



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues in relation to the initial report of the State of Palestine\*

#### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. In view of the Supreme Court's interpretation that international treaties take precedence over national legislation only insofar as they are consistent with the national, religious and cultural identity of the Palestinian Arab people, please indicate measures taken to give full effect to the provisions of the Covenant in domestic legislation and institutions such as the Supreme Constitutional Court. Please describe the extent to which provisions of the Covenant have been used as a basis for legislation and invoked or applied by domestic courts, including examples of relevant legislation and cases.

#### Anti-corruption measures (arts. 2 and 25)

2. Please report on legislative and other measures taken to combat corruption in the State party, including information on the implementation of the National Cross-Sectoral Strategy for Integrity and Anti-Corruption (2020–2022) and the protection of whistle-blowers in corruption cases. In particular, please indicate efforts made to address the reported corruption, such as nepotism, in appointing and promoting government officials, and comment on the arrests of 22 anti-corruption protestors in Ramallah in July 2020 and the status of investigations against them. Please describe mandates of the existing anti-corruption bodies, such as the Anti-Corruption Commission and the Anti-Corruption Court, including information on cases investigated by these bodies and their outcomes, and steps taken to ensure their independent, impartial and effective operation.

#### State of emergency (art. 4)

3. Please inform the Committee about measures taken to address the coronavirus disease (COVID-19) pandemic, including the prolonged state of emergency in place since 5 March 2020, and about the legal basis for any such measures. Please specify whether any measures taken to address the COVID-19 pandemic, including the Law by Decree No. 7 of 2020, derogate from the State party's obligations under the Covenant. If so, please indicate whether the measures were strictly required by and proportional to the exigencies of the situation and were limited in duration, geographical coverage and material scope, bearing in mind the Committee's statement on derogations from the Covenant in connection with the COVID-19 pandemic.<sup>1</sup>

#### Non-discrimination (arts. 2, 20 and 26)

4. With reference to the information provided by the State party,<sup>2</sup> please indicate whether the State party intends to adopt comprehensive anti-discrimination legislation and

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\* Adopted by the Committee at its 135th session (27 June–27 July 2022).

<sup>1</sup> [CCPR/C/128/2](#).

<sup>2</sup> [CCPR/C/PSE/1](#), paras. 46–50.



amendments to existing legislation that provide full and effective protection against all forms of discrimination as prohibited under the Covenant, and effective remedies in judicial and administrative proceedings for victims of discrimination. Please indicate all measures, including awareness-raising campaigns, taken to ensure respect for the principle of non-discrimination and to combat and prevent hate crimes, hate speech and other acts of discrimination, stigmatization and violence, particularly against women and girls, members of the Bedouin communities, persons with disabilities, especially women and girls with disabilities, and lesbian, gay, bisexual and transgender persons. Please provide disaggregated data on complaints of discrimination brought before national courts and before any other complaints bodies during the past five years, and include information about the basis of discrimination, the nature of the investigations conducted and their outcomes, and any forms of redress provided to victims.

#### **Violence against women, and domestic violence (arts. 2–3, 6–7 and 26)**

5. With reference to the information provided by the State party,<sup>3</sup> please clarify whether the draft law on the protection of the family from violence and the draft criminal code include as specific crimes domestic violence, marital rape and femicide, including so-called honour killings, and penalties commensurate with the gravity of the crimes. Please indicate all the measures taken: (a) to address the underreporting of gender-based violence; (b) to prevent women and girls from committing suicide; and (c) to ensure that victims of gender-based violence are informed of their rights and have prompt access to justice and effective remedies, including during the COVID-19 pandemic.

#### **Voluntary termination of pregnancy and sexual and reproductive rights (arts. 6–8)**

6. With reference to the information provided by the State party,<sup>4</sup> please indicate the steps taken to provide, in law and in practice, safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or is not viable, in accordance with the Committee's general comment No. 36 (2018). Please respond to reports that women and girls, including victims of rape and incest, cannot consistently obtain access to the services necessary to safely terminate pregnancies under the circumstances that are legal within the State party. Please provide statistical information on the number of women who have faced criminal charges for seeking abortion services during the past five years, and on those who have faced criminal charges for providing abortions during the past five years, and comment on the compatibility of such prosecutions with the provisions of the Covenant.

#### **Right to life (art. 6)**

7. With reference to the information provided by the State party,<sup>5</sup> and in view of the State party's accession to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, please indicate the legislative and other measures taken to immediately announce a formal moratorium on executions and to commute all the death sentences with a view to abolishing the death penalty. Please indicate the measures taken to put an end to the imposition of the death penalty in the Gaza Strip, in particular by military courts against civilians without due process or fair trial guarantees. Please also report on the status of the draft criminal code, which, as indicated by the State party, does not contemplate the death penalty for any offence.<sup>6</sup>

8. With reference to the information provided by the State party,<sup>7</sup> please describe its current legal framework governing the use of force, firearms and less-lethal weapons by law enforcement and security officers and discuss its compatibility with the Covenant and with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)

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<sup>3</sup> Ibid., paras. 83–92.

<sup>4</sup> Ibid., paras. 137–138.

<sup>5</sup> Ibid., paras. 124–130.

<sup>6</sup> Ibid., para. 124.

<sup>7</sup> Ibid., para. 369.

and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (2020). Please provide statistical data on the number of cases of excessive use of force by law enforcement and security forces in the West Bank and the Gaza Strip, and the results of investigations conducted into these cases, including the cases of five individuals killed in law enforcement operations in the West Bank since 2019 and deaths in custody during the past five years, including information on the outcomes thereof. Please include information on the use of excessive force by security forces in enforcing COVID-19 restrictions, such as curfews and movement restrictions.

9. Taking into account the impact of the Israeli occupation and blockade of the Gaza Strip on its residents' access to health-care services, please inform the Committee about the measures taken to maintain and enhance the coordination among the competent authorities and hospitals in order to facilitate the medical referral system for patients seeking life-saving medical treatment outside the Gaza Strip. In this respect, please provide information, for the past five years, on the number and type of medical referrals requested by and on behalf of patients from the Gaza Strip and processed and approved by the competent authorities, such as the Palestinian Ministry of Health, or addressed to Israeli authorities.

**Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 7)**

10. With reference to the information provided by the State party,<sup>8</sup> please indicate the progress made in ensuring that the definition of and penalty for the crime of torture in domestic legislation, including the draft criminal code, are compatible with the Covenant. Please provide disaggregated statistics for the past five years on the number of complaints and investigations of torture and ill-treatment of persons deprived of liberty, including information on the convictions handed down, sanctions imposed, and reparations granted to victims, and the procedures for victims' treatment, rehabilitation and social reintegration. Please indicate the progress made in preventing and prohibiting the prolonged use of solitary confinement and ill-treatment of detainees, including: (a) children attempting to cross the fence to flee the Gaza Strip; and (b) those detained, in the Gaza Strip, for drug-related offences, suspected collaboration with Israel or alleged affiliation with Fatah and Salafist groups.

**Liberty and security of person (art. 9)**

11. With reference to the information provided by the State party,<sup>9</sup> please indicate all the measures taken to ensure that pretrial detention is used only as a measure of last resort and for the shortest possible time, in accordance with the provisions of the Covenant, and that it is reviewed on a regular basis. Please also provide disaggregated data for the past five years on the number of persons held in pretrial detention, and indicate their charges and the duration of their detention. Please describe all non-custodial alternatives to detention available and provide statistical data on their use during the past five years.

12. Please provide information on the measures taken to ensure that fundamental legal safeguards for detained persons, including the right to legal counsel, are guaranteed at all stages from the very outset of deprivation of liberty, in law and in practice, and are fully in accordance with the Covenant and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. Please provide detailed information on: (a) the use of administrative or "governor-ordered" detention, often against political opponents; and (b) arbitrary arrests and detention of political opponents and activists, especially following the postponement of national elections in 2021, and (c) arbitrary arrests and detention of women on discriminatory charges of sexual offences such as adultery and "moral misconduct" and for failure to fulfil a contractual obligation.

<sup>8</sup> Ibid., para. 148.

<sup>9</sup> Ibid., paras. 202–203.

**Treatment of persons deprived of their liberty (arts. 7 and 10)**

13. With reference to the information provided by the State party,<sup>10</sup> please describe the existing mechanisms for monitoring conditions in places of detention and clarify whether these mechanisms conduct independent, effective and regular monitoring and inspection without prior notice. Please indicate the efforts made to provide adequate health-care services, including mental health services, to persons deprived of liberty and to protect them from contagious diseases, particularly in the context of the COVID-19 pandemic. Please provide disaggregated data on the number of persons detained in each facility, including pregnant women and women with infants, and its occupancy rate.

**Elimination of slavery, servitude and trafficking in persons (arts. 2, 7–8, 24 and 26)**

14. With reference to the information provided by the State party,<sup>11</sup> please update the Committee on the adoption of the draft law on human trafficking and describe other relevant legal frameworks that prohibit all forms of exploitation, including child labour, and trafficking in persons. Please provide statistics on investigations into cases of trafficking in persons and labour and sexual exploitation, including child labour, and data on the sanctioning of perpetrators and remedies provided to victims. Please provide further information on the protection and social rehabilitation services provided by the Ministry of Social Development for victims of exploitation and trafficking,<sup>12</sup> and on other available protection, rehabilitation, reparation and reintegration services, including the number of shelters available.

**Right to freedom of movement (arts. 3, 9, 12, 17 and 26)**

15. With reference to the information provided by the State party,<sup>13</sup> please provide statistical data on travel bans issued during the past five years, and discuss the legal grounds for such bans, including the General Intelligence Service Act. Please comment on reports that the Ministry of the Interior, in the West Bank, refused to issue passports to Palestinian citizens residing in the Gaza Strip, and that women in the Gaza Strip are subjected to discriminatory restrictions on their freedom of movement, such as the practice of male guardians preventing women from travelling.

**Treatment of refugees and internally displaced persons (arts. 7, 9, 12–13, 24 and 26)**

16. In view of the high number of refugees and internally displaced persons in the State party, please indicate all the measures taken to improve the poor living conditions in refugee camps, including overcrowding and lack of adequate access to food and health-care services. Please report on domestic legislation concerning nationality, in particular on its impact on reducing the risk of statelessness.

**Access to justice, independence of the judiciary and fair trial (art. 14)**

17. Please describe the procedure and criteria for the selection, appointment and dismissal of judges, including information on the role of the Transitional High Judicial Council, established under Decree-Law No. 17 of 2019, and explain how the current procedure and criteria ensure the independence and impartiality of the judiciary. Please respond to reports that, in February 2022, the President signed four decree-laws – amending, respectively, the Criminal Procedure Code (Act No. 3 of 2001), the Civil and Commercial Procedure Code (Act No. 2 of 2001), the Evidence Act (Act No. 4 of 2001) and the Act on the Formation of Regular Courts (Act No. 5 of 2001) – without consultations with the Independent Commission for Human Rights or civil society organizations, and that these amendments raise concerns regarding prolonged detention without a lawyer or defendant present, the right of defence and the imposition of a higher threshold of accountability for crimes committed by public and law enforcement officials. Please indicate all the measures taken to ensure that informal justice, including tribal justice, does not function as an alternative to the formal

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<sup>10</sup> Ibid., paras. 119 and 153.

<sup>11</sup> Ibid., para. 183.

<sup>12</sup> Ibid., para. 185.

<sup>13</sup> Ibid., para. 264.

justice system, including providing all persons, including refugees, with adequate access to the formal justice system.

**Right to privacy (art. 17)**

18. Please describe the legal safeguards applied to the State party's surveillance regime and any existing independent oversight mechanisms in this regard, and discuss the compatibility with the Covenant of Decree-Law No. 10 of 2018 regarding cybercrime. Please provide up-to-date statistics on the number of complaints alleging violations of the right to privacy that have been received during the past five years, and information on the legal basis and outcomes thereof, the sanctions imposed and any remedies provided to the victims, including details about allegations of: (a) surveillance and hacking of online activities of journalists, political opponents and human rights defenders; (b) confiscation of mobile phones of female protestors and journalists during demonstrations, including the protest that took place in Ramallah between 24 and 27 June 2021, and subsequent hacking of the phones and associated accounts; and (c) interference with the right to privacy of lesbian, gay, bisexual and transgender individuals in the context of arrests and detention, including by exposing their sexual orientation and gender identity.

**Freedom of expression (arts. 19–20)**

19. Please indicate the steps taken to address concerns relating to the criminalization of speech and expression in the State party, particularly restrictions under articles 144 (insulting a public official), 150 (inciting sectarian strife), 191 (slandering a public official) and 195 (insulting a higher authority) of the Jordanian Criminal Code of 1960. Please provide information on the measures taken to protect journalists and human rights defenders, including advocates of women's rights and government critics, against intimidation, attacks, and arbitrary arrests and detention, and comment on reports of prolonged detention, under the instruction of the security forces and the Transitional High Judicial Council, of those exercising their right to freedom of expression. Please explain reports of the arrests of 220 persons in 2016 and 2017 on the basis of their posts on social media posts, and provide statistics of the number of individuals imprisoned or tried in the past five years for posting on social media.

**Right of peaceful assembly (art. 21)**

20. Please provide information on all the measures taken to ensure that domestic legislation on peaceful assembly, including the by-laws of the Public Meetings Act (Act No. 12 of 1998), is fully in accordance with article 21 of the Covenant and the Committee's general comment No. 37 (2020), and indicate any relevant training provided to law enforcement officials and security forces. Please respond to reports of arrests and ill-treatment of peaceful protestors and excessive use of force in dispersing peaceful assemblies by: (a) the Palestinian security forces, along with non-uniformed individuals, against activists, journalists and protestors, particularly in the aftermaths of the postponement of national elections in April 2021 and Nizar Banat's death in June 2021; and (b) Gaza security forces, against protestors, journalists and activists in March 2019. In this respect, please report on the measures taken to effectively and independently investigate these violations and bring the perpetrators to justice.

**Freedom of association (art. 22)**

21. Please comment on reports of restrictions on freedom of association, including: (a) the requirement for civil society organizations in the Gaza Strip to submit their funding documents to the Ministry of National Economy, which significantly delays the disbursal of funds and hampers their operations; and (b) the dissolution of the Union of Public Employees. Please clarify whether the State party intends to repeal Decree-Law No. 7 of 2021, amending the Charitable Associations and Civil Society Organizations Act (Act No. 1 of 2000).

**Participation in public affairs (art. 25)**

22. Please indicate all the measures taken to expedite the holding of national parliamentary and presidential elections, which were indefinitely postponed by presidential decree on 30 April 2021, and comment on the compatibility with the Covenant of the dissolution in 2018 of the Palestinian Legislative Council. Please indicate the steps taken or envisaged to ensure that elections are free, reliable and transparent, and describe the role of the Central Elections Commission in this respect. Please describe any investigations conducted into cases of intimidation, attacks, arbitrary arrests and detention, and killings of opposition candidates and politicians, prior to and following the postponement of the national elections, including information on the trial concerning the case of Nizar Banat.

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