National Authority shall guarantee a fair remedy to those who suffer from such damage.”

65. The constitutional text contained in the Palestinian Basic Law emphasizes the need to provide comprehensive welfare and protection for children, protects them from cruel and inhuman treatment, and prohibits their exploitation, or the infliction of any harm to their health or safety. It also affirms that any attack on public rights and freedoms guaranteed by the Basic Law, including by the aforementioned constitutional Article on the rights of children, constitutes a constitutional crime, and is subject to prosecution. The Basic Law also affirms that victims of violence by the PA are entitled to fair and equitable compensation.

66. Although the Palestinian Basic Law prohibits and criminalizes all forms of violence against children, Penal Code No. 16 of 1960 in force in the West Bank considers that corporal



punishment of children by their parents as ‘permitted by public custom’ is permitted by law. Article 62 of the Penal Code states that: “[T]he act authorized by law is not considered a crime. (1) that the law permits (2) a. Disciplinary measures inflicted on children by their parents as permitted by public custom...”.

67. The vague use of the term “public custom” may allow parents to beat their children, rendering is unconstitutional and in violation of the Palestinian Basic Law and the Convention. Al-Haq recommends the Committee to call on the State of Palestine to act, without delay, to repeal the aforementioned text, and to adopt a new penal law in full compliance with international human rights conventions, including the Convention, and international human rights standards and best practices.

9. Violence against children by the Israeli occupation

68. The Committee requested the State of Palestine, among other things, to provide information on measures taken to prevent violence and attacks resulting from the Israeli occupation and the ongoing Israeli-Palestinian conflict. The State responded by referring to general statistics from United Nations reports on the attacks by Israel, the occupying power, against Palestinian children, in addition to the health care provided to them by the Palestinian Ministry of Health, besides the State’s role in raising awareness.
69. The Palestinian people, living on both sides of the Green Line and as refugees and exiles abroad, continue to be subjected to Israel’s institutionalised regime of systematic racial domination and oppression targeting the Palestinian people a whole. This overarching framework of oppression, including the violence inherent in Israel’s prolonged occupation of the Palestinian territory and illegal 12-year closure of the Gaza Strip, amounts to the crime of apartheid and severely deprives the Palestinian people of their means of subsistence and the enjoyment of their inalienable rights, in particular the right to self-determination. This context compounds the vulnerabilities of Palestinian children, in particular in the occupied Gaza Strip and in occupied East Jerusalem, among them Palestinian refugee children, who continue to be severely deprived of their fundamental rights and freedoms, including to a life of dignity, and to justice and accountability.²⁰ In December 2019, CERD recognised for the first time Israel’s policies and practices of racial segregation and apartheid on both sides of the Green Line, targeting the Palestinian people as a whole.²¹

²⁰ See Al-Haq, “Palestinian, regional, and international groups submit report on Israeli apartheid to UN Committee on the Elimination of Racial Discrimination,” 12 November 2019, available at: <http://www.alhaq.org/advocacy/16183.html>.

²¹ See Al-Haq, “Human rights organisations welcome Concluding Observations of the UN Committee on the Elimination of Racial Discrimination on racial segregation and apartheid on both sides of the Green Line,” 21 December 2019, available at: <http://www.alhaq.org/advocacy/16324.html>.

The blockade imposed on the Gaza Strip

70. Children of the Gaza Strip have been living under the Israeli occupation since 1967, and the ongoing closure and blockade of the Strip since 2007. Where the Palestinians in Gaza Strip have been going into ongoing and regular civilian protests, since 30 March 2018, known as the “Great Return March” demonstrations. Where the root causes for these demonstrations are the Palestinian people’s demand for putting an end to Israel’s prolonged closure and blockade of the Gaza Strip since 2007, putting an end to Israel’s prolonged military occupation of the OPT at large since 1967, as well as the realization of the inalienable rights of Palestinian refugees, who constitute the overwhelming majority of the population of the Gaza Strip, to return to their homes and properties, as mandated by international law.²²
71. According to the UN Commission of Inquiry (CoI) on the 2018 protests in the OPT “The Convention on the Rights of the Child protects children’s rights to life, peaceful assembly, expression and the highest attainable standard of health, among other rights. The commission found reasonable grounds to believe that Israel violated those rights when its forces used lethal force against children who did not pose an imminent threat of death or serious injury to others at the time they were shot”.²³
72. The CoI also found that the IOF shot paramedics, journalists and children who had not lost their protected status; Israel is thus in violation of international humanitarian law.²⁴
73. On 30 March 2019, the CoI concluded that 189 Palestinians had been killed in the Great Return March demonstrations in the Gaza Strip by the end of 2018, including 35 children. The number of those killed by live ammunition shot by the IOF reached 183, while four Palestinians were killed as a result of direct strikes by tear gas canisters fired by the IOF. The CoI concluded that Israeli snipers had wounded 122 Palestinian demonstrators during the term of the Commission’s mandate that extended from the start of the Great Return March protests on 30 March 2018 to 31 December 2018, forcing them to undergo amputation operations, including 21 children.²⁵

²² Al-Haq, “Al-Haq reaffirms the root causes based on the rights behind the Great March of Return in the first year anniversary of its launch in the Gaza Strip, 20 March 2019, available at: <http://www.alhaq.org/ar/advocacy/2195.html>.

²³ Human Rights Council, “Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory,” UN Doc. A/HRC/40/74, para. 104.

²⁴ Human Rights Council, “Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory,” UN Doc. A/HRC/40/74, para. 105.

²⁵ Reliefweb, “Assistant Secretary-General for Humanitarian Affairs and Deputy Emergency Relief Coordinator, Ursula Mueller- Statement to the Security Council statement on the humanitarian situation in the OPT, 20 February 2019.” 20 February 2019, available at: <https://reliefweb.int/report/occupied-palestinian-territory/assistant-secretary-general-humanitarian-affairs-and-deputy-0>.



74. In its recommendations, the CoI stressed the urgent need to end Israel's unlawful blockade imposed on the Gaza Strip with immediate effect, with the closure and blockade remaining one of the main root causes behind the continuation of the Great Return March protests.²⁶ The CoI recalled that Israel, the occupying power, is responsible for upholding the rights of Palestinians under international human rights and humanitarian law, and recommended that Israel revised its rules of engagement for the use of live fire and bring them in line with international standards, to ensure that no excessive or lethal force is used against children, journalists, health workers, persons with disabilities, and other persons who do not pose an imminent threat of death or serious injury. The CoI also recommended that the PA and the acting authority in the Gaza Strip ensure that their security services respect freedom of assembly, refrain from using excessive force when observing demonstrations in the West Bank and Gaza Strip, and hold those responsible for these violations accountable.
75. Al-Haq recommends the Committee to demand the State of Palestine to elaborate on the measures and practical procedures it has taken to ensure the implementation of the recommendations of the UN CoI, in particular with regard to lifting the blockade on the Gaza Strip with immediate effect. Al-Haq also notes that the Palestinian Authority has taken a series of financial sanctions that have affected the Gaza Strip since April 2017, which has led to serious repercussions on the civilian population in the Gaza Strip, including children and their families, within the disastrous situation in the Strip.

Denial of Family Unifications in Occupied East Jerusalem

76. Palestinian families and children in occupied East Jerusalem are subject to systematic Israeli policies and practices aimed at forcibly displacing them from their land, and geared towards the full control and Judaization of the city of Jerusalem by the Israeli authorities. Such policies and practices derive from the illegal annexation of occupied East Jerusalem and its fragmentation and isolation from the rest of the occupied Palestinian territory since 1967, including through the unlawful imposition of Israeli civil law to the occupied and protected Palestinian people in the eastern part of the city. Notably, in 1980, Israel adopted its Basic Law: Jerusalem, Capital of Israel, which determined that "Jerusalem, complete and united, is the capital of Israel," in violation of the absolute prohibitions on the acquisition of territory through the threat or use of force and the annexation of occupied territory.²⁷ This Basic Law was censured in the strongest terms and declared null and void by UN Security Council resolution 478 of 20 August 1980. In addition, the 2018 Basic

²⁶ Al-Haq, "Al-Haq reaffirms the root causes based on the rights behind the Great March of Return in the first year anniversary of its launch in the Gaza Strip," 20 March 2019, available at: <http://www.alhaq.org/ar/advocacy/2195.html>.

²⁷ The Knesset, "Basic Law: Jerusalem, Capital of Israel," 1980, available at: https://www.knesset.gov.il/laws/special/eng/basic10_eng.htm



Law: Israel as the Nation-State of the Jewish People, approved by the Israeli Parliament (the Knesset) in July 2018, entrenches Israel's institutionalised racial discrimination in law,²⁸ declares the right to self-determination as unique to the Jewish people, elevates illegal Israeli settlements as a national value, and downgrades the status of the Arabic language,²⁹ which forms an integral part of Palestinian identity and culture. Other Israeli policies driving Palestinian transfer from Jerusalem include the revocation of Palestinian's residency rights in the city, whether for failing to meet the onerous "centre of life" criterion imposed by the Israeli occupying authorities, or, more recently, on punitive grounds for so-called "breach of allegiance" to the occupying power.³⁰

77. Gravely affecting the rights of Palestinian children in Jerusalem are Israel's policy of illegal house demolitions, including administrative demolitions of Palestinian's homes for building with an almost impossible to obtain Israeli construction permit in the city, and punitive house demolitions carried out as unlawful collective punishment measures against Palestinians and their families. In addition, the Israeli occupying authorities have imposed severe movement and access restrictions to isolate and fragment Jerusalem from the rest of the West Bank, including through Israel's unlawful permit regime, the illegal construction of the Annexation Wall, the construction of illegal Israeli settlements throughout and around occupied East Jerusalem, including inside Palestinian neighbourhoods in the city, and resulting settler violence against Palestinians. These are in addition to Israel's arbitrary arrest and detention of Palestinian children in Jerusalem, accompanied by excessive use of force against children and other forms of ill-treatment, which have detrimental effects on all aspects of Palestinians' lives in the city of Jerusalem.³¹

78. Al-Haq recommends that the Committee asks the State of Palestine to outline the measures taken to protect and to promote the civil, political, economic, social, and cultural rights of Palestinian children and their families in Jerusalem, providing quantitative and qualitative data and indicators. We also suggest that the Committee request the State party to provide statements of financial allocations from the public budget to protect and promote the rights of Palestinian children in Jerusalem and to ensure their enjoyment of the rights guaranteed to them in the Convention. This information should be provided especially in light of Capital Law No. 4 of 2002, which was approved by the Palestinian Legislative Council

²⁸ CERD, Concluding observations on the combined seventeenth to nineteenth reports of Israel, 12 December 2019, UN Doc. CERD/C/ISR/CO/17-19.

²⁹ The Knesset, "Basic Law: Israel - the Nation State of the Jewish People," 2018, available at: <https://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf>.

³⁰ Al-Haq, "The Occupation and Annexation of Jerusalem through Israeli Bills and Laws," 5 March 2018, available at: <http://www.alhaq.org/advocacy/6263.html>.

³¹ Israeli settlements in the occupied Palestinian territory are illegal under international law, as recognized by the ICJ and the UN Security Council. See, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," Advisory Opinion, ICJ Reports 2004, p. 136, para. 120. See also UN Security Council, Resolution 2334 (2016), 23 December 2016, UN Doc. S/RES/2334 (2016), para. 1.



and published in the Official Gazette in March 2003, and which provides in Article 3 that a special percentage will be allocated annually from the public budget to the city of Jerusalem. The Law also states that programs and plans will be developed to encourage public and private investment to allow for the continued development of areas of special priority.

10. Alternative care institutions and child justice

79. In the Committee's list of issues relevant to the initial report submitted by the State, the Committee referred to alternative care institutions, and child judiciary. The State responded by stating that temporary alternative care is organized by a regulation issued by the Council of Ministers, which the Ministry of Social Development is working to fulfil as part of its priorities and "Strategic Plan for the Protection of Children 2018-2022".
80. Al-Haq notes that on 23 December 2018, the Minister of Social Development issued the "Directives Concerning Social Care Homes" based on Article 1 of the Law by Decree No. 4 of 2016 on Juvenile Protection. The directives mentioned include 39 legal articles.
81. Article 1 of the aforementioned Law by Decree defined a Social Care Home as "[a] home for observation, care, and rehabilitation for juveniles and children at risk and risk of deviancy. Care homes can be any correctional institution, governmental or private, approved by the Minister of Social Development in coordination with the Ministry of Justice, the Ministry of the Interior, and the Public Prosecution. For the purpose of reserving and observing children, and to accommodate, reform, and rehabilitate juveniles and children at risk and those at the risk of deviancy, educationally and professionally, to rehabilitate and reintegrate them into society. These homes are organized according to directives issued by the Minister (Ministry of Social Development) in this regard".
82. Article 3 of the directives addresses the scope of their, and stipulates that "[T]he scope of these directives includes children and juveniles from the age group 12 to 18 years in the West Bank who are in foster care, including; "1. Juveniles (arrested and convicted children) 2. Children at risk and risk of deviancy." Undoubtedly, the scope of directives issued by the Minister of Social Development is limited to the West Bank only, including Jerusalem, and does not include the Gaza Strip. Al-Haq therefore recommends the Committee to demand the State of Palestine to explain the exclusion of the Gaza Strip from such legislative measures. The state should also detail the legislative measures taken in the Gaza Strip and the progress made in this regard.
83. Al-Haq notes that "Dar Al-Amal Home for Observation and Social Welfare," located in the city of Ramallah in occupied West Bank, is the only institution working on juvenile rehabilitation (child justice). The institution provides care for children from all governorates across the West Bank. Dar Al Amal shelters more than 250 criminally convicted children annually.



84. Al-Haq visits to Dar Al-Amal and the discussions held with its officials unveiled the major obstacles limiting its ability to provide full care for children within the juvenile judicial system. The shortage of “financial resources” allocated annually within the Ministry of Social Development’s budget for Dar Al Amal was revealed to be the main obstacle.
85. While Dar Al Amal receives more than 250 convicted children annually, it implements various activities and programs within the juvenile judicial system, in line with the rights enshrined in the Convention, and in line with the General comments of the Committee. The institution also fully adopts a rights-based approach aimed at serving the best interests of the child. Accordingly, Al-Haq concludes that the annual budget allocated for Dar Al-Amal, which does not exceed USD 2000, is not sufficient to operate the programs and activities necessary to guarantee the fulfilment of the rights of the Child guaranteed under the Convention.
86. Al-Haq notes that the financial allocations for Dar Al Amal are derived from the Ministry of Social Development’s finances, as the institution is not financially nor administratively independent. The institution operates under the Directorate of Social Development in the governorate of Ramallah. This is stipulated under Article 6, paragraph 2 of the aforementioned directives, which state that “[T]he Social Welfare Home is administratively and financially affiliated with the Social Development Directorate in the governorate.". This concludes that Dar Al Amal is administratively run by the Directorate of Social Development, but practically operates under the Ministry of Social Development, which may hinder to the development of its programs due to bureaucratic limitations and delays.
87. Dar Al Amal faces other obstacles, including the ability to facilitate transportation for children within different governorates across the West Bank. Transporting children to and from Area C of the West Bank, which falls under the jurisdiction of Israel, the occupying power, requires prior coordination between the PA and the IOF. The institution’s officials confirmed to Al-Haq that the obstacles caused by the IOF’s practices have regularly prevented Palestinian children from accessing the institution’s services.
88. The directives on social welfare homes issued by the Minister of Social Development in 2018, has provisions making the institute to be perceived as more of a prison than a home for children’s welfare. Thus, there is a need to clarify the identity of Dar Al-Amal, in light of the overlapping roles of the Ministry of Social Development, the police, the public prosecutor, and the judiciary in regard to the activities and programs of Dar Al-Amal carries out. It’s important to mention that in practice, such overlapping roles create major complications preventing the institution from fully exercising its activities and programs. A Major example of such obstacle is the need for the institution to file an official letter to the Public Prosecution to obtain permission to carry out any activities that fall within Dar Al-Amal’s responsibilities and jurisdiction.



89. Article 34 of the Directives for Social Care Homes of 2018 states that "It is prohibited for any juvenile to leave the social care home to participate in any individual, group activity, or training, except when granted a judicial permission in coordination with the Directorate (Directorate of Social Development in the governorate) and the Child Protection Department (Department affiliated with the General Directorate of Family Affairs within the Ministry of Social Development) while duly defining and providing the name of the juvenile, the nature of the activity to be participated in, and its duration". This is reflective of the bureaucratic complications faced by Dar Al-Amal when undertaking activities.
90. Al-Haq also recommends that the State allocates a budget for Dar Al-Amal, that is separate from the State's general budget, to enable it to carry out all its activities and programs in full, and to eliminate the limitations caused by bureaucratic delays. This would contribute to strengthening the relationship between Dar Al-Amal and the general society. It is also integral that the institution is enabled to open other branches in various governorates to ensure full access and protection for all juveniles across the occupied territory. Accordingly, Al-Haq urges the Committee to request the State of Palestine to provide updates on the progress made in this regard in both, the West Bank and the Gaza Strip.

11. Rights of Persons with Disabilities

91. The Committee requested the State to provide information on the rights of persons with disabilities including the support provided to them, particularly in relation to education, public services and protection. The State was also requested to provide information on the measures taken to adopt and ratify the draft law of 2019 on the rights of persons with disabilities. The State responded by indicating the number of service available for the early diagnosis and prevention of child disability. The State also referred to the enrolment support programmes put in place by the Ministry of Education in order to increase school enrolment among children with disabilities. The State also pointed to of activities conducted by the Ministry of Education to enhance the use of public services and transportation by persons with disabilities as well as and benefiting from public services and transportation. Additionally, the State set a timeline (end of 2019) for the adoption of the Persons with Disabilities Law by Decree.
92. Al-Haq notes that the State is still failing to adopt a rights-based national approach to ensure the promotion and protection of the rights of persons with disabilities, including children. These include their right to full enjoyment of human rights and fundamental freedoms as well as their right to enjoy the same standards of equality, rights and dignity as everyone else. Failure to ensure those rights is in violation of the Convention, the Convention on the Persons with Disabilities, and other international conventions and treaties.
93. Al-Haq notes that the main obstacle in the face of promoting, protecting and ensuring the enjoyment of rights of persons with disabilities, especially children, is the absence of a



unified, comprehensive and participatory national strategy that grants an effective role for persons with disabilities in all its stages. Such strategy should include the allocation of the proper financial resources as part of the State's public budget. This should be coupled with serious political will to fulfil these rights on the ground.

94. Al-Haq points to Palestinian Law No. 4 of 1999 on the Rights of Persons with Disabilities, applicable in both, the West Bank and the Gaza Strip, which was published in the Palestinian Official Gazette in October 1999. The law stipulates that persons with disabilities should enjoy a life with dignity, and that their disabilities should not prevent them from fulfilling their fundamental human rights. The law also points to the duties and responsibilities of the State in this regard, including the State's responsibility with regards to rehabilitation, granting tax exemptions on certain goods and services, and the protection of persons with disabilities against all forms of violence, discrimination and exploitation, among other responsibilities.
95. Although the Law on the Rights of Persons with Disabilities has been in effect for more than 20 years, there is still a wide gap between what the law stipulates, and the reality on the ground. This is largely due to the absence of a participatory, rights-based and financially and administratively independent national plan for the protection of the invisible rights of persons with disabilities. The Ministry of Social Development continues to adopt a 'relief'-based approach, rather than a rights-based approach, in relation to the protection of the rights of persons with disabilities. Additionally, the realization of the rights of persons with disabilities is largely impacted by financial allocations and the absence of the financial resources necessary for the fulfilment of the rights enshrined within the Convention and the law.
96. Al-Haq notes that the Palestinian Council of Ministers Decision No. 40 of 2004 regarding the executive regulations of Law No. 4 of 1999 on the rights of persons with disabilities, includes a legal text that ensures the allocation of significant financial resources in this regard. Paragraph 5 of Clause 4 of Article 12 of the Decision stipulates that "[E]ach company or institution that does not employ persons with disabilities according to Clause c of paragraph 4 of Article 10 of Law No. 4 of 1999, should pay an amount not less than the national minimum wage, as compensation, to a special fund for persons with disabilities, established through a decision by the Minister of Social Development in the Ministry, to be allocated for financial aid for unemployed persons with disabilities".
97. Al-Haq notes that there is a prolonged failure in the application of the provisions of paragraph No. 5 of the aforementioned legal text, which obliges all companies and institutions whose employees do not consist of at least 5 percent of persons with disabilities to pay the aforementioned compensation.
98. Al-Haq notes that the successive Social Development Ministers have not issued a decision to establish this special fund, as required under the Decision of the Palestinian Council of

Ministers since 2004. Al-Haq recommends the Committee to request the State to explain the reasons the delay in establishing the special fund until this day, and to work, without delay, to issue a decision to establish the special fund, in accordance with the law, and in line with the rights protected under the Convention.

99. In its reply to the Committee's list of issues, the State noted that Law by Decree on the Rights of Persons with Disabilities of 2019 will be adopted by the end of 2019. Al-Haq affirms that the draft is still at its preliminary stage, and there are no indications that it will be adopted any time in the near future, as of the writing of this report. Additionally, the draft law was drafted without consulting with persons with disabilities, children with disabilities, or any other representative organizations. Although, the draft was shared with civil society organization, it was presented only for the mere purpose of receiving commentary, which is in contradiction with the Convention and the General comments of the Committee on the role of persons and children with disabilities in the development of legislation, and Convention on the Rights of Persons with Disabilities (CRPD).
100. Article 4 CRPD stipulates that "[I]n the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
101. Al-Haq notes that the text of the draft law may hinder the full realization of the rights of persons and children with disabilities in practice. For instance, the draft addresses the formation of the "Supreme Council for the Rights of Persons with Disabilities", as an independent council. The legal text in the draft grants the Executive Authority broad control over the Board of Directors of the Supreme Council for the Rights of Persons with Disabilities, the executive management of the council, the mechanism for appointing members, conditions for membership, and the decision-making mechanism. This would lead the Council to become subordinate to the Executive Authority, and could therefore prevent the creation of an appropriate legislative ground for effective change with regards to the status of persons with disabilities and the full realization of their rights. Additionally, the draft Law by Decree only links financial resources to the public budget without detailing punitive measures in the situation of violation of the rights protected under the draft law. This could create serious obstacles to the formation of effective plans and projects to promote and protect the full rights of people disability.
102. Al-Haq notes that a number of persons with disabilities organized an open-ended sit-in inside the PLC campus on 22 July 2018, demanding the full realization of their rights, including the right to fair and transparent elections within the General Union of People with Disabilities. Women and men human rights defenders with various types of disabilities took part in the sit-in for several days. The protests received minimal attention from the State, which led demonstrators to continue protesting for consecutive nights,



where they had to tolerate degrading and humiliating conditions, such as sleeping on the floors.

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

12. Law by Decree on the Protection of Juveniles

104. The Committee requested the State of Palestine to provide information on the measures taken for the allocation of the resources necessary for the implementation of the Law by Decree No. 4 of 2016 concerning the protection of juveniles. The State replied that separate buildings have been designated for juveniles, in which all spaces are fitted with television cameras so that all proceedings in rooms where there are children are recorded on audio and video. During interrogation, the child is accompanied by a member of the Office of the Public Prosecutor for Children, the child protection counsellor, a lawyer, the child's parents or guardian and the clerk. The room is equipped with a camera and all proceedings are recorded on audio and video. There is also an observation room that is fitted with a screen and headphones, and is used by persons who are permitted to witness the interrogation.
105. Al-Haq notes that the State's response to the list of issues regarding measures taken to allocate the resources necessary for the implementation of the Law by Decree on the protection of juveniles didn't indicate the strategy pursued in that regard, neither did it indicate the public budget's allocations, and information for the enforcement of the law by decree of the juveniles' protection. The government did not issue the executive regulations necessary for implementing the provisions of the Law by Decree required, as requires under Article 66 of the law, which states that "[T]he Council of Ministers must issue the executive regulations necessary for implementing the provisions of this Law by Decree, where the Minister (the Minister of Social Development)...".



106. In its response to the list of issue, the State described the buildings equipped for holding detained juveniles, but did not clarify the locations of those buildings within the 11 governorates of the West Bank governorates and the five governorates of the Gaza Strip governorates (five governorates). Al-Haq notes that these centres are not located in all governorates across the occupied territory.
107. Al-Haq recommends the Committee to call upon the State of Palestine to provide clear information about the locations of these centres, and to provide quantitative and qualitative indicators regarding their impact on the juvenile justice system.
108. Al-Haq notes that Palestinian judges appointed or delegated by the High Judicial Council, as well as Public Prosecution members specializing in juvenile cases, are not appointed to juvenile cases only, but are appointed to work on other civil and criminal cases. to juveniles. Under Articles 15 and 16 of the Law by Decree on juvenile protection, the appointment of juvenile police and judiciary is required. Article 60 of the Law by Decree also stipulates that "[U]ntil specialized juvenile judges are appointed, the High Judicial Council must appoint committees to consider juvenile cases in accordance with the provisions of this law by decree.". It is also important to note that there are no separate entrances and exists for juveniles in court buildings, which compromises their rights to privacy and confidentiality during litigation and court proceedings.
109. Al-Haq also notes that there is a noticeable shortage in the number of child protection counsellors in various governorates, in violation of what is stipulated in the Law by Decree in this regard. Child protection counsellors are administrated by the Ministry of Social Development but operate professionally within the court system.
110. Al-Haq recommends the Committee to call upon the State of Palestine to provide a clear-cut vision on child judiciary, consistent with the Convention and the Committee's general comments, in particular, General comment no. 24 of 2019 on children's rights in the juvenile justice system, General comment No. 19 of 2016 on public budgeting for the realization of children's right. And General comment No. 5 of 2003 regarding the general measures of the implementation of the Convention.
111. Al-Haq notes that the installation of surveillance cameras in the offices of Shari'a judges in the Shari'a judiciary since October 2019 may constitute a violation to the judges' right to privacy during their stay at the office, especially during their daily break hours and between trial sessions. Such installations may also violate the litigators' right to confidentiality in personal status matters, and may impose psychological pressure on judges before, during, and after they issue their ruling in a personal status lawsuit. In addition to the violation such installations may impose to the constitutional principles of the independence of the judiciary and separation of powers, especially since the head of the Shari'a judiciary is appointed by a decree of the president of the Palestinian National



Authority with the rank of a minister according to article (1) of the Law by Decree No. 3 for the year 2012 regarding the Shari'a judiciary.

112. Al-Haq recommends the Committee to call upon the State of Palestine to act, without delay, to effectively reform the Palestinian Shari'a judiciary, in a manner that guarantees the independence of the Shari'a judiciary from the Executive Authority within the justice system. The State must also ensure the right to privacy for judges and litigants during the adjudication in personal status cases, by ending the surveillance imposed upon them, to ensure the effective enforcement of the Convention and the child's best interests during the proceedings.

13. An update on legislation and policies

113. Within the CRC list of issues on the State's report, the Committee "invited the State party to provide a brief update... on the information presented in its report with regard to new bills or laws, and their respective regulations, new institutions (and their mandates) or institutional reforms, recently introduced policies, programmes and action plans and their scope and financing, as well as recent ratifications of human rights instruments".³² Regarding the legislations, the state party replied by pointing out that both drafts of the personal status law and the law on the protection from domestic violence are still under review. It also pointed out the adopting a system of licensing for radio and television stations (No. 18 of 2018). It also mentioned that no new child related institutions were established following the period of submitting the State report on the Convention. The State also referred to the Strategic Plan for the Protection of Children 2018-2022 and the national development strategy for intervention in early childhood 2017-2022. The State also referred to plans, strategies and activities related to the work of ministries.³³
114. Al-Haq notes that, although the Palestinian Child Rights Law No. 7 of 2004 stipulates in article 73 that the Council of Ministers must issue the necessary regulations to implement this law" the PA had not yet issued the detailed regulations to ensure the effective implementation of the Child Rights Law. Additionally, decisions and directives explaining and detailing the Law by Decree on the protection of juveniles of 2016, still lack the necessary regulations and directives for its proper application.
115. Al-Haq points that the regulation on licensing of radio and television Stations violate the right to freedom of opinion and expression, as well as the freedom of the media, including the child's right to freely express his/her opinion, as guaranteed under article 13 of the Convention, which states: "The child shall have the right to freedom of expression; this

³² CRC, List of issues in relation to the initial Report of the State of Palestine, 5 July 2019, UN Doc. CRC/C/PSE/Q1.

³³ CRC, Replies of the State of Palestine to the List of issues in relation to its initial report, 25 November 2019, UN Doc. CRC/C/PSE/RQ/1.



right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.”

116. This regulation also violates General comment No. 12 of 2009 on the right of the child to be heard, where the Committee in clause 26 of the comments emphasized that State parties must ensure the child's ability to express his/her views “on all matters affecting him/her”. Civil society and individuals, including children, were not involved in discussing this regulation prior to its adoption, which contradicts with transparency, governance and civilian oversight requirements; especially since many laws by decrees were adopted in the absence of community participation and Legislative Council.
117. Al-Haq affirms that the regulation regarding the licensing of radio and television Stations is unconstitutional and provides the Ministry of Interior and the security apparatuses broad powers to over the licensing of radio and television stations. The need for prior approvals from the Ministry and from security apparatuses for renewing licenses seriously compromise the right to freedom of opinion and expression, and the freedom of the media, enshrined in the Palestinian Basic Law. In this regard, Al-Haq has documented violations relevant to the interference by security apparatuses in licensing mechanisms for radio and television stations.
118. Article 2 of the regulation stipulates that: "It is prohibited for any person to establish or equip any station or company for satellite broadcasting services, or offices of satellite stations and media production, or to begin to broadcast or operate before obtaining the necessary license in accordance with the provisions of this regulation". Article 3 of the regulation states that “a tripartite committee shall be formed by the Ministry of Telecom and Information Technology, the Ministry of Information, and the Ministry of Interior”. The regulation granted the aforementioned committee broad powers and full control over radio and television stations, terrestrial and satellite, satellite broadcasting services companies, offices of media stations, and media production offices. Article 4 of the regulation grants the tripartite committee powers to organize the media work, define the nature of the media content, determine the qualifications and experiences required by its employees, issue professional licenses, monitor media content, as well as manage, organize and issue licenses for new frequencies. The committee also has the power to monitor the technical operations of stations, broadcasters and frequencies.
119. Under Article 20 of the regulation, the tripartite committee is vested the powers to take the necessary measures to stop the broadcasting of terrestrial and satellite radio and television stations, if any of the provisions of this regulation is violated. Article 22 of the regulation stipulates that “licenses must be renewed annually, and according to the provisions of this regulation”. Although the requests for new licenses and their renewals are submitted to the Ministry of Interior, in practice, they are referred to the security apparatuses for approval.



The final approval for the issuance and renewal of licenses is conditional to the prior approval by the security apparatuses.

120. The Council of Ministers Resolution No. 18 of 2018 on the regulation of licensing of radio and television stations and broadcasting service companies, offices of satellite stations and media production, as well as the Council of Ministers resolution No. 185 of 200 on the regulation of the licensing system for radio and television, satellite and wireless stations, and its amendments, constitute a flagrant violation of the Palestinian Basic Law which explicitly affirms the freedom of visual, audio and written media, freedom of printing, publishing, dissemination and broadcasting. Additionally, the Basic Law prohibits the Executive Authority and its apparatuses from censoring media outlets, as the law prohibits any action taken in violation of these rights, unless in accordance with the law and pursuant to a judicial ruling. Article 27 of the Basic Law states that the:

1. “[E]stablishment of newspapers and all media means is a right for all, guaranteed by this Basic Law. Their financing resources shall be subject to the scrutiny of the law.
2. Freedom of audio, visual, and written media, as well as freedom to print, publish, distribute and transmit, together with the freedom of individuals working in this field, shall be guaranteed by the Basic Law and other related laws.
3. Censorship 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”.

121. In addition to being unconstitutional and in contravention with the Convention, the aforementioned regulations are also in violation of the rights protected under the ICCPR, particularly under Article 19, which guarantees freedom of opinion and expression. The regulations are also not in line General comment No. 34 of 2011, issued by the United Nations Human Rights Committee, regarding article 19 of the ICCPR. Al-Haq recommends that the Committee requests the State of Palestine to act, without delay, to repeal the regulations to ensure the protection and promotion of freedom of opinion and media in the State of Palestine.

122. On 23 October 2019, Al-Haq published a position paper, providing specific observations and recommendations for the enhancement of freedom of opinion and media, as well as the right to information. Al-Haq recommends the Committee to call upon the State of Palestine to act, without delay, to take into considerations the recommendations issued and posted



on Al-Haq's website regarding the promotion of freedom of opinion, media, and access to information.³⁴

14. Data, statistics and other information

Annual budget allocated for children

123. The Committee requested the State of Palestine to “provide consolidated information for the past three years on the budget lines regarding children and social sectors by indicating the percentage of each budget line in terms of the total national budget and the gross national product”.³⁵ However, in its response, the State of Palestine did not address the critical points raised by the Committee regarding this matter. The State also did not address whether such budget is sufficient for the fulfilment of rights, using the maximum available financial resources the State of Palestine has, in both in the West Bank and the Gaza Strip, in line with the Committee's General Comment No. 19 of 2016.
124. Al-Haq reiterates that the general budget of the State of Palestine since the beginning of the political division in 2007 and until today, are prepared and approved only by the Executive Authority (Government and President), in light of the continued absence of the Legislative Authority. The general budget is prepared and approved without involving the Palestinian civil society in the entire Palestinian general budget cycle. Moreover, the Executive Authority has not submitted, as of the writing of this report, the Palestinian Executive Authority has not yet submitted the general budget of the State for fiscal year 2020, in contravention of article 61 of the Palestinian Basic Law and Article 3 of the Palestinian General Budget Regulation and Financial Affairs Law No. 7 of 1998 and its amendments, which stipulate that a general budget draft should be submitted at least two months prior to the beginning of the upcoming fiscal year.
125. Al-Haq reiterates that the public plans and policies referred to in the State's initial report and in its response to the list of issues regarding the general budget do not specify nor detail the State's expenditures on child-related sectors, which defeats the purpose of putting such strategies in place. This is in direct contravention with the provisions of the Convention and General comment No. 19 of 2016 issued by the Committee regarding public budgeting relevant to the realization of children's rights.
126. Al-Haq recommends the Committee calls upon the State of Palestine to work immediately to fulfil the rights of the child enshrined in the Convention, in the planning, approval, implementation and follow-up stages, while ensuring equal participation of civil society,

³⁴ Al-Haq, “Al-Haq's Position Paper on the Law by Decree on Cybercrimes and Blocked Websites,” 1 November 2019, available at: <http://www.alhaq.org/advocacy/16110.html>.

³⁵ CRC, List of issues in relation to the initial Report of the State of Palestine, 5 July 2019, UN Doc. CRC/C/PSE/Q1.



youth and children in the entire process. The State should also ensure non-biased budget allocation across all areas of the occupied territory, including East Jerusalem and the Gaza Strip.³⁶

Cases of torture and ill-treatment of children

127. The Committee requested the State of Palestine to provide, if available, updated statistical data disaggregated by age, sex, ethnic origin, national origin, geographic location and socioeconomic status, for the past three years regarding the cases of torture and ill-treatment in child detention centres and prisons among other issues.
128. In Table No. 17 annexed to the State's reply to the Committee, the State mentioned that there are no statistics on cases of torture and ill-treatment in child detention centres and prisons in 2016. It also stated that there were only three cases in 2017, and seven cases in 2018, all of which have "dealt with".³⁷
129. First, Al-Haq notes that the State of Palestine has only mentioned the cases that were "dealt with" in 2017 and 2018, but failed to clarify the nature of the violations committed in these, and whether or not the cases included torture or ill-treatment, in accordance with Article 37 of the Convention. The State also failed to clarify the meaning of "dealt with" regarding the nature and measures taken in this regard, and whether those who committed the crimes against children were held accountable, the nature of this punishment, and whether or not it was implemented. Moreover, the State did not specify if the child victims of these crimes were compensated and/or rehabilitated, and whether and how justice had been served. The State also did not specify the amount of compensation, and the measures that were taken, if any, to ensure non-repetition.
130. Al-Haq reaffirms that it has disaggregated statistical data on cases of torture and ill-treatment of children in detention centres, from the date of the State of Palestine's accession to the Convention in April 2014, to this date. These statistics are regularly updated as part Al-Haq's role in monitoring and documenting human rights violations. However, the cases documented by Al-Haq do not necessarily reflect the total number of cases on the ground. Al-Haq refrains from publishing the details of these cases in this report, taking into account the rights to privacy and confidentiality, and the requirements relevant to the best interests of the child. Al-Haq is, however, prepared to provide the Committee with details on these cases, when needed.

³⁶ CRC, List of issues in relation to the Initial Report of the State of Palestine, 5 July 2019, UN Doc. CRC/C/PSE/Q1.

³⁷ CRC, State of Palestine Annex to replies to list of issues in relation to the Initial Report of the State of Palestine, available at:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1323&Lang=en.



Adopting a child rights-based approach

131. The Committee requested the State of Palestine to “provide information on how the planning, implementation and monitoring of measures for achieving the Sustainable Development Goals integrate a child rights-based approach, including with regard to child participation and data collection, and how they promote the realization of children’s rights under the Convention and its Optional Protocols”.³⁸
132. The State party responded by referring to activities carried out by the Ministry of Education, the Ministry of Social Development and, the Ministry of Culture in relevance to children's rights. However, the State party failed to indicate the status of the child rights-based approach within the planning, implementation and monitoring of measures aimed at achieving Sustainable Development Goals as well as the extent of children's participation in all of these measures, indicators and data, and their impact on the realization of children's rights protected under the Convention and its two Optional Protocols.
133. Al-Haq recommends the Committee to call upon the State of Palestine to work, without delay, to develop a unified, comprehensive, rights-based national strategy, in accordance with the Convention, and to integrate this strategy into the development plan. The State party should also include the strategy within the public budget to ensure the allocation of the necessary financial resources for its effective implementation, the data collection and analysis, as well as the development of measurable and applicable indicators at the national level. The strategy should also include quantitative and qualitative studies, detailed and classified statistics, as well as evaluation methods in line with the Convention.
134. Al-Haq recommends the Committee to call upon the State of Palestine to work, without delay, to set a clear timeline for the development of such strategies, which shall be developed in partnership with children, youth and civil society organizations, in accordance with the Convention and the General comments issued by the Committee, including the General comment No.5 of 2003 regarding the general measures of implementation of the Convention.

Areas related to the implementation of the Convention on the Rights of the Child

135. The Committee requested the State to list areas affecting children that it considers to be of priority with regard to the implementation of the Convention.
136. The State of Palestine responded by listing, without clarifying or explaining, some high priority areas regarding the implementation of the convention:
- a) Establishing a national child database in Palestine;

³⁸ CRC, List of issues in relation to the Initial Report of the State of Palestine, 5 July 2019, UN Doc. CRC/C/PSE/Q1.



- b) Establishing a Palestinian children's parliament and restructuring and reactivating the National Council for Children;
- c) Setting up a governmental child helpline;
- d) Developing a national media strategy for the protection of children;
- e) Achieving the Sustainable Development Goals by 2030 so as to promote the rights of children as enshrined in the Palestinian Child Act and the Convention on the Rights of the Child;
- f) Developing a national preventive strategy for children in Palestine to stop violence, neglect and ill-treatment against children in all areas;
- g) Develop rules and standards to govern mediation and providing training thereon, in order to reduce the number of cases coming before the courts and promote restorative justice.

137. Al-Haq recommends the Committee to call upon the State of Palestine to set timetables for the implementation of aforementioned high priority list, and to provide a clear vision on how to involve children, youth and civil society organizations in the planning, approval, implementation and follow-up processes. The State should also provide information on how to link the high priority list to the budget to the maximum extent of available resources, to development goals, and to the mechanisms ensuring their effective practical implementation.

138. Al-Haq urges the Committee to take note of other issues and measures that must be taken by the State, relevant to the Convention and necessary for the fulfilment of the rights enshrined in the Convention:

- a. The right to register the child upon birth

139. According to Al-Haq's documentation, the State of Palestine has violated children's rights to registration and to acquiring a family name immediately after birth. Al-Haq has received a written complaint from the parents of a child,³⁹ born in February 2018. The complaint provides that the child's parents attempted to register their child in the Palestinian civil status birth registry to obtain a birth certificate for the child. However, the Ministry of Interior refused to register the child considering the parents' marriage contract is illegal. According the State's records, the mother is registered as a Muslim, whereas the father is registered as a Christian. The complaint details that the mother had converted her to

³⁹ The child's family requested their names be withheld from publication. Thus Al-Haq reserves from publishing them. However, such information is kept by Al-Haq within affidavit No. S68/2019.



Christianity before marriage, and married the Christian father through a canonical marriage contract. However, when the parents resorted to the Palestinian Ministry of the Interior, the latter refused to acknowledge the legality of their marriage contract and refused the parents' request to be registered as legally married. The Ministry also kept the marital status of the husband and wife as "single" in their civil records.

140. The solution proposed by the Ministry of Interior was for the parents to register their child as born of illegitimate parents, which the parents rejected. Up to this date, the Ministry of Interior continues to refuse to register the child in the Palestinian civil status birth registry. This has led the parents to refrain from attempting to register their second new born due to the psychological distress caused to them during their attempt with their first-born child.
141. A valid marriage contract between the parents is a prerequisite to registering a child in Palestinian civil status birth registry and obtaining him/her a birth certificate.⁴⁰ Moreover, once a child is born outside of a 'recognized' marriage, and even when his/her parents are identified, this child is treated as born with unknown parents.⁴¹ In such situations, a child care home, in cooperation with the Ministry of Social Development, conducts the required procedures for registering the child in the civil status birth registry with a full name, according to the provisions of Article 22 of the Civil Status Law No. 2 of 1999.
142. Al-Haq affirms its readiness to provide the Committee with further information on the case, if required.
143. Al-Haq recommends the Committee to call upon the State of Palestine to act immediately and without delay to enforce the provisions of article 7 of the Convention, which states:
 - "1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
 2. State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless."

b. Protecting children from exploitation

144. Article 43 of the Palestinian Child Law No. 7 of 2004 prohibits the exploitation of children by working as child beggars. Article 389 of the Penal Code No. 16 of 1960 also criminalizes

⁴⁰ Council of Ministers, registration of a newborn, available at:
<http://palestinecabinet.gov.ps/GovService/ViewService?ID=42>.

⁴¹ Human Rights Watch, "Palestine: Repeal of the Law of Marrying the Rapist," 10 May 2018, available:
<https://www.hrw.org/ar/news/2018/05/10/317698>.



the exploitation of children by such means. Child begging is a widespread phenomenon spread across Palestinian cities and villages, particularly in areas near Israeli military checkpoints, and especially during high traffic periods.

145. It is stated in the initial report submitted to the Committee by State of Palestine that “The phenomenon of “disguised begging” is widespread in Palestine, whereby children engage, on a habitual basis, in the sale of certain simple goods in various locations, including at Israeli military checkpoints established by the Israeli occupation authorities to isolate Palestinian towns and cities from each other. Children engage in such activities with the primary objective of begging rather than working. The Ministry of Social Development coordinates with the police, the Ministry of Labour and other competent authorities in the governorates to investigate and monitor the situation of children who work in the streets as self-employed street vendors, and measures are taken to ensure that those children enjoy the protections prescribed in the Children’s Act”.
 146. The State’s report covers the obstacles facing child protection in relation to economic exploitation and the Israeli occupation, the deteriorating economic conditions in the Gaza Strip, and the activities carried out by the Ministry of Labour to protect children from the disguised begging phenomenon.
 147. Although the State of Palestine report refers to disguised child begging as a phenomenon, it doesn’t provide clear and sufficient information about the root causes behind it. It also fails to provide quantitative and qualitative indicators and data that would assist in analysing the phenomenon and the measures necessary to protect the best interests of child victims in this regard.
 148. The State did not provide information on the progress made in this regard, and failed to provide information on the measures taken for tackling the disguised begging phenomenon in the West Bank, and the Gaza Strip, especially in light of the blockade imposed on the Gaza Strip for more than 12 years, and the catastrophic humanitarian conditions endured by Palestinians therein as a result. The State also party failed to provide information on budgets allocated for confronting this phenomenon.
 149. Al-Haq recommends the Committee to call upon the State of Palestine to present a clear and unified plan to combat the phenomenon of disguised child begging in the West Bank and the Gaza Strip, which shall guarantee the protection of exploited child victims informed by a rights-based and multi-sectoral approach.
- c. Palestinian children’s Rights, in Refugee Camps and the Diaspora
150. Today, there are approximately 5.5 million Palestinian refugees, including children, eligible to benefit from the services provided by the United Nations Relief and Works Agency for Palestine Refugees (hereinafter as UNRWA) in the five regions where it



operates: Jordan, Lebanon, Syria, the Gaza Strip and the West Bank.⁴² Palestinian refugee children, like their parents, are victims of displacement, marginalization, and discrimination, and are systematically denied the rights granted to them under the Convention and other international treaties. The Israeli Occupation holds the responsibility for the creation of the apartheid regime, as confirmed by the 2017 ESCWA report.

151. There is a clear responsibility that falls on all states which are parties to the Convention, as stipulated under Article 22 of the Convention, which requires all appropriate measures to be taken to ensure that Palestinian refugee children enjoy the rights enshrined in the Convention.
152. Al-Haq recommends the Committee to call upon the State of Palestine to act, without delay, to develop a comprehensive, unified and rights-based national strategy to fulfil its commitments under Article 22 of the Convention, in order to ensure that Palestinian refugees enjoy their rights enshrined therein. The State should include appropriate budget allocation in accordance with the available financial resources to ensure the fulfilment of the rights of Palestinian refugee children under this Convention. In particular, the strategy should be in line with the Convention, and the general Comments issued by the Committee, including General comment No. 5 of 2003 on general measures to implement the Convention, General comment No. 19 of 2016 on the public budgeting for the realization of children's rights, General comment No. 12 of 2009 on the right of the child to be heard, General comment No. 13 of 2011 on the rights of the child to freedom from all forms of violence, and General comment No. 14 of 2013 on the right of the child to have his or her best interests taken as a primary consideration. The strategy should also guarantee the protection of the rights to return and to self-determination for all Palestinians and their children.

⁴² The work of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, "UNRWA Marks 70 years of Service for Palestinian Refugees," 10 December 2019, available at: <https://www.unrwa.org/newsroom/press-releases/unrwa-marks-70-years-service-palestine-refugees>.