



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Initial and second periodic reports submitted by
the State of Palestine under article 9 of the
Convention, due in 2017***


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Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction.....	1–6	3
Section I. General information.....	7–26	4
A. Historical background of racial discrimination in Palestine	7–22	4
B. Current demographic indicators of groups protected under the Convention within the borders of the State of Palestine	23–26	7
Section II. Information relating to articles 1 to 7 of the Convention	27–156	10
Article 1	27–31	10
Article 2	32–39	12
Article 3	40–48	14
Article 4	49–59	18
Article 5	60–138	22
A. The right to life, physical integrity and personal liberty	60–74	22
B. Human rights in general.....	75–143	27
Article 6	144–155	54
Article 7	156–162	58

Introduction

1. The State of Palestine acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 1 April 2014, without entering any reservations to its articles. The present report is submitted in response to the obligations assumed by the State under the Convention, especially article 9, paragraph 1, thereof. In addition to national measures, frameworks and benchmarks, the report covers in particular the legislative, administrative and judicial aspects relating to the provisions of the Convention. It also sheds light on the policies of the Israeli colonial occupation and its grave and massive violations of international law and norms, based on racial discrimination and persecution, which, in contravention of the provisions of this Convention, are targeted at all Palestinians solely on the ground of their identity.
2. The accession of the State of Palestine to the Convention is a sign of respect for the principles and spirit that it embodies. The present report has been prepared in fulfilment of the requirements and obligations incumbent on the State of Palestine concerning the application of this Convention. The report is focused on presenting the legislative texts in force in the State of Palestine that relate to the articles of the Convention and also refers to the administrative and judicial measures, policies and arrangements in place. Taking account of the fact that the State of Palestine is under foreign military occupation, the report addresses the issue of the racial discrimination perpetrated by Israel, the occupying Power, against the Palestinian people.
3. The present report was prepared by a government committee composed of the relevant government agencies, in cooperation with civil society institutions and entities representing the racial and ethnic groups found in the State of Palestine. A draft of the report was transmitted for consideration to representatives of those institutions, specifically human rights and non-governmental organizations (NGOs), and of Palestinian racial and ethnic groups. Those representatives then participated in the national consultations conducted by the State of Palestine concerning the present report. Given that Israel, the occupying Power, bars civil society institutions in the Gaza Strip from accessing the West Bank, two national consultation meetings were held: one at the office of the Ministry of Foreign Affairs and Expatriates, on 9 November 2017, with civil society institutions in Ramallah; and the second by videoconference at the main office of the Independent Commission for Human Rights, on 12 November 2017, with civil society institutions in the Gaza Strip. The consultations were attended by representatives of ministries of the State of Palestine and of civil society institutions in the form of human rights organizations and NGOs working in the Occupied Palestinian Territory. The substance of the report was discussed and civil society offered comments, facilitating the preparation of the final version.
4. During the preparation of this and other treaty body reports due for submission, the Government of the State of Palestine provided a sound constitutional, legislative and procedural environment in line with the Committee's general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention. In 2014, a standing national (ministerial) committee for following up the accession of the State of Palestine to international treaties and instruments was established under the chairpersonship of the Ministry of the Interior and, in 2017, a committee for harmonizing legislation was established under the chairpersonship of the Ministry of Justice.
5. In the preparation of this report, the State of Palestine used as its basis the provisions of the Convention, in particular articles 1 to 7 thereof; the reporting guidelines produced by the Committee in August 2007; the Committee's general recommendations; and the Durban Declaration and Programme of Action adopted in September 2001.
6. The submission of the present report does not exempt Israel, the occupying Power, from reporting on its compliance with the provisions of the Convention in the Occupied Palestinian Territory, including East Jerusalem, on the basis of its obligations and responsibilities as an occupying Power, in accordance with international humanitarian law and international human rights law, as well as on the basis of the advisory opinion given by

the International Court of Justice in 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory.

Section I

General information

A. Historical background of racial discrimination in Palestine

I. Demographic and ethnic changes in Palestine following the Nakbah of 1948

7. Over the ages, Palestine was a melting pot of cultural, religious, racial and ethnic diversity where a climate of coexistence, tolerance and religious openness prevailed among the Christian, Jewish and Muslim communities and among the various racial and ethnic groups until the end of the Ottoman era and the start of the occupation in 1917 by the United Kingdom, to which the League of Nations granted a mandate over the country in 1922.

8. The United Kingdom mandate produced radical and far-reaching changes in Palestine with respect to coexistence, tolerance and religious openness owing to the adoption of colonial and racist policies, which consisted in denying the Palestinian national identity and the existence of the Palestinian people. The United Kingdom divided the population of Palestine on a religious basis into two groups, namely the “non-Jewish communities in Palestine” (the Palestinian people, both Muslims and Christians) and the “Jewish people” (European Jewish immigrants). This major shift came about with the fulfilment of the so-called “Balfour promise”, the Declaration issued on 2 November 1917 by the United Kingdom Minister for Foreign Affairs, Arthur James Balfour, in the form of a letter addressed to Lord Rothschild, concerning the establishment of what he called “a national home for the Jewish people” in Palestine, in flagrant disregard of the United Kingdom undertakings previously made to the Arabs to grant them independence¹ and in gross violation of the Covenant of the League of Nations that gave the United Kingdom the right to administer Palestine.² Instead of enabling the Palestinian people to exercise their right to self-determination and work for the independence of Palestine as a multiracial, multi-faith and multi-confessional nation, the United Kingdom, in cooperation with the Zionist movement, endeavoured to attract Jewish immigrants from European countries and empower them in various spheres at the expense of the rights of the indigenous Palestinian population. Colonial and racist policies such as these led to sweeping demographic changes affecting all races, ethnic groups and communities in Palestine. The Palestinian presence was consequently reduced while the number of European Jewish immigrants increased.

9. The biggest demographic change, however, occurred during the war of 1948, which culminated in the Zionist militias taking control of three quarters of historic Palestine by force of arms, causing the destruction of over 531 population centres, whether cities, towns

¹ As stated by the United Kingdom in correspondence exchanged between Henry McMahon, United Kingdom High Commissioner to Egypt, and Sharif Hussein, Emir of Mecca, in 1915 and 1916 (see: Hussein-McMahon correspondence). Sharif Hussein demanded independence for Arab countries and delineated with precision the borders of the countries concerned, which clearly included the whole of Palestine.

² Article 22 of the Covenant of the League of Nations established the mandate system in consideration of the well-being and development of peoples. The main character of the mandate, pursuant to article 22, was that it should form a “sacred trust of civilisation”. The Covenant guaranteed that such trust would be inspired by affirming that “the best method of giving practical effect to this principle that the tutelage of such peoples should be entrusted to advanced nations [T]his tutelage should be exercised by them as Mandatories on behalf of the League.” The degree of tutelage depended on the political maturity of the territory concerned. Hence, the most developed territories were classed as “A” mandates; the less developed territories as “B” mandates; and the least developed territories as “C” mandates. Palestine was never excluded from these provisions; rather, it was treated in the same way as the other Arab countries under Ottoman rule.

or villages,³ and the displacement of more than 957,000 Palestinians, equivalent to 66 per cent of their number in historic Palestine.⁴

10. Over 70 years on since the Nakbah, statistics show that the percentage of Palestinian refugees now amounts to slightly over one half of the total number of Palestinians worldwide, which is almost equal to the Palestinian presence in the Palestinian territory. According to the Palestinian Central Bureau of Statistics, there are some 5.6 million Palestinian refugees registered in Jordan, the Syrian Arab Republic, Lebanon and the Palestinian territory, broken down as follows: 39.6 per cent in Jordan, 10.6 per cent in the Syrian Arab Republic, 8.8 per cent in Lebanon, and 41 per cent in the State of Palestine. Roughly one third of them are housed among 59 camps,⁵ of which 10 are in Jordan, 10 in the Syrian Arab Republic, 12 in Lebanon, 19 in the West Bank and 8 in the Gaza Strip.⁶

11. The Palestinian refugee issue is now a major racial and ethnic matter about which the international community first began to express concern in the years immediately following the establishment of the United Nations and the international human rights regime. At its 3rd session, on 11 December 1948, the United Nations General Assembly adopted resolution 194 (III), which affirmed the right of Palestinians to return to the homes from which they were driven by force of arms by resolving “that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property ...” At its 4th session in 1949, the General Assembly, pursuant to resolution 302 (IV), established the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

12. The Palestinian refugee issue is an important matter in the context of the implementation of the Convention. Paragraph 2 of the Committee’s general recommendation No. 22 (1996) on refugees and displaced persons states that refugees and displaced persons have the right freely to return to their homes of origin under conditions of safety; that States parties are obliged to ensure that the return of such refugees and displaced persons is voluntary and to observe the principle of non-refoulement and non-expulsion of refugees; and that all such refugees and displaced persons have, after their return to their homes of origin, the right to have restored to them property of which they were deprived in the course of the conflict and to be compensated appropriately for any such property that cannot be returned to them. As stated in paragraph 65 of the Durban Declaration, the States parties attending the Durban Conference likewise recognized the right of refugees to return voluntarily to their homes and properties in dignity and safety, and urged all States to facilitate such return. Israel, the occupying Power, nonetheless rejects the return of Palestinian refugees still displaced from their homes.

13. The Committee referred to the right of return of Palestinians in its concluding observations on the Israeli reports submitted in 1987, 1992, 1997 and 2007, which is confirmation that its members at those times recognized the importance of resolving the Palestinian refugee problem and implementing the resolutions of international legitimacy, including General Assembly resolution 194 (III), which provides for the right of return. That being so, it is surprising that the Committee failed to mention Palestinian refugees and their rights in its concluding observations of 2012, contrary not only to the practice of its predecessors but also to the above-mentioned international principles.

³ Dr. Saqr Jabali, “The Nakbah: Facts and figures” [in Arabic], Palestinian News & Info Agency (Wafa), Parliamentary Research Unit. *Source:* <http://www.wafainfo.ps/atemplate.aspx?id=5048>.

⁴ Palestinian Central Bureau of Statistics: “The Palestinian Central Bureau of Statistics reviews the status of Palestinian refugees on the eve of World Refugee Day” [in Arabic], 2015. *Source:* <http://www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=ar&ItemID=1420&mid=3915&wvver=Staging>.

⁵ Dr. Saqr Jabali, “The Nakbah: Facts and figures” [in Arabic], Wafa, Parliamentary Research Unit. *Source:* <http://www.wafainfo.ps/atemplate.aspx?id=5048>.

⁶ Palestinian Central Bureau of Statistics: “The Palestinian Central Bureau of Statistics reviews the status of Palestinian refugees on the eve of World Refugee Day” [in Arabic], 2015. *Source:* <http://www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=ar&ItemID=1420&mid=3915&wvver=Staging>.

II. The fight continuing since 1967 against Israeli occupation and colonization

14. The States parties attending the Durban Conference expressed particular concern about colonialism, recognizing in paragraph 14 of the Durban Declaration that it had led to racism, racial discrimination, xenophobia and related intolerance. The States parties affirmed that, wherever and whenever it occurred, it must be condemned and its reappearance be prevented. They further regretted that the effects and persistence of colonialist structures and practices had been among the factors contributing to lasting social and economic inequalities in many parts of the world. The Committee's general recommendation No. 21 (1996) also recognized that "all peoples have the right to determine freely their political status and their place in the international community based on the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjection, domination and exploitation."

15. In the light of the aforementioned texts, the organic relationship between foreign colonialism and the rise of racism is all too clear in the 50-year ongoing Israeli colonial occupation of Palestine in contravention of Security Council and General Assembly resolutions, including Security Council resolution 242 (1967), which states that Israel must withdraw from the territories it occupied in June 1967.

16. The intrinsic connection between the right to self-determination and the elimination of racial discrimination and apartheid is evident in the context of the Palestinian people's fight against the colonial occupation by Israel. Against that backdrop, the United Nations General Assembly reaffirmed by way of resolution 3236 (XXIX), among others, the right of the Palestinian people to self-determination without external interference and its right to national independence and sovereignty. On 15 November 1988, at its 19th session, the Palestinian National Council of the Palestine Liberation Organization issued the Declaration of Independence of the State of Palestine, in which it proclaimed the natural, historical and legal right of the Palestinian people to its homeland, Palestine, its right to self-determination, political independence and sovereignty over its territory, and the establishment of the State of Palestine in the land of Palestine. The States participating in the Durban Conference acknowledged the rights of the Palestinian people, expressing in paragraph 63 of the Durban Declaration their concern about the plight of the Palestinian people and recognizing its inalienable right to self-determination and to the establishment of an independent State.

17. With regard to foreign occupation and armed conflict, paragraph 168 of the Durban Programme of Action urges States parties to the Convention to take the measures to give full effect to all their obligations under international humanitarian law, specifically the four Geneva Conventions and their Protocols, in particular in relation to the rules prohibiting discrimination. On that score, Israel, the occupying Power, continues to violate the Geneva Conventions and the International Convention on the Elimination of All Forms of Racial Discrimination time and again while simultaneously pursuing its illegal occupation, which is based on colonial ambitions to complete the demographic changes initiated in 1948 by expelling the Palestinian population, removing them from their lands, controlling more territory, and expanding its illegal colonial settlement regime.

18. Israel, the occupying Power, furthermore practises all forms of racial discrimination in the Occupied Palestinian Territory, above all in East Jerusalem, where it subjects Palestinians to all forms of racial discrimination and exclusion with respect to their political, civil, social and economic rights. The blockade imposed on the Gaza Strip is also a fundamental component of the illegal practices of Israel, thanks to which 2 million Palestinians living in the Gaza Strip are racially excluded and under siege.

III. Accession of the State of Palestine to human rights treaties

19. In 2014, after acquiring observer status at the United Nations pursuant to General Assembly resolution 67/19 of November 2012, the State of Palestine acceded to international conventions and treaties as part of a national strategic vision aimed at strengthening the international legal personality and sovereignty of the State of Palestine; protecting the rights of Palestinian citizens in a democratic and pluralist society founded on

respect for human rights; and implementing relevant international mechanisms, in particular accountability and protection mechanisms, so as to promote the protection of the Palestinian people and support the rights of individual Palestinians.

20. The Supreme Constitutional Court of the State of Palestine, in case No. 4 of 2017, indicated the status of international treaties in the Palestinian legal system in affirming that: “International conventions take precedence over domestic legislation whereby the norms of such conventions acquire superior force to domestic legislation, in keeping with the national, religious and cultural identity of the Palestinian Arab people.”⁷

21. Accession to international human rights conventions has been a top national priority and has included the International Convention on the Elimination of All Forms of Racial Discrimination in view of its significance in the process of building the national human rights system. Full equality, without discrimination on grounds of race, colour, ethnic or national origin, or descent, is an important pillar of democratic governance, as affirmed in paragraph 21 of the Durban Declaration.

22. The State of Palestine, through its accession, recognizes that the faithful implementation of international human rights obligations, including enactment of laws and political, social and economic policies, is crucial to combating racism and racial discrimination. It also believes that democracy, transparent, responsible, accountable and participatory governance responsive to the needs and aspirations of the people, and respect for human rights, fundamental freedoms and the rule of law are essential for the effective prevention and elimination of racism and racial discrimination, all of which is as stated in paragraphs 80 and 81 of the Durban Programme of Action. The State of Palestine will thus strive to fulfil the requirements for the implementation of the Convention, which essentially consist in establishing the rule of law, building democratic and transparent institutions, and advancing the human rights situation in general. The preparation of the present report furthermore constitutes a declaration of the commitment of the State of Palestine to implementing the articles of the Convention at the national level.

B. Current demographic indicators of groups protected under the Convention within the borders of the State of Palestine

23. There are no accurate or comprehensive statistics on groups protected under the Convention at the national level, a situation attributable to a number of factors:

(a) The recent accession of the State of Palestine to the Convention and other human rights treaties;

(b) The dearth of up-to-date anthropological studies on Palestinian groups in the territory of the State of Palestine on the basis of race, colour, ethnic or national origin, descent or religion;

(c) The lack of attention from official bodies and NGOs to the rights of different groups on the basis of race, colour, descent, or ethnic or national origin as compared with other rights, such as the right to freedom of opinion and expression, the right to political participation, and the rights of women and children, in addition to the fact that there are no civil society institutions engaged in monitoring the affairs of Palestinian groups on the basis of race, colour, ethnic or national origin, or descent or in combating intolerance and discrimination and promoting mutual understanding;

(d) The fact that Palestinian statistical institutions have only recently started to produce indicators on the basis of colour, race, descent and ethnic or national origin, not least because of the racial and ethnic homogeneity of the Palestinian society. They are currently working, however, to absorb such indicators for the purpose of monitoring the implementation of the Convention;

⁷ In this decision, domestic legislation means ordinary legislation and not core legislation (the Constitution). Constitutional interpretation No. 5/2017 of 12 March 2018 defines the status of international conventions in domestic legislation as inferior to the Declaration of Independence and the Basic Law and superior to various pieces of ordinary domestic legislation.

(e) The presence of the Israeli foreign occupation, which places obstacles in the way of Palestinian groups on the basis of race, colour, descent and ethnic or national origin, especially obstacles that violate the rights of Palestinians to freedom of movement, including within their own territory and in particular to and from occupied East Jerusalem, where most of the groups protected under the Convention reside.

24. It should also be emphasized that in no way does any mention of Palestinian groups protected under the Convention either compromise their Palestinian identity or implies that they are considered “minorities” in the Palestinian legal system. On the contrary, these groups are part of the Palestinian “whole”, which has its own special ethnic, linguistic and cultural characteristics.

25. In order to obtain statistics and data on Palestinian groups in the State of Palestine that are covered by the definition in article 1 of the Convention, several meetings were held with persons representing those groups and information was also gathered from relevant Palestinian institutions. Racial, ethnic and national groups in the State of Palestine were consequently identified, in addition to groups based on descent and colour, as follows:

(a) Samaritans: The Samaritan community is located in the city of Nablus (Mount Gerizim) and comprises some 370 individuals from 5 families. It is one of the smallest communities in the world and one of the oldest in Palestine. The Samaritans arrived in Palestine 3,646 years ago and consider themselves descended from three of the Twelve Tribes of Israel, namely: the Tribe of Levi, son of the prophet Jacob; and the Tribes of Manasseh and Ephraim, sons of the prophet Joseph.⁸ The Samaritan language is ancient Hebrew (one of the oldest languages in the world), which has 22 letters and is read from right to left.⁹ The Samaritans believe in the prophet Moses, the first five books of the Torah, and the Ten Commandments. Furthermore believing Mount Gerizim to be sacred, they pray towards it and look upon it as their sanctuary.¹⁰ As to their customs and traditions, the Samaritans follow the Samaritan law relating to marriage, divorce, inheritance and food. They also have their own distinctive dress; priests wear a tunic and red turban and everyone wears a red fez on Saturdays;¹¹

(b) Armenians: The Armenian community in the State of Palestine is composed of local Armenians whose presence in Palestine dates back in some cases to the fourth century A.D. and in others to 1915, following the Armenian migrations during the First World War. The Armenian community was once the third largest Christian community, with some 5,000 Armenians living in Jerusalem in 1945. In the aftermath of the Israeli occupation of the land of Palestine between 1948 and 1967, which was coupled with continuing violations and difficult political and socioeconomic conditions, only an estimated 500 Armenians remained in the State of Palestine. Living in Bethlehem and East Jerusalem, mostly around the Cathedral of Saint James in the Old City of Jerusalem, the Armenians in the State of Palestine profess Christianity and retain the Armenian language, culture, customs and traditions;

(c) Africans: Palestinians of African origin are found in the Bab al-Majlis area of the Old City of occupied Jerusalem.¹² African groups from the Arabian Peninsula came to the land of Palestine long ago, between the thirteenth and seventeenth centuries. During the United Kingdom mandate and after the Nakbah of 1948, other African groups from Chad, Nigeria and the Sudan arrived in Palestine. Jerusalem’s African community also includes Orthodox Abyssinians, who are of Ethiopian origin and officially recognized by the State of

⁸ Palestinian Information Centre, Wafa, “Who are the Samaritans?” [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=4055>.

⁹ *Ibid*, “The Samaritan language” [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=4051>.

¹⁰ *Ibid*, “The Samaritan religion” [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=4046>.

¹¹ *Ibid*, “Samaritan customs, traditions and beliefs” [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=4049>.

¹² Palestinian Information Centre, “The African community in Jerusalem” [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=5054>.

Palestine.¹³ In 2007, the community comprised an estimated 239 members, according to the Palestinian Central Bureau of Statistics;

(d) **Syriacs:** Syriacs are considered an extension of the Arameans, who were primarily spread throughout Greater Syria (the Syrian Arab Republic, Lebanon, Palestine and Jordan), as well as over Iraq, India and a number of other countries. According to Christian sources, Syriacs were the first pagan people to have converted to Christianity within the first few years of its advent. No precise statistics are available on the number of Syriacs, although there are estimated to be around 250,000 in Arab countries (State of Palestine, Iraq, Lebanon and the Syrian Arab Republic). Of these, 60 per cent are Orthodox and 40 per cent are Catholic. In the State of Palestine, Syriacs constitute the third largest community after Greeks and Latins, representing 10 per cent of Christians in the Holy Land. There are 300 families in Jerusalem and 500 in Bethlehem, amounting to some 4,000 individuals in all.¹⁴ Syriacs speak the Syriac language, also known as Aramaic, which is a Semitic language and was the language of the Arameans who settled from the fifth century B.C. in Aram-Damascus and Aram Naharaim (Mesopotamia). It is the language of Jesus Christ;¹⁵

(e) **Copts:** The Coptic nation has ancient Egyptian roots and Coptic Christianity is one of the oldest forms of Christianity in the world. It has furthermore remained intact as a result of its isolation from modern trends.¹⁶ Most of the historical studies about the Coptic presence in Palestine, specifically in the city of Jerusalem, mention that Copts came to visit the holy places and that some of them settled in the vicinity or at way stations. These studies indicate that the Coptic presence in Jerusalem came about owing to the city's religious and hallowed status for Copts.¹⁷ It is estimated that there are some 1,000 Copts in Palestine, most of them living in East Jerusalem, where there are scores of Palestinian families of Coptic origin.¹⁸ Coptic is the most recent form of language developed from ancient Pharaonic Egyptian. Written with Greek characters, it is currently used in religious ceremonies and observances;¹⁹

(f) **Maghrebis:** Throughout history, Palestine and the city of Jerusalem in particular have been a destination for Maghrebis, whether religious pilgrims, travellers or scholars. A large number of Palestinians of Maghrebi descent, including the Alami, Masluhi, Rifi and Habush families, still live in East Jerusalem and other Palestinian areas in the West Bank and Gaza Strip. One of the main places associated with the Maghrebi community was the Maghreb quarter, which amounted in area to 5 per cent of the Old City of Jerusalem and was demolished by the Israeli occupation forces after the 1967 occupation.²⁰ Although no precise statistics are available on the number of persons of Maghrebi descent in Jerusalem and the State of Palestine, members of their community estimate that it stands at about 20,000;²¹

(g) **Roma:** Also known as Nawar, Dom or Romanies, Roma are one of the Palestinian groups protected under the Convention and were the detailed subject of the Committee's general recommendation No. 27 (2000). The Roma came to Palestine during the fifteenth century and were concentrated in Jerusalem, Ramallah, Nablus and Gaza. There are no statistics on the Roma population in the State of Palestine, but estimates

¹³ Presidential Decree of 2008 concerning recognized churches in the State of Palestine.

¹⁴ Palestinian Information Centre, WAFA, "Origin of the Syriacs" [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=5063>.

¹⁵ *Ibid*, "The Syriac language" [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=5064>.

¹⁶ *Ibid*, "Copts: An overview" [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=4006>.

¹⁷ Palestinian Information Centre, WAFA, "Copts in Palestine" [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=4007>.

¹⁸ Higher Presidential Committee for Church Affairs in Palestine, "Existing churches" [in Arabic]. *Source:* <http://www.hcc-plo.ps/ar/churches-list>.

¹⁹ Palestinian Information Centre, WAFA, "The Coptic language" [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=4008>.

²⁰ *Ibid*, "Jerusalem's Maghreb quarter" [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=9592>.

²¹ *Ibid*, "The Maghrebis in Palestine" [in Arabic]. *Source:* <http://info.wafa.ps/atemplate.aspx?id=9590>.

indicate that there are some 1,200 Roma in the Jerusalem area and about 5,000 in the Gaza Strip.²²

26. Other demographic groups in Palestine not categorized by race, colour, ethnic or national origin, or descent are as follows:

(a) Bedouin communities: The majority of Bedouin communities are located in the areas surrounding East Jerusalem and in other areas of the Occupied Palestinian Territory, notably around the Jordan Valley and southern Hebron. These marginalized communities are more vulnerable to violations resulting from the Israeli occupation, in particular those involving the demolition of buildings, denial of the right to education and the right to freedom of movement, and forced displacement of their members;

(b) Persons internally displaced by force: Since the occupation of 1967, 263,500 people have been forcibly displaced within the Palestinian territory. During the Israeli aggression against the Gaza Strip in 2014, some 106,000 persons were displaced. As a result of the racist occupation policies practised in the West Bank since 1967,²³ approximately 134,000 persons have been displaced. Most of those in this category are Bedouin;

(c) Refugees: There are 5.6 million Palestinian refugees registered with UNRWA who are denied the right to return to their homes. In the State of Palestine itself, there are 775,000 refugees in the West Bank and 1.26 million in the Gaza Strip.²⁴ Refugees therefore account for 42 per cent of the total population in the State of Palestine;

(d) Foreign workers and volunteers: There are no clear statistics on the number of foreign workers in the State of Palestine owing to the fact that Israel, the occupying Power, unlawfully controls the border crossings of the State of Palestine, which makes it difficult to calculate the number of foreign nationals entering Palestine from elsewhere and establish the purpose of their entry. The work of foreign nationals in the non-governmental and humanitarian sectors is confined to international organizations and NGOs. Foreign workers face discrimination practised by the occupation authorities as a matter of policy. Examples of Israeli violations against foreign workers include the killing of United States activist Rachel Corrie in Rafah in 2003.

Section II

Information relating to articles 1 to 7 of the Convention

Article 1

I. Definition of racial discrimination in the domestic law of Palestine

27. Equality is defined in Palestinian legislation in a manner that prohibits various aspects and forms of discrimination, including racial discrimination based on race, colour, descent, or national or ethnic origin, as follows:

(a) The Declaration of Independence proclaimed on 15 November 1988 by the Palestine National Council of the Palestine Liberation Organization, which is the most important document in Palestinian national history and the founding document of the State of Palestine, stipulates that: “The State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on

²² *Ibid*, “The Roma or Dom in Palestine” [in Arabic]. *Source*: <http://info.wafa.ps/atemplate.aspx?id=5059>.

²³ Internal Displacement Monitoring Centre, “Palestine IDP figures analysis”, 2014. *Source*: <http://www.internal-displacement.org/middle-east-and-north-africa/palestine/figures-analysis/>.

²⁴ UNRWA, “Where we work”. *Source*: <https://www.unrwa.org/where-we-work>.

grounds of race, religion or colour, or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence ...”;

(b) The Palestinian Amended Basic Law of 2003, which has supreme legislative status among the laws in force in Palestine, guarantees equality among all Palestinians and prohibits discrimination on any ground. Article 9 states that: “Palestinians are equal before the law and the judiciary, without distinction as to race, sex, colour, religion, political opinion or disability”;

(c) Article 14 of the draft constitution of the State of Palestine of 2015 states that: “All Palestinians are equal before the law, enjoy the same rights and have the duties prescribed by law, without distinction as to origin, race, sex, religion, social status, opinion or disability”;

(d) Article 546 of the draft Palestinian penal code of 2011 criminalizes acts of discrimination, which it punishes by imprisonment and a fine, and defines discrimination as: “Any differentiation among natural persons on the basis of national or social origin, colour, sex, family status, health status, disability, political opinion, trade union affiliation, or actual or presumed affiliation or non-affiliation with a race, nation, lineage or specific religion”;

(e) The definition of racial discrimination set out in the International Convention on the Elimination of All Forms of Racial Discrimination became an additional legal point of reference for the State of Palestine after the Supreme Constitutional Court, in case No. 4 of 2017, determined the status of international treaties in the Palestinian legal system by establishing that such treaties take precedence over domestic legislation.

II. Definition of special measures taken to protect Palestinians against acts of racial discrimination

28. The policy pursued in the State of Palestine is aimed at achieving equality for its citizens before the law and the judiciary, providing equal legal protection, and realizing de facto equality in the enjoyment of human rights. In order to bring about concrete and de facto equality in accordance with article 1, paragraph 4, and article 2, paragraph 2, of the Convention, the State of Palestine envisages taking special measures to secure adequate advancement of groups and individuals requiring protection for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.

29. None of the measures previously implemented or currently being undertaken by the State of Palestine was designed to promote certain groups on the basis of race, colour, national or ethnic origin, or descent in a manner incompatible with the provisions of article 1, paragraph 4, of the Convention. As indicated in paragraph 25 of the Committee’s general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, article 1, paragraph 4, is broadly expressed in that it refers to individuals requiring protection “without reference to ethnic group membership”.

30. Paragraph 16 of the Committee’s general recommendation No. 32 (2009) also states that: “The measures should be designed and implemented on the basis of need, grounded in a realistic appraisal of the current situation of the individuals and communities concerned.” The notion “adequate advancement” in article 1, paragraph 4, implies “goal-directed programmes which have the objective of alleviating and remedying disparities in the enjoyment of human rights and fundamental freedoms affecting particular groups and individuals, protecting them from discrimination. Such disparities include but are not confined to persistent or structural disparities and de facto inequalities resulting from the circumstances of history that continue to deny to vulnerable groups and individuals the advantages essential for the full development of the human personality.” It should be emphasized that the protection afforded to individuals and groups includes not only protection from violations committed by a State party to the Convention against its citizens. Paragraph 23 of the Committee’s general recommendation No. 32 (2009) states that the

term “protection” in article 1, paragraph 4, signifies “protection from violations of human rights emanating from any source”, which includes those resulting from foreign occupation.

31. On the basis of the above considerations, the State of Palestine has taken positive measures to protect its most marginalized citizens, in particular victims of violations resulting from the occupation; citizens living in the seam zones next to the annexation, expansion and apartheid wall, in areas alongside illegal colonial settlements, in border areas, and in East Jerusalem; and victims of the aggression against the Gaza Strip. The measures concerned are legitimate, necessary and in conformity with the principles of the Convention and the general recommendations relating to the subject. The Israeli occupation has created circumstances of history, as well as persistent and structural policies, practices and disparities, all with the aim of denying to Palestinians the enjoyment of their rights and freedoms. Examples of the measures taken include the Community Resilience and Development Programme for East Jerusalem and Area C, which is run through a ministerial committee responsible for administering the Community Infrastructure Development Programme; and the establishment of a higher ministerial committee for the reconstruction of Gaza, which formulated the National Early Recovery and Reconstruction Plan for Gaza following the aggression of 2014.

Article 2

I. Undertaking by the State of Palestine to engage in no act or practice of racial discrimination and to prohibit and refrain from the sponsorship of such acts

32. The State of Palestine opposes racism and racial discrimination in all its forms, rejects engagement in acts of racial discrimination by any of its institutions or officials, and refuses to sponsor any persons, groups or organizations engaged in such acts.

33. The legislative framework in the State of Palestine contains a number of binding legal texts that in turn encompass various undertakings by the State to ensure that no persons, groups or public institutions engage in any act of racial discrimination against persons, groups or institutions. These undertakings are as follows:

(a) The text of the Declaration of Independence includes an undertaking not to engage in discrimination by stipulating that: “The State of Palestine is the State of Palestinians wherever they may be. ... under a democratic parliamentary system based on ... respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour ...”;

(b) Presidential Decree No. 3 of 1998, concerning the strengthening of national unity, prohibits incitement to “acts of racial discrimination”, including racial discrimination practised by the State and its institutions;

(c) Article 32 of the Basic Law of 2003 provides that: “Any infringement of personal liberty or violation of the right to privacy or of other public rights and freedoms guaranteed by the Basic Law or laws in force is an offence not subject to any statute of limitations with respect to civil or criminal proceedings.” This provision is an undertaking by the State not to commit any infringement of public rights and freedoms, including engagement in acts of racial discrimination. The draft Palestinian penal code of 2011 also prohibits discrimination, in particular racial discrimination, and punishes it with imprisonment and/or a fine. Article 546 provides that anyone engaging in discrimination is liable to imprisonment for up to 2 years and/or a fine of up to 1,000 dinars.

34. Israel, the occupying Power, prevents the State of Palestine from ensuring that its citizens are not subjected to racial discrimination practised by the occupation authorities in the Occupied Palestinian Territory, particularly East Jerusalem. It is worth noting that the occupying Power has no constitutional and legislative provisions prohibiting the practice of racial discrimination against Palestinians and has made no undertakings or declarations to that effect. In its concluding observations of 2012, the Committee expressed concern on that score, stating that the Israeli Basic Law included “no general provision for equality and the prohibition of racial discrimination” and that “nor does Israeli legislation contain a

definition of racial discrimination in accordance with article 1 of the Convention. These lacunae seriously undermine the protection afforded to all persons under the jurisdiction of the State party for equal access to human rights.”²⁵

II. Measures to review governmental policies and legislation with the aim of eliminating racial discrimination

35. In accordance with the Committee’s general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, and paragraph 76 of the Durban Programme of Action, concerning the establishment of national monitoring and evaluation mechanisms, the State of Palestine has taken various measures to monitor the compliance of government policies and procedures with human rights conventions. Such measures include the decision of the President of the State of Palestine, upon the country’s accession to international treaties on 7 May 2014, to establish a standing national (ministerial) committee for following up the accession of the State of Palestine to international treaties and instruments, chaired by the Ministry of Foreign Affairs and comprising a number of relevant ministries and institutions, as well as the Independent Commission for Human Rights as an observer. At its first meeting, on 29 June 2014, the committee decided to establish its own committee of experts competent to evaluate the human rights situation in the State of Palestine and its conformity with international obligations.²⁶

36. Likewise, in accordance with the Committee’s general recommendation No. 17 (1993) on the establishment of mechanisms for monitoring legislative compliance with the provisions of the Convention, other human rights conventions, and the requirement to amend, rescind or nullify any laws or regulations that have the effect of creating or perpetuating racial discrimination, the State of Palestine, in March 2017, established a committee for harmonizing legislation, chaired by the Ministry of Justice, in order to begin the process of amending current Palestinian laws and drive forward the enactment of new laws consistent with human rights treaties. This action on its part was affirmed by the decision of the Supreme Constitutional Court in case No. 4 of 2017 concerning the supremacy of those treaties in the Palestinian legal system.

III. Encouragement of institutions that combat all forms of racial discrimination and foster understanding

37. The NGO Affairs Commission was established pursuant to Presidential Decree No. 11 of 2012 with the aim of coordinating activities among all Palestinian and foreign NGOs, as well as among official entities in the State of Palestine, so as to provide an open and conducive environment to enable NGOs to function freely and openly, in accordance with paragraph 213 of the Durban Declaration. This includes institutions engaged in combating discrimination and promoting mutual understanding.

38. There are no civil society institutions specifically involved in matters of racial discrimination or in monitoring the rights of Palestinian groups protected under the Convention. There are, however, institutions working to deepen and enhance dialogue among all groups in society, such as the Palestinian Centre for Research and Cultural Dialogue, which aims to foster dialogue among different political, social and cultural groups as the best means of resolving conflicts and promoting such concepts as citizenship, acceptance of others and respect for others’ beliefs.²⁷

²⁵ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel. CERD/C/ISR/CO/14-16 (2012).

²⁶ Multilateral Relations Department, “Accession of the State of Palestine to international treaties and instruments: Obligations of Palestine under international treaties”, [in Arabic], 2015. First progress report, July 2014–August 2015.

²⁷ Palestinian Centre for Research and Cultural Dialogue. *Source*: <http://www.pcrd.ps/index.php/ar/8-2017-06-08-20-02-39>.

IV. Mandating of a national human rights institution with combating racial discrimination

39. The Independent Commission for Human Rights was established by Presidential Decree No. 59 of 1995, article 3 of which states that its mission is “to monitor the requirements for safeguarding human rights and ensure that they are met in Palestinians laws, legislation and regulations and in the work of the departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization.” On the basis of the general mandate entrusted to the Commission and its structure of programmes, services and units for addressing and accomplishing that mission, a fact-finding and complaints unit follows up complaints about human rights abuses, including discriminatory application of the law for reasons of sex, religion, race, colour or political ideas.²⁸ As mentioned above, the Commission is an observer member of the standing national (ministerial) committee tasked with following up the accession of the State of Palestine to international treaties. Any complaint submitted to it will therefore have a direct impact on the process of evaluating whether the Convention is being strictly implemented.

Article 3

I. Apartheid policies carried out by the Israeli occupation against the Palestinian people

40. Article 3 of the Convention simply prohibits the practice of apartheid, of which it gives no detailed definition. On that basis, apartheid should be defined not only as a practice that States undertake to prohibit but also as a crime against humanity in accordance with relevant international instruments, such as the International Convention on the Suppression and Punishment of Crime of Apartheid of 1973 and the Rome Statute of the International Criminal Court of 1998, which are precise indicators for determining whether such practices amount to racial discrimination. Article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid states that “the term “the crime of apartheid”, which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.” Article 7, paragraph 2 (h), of the Rome Statute defines the crime of apartheid as “inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.”

41. As to apartheid in the context of the Israeli occupation, it is no longer theoretical, descriptive or political but has once again acquired a purely legal character that takes as its yardstick the definition of apartheid as a crime against humanity. Numerous United Nations institutions and authorities in international law have made clear the existence of conclusive evidence that the crime of apartheid is being committed in that context. Examples include the following:

(a) In its concluding observations of 2012, the Committee stated that it was “extremely concerned at the consequences of policies and practices which amount to de facto segregation, such as the implementation by the State party in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand. The Committee is particularly appalled at the hermetic character of the separation of two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources. Such separation is concretized by the implementation of a complex combination of movement restrictions consisting of the Wall, roadblocks, the

²⁸ Independent Human Rights Commission. *Source*: <https://www.ichr.ps/ar/1/1/519/%D8%A8%D8%B1%D8%A7%D9%85%D8%AC-%D8%A7%D9%84%D9%87%D9%8A%D8%A6%D8%A9.htm>.

obligation to use separate roads and a permit regime that only impacts the Palestinian population (art. 3 of the Convention).²⁹

(b) The report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, presented to the General Assembly in 2012, stated that: “Israel has created a regime of separation and discrimination, with two separate systems of law in Palestinian territory: one system applies to the settlers, and treats the settlements as de facto extensions of Israel and grants settlers the rights of citizens with the protections of a quasi-democratic State. In contrast, the Palestinians are subject to a system of military administration that deprives them of legal protection and the right to participate in shaping policies regarding the land in which they live. These separate systems reinforce a regime in which rights depend on national identity and citizenship. A dual system of roads, one for settlers and one for Palestinians, further entrenches the discriminatory separation between the two communities”;³⁰

(c) In 2014, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 reiterated his call for a referral to the International Court of Justice to assess whether the prolonged Israeli occupation possessed elements of “colonialism”, “apartheid” and “ethnic cleansing”.³¹ The Special Rapporteur also referred to “measures designed to divide the population along racial lines including by the creation of separate reserves and ghettos for the members of a racial group or groups, and the expropriation of landed property”;³²

(d) The United Nations Economic and Social Commission for Western Asia (ESCWA) commissioned an expert group to produce a comprehensive report on Israeli practices towards the Palestinian people and the question of apartheid. On the basis of scholarly inquiry and overwhelming evidence, the report established that Israel is guilty of the crime of apartheid.³³

42. Despite all such studies and efforts and all of the recommendations to end this colonial and apartheid-based system, Israel, the occupying Power, perpetrates acts and practices mentioned in article II of the International Convention on Repression and The Punishment of the Crime of Apartheid, as indicated below:

(a) Article II (a) provides that policies and practices of racial segregation include “denial to a member or members of a racial group or groups of the right to life and liberty of person”. In that connection, the occupying Power carries out extrajudicial killings and assassinations of Palestinians, including civilians, journalists, unarmed activists and politicians from armed groups outside the sphere of hostilities, who are arbitrarily denied their right to life. The occupying Power also systematically deprives Palestinians of their freedom on a wide-scale basis. In 2006, a total of 9,498 Palestinian Arabs were detained for security reasons, compared with only 12 Jewish Israelis.³⁴ In addition to this is the arbitrary, indiscriminate, wide-scale and systematic practice of “administrative detention”, without charge, on security grounds unsupported by legal evidence. Detainees and suspects are furthermore tried without due process guarantees, as will be explained in the part of this report relating to article 5 of the Convention. Generally speaking, the judicial system of the occupying Power is a tool for preserving the settlement and colonial occupation regime, including through procedures that amount to acts of racial segregation;

(b) Article II (c) provides that policies and practices of apartheid include “any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country”. In that

²⁹ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session (2012). CERD/C/ISR/CO/14-16, para. 24.

³⁰ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. General Assembly. A/67/379 (2012).

³¹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/25/67 (2014).

³² A/HRC/25/67, para. 71.

³³ Richard Falk and Virginia Tilley, “Israeli practices towards the Palestinian people and the question of apartheid”, Palestine and the Israeli occupation, issue No. 1, ESCWA, Beirut, 2017, p. 51.

³⁴ Letter from the Israeli Prison Service addressed to Adalah, November 2006.

regard, the occupying Power deprives Palestinians of the rights enunciated in article 5 of the Convention. Such abuses will be covered in detail in that part of the report. Issued in 2009, the report of the United Nations Fact Finding Mission on the Gaza conflict furthermore concluded that there is a clear differential treatment between Palestinians and Jewish Israelis in various spheres, including due process guarantees, land use, housing, access to natural resources, civil status, residence, family reunification, right of movement, right to health, right to education, right to social services and right of assembly;³⁵

(c) Article II (d) provides that practices and policies of apartheid include “any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups.” In this respect, successive Israeli governments have been constructing illegal colonial settlements and confiscating lands by force since the start of the occupation and building the annexation, expansion and apartheid wall since 2002. They also imposed a blockade on Gaza in 2007 and have isolated East Jerusalem from the rest of the territory of the State of Palestine. The racial segregation is at its most conspicuous in East Jerusalem, which is the economic and cultural centre for Palestinians. Israel, the occupying Power, imposes on Jerusalemite Palestinians its administration, laws and taxes while simultaneously ensuring that they are excluded and economically and socially marginalized by denying their basic rights and right of residence and civil status, as well as by depriving their residential neighbourhoods of essential infrastructure services. In its concluding observations of 2012, the Committee called on Israel to “eliminate any policy of “demographic balance” from its Jerusalem Master Plan, as well as from its planning and zoning policy in the rest of the West Bank”. The occupying Power nonetheless continues its unlawful practice;

(d) Article II (f) provides that practices and policies of apartheid include “persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid”. In this regard, the occupying Power systematically targets Palestinian political leaders, local activists and human rights defenders on a wide-scale basis. It also suppresses peaceful demonstrations against colonial activities and other acts of apartheid; shuts down charitable, cultural and educational organizations; imposes travel bans on Palestinian human rights defenders; deports non-Palestinian human rights defenders; and prevents, hampers and delays the entry of working groups from international and United Nations organizations, including United Nations special rapporteurs on human rights.³⁶ The occupying Power furthermore prevents human rights defenders from entering Palestinian territories.³⁷

43. Such acts cannot be discussed outside the context of the *mens rea* of the offence, which is the intention to perpetuate the dominance of one racial group over any other and systematically to oppress the latter. Bearing in mind that the report commissioned by ESCWA in 2017 provided a general picture of the apartheid regime, including the situation of Palestinians with Israeli nationality and the situation of Palestinian refugees, the present report of the State of Palestine to the Committee focuses only on Israeli practices in the Palestinian territory occupied since 1967. Israel has created an overlap between the practices of prolonged foreign occupation and those of colonialism and apartheid with the intention of increasing the dominance of one racial group over another. In 2013, the report of the International Fact-Finding Mission on Israeli Settlements recognized that the occupation had created “a privileged legal space for settlements and settlers.”³⁸ In 2014, the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 established that the policy of maintaining a demographic

³⁵ Report of the United Nations Fact Finding Mission on the Gaza conflict (2009). A/HRC/12/48, paras. 113, 206, 208, 938, 1327, 1577, 1579 and 1616, respectively.

³⁶ Office of the United Nations High Commissioner for Human Rights, “Israel’s lack of cooperation leads to cancelled visit by UN rights expert to the occupied Palestinian territory” (2015). *Source*: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15487&LangID=E>.

³⁷ Amnesty International, “Israel denies entry to Amnesty International staff member” (2017). *Source*: www.amnesty.org/en/latest/news/2017/10/israel-denies-entry-to-amnesty-international-staff-member/.

³⁸ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Human Rights Council. A/HRC/22/63 (2013), para. 49.

balance of 70 per cent Jewish to 30 per cent Palestinian in Jerusalem was “acknowledged by the Jerusalem Municipality”.³⁹ The intention of the occupation and the colonial settlement system is thus to dominate Palestinians. Indeed, the Committee has pointed out that this segregation “severely and disproportionately affect[s] the Palestinian population”.⁴⁰

II. Application of article 3 of the Convention at the national Palestinian level

44. At the national Palestinian level, there are no conditions of complete or partial racial segregation, whether with the initiative or involvement of the State or as an unintended by-product of the actions of private persons. Residential patterns are not influenced by differences of race, descent, colour, or ethnic or national origin.

45. With regard to legislation, article 85 of the Amended Basic Law provides that: “The country shall be organized by law into local administrative units with legal personality. Each unit shall have a directly elected council, as prescribed by law ... In making the division, demographic, geographic, economic and political parameters shall be taken into account so as to preserve the territorial integrity of the homeland and the interests of the communities therein.”

46. The presence of a colonial occupation regime that systematically uses apartheid as a tool for perpetuating the occupation is the main obstacle to the achievement of balanced development throughout the State of Palestine, particularly in view of the separation of the West Bank from the Gaza Strip, the separation of Jerusalem from the rest of the West Bank, and the fact that the public authorities are prevented from exercising their sovereignty over most of the territory of the State of Palestine.

47. The residential patterns of Palestinian communities continue to be influenced by the waves of forced displacement resulting from the ongoing Israeli colonial occupation. Suffering as a result are the Palestinian refugees who, since 1948, have been living in 8 camps in the Gaza Strip and 19 camps in the West Bank. Although the State of Palestine works in coordination with grass-roots committees to provide such services as electricity, water and tax collection, the camps continue to face complex and difficult problems relating to overcrowding, water scarcity, severe environmental pollution and inadequate infrastructure.⁴¹ The camps and their residential neighbourhoods are furthermore targeted in the repeated aggression against the Palestinian people. In addition, the level of services provided to refugees by UNRWA is jeopardized by the lack of resources resulting from the cutbacks in international support.

48. Concerning Palestinian groups protected under the Convention, their residential patterns are unaffected by any differences based on race, descent, colour, or ethnic or national origin. Palestinian residential districts are mixed and diverse in their entirety. A substantial number of Palestinians who are not part of the Samaritan community live in rented accommodation in the city’s Samaritan neighbourhood, for instance, and others own property on Mount Gerizim. Because of its history, however, the Old City of Jerusalem is divided into several neighbourhoods on the basis of religion and race. One example is the Armenian district, where members of the community congregate around the Armenian Cathedral. As to the African community, its members live mostly near Al-Aqsa Mosque on account of their historical connection with the Haram al-Sharif.

³⁹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/25/67 (2013), para. 36.

⁴⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session (2012). CERD/C/ISR/CO/14-16, para. 24.

⁴¹ Dr. Abdul Rahman al-Mughrabi, “Economic and social conditions in the camps of the West Bank”. Al-Quds Open University. Scientific Research and Graduate Studies Programme (2004). p. 3.

Article 4

I. Measures designed to eradicate incitement to racial hatred and violence and organizations that promote racial discrimination

49. In accordance with the Committee's general recommendation No. 35 (2013), the legal system in the State of Palestine balances the State's obligations under article 4 of the Convention with the right to freedom of expression by guaranteeing that right in various legislative texts, as follows:

(a) The Declaration of Independence asserts that the State of Palestine proclaims its commitment to the principles and purposes of the United Nations and to the Universal Declaration of Human Rights, including article 19 thereof concerning the right to freedom of opinion and expression;

(b) The State of Palestine has acceded without reservations to a series of instruments guaranteeing that right, in particular the International Covenant on Civil and Political Rights of 1966;

(c) The Basic Law guarantees the freedom to express an opinion, providing in article 19 that: "There shall be no impairment of freedom of opinion. All persons have the right to express and disseminate their opinions orally, in writing or through any other means of expression or art, as provided by law;"

(d) Article 2 of the Press and Publication Act of 1995 provides that: "The press and printing are free, and freedom of expression is guaranteed to all Palestinians, who may express their opinions orally, in writing, pictorially or graphically through any means of expression and information."

50. The criminal laws in force in the State of Palestine restrict freedom of expression where it involves the dissemination of ideas based on superiority, racial or ethnic hatred, incitement to hatred of individuals or groups, or incitement to violence or threats of violence against individuals or groups, as follows:

(a) Article 130 of the Jordanian Penal Code (Act No. 16 of 1960), which applies in the West Bank, provides that anyone who disseminates propaganda aimed at undermining national sentiment or stirring up racial or confessional tensions is liable to imprisonment from 3 to 15 years. Article 150 also provides that anyone presenting written or spoken material aimed at or leading to the fuelling of confessional or racial tensions or incitement of conflict among communities and members of the nation is liable to imprisonment from 6 months to 3 years;

(b) Articles 59 and 60 of the Penal Code (Act No. 74 of 1936) applicable in the Gaza Strip provide that anyone who raises discontent or disaffection among inhabitants of Palestine or promotes feelings of ill-will and hostility among the different sections of the population of Palestine is liable to imprisonment for 3 years;

(c) Article 47 of the Press and Publication Act No. 9 of 1995 provides that any newspaper or media establishment disseminating articles that undermine national unity, incite the commission of offences, spread animosity, sow hatred, discord and dissension, or stir up confessionalism among members of the community is liable to temporary suspension for a period of up to 3 months and the confiscation of all copies printed on that day;

(d) Article 108 of Decree Law No. 1 of 2007, concerning general elections, provides that anyone who uses election propaganda, speeches, brochures, advertisements or images to provoke or challenge other candidates on the basis of sex, religion, confession, occupation or disability or to stir up tensions undermining the unity of the Palestinian people is liable to imprisonment of not less than 6 months and a fine of not less than US\$ 500;

(e) In accordance with article 25 of the Local Council Election Act No. 10 of 2005, no election speeches, brochures, advertisements or images may include anything that

provokes or challenges other candidates on the basis of sex, religion, confession, occupation or disability or stirs up tensions undermining the unity of the Palestinian people;

(f) The Cybercrime Act of 2017⁴² takes account of technological and social shifts connected with racially discriminatory speech and hate speech. Article 24 provides that: “Anyone who creates a website, an application, an electronic account or an information technology medium with a view to disseminating and circulating information that fuels racial conflict, is aimed at racial discrimination against a specific group, or threatens, denigrates or attacks persons on the basis of their racial or confessional affiliation, colour, appearance or disability shall be liable to a fixed term of forced labour and a fine of not less than 5,000 and not more than 10,000 Jordanian dinars (JD), or the equivalent thereof in legal currency”;

(g) Article 25 of the Cybercrime Act also provides that: “Anyone who creates a website, an application or an electronic account or who disseminates information via the Internet or by means of information technology with a view to misconstruing or justifying acts of genocide or crimes against humanity provided for in international instruments and laws, or intentionally assisting or inciting the commission of crimes against humanity, shall be sentenced to hard labour for life or to forced labour for a fixed term of not less than 10 years”;

(h) Article 14 of the draft constitution of the State of Palestine of 2015 provides that the law punishes incitement and propaganda based on discrimination on grounds of origin, race, sex, religion, social status, opinion or disability.

51. The legal system in the State of Palestine takes into consideration the principle of the intersectionality between race, colour, descent and racial and ethnic origin on the one hand and religion on the other, in accordance with the Committee’s general recommendation No. 35 (2013). The relationship of some Palestinian ethnic groups, such as Armenians and Syrians, with their religion is organic and fundamental. Any hate speech against their religion is thus directed at the group and prohibited by the following legislative provisions:

(a) Article 278 of the Criminal Code applicable in the West Bank provides that anyone who disseminates printed or manuscript materials, images, drawings or symbols that may offend the religious feelings of other persons or insult their religious beliefs, or anyone who, in a public place and within the hearing of another person, makes utterances or sounds that may offend or insult the religious feelings or belief of that person, is liable to imprisonment for up to 3 months or a fine of up to 20 dinars;

(b) Article 149 of the Criminal Code applicable in the Gaza Strip provides that anyone who disseminates printed or manuscript materials, images, drawings or symbols that may offend the religious feelings of other persons or insult their religious beliefs, or anyone who, in a public place and within the hearing of other persons, makes utterances or sounds that may offend or insult the religious feelings or belief of those persons, is liable to imprisonment for 1 year;

(c) Article 47 of the Press and Publication Act No. 9 of 1995 provides that any newspaper or media establishment disseminating articles that denigrate religions or confessions is liable to temporary suspension for a period of up to 3 months and the confiscation of all copies printed on that day;

(d) Article 21 of the Cybercrime Act of 2017 provides that: “Anyone who creates a website, an application or an electronic account or who disseminates information via the Internet or by means of information technology with intent to harm or insult a holy site, religious observance or religious belief shall be liable to imprisonment for at least 1 year and/or a fine of not less than JD 2,000 and not more than JD 5,000.”

52. In general, neither the public authorities nor civil society institutions have detected any racist discourse within Palestinian society based on the principles articulated in article 1 of the Convention, as the type of vilification and harassment it involves is, by its nature,

⁴² This Decree Law is being reviewed to bring it into line with international conventions.

infrequent and all Palestinian groups protected under the Convention are integrated into the Palestinian community.

53. Few complaints, moreover, are lodged by victims of racist discourse owing to fear, lack of awareness concerning their rights, or failure to consider such practices as racially discriminatory. Persons of African descent, for instance, do not treat comments sometimes made about their colour as discrimination or racist hate speech.⁴³

54. The current legislation in the State of Palestine includes mechanisms for declaring illegal and prohibiting racist organizations that promote or incite racial discrimination, as follows:

(a) Article 144 of the Penal Code applicable in the West Bank provides that anyone who participates in organized armed groups with intent to provoke civil war or confessional fighting is liable to imprisonment for life;

(b) Article 151 of the Penal Code applicable in the West Bank provides that anyone belonging to an association established to stir up confessional or racist tensions or incite conflict among the communities and members of the nation is liable to imprisonment from 6 months to 3 years and a fine of up to 50 dinars. Associations constituted for such purposes are dissolved and have their assets confiscated;

(c) Article 69 of the Penal Code applicable in Gaza defines as an unlawful association any body of persons, incorporated or unincorporated, that by its constitution or otherwise advocates, incites or encourages any act aimed at raising discontent or disaffection among inhabitants of Palestine or at promoting feelings of ill-will and hostility among the different sections of the population of Palestine. Article 70 further provides that any person over the age of 16 who is a member of an unlawful association, any person who occupies or acts in any office or position in or of an unlawful association, or who acts as a representative of an unlawful association, or who acts as a teacher in any institution or school conducted by or under the authority or apparent authority of an unlawful association, is liable to imprisonment for 1 year.

II. Groups, organizations, representative of public authorities and individuals engaged in promoting and inciting racial discrimination and violence in the context of the Israeli occupation

55. To speak of racism in the Palestinian context is impossible without speaking of the Israeli colonial settlement occupation as a source of incitement to racial discrimination and violence. Indeed, racist manifestations in Israel are inseparable from those resulting from its settlement occupation, as indicated in the Committee's concluding observations of 2012: "The Committee is concerned at the recent increase in racist and xenophobic acts, manifestations and discourse, especially against Palestinian citizens of Israel, Palestinians residing in the Occupied Palestinian Territory, including East Jerusalem, and asylum-seekers of African origin." The Committee has furthermore noted on successive occasions that there is a culture of impunity surrounding Israeli officials who incite racism and violence. In its concluding observations of 2007, it expressed concern that "the Attorney-General has adopted a restrained policy in relation to prosecutions against politicians, government officials and other public figures for hate speech against the Arab minority, an allegation that the State party cannot justify by mere reference to the right to freedom of expression."⁴⁴ In its concluding observations of 2012, the Committee also referred to this subject: "While noting the existence of criminal legislation on incitement to racism, racist organizations and participation in and support for such organizations, the Committee is concerned about the limitations therein, such as the restricted definition of racism, the exclusive role of the Attorney General in authorizing the prosecution of offences of incitement to racism, and the overly strict approach of Israeli legislation to proving the intentional element of such crimes. While noting the State party's concerns in regard to

⁴³ Palestinian Broadcasting Corporation. Interview with members of the African community in Jerusalem.

⁴⁴ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel. Seventieth session. 2007. CERD/C/ISR/CO/13.

freedom of speech, the Committee recalls that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression.”⁴⁵

56. The occupying Power has not taken the reform measures needed to curb that culture. On the contrary, ideas and theories based on the racial superiority of Jewish Israelis over non-Jews are formally espoused, in contravention of article 4 of the Convention. At the end of 2017, for example, the Ministry of Foreign Affairs of Israel, the occupying Power, published a racist caricature portraying Israel as a country of development and civilization and Arabs as an example of backwardness and inhumanity.⁴⁶ This notion is instrumental in creating a hostile racist environment through incitement and encouragement of racism and violence, contrary to the Committee’s concluding observations and general recommendation No. 35 (2013).

57. Public authority representatives and decision-makers in the ruling establishment of the occupation authority consequently incite racial discrimination and violence against Palestinians without being held to account for their words and deeds. Examples include the call by Israeli Knesset member Bezalel Smotrich for the separation of Arab and Jewish mothers in hospital;⁴⁷ the statement by Israeli Knesset member and Minister of Justice Ayelet Shaked during the aggression against Gaza in 2014 that “the Palestinian people in its entirety is the enemy”, including “Palestinian mothers”;⁴⁸ and the description of the Durban Conference by Israeli Finance Minister Yair Lapid as the “Festival of Hate” because Palestinians were participating in it,⁴⁹ thus denying the suffering inflicted on the Palestinian people as a result of the racially discriminatory Israeli policies against them. Israel, the occupying Power, has created a hostile environment providing fertile ground for racism, which has enabled the upsurge in racist manifestations and extremist groups calling for and inciting the killing of Arabs and Palestinians and advocating their expulsion from their homeland, as well as the targeting of their properties and holy places. The occupying Power gives support to such organizations at the same time as preventing the State of Palestine from providing protection for Palestinians in most of the West Bank and in East Jerusalem, from guaranteeing the rule of law, and from holding to account and dissolving those same organizations. There are several shared manifestations linking those racist groups and organizations with the colonial settlement system. Many of those who carried out acts of subversion and terrorism in the 1980s are now in the highest positions of leadership in the West Bank settlements and carry out attacks on Al-Aqsa Mosque, as well as urge its destruction.⁵⁰ Israel, the occupying Power, does not categorize these organizations as terrorist organizations, notwithstanding the offences they perpetrate against Palestinians, including attacks and killing, merely describing them as unidentified or illegal organizations and groups. It moreover allocates a “secret budget” for funding the colonial settlement system, as stated in the Molad report.⁵¹

58. Of these organizations, the most prominent include but are not limited to:

⁴⁵ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session. 2012. CERD/C/ISR/CO/14-16.

⁴⁶ *Times of Israel*. “Foreign ministry cartoon depicts Arab world as a man on a mule”. (2017). *Source*: <https://www.timesofisrael.com/foreign-ministry-cartoon-depicts-arab-world-as-a-man-on-a-mule/>.

⁴⁷ *Times of Israel*. “Lawmaker backs segregated Jewish, Arab maternity wards”. (2016). *Source*: <https://www.timesofisrael.com/lawmaker-backs-segregated-jewish-arab-maternity-wards/>.

⁴⁸ *The Washington Post*, “Israel’s new justice minister considers all Palestinians to be ‘the enemy’”. (2015). *Source*: https://www.washingtonpost.com/news/worldviews/wp/2015/05/07/israels-new-justice-minister-considers-all-palestinians-to-be-the-enemy/?utm_term=.49efde1620c0.

⁴⁹ Yair Lapid, “Israel’s national challenges, at home and abroad”. Washington Institute Policy Forum (2013).

⁵⁰ Negotiations Affairs Department of the Palestine Liberation Organization. “In focus: Current Israeli escalation at al-Aqsa Mosque compound in Occupied East Jerusalem” (2017). *Source*: <https://www.nad.ps/en/media-room/media-brief/focus-current-israeli-escalation-al-aqsa-mosque-compound-occupied-east>.

⁵¹ Yonatan Levi, Liat Schlesinger, Avichai Sharon. “The secret budget of the Israeli settler right”. (2015). Molad. The Centre for the Renewal of Israeli Democracy.

(a) The Hilltop Youth groups: These are groups of extremist religious youth found in the illegal wildcat settlement outposts in the hills of the Occupied Palestinian Territory and in Israeli colonial settlements in the West Bank, including Jerusalem. They target Palestinians and their property and draw their fanatical ideas from the extremist rabbis living in the colonial settlements;

(b) The “Price Tag” groups: These are groups belonging to the Hilltop Youth whose offences against Palestinians in the West Bank include vandalizing their property and attacking holy sites. One of the most serious of the offences committed by these groups was the arson attack on the home of the Dawabshah family in Duma village, south of Nablus, in which a couple and their 18-month-old baby were burned to death;

(c) The Lehava organization: This extreme racist organization does all it can to prevent what it calls miscegenation and mixed marriages between Jews and non-Jews. Its name is associated with scores of attacks on Islamic and Christian sites in occupied Jerusalem and it organizes paramilitary training for its members in special camps in Israeli settlements in the north and south of the West Bank;

(d) The Jewish Task Force: This organization seeks to “preserve the entire land of Israel for the Jews only, in accordance with the Torah”, rejects any relinquishment of the territory it occupied in 1967, and advocates the use of any means to drive Palestinians from their lands and prevent their return thereto;

(e) Other organizations that encourage colonial settlement: Various settler organizations are involved in fighting the Palestinian presence by displacing Palestinians from their home and land, notably the Elad association, the Amana movement and the Regavim movement.

59. Occupied Jerusalem has not been spared the environment of incitement, violence, harassment and racial discrimination against Palestinians and against all religions, races and ethnicities. Indeed, it has by virtue of the colonial occupation become the focus of that hostile environment because of the armed settler groups who terrorize the population and because of the daily harassment by occupation soldiers. In this environment fostered by the occupation, waves of violence have affected not only the right of Palestinians to physical integrity but also their right to life. On 2 July 2014, for example, Israeli settlers kidnapped the child Muhammad Abu Khdeir from the Shu’fat refugee camp in East Jerusalem and burned him alive.⁵² This environment has similarly affected the members of the Palestinian racial and ethnic groups in Jerusalem. Settlers persistently harass and spit upon Armenian clerics and intentionally desecrate their property,⁵³ and one year extremists wrote “death to Arabs and Armenians” on walls in the Armenian quarter.⁵⁴

Article 5

A. The right to life, physical integrity and personal liberty

I. Guarantees of equal treatment before the judicial authorities and the executive organs responsible for the administration of justice and law enforcement in the State of Palestine

60. In the State of Palestine, the law guarantees the right to non-discrimination and impartial treatment from judges, prosecutors and other judicial officials, as follows:

(a) Article 18 of High Judicial Council Decision No. 3 of 2006 provides that: “In the exercise of their judicial functions, judges shall give equal treatment in their words and

⁵² Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 (A/HRC/28/80/Add.1), paras. 7–8.

⁵³ Higher Presidential Committee for Church Affairs in Palestine. “The Armenians in Jerusalem”. *Source*: <http://www.hcc-plo.ps/?q=ar/content/%D8%A7%D9%84%D8%A7%D8%B1%D9%85%D9%86-%D9%81%D9%8A-%D8%A7%D9%84%D9%82%D8%AF%D8%B3>.

⁵⁴ Apo Sahagian, *Times of Israel*, “Armenians under attack in the Old City” (2015). *Source*: <http://blogs.timesofisrael.com/armenians-under-attack-in-the-old-city/>.

deeds to all persons, whether parties to the dispute or third parties (witnesses, lawyers, court officials or professional colleagues); shall not discriminate among them on grounds of religion, race, colour or other status; and shall require the same of their personnel.”

(b) Article 22 of the Code of Judicial Conduct provides that: “Judges shall perform their judicial functions without differentiation, partiality, bias or bigotry and in a manner that promotes confidence in the independence and impartiality of the judiciary;”

(c) Article 55 of the Attorney General’s Judicial Directive No. 1 of 2006 provides that: “Prosecutors shall be fair in their treatment of litigants when conducting investigations by making no distinction among them, regardless of differences in their social status or personal aspects, in order to avoid bias and prejudice”;

(d) Article 8 of the Code of Conduct for Military Judges and Prosecutors of 2012 provides that: “Military judges and prosecutors must feel full freedom to exercise their authority in applying the law fairly and equitably, without prejudice of any kind towards any of the parties to proceedings”;

(e) The Code of Conduct for Judicial Personnel⁵⁵ provides that personnel must “treat all users of the judiciary on a fully equal footing and endeavour not to discriminate or show prejudice for non-substantive reasons relating to political, geographical or family factors or on the basis of sex, religion or personal relationships.”

61. The Palestinian justice system is in keeping with the Committee’s general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system. The current procedural laws in Palestine, such as the Code of Civil Procedure (Act No. 2 of 2001), the Code of Criminal Procedure (Act No. 3 of 2001) and the Ordinary Courts Act No. 5 of 2001, provide due process guarantees for all citizens, without discrimination on any of the grounds set forth in the Convention.

62. The legislative provisions in place grant accused persons, without discrimination, the right to be presumed innocent and prohibit the judicial and other public authorities from publicly expressing their opinions concerning the guilt of an accused person before the court reaches a decision on the matter, especially in cases that would raise suspicions about individuals belonging to certain racial and ethnic groups, as follows:

(a) Article 14 of the Amended Basic Law provides that: “Accused persons are innocent until proved guilty at a legal trial at which they have had the guarantees necessary for their defence”;

(b) Article 16 of High Judicial Council Decision No. 3 of 2006, concerning the Code of Judicial Conduct, provides that: “Judges may not give their advance opinions to either litigants or third parties on disputes presented to them”;

(c) Article 15 of the Military Tribunal President’s Decision No. 1 of 2012, concerning the Code of Conduct for Military Judges and Prosecutors, provides that: “In all cases, judges are prohibited from commenting other than in court hearings on any matter involving cases before them and from giving advance opinions on such cases.”

63. The following legislative texts enable all accused persons and litigants, without distinction, to enjoy the right to a defence and the right to counsel, without discrimination:

(a) Article 14 of the Amended Palestinian Basic Law provides that: “All persons accused of a serious offence shall have a lawyer to defend them”;

(b) Article 102 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: “All persons are entitled to the assistance of a lawyer during the investigation”;

(c) Article 244 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: “The court shall ask accused persons if they have chosen a lawyer to defend them. If they have not done so because they are in a poor financial situation, the president of the court shall appoint for them a lawyer who has been practising for not less than five years or,

⁵⁵ Published on the website of the High Judicial Council on 12 December 2011.

in the case of lawyers who served in the Public Prosecutor's Office or the judiciary before obtaining a professional licence, for not less than two years”;

64. The following legislative provisions guarantee to accused persons the right to the assistance of a qualified interpreter:

(a) Article 60 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: “The investigation shall be conducted in Arabic and the prosecutor shall hear the statements of litigants or witnesses unacquainted with Arabic through an interpreter who takes an oath to perform his or her work honestly and faithfully”;

(b) Article 246 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: “If any of the accused persons or witnesses does not speak Arabic proficiently, the president of the court shall appoint a licensed interpreter, who must take an oath to interpret statements honestly and faithfully.”

II. The right to protection from violence or harm inflicted by law enforcement institutions in the State of Palestine

65. The protection of ethnic and racial groups from violence inflicted by State officials and individuals is included as part of the general protection afforded by law to citizens, in accordance with the following legislative framework:

(a) Article 13 of the Palestinian Amended Basic Law provides that: “No one may be subjected to any coercion or torture. Accused persons and all persons deprived of their liberty shall be properly treated”;

(b) Article 29 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: “No person may be arrested or imprisoned except by order of the authority competent to do so by law. Such persons must be treated in a manner that preserves their dignity and may not be physically or morally harmed”;

(c) Article 208 of the Code of Criminal Procedure (Act No. 3 of 1960) applicable in the West Bank provides that: “Anyone inflicting on a person any form of violence or force not permissible by law with intent to obtain a confession to an offence or information concerning such offence shall be liable to imprisonment from 3 months to 3 years”;

(d) Article 108 of the Penal Code (Act No. 74 of 1936) applicable in Gaza provides that: “Any person employed in the public service who uses or orders the use of force or violence against another person in order to extract from that person or from any member of his or her family a confession to an offence, or information concerning an offence, is deemed to have committed a misdemeanour.”

66. The following decisions, administrative measures, codes of conduct and strategic plans provide, without discrimination, the right to protection from any violence inflicted by law enforcement institutions:

(a) The country's Strategic Security Sector Plan 2014–2016 includes the objective of promoting human rights principles and concepts within the Palestinian security and law enforcement agencies through the elaboration of codes of conduct for those agencies and the establishment of systems for monitoring and managing their activities;

(b) Article 11 of the Code of Conduct and Professional Ethics for Personnel of the General Intelligence Services provides that: “Torture and other cruel, inhuman or degrading treatment or punishment is strictly prohibited”;

(c) Article 8 of Decree Law No. 11 of 2007, concerning preventive security, provides that: “The General Department of Preventive Security shall respect the rights, freedoms and guarantees provided for in Palestinian laws and in international instruments and treaties”;

(d) Article 13 of the Code of Conduct and Professional Ethics for Personnel of the General Intelligence Services provides that: “Force shall be used in cases of urgent necessity and within the limits required to perform the duty of protecting the homeland and citizens and preserving public and private assets and property”;

67. The codes of conduct for law enforcement personnel affirm the principle of non-discrimination in dealing with citizens. Article 10 of the Code of Conduct and Professional Ethics for Personnel of the General Intelligence Services thus provides that: “Intelligence personnel shall be mindful of the rights and interests of others, without exception, and treat them with respect, courtesy, civility, impartiality, fairness and objectivity, without distinction as to colour, race, gender, religious or political belief, social status, age or disability and without any other form of discrimination.”

68. The protection of racial and ethnic groups from interrogation and searches on the basis of physical appearance or through racial profiling is one of the guarantees provided against interrogation and random searches, in accordance with the following legal and procedural framework:

(a) Article 29 of the Penal Code of 2001 provides that: “No one may be arrested or imprisoned except by order of the authority competent to do so by law”;

(b) Article 126 of the Code of Criminal Procedure of 2001 provides that: “The Public Prosecutor’s Office and presidents of courts of first instance and appeal may inspect correctional and rehabilitation centres (prisons) and places of detention located in their jurisdictions in order to establish that no inmates or detainees are being held unlawfully. They may inspect the centre’s records, together with arrest and detention orders, take photographs of the same, have contact with any detainee or inmate and hear any complaints made to them. The directors and governors of the centres shall provide them with every assistance in obtaining the information they request”;

(c) Article 346 of the Jordanian Penal Code (Act No. 12 of 1960) provides that: “Anyone who unlawfully arrests a person and deprives him or her of liberty shall be liable to imprisonment for up to 1 year or a fine of up to 50 dinars.”

III. Treatment of Palestinians by the occupation authorities responsible for law enforcement, especially the Israeli military judiciary

69. Since 1967, the occupation authorities have arrested and imprisoned over 850,000 Palestinians,⁵⁶ including 10,000 women⁵⁷ and 25,000 children.⁵⁸ The conviction rate for Palestinians who appear in court is 99 per cent,⁵⁹ demonstrating an obvious trend towards use of the military justice system as a tool for the implementation of colonial occupation policies.

70. In its concluding observations of 2012, the Committee referred to the matter of administrative detention, stating that: “The Committee expresses great concern at the State party’s maintenance of administrative detention for both Palestinian children and adults based on evidence that is kept secret for security reasons.” Notwithstanding the Committee’s recommendation, the occupying Power continues to discriminate between Israelis and Palestinians in applying the rules on detention. The Emergency Powers Act of 1979 provides that Israelis may be detained only by a decision of the Prime Minister for a period of 6 months, provided that they are brought before a judge within 48 hours of their arrest. Military Order No. 1651 of 2010, however, empowers the military commander of the occupation authorities to place Palestinians in administrative detention for six months, which may be renewed an unlimited number of times; moreover, Palestinians must appear before a judge within eight days, and that judge may issue his or her decisions on the basis of evidence that has not been presented to the accused. Since 1967, the occupation authorities have issued over 50,000 detention orders against Palestinians. The administrative detention policy has also included minors, leading the Committee to state that it was “particularly concerned at worrying reports of an increase in the arrest and

⁵⁶ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, A/69/355.

⁵⁷ UN Women, “Suspended lives: Palestinian female prisoners in Israeli prisons”, (2011).

⁵⁸ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, A/69/355, para. 10.

⁵⁹ *Haaretz*, “Nearly 100% of all military court cases in West Bank end in conviction”, 2011. *Source*: <https://www.haaretz.com/1.5214377>.

detention of children and of the undermining of their judicial guarantees, notably in relation to the competence of military courts to try Palestinian children, which is inconsistent with international law.”⁶⁰ The occupying Power has not altered this policy; in December 2017, approximately 350 children were arrested.⁶¹

71. In its concluding observations of 1998, the Committee spoke of abuses perpetrated against persons held in prisons and detention centres, expressing “its profound concern that detained persons of Arab ethnic origin are disproportionately subjected to inhuman and degrading interrogation under the Landau Commission rules and that the Supreme Court has failed to declare this illegal.” Despite the Committee’s reservation, the occupation authorities systematically subject Palestinian detainees to torture and cruel treatment, including repeated beatings, slapping, shackling of hands and legs, sleep deprivation, being forced to remain in painful positions for lengthy periods, threats and other humiliations.⁶²

72. The military apparatus of the occupation authorities uses excessive force and violence against Palestinian civilians who pose no threat. In 2016, occupation forces killed over 94 Palestinians and injured more than 3,023.⁶³

73. In its concluding observations on the report of Israel of 2012, the Committee pointed out the distinction made by the occupying Power between Israelis and Palestinians concerning the right to equality before the law and the judiciary and due process guarantees, stating that: “The Committee is extremely concerned at the existence of two sets of laws, for Palestinians on the one hand and Jewish settlers on the other hand who reside in the same territory, namely the West Bank, including East Jerusalem, and are not subject to the same justice system (criminal as well as civil matters).”⁶⁴ Despite the Committee’s recommendation, the situation has not changed. Palestinians are tried in military tribunals by military judges in proceedings that are inconsistent with international law and international norms and provide no fair trial guarantees for Palestinians. This distinction is manifested in, among others, longer periods of detention; obstacles to the right of Palestinians to be represented by a lawyer and to their right to a defence;⁶⁵ the discriminatory use of Hebrew in trials of Palestinians;⁶⁶ discrepancy in the definition of serious offences committed by Israelis and Palestinians;⁶⁷ discrimination in the duration and severity of punishment for such offences; and discrimination in the opportunities for convicted persons to be released before the end of their sentence.

74. Palestinian racial and ethnic groups have not been spared abuses at the hands of the occupation with regard to their rights to life, physical integrity and personal liberty, as follows:

(a) The right to life: Osamah Jeddah, a member of Jerusalem’s African community, was among the first martyrs of the second intifada in 2000, having died from

⁶⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, (2012). CERD/C/ISR/CO/14-16.

⁶¹ Statistics of Addameer, 2017. *Source*: <http://www.addameer.org/statistics>.

⁶² Amnesty International. “Israel and Occupied Palestinian Territories 2017/2018”. *Source*: <https://www.amnesty.org/es/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/report-israel-and-occupied-palestinian-territories/>.

⁶³ Human Rights Watch. “Israel/Palestine. Events of 2016”. *Source*: <https://www.hrw.org/world-report/2017/country-chapters/israel/palestine>.

⁶⁴ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session. 2012. CERD/C/ISR/CO/14-16.

⁶⁵ Yesh Din, “Volunteers for human rights v. Commander of IDF Forces in the West Bank”, HCJ 2690/09 (2011). *Source*: <http://opil.ouplaw.com/view/10.1093/law:ildc/1820il11.case.1/law-ildc-1820il11?rkey=XwNerM&result=3&prd=OPIIL>.

⁶⁶ Association for Civil Rights in Israel (ACRI), “One rule, two legal systems: Israel’s regime of laws in the West Bank” (2014), p. 16.

⁶⁷ Addameer, “Presumed guilty: Failures of the Israeli military court system – An international law perspective”. (2009), p. 9.

bullets fired by occupation soldiers during protests at Al-Aqsa Mosque. Young Armenian Harut Kolzian was also martyred in the city of Ramallah during the first intifada in 1991;⁶⁸

(b) The right to freedom: Eighty per cent of Afro-Palestinians have been detained in occupation prisons and served varying sentences therein for their political affiliations and activities;⁶⁹

(c) The right to a fair trial: An example here is the case of Armenian students who were subjected to harassment by a settler in Jerusalem before being dragged into a fight, arrested by the Israeli authorities, held in Maskubiyah prison, prosecuted without judicial guarantees, sentenced to deportation, sent to Ramlah prison and tortured.⁷⁰

B. Human rights in general

I. Political rights relating to participation in public life

75. The Palestinian political system is a pluralist system that encourages the political participation of all Palestinian groups in all walks of public life without discrimination, as follows:

(a) The Declaration of Independence refers to the establishment of a democratic parliamentary system based on respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour or between men and women;

(b) Article 4 of the Constitution of the Palestinian Liberation Organization states that all Palestinians are natural members of the Palestine Liberation Organization and discharge their duty to liberate their country in accordance with their abilities and qualifications. The Palestinian people is the backbone of this Organization;

(c) Article 26 of the Amended Basic Law provides that: "Palestinians have the right to participate in political life, both individually and collectively."

76. **The right to vote:** The State of Palestine gives effect to the right to participate in elections, without discrimination, by way of various legislative provisions and administrative measures:

(a) Article 26 of the Amended Basic Law provides that Palestinians have the right to "vote and stand as candidates for election so as to have representatives chosen from among them who are elected with universal suffrage in accordance with the law";

(b) Article 34 of the Basic Law provides that: "The President of the Palestinian National Authority shall be chosen in a general direct election by the Palestinian people in accordance with Palestinian electoral law";

(c) Article 28 of Decree Law No. 1 of 2007, concerning general elections, provides that all Palestinians in the West Bank, including Jerusalem, and the Gaza Strip, who satisfy the conditions stipulated therein may exercise the right to vote, irrespective of religion, opinion, political affiliation, or social, economic or academic status;

(d) Article 27 of Decree Law No. 1 of 2007 provides that foreign nationals (excluding those with Israeli citizenship) married to Palestinians, whether spouses of Palestinian women or of Palestinian men, are entitled to vote in general elections, even if they hold no Palestinian identity card at the time of registering on the electoral roll or to vote;

(e) Article 7 of the Local Council Election Act No. 10 of 2005 stipulates that any person exercising the right to vote must be Palestinian, have attained 18 years of age on

⁶⁸ *Al-Safir*, "The Armenians in Palestine" [in Arabic], 2011. *Source*: <http://palestine.assafir.com/Article.aspx?ArticleID=2034>.

⁶⁹ Website of the African Community Society. *Source*: <http://acs-jer.org/index.php?lang=en>.

⁷⁰ Palestinian Broadcasting Corporation. Interview with the Committee on the Armenian Question in Jerusalem.

polling day, have been resident in the electoral district for a period of not less than six months prior to the date of the elections, and have no loss of legal capacity.

77. In order to promote the participation of all groups of Palestinian society in elections, the Central Electoral Commission, in cooperation with civil society organizations, ran a series of awareness-raising projects on the right to vote. These included electoral awareness projects conducted in and universities, and a project entitled “Our path to a democratic State”, which worked through the radio, Internet and social media to promote political awareness and democratic participation and guarantee wider access for all segments of Palestinian society to legal information about the electoral process.

78. **The right to stand as a candidate:** The State of Palestine, without discrimination, gives effect to the right to stand as a candidate for election by way of numerous legislative provisions and administrative measures:

(a) Pursuant to the Electoral Regulations of the Palestinian National Council of 1965, a candidate for membership of the National Council must be “a Palestinian who is literate; is a voter registered on the final electoral roll; has attained 25 years of age at the time of standing for election; has not been convicted of a serious offence or a misdemeanour involving impropriety; is not an official of the Organization; is an active member of the Popular Organization; and is not standing as a candidate in more than one electoral district”;

(b) Under article 36 of the Decree Law on general elections, a presidential candidate must “be a Palestinian born to Palestinian parents; have attained at least 40 years of age on the designated polling day; be permanently resident in the Palestinian territories; be registered on the final electoral roll; satisfy the conditions for exercise of the right to vote; and be committed to the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people, to the Declaration of Independence, and to the provisions of the Basic Law”;

(c) In accordance with article 45 of the Decree Law on general elections, a candidate for membership of the Legislative Council must “be a Palestinian; have attained at least 28 years of age on the designated polling day; be registered on the final electoral roll; not have been convicted of a serious offence or a misdemeanour involving a breach of honour or trust; be permanently resident in the Palestinian territories; and be committed to the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people, to the Declaration of Independence, and to the provisions of the Basic Law”;

(d) Article 18 of Local Council Election Act No. 10 of 2005 provides that: “Candidates on the list must have attained 25 years of age on polling day; be registered on the final electoral roll in the district where they are candidates; fulfil the requirements to be met by voters; not have been convicted of either a misdemeanour involving a breach of honour or of a serious offence; not be an official (or employee) of or a lawyer for the Ministry of Local Government, a public security agency or a local authority, except if they have submitted their resignation and attached proof that they have been accepted as a candidate; have been resident within the local authority pertaining to the council for which they are standing as a candidate for a period of not less than one year prior to the date of the elections; and not be standing as a candidate in another district or on another list.”

79. Palestinian ethnic and racial groups thus enjoy the right to stand as candidates and representatives at the national and local levels. In the Bethlehem Municipality, for example, there is a permanent seat for Syriacs. Samaritans may also stand as candidates for the Palestinian Legislative Council, as in the case of the late deputy Salum Imran Ishaq al-Kahin, who was elected as a member of the first Palestinian Legislative Council in 1996. He was also a member of the Jerusalem Committee and the Council’s General Budget Committee.⁷¹

80. Israel, the occupying Power, impedes the right of Jerusalemite Palestinians, including members of Palestinian ethnic and racial groups, to vote and stand as candidates

⁷¹ Palestinian Information Centre, Wafa, “Salum Imran Ishaq al-Kahin”. *Source:* <http://info.wafa.ps/persons.aspx?id=615>.

and political representatives alongside the rest of the Palestinian population, by way of the following practices:

(a) In 2004, the occupation authorities closed the Palestinian voter registration centres in East Jerusalem and arrested the staff working in such centres, thereby undermining the right of Palestinians to participate in legislative and presidential elections;⁷²

(b) The participation of Jerusalemite Palestinians in the Palestinian legislative elections was low as a result of the harassment to which they were subjected by racist Israeli organizations, which threatened to expel by force any of them who took part in the elections. The forces of the occupying Power furthermore obstructed the movement of Palestinian citizens and prevented them from reaching the polling stations;⁷³

(c) Almost 50 years have gone by without Jerusalemite Palestinians having been granted the right to participate in their own municipal elections and have their interests represented. The Israeli municipality has no concern for those interests and fails to provide adequate services for the population.⁷⁴

81. Israel, the occupying Power, also undermines the right of Palestinians to engage politically in the work of the Palestinian Legislative Council by arresting members of the Council so as to hamper their participation and obstruct their right to vote, stand as candidates and representatives and participate in political life. One third of the members of the Legislative Council were arrested after the legislative elections of 2006 and 12 members are currently being held in detention.⁷⁵

82. **The right to form and join political parties:** The State of Palestine, without discrimination, guarantees the right to form and join political parties by way of various legislative texts and administrative measures:

(a) Article 19 of the Constitution of the Palestine Liberation Organization provides that the Executive Committee “shall coordinate work between the Organization and all Arab and international organizations, federations and institutions that are consistent with the objectives of the Organization or assist the achievement of its purposes.” Political factions that recognize the Organization and its objectives and assist the achievement thereof are customarily recognized and enjoy membership of the Palestinian National Council and the Organization’s Executive Committee;

(b) Article 26 of the Amended Basic Law gives Palestinians the right to “form and join political parties, in accordance with the law”;

(c) Article 3 of the Jordanian Political Parties Act of 1955, which is applicable in the West Bank, provides that citizens have the right to “form political parties, on condition that their purposes are legitimate, their means peaceful and their statutes in keeping with the provisions of the Constitution”;

(d) The Declaration of Principles and Standards issued in 2009 by the National Conference on Protection of the Right of Assembly and Organization in Palestine states that membership of a party is voluntary on the basis of freedom of choice and without discrimination on grounds of religion, sex or other status.

83. **The right to hold public office:** The State of Palestine, without discrimination, guarantees the right of citizens to compete for public office in accordance with conditions

⁷² Arabic Network for Human Rights Information, “Condemnation of the closure by Israel of voter registration centres in occupied Jerusalem” [in Arabic]. *Source:* <http://www.anhri.net/palestine/jcdhr/pr040914>.

⁷³ Jerusalem Centre for Economic and Social Rights, “The racial discrimination policy in Jerusalem” [in Arabic]. *Source:* <http://www.jcser.org/ara/images/articles/durbanara.pdf>.

⁷⁴ Ma’an News Agency, “50 years without local elections in Jerusalem. Is the Jerusalem Municipality a substitute?” [in Arabic] (2016). *Source:* <https://www.maannews.net/Content.aspx?id=863971>.

⁷⁵ Addameer, “Detained Palestinian Legislative Council members” (2017). *Source:* <http://www.addameer.org/publications/detained-palestinian-legislative-council-members-0>.

and procedures, on the basis of equality, merit and non-discrimination, in accordance with the following provisions:

(a) Article 24 of the Civil Service Code (Act No. 4 of 1998) stipulates that persons appointed to public office must be Palestinian or Arab; have attained 18 years of age; be free of diseases that would prevent them from discharging the duties of the office to which they are to be appointed; enjoy their civil rights; and not have been convicted by a competent Palestinian court of a serious offence or a misdemeanour involving a breach of honour or trust, unless they have been rehabilitated;

(b) Article 43 of the Public Service Act stipulates that the promotion of any public official is conditional upon having completed a certain number of years of seniority and a proportion of the performance assessments prescribed by law.

84. **The right to participate in public meetings and to form associations:** The State of Palestine, without discrimination, guarantees by way of the following administrative and legislative frameworks the right of citizens to participate in public meetings:

(a) Article 26 of the Amended Basic Law provides that Palestinians have the right to “conduct private meetings without the presence of police officers and to hold public meetings, processions and gatherings within the limits of the law”;

(b) Article 2 of the Public Meetings Act No. 12 of 1998 provides that: “Citizens shall have the right freely to hold public meetings, symposiums and marches, concerning which there may be no derogation or restriction other than as provided for in this Act”;

(c) Article 5 of Public Meetings Act requires “the competent authorities, at the request of the organizer of the meeting, to take the necessary protective measures, provided that such measures do not impinge upon the freedom of the gathering or affect the progress of the meeting.”

85. The State of Palestine likewise guarantees, without discrimination, by way of the following legislative and administrative frameworks the right of citizens to form and join associations:

(a) Article 26 of the Amended Basic Law provides that Palestinians have the right to “form trade unions, associations, federations, leagues, clubs and people’s institutions in accordance with the law”;

(b) Article 1 of the Associations Act No. 1 of 2000 provides that: “Palestinians have the right freely to engage in social, cultural, professional and scientific activities, which includes the right to form and manage associations and non-governmental bodies in accordance with the provisions of this Act”;

(c) Article 2 of the Associations Act No. 1 of 2000 defines an association as “an independent legal entity established pursuant to an agreement among a minimum of seven persons for the achievement of lawful public interest objectives that are not for profit to be divided among members or for the realization of personal gain”;

(d) Article 2 of Cabinet Decision No. 9 of 2003, concerning the Implementing Regulation for Act No. 1 of 2000, sets out the following guarantees: “All Palestinians have the right to take part in the establishment and management of associations and freely to join and withdraw from their membership with the aim of achieving one or more not-for-profit objectives. Neither the lawful objectives of the association nor its regulations or the personality, affiliations or number of its founders shall be grounds for the imposition of any restrictions or obstacles with regard to its establishment”;

(e) Article 11 of Cabinet Decision No. 9 of 2003 provides that applications for the registration of associations “shall be submitted to the Registry Department at the Ministry of the Interior by at least three of the founding members, the majority of whom must be Palestinians”.

86. Individuals and Palestinian ethnic and religious groups in the State of Palestine enjoy the right to form and join associations, as follows:

(a) The Afro-Palestinians in Jerusalem established the African Community Association, an important community centre for political and cultural activities in the Old City;

(b) The Syrians have established various associations, such as the Saint Mark's Association in Jerusalem, the Syriac Club, and the Saint Ephrem Syriac Orthodox Church Association, which deals with the affairs of the Syriac community in Bethlehem;

(c) The Armenians have established several associations, such as the Local Armenians Club, the Armenian Youth Association, the Saint James Armenian Orthodox Church Association, the Catholic Arax Club and the Armenian Charitable Society, which serve the Armenian community in Jerusalem;

(d) The Samaritan community has established several associations, such as the Samaritan Legend Association, the Samaritan Youth Club and the Centre for Samaritan Studies;

(e) Palestinians of Maghrebi descent established the Maghrebi Women's Association in Jerusalem.

87. The occupying Power prevents Palestinians from exercising their right to form and join associations, especially in East Jerusalem, through practices that include carrying out incursions and raids, closing premises for 12 or 24 hours or more, banning grass-roots activities, conducting searches and, in the case of institutions, confiscating their property and documentation, arresting their staff, preventing the return of their confiscated materials, shutting them down, and prohibiting them from pursuing their activities. During the period 2000–2009, the occupation closed down over 35 institutions in East Jerusalem.⁷⁶ Key institutions that have been closed include: Orient House, the closure of which is renewed every six months; the Arab Studies Society; the Palestinian Prisoners' Club; the Arab Women's Welfare Society; and the Silwan Charity Association.⁷⁷

88. The occupying Power is leading a campaign against NGOs working in the field of human rights. In July 2016, the Israeli Knesset approved the so-called Funding Transparency Act, which obliges organizations receiving more than half of their funding from foreign entities to provide the Israeli Government with information about the sources of such funding. This Act is fundamentally designed to chip away at the funding of all foreign and Palestinian NGOs working to expose human rights violations committed against the Palestinian population by the Israeli occupation. It will not apply, however, to NGOs funded by dubious private entities that support the Israeli right and encourage illegal colonial settlements on Palestinian territory.⁷⁸

89. The Office of the United Nations High Commissioner for Human Rights (OHCHR) stated that this Act “would disproportionately affect non-governmental organizations working on human rights and contribute to their delegitimization”.⁷⁹ The European Union also issued an official statement characterizing the Act as one that undermined the principles of democracy. It furthermore criticized the reporting requirements under the Act, describing them as “beyond any legal transparency requirement. It is apparently aimed at restricting NGOs in Israel.”⁸⁰

90. The occupying Power continues to suppress not only the right to peaceful assembly but the right of assembly in protest against violations committed by the occupying Power.

⁷⁶ Ya'qub Awdah, “Closure of Jerusalem institutions is a racial cleansing of East Jerusalem”, [in Arabic], *Journal of Palestine Studies* (2010), Institute of Palestine Studies. Vol. 8.

⁷⁷ Palestinian Information Centre, Wafa, “Palestinian institutions closed by the Israeli occupation in Jerusalem since 1967” [in Arabic]. *Source*: <http://info.wafa.ps/atemplate.aspx?id=9327>.

⁷⁸ Diakonia, “Rule of law: A hardening of illegality in Israel and the OPT 2014–2017” (2017).

⁷⁹ OHCHR, “UN rights office raises concern about Israel's “NGO Transparency Law” (2016). *Source*: <https://news.un.org/en/story/2016/07/534812-un-rights-office-raises-concern-about-israels-ngo-transparency-law>.

⁸⁰ European Union External Action, “Statement by the spokesperson on the passage of the new NGO law in the Israeli Knesset” (2016). *Source*: https://eeas.europa.eu/headquarters/headquarters-homepage/7228/statement-spokesperson-passage-new-ngo-law-israeliknesset_en.

According to the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, “[r]egular demonstrations against the wall and its associated regime staged in affected villages are often violently suppressed.”⁸¹

II. Other civil and political rights

91. **The right to freedom of movement:** The State of Palestine, without discrimination, guarantees by way of the following legislative and administrative frameworks the right to freedom of movement:

(a) Article 20 of the Basic Law provides that: “Freedom of residence and movement is guaranteed within the limits of the law”;

(b) Article 11 of the Amended Basic Law provides that no person may be prevented from movement except by judicial order, as provided by law;

(c) Article 87 of the draft constitution of Palestine of 2015 provides as follows: “All citizens have freedom to choose their place of residence and freedom of movement in the State of Palestine. They have the right to obtain a passport and to leave and return to Palestine freely. No one may be prevented from leaving Palestine other than by a judicial order issued in accordance with the law. The expulsion of Palestinians from their homeland is also prohibited”;

(d) Article 88 of the draft constitution of Palestine of 2015 goes further still by providing as follows: “Any person residing legally in the territory of the State of Palestine has freedom of movement and may not be expelled, except as provided by law. The extradition of refugees with the legal right to asylum is prohibited and the law shall regulate the extradition of foreign suspects in accordance with bilateral or international treaties.”

92. The right of Palestinians to movement is the right most impaired by Israel, the occupying Power, through the following discriminatory and racist measures and policies:

(a) Israel systematically controls movement in the Occupied Palestinian Territory through the procedures established for granting entry and exit permits and the complex network of military checkpoints that fragment Palestinian territory and violate its integrity. Based on the issuance of identity cards to single out Palestinians and Jerusalemite Palestinians from others, the permit regime is reminiscent of the pass laws used in South Africa during the apartheid era.⁸² Under this regime, Palestinians are obliged to obtain a permit for carrying out any type of daily activity, such as work, training, studying, moving house, visiting relatives and receiving medical treatment. They are also required to obtain Israeli permits to enter certain areas of the Occupied Palestinian Territory, such as East Jerusalem and the closed zones between the wall and the Green Line, as well as permits to travel between the West Bank and the Gaza Strip. As to the network of checkpoints, it is one of the harshest of the restrictions imposed by the occupying Power. Palestinians crossing the Qalandiya checkpoint, for example, have to endure lengthy and humiliating procedures lasting up to 90 minutes during rush hours.⁸³ Between November 2014 and November 2016, OHCHR calculated that there were approximately 85 permanent checkpoints in the West Bank,⁸⁴ which is in addition to the hundreds of temporary and impromptu checkpoints. There are now also 19 checkpoints in the city of Hebron and 19 in East Jerusalem. The occupying Power furthermore prevents Palestinians from accessing 94

⁸¹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, (2014). A/HRC/25/67, para. 19.

⁸² John Dugard, “Human rights and the South African legal order” (1978), pp. 71–78.

⁸³ Ir Amim, “Displaced in their own city: The impact of Israeli policy in East Jerusalem on the Palestinian neighbourhoods of the City beyond the separation barrier”, (2015), pp. 17–18.

⁸⁴ Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, General Assembly (2016). A/HRC/31/44, p. 7.

per cent of the Jordan Valley area, which they can enter or leave only through checkpoints, whereas settlers are able to move about in complete freedom;⁸⁵

(b) The separation, annexation and racist expansion wall is a key component of the system imposed by the occupying Power to suppress the right of movement. In its concluding observations of 2007, the Committee recommended that Israel should “cease the construction of the wall in the Occupied Palestinian Territories, including in and around East Jerusalem, dismantle the structure therein situated and make reparation for all damage caused.”⁸⁶ Israel, the occupying Power, ignored not only this recommendation but also in particular the advisory opinion of the International Court of Justice by having completed the construction of the annexation and apartheid wall with the aim of further unlawfully suppressing the right of Palestinians to movement, breaking up Palestinian territory and destroying the Palestinian social fabric. In its advisory opinion on the legal consequences of the construction of the wall, the International Court of Justice declared the wall illegal and contrary to international law.⁸⁷ Eighty per cent of the wall extends into the West Bank, fragmenting Palestinian territory further still. The wall has also cut off more than 12 Palestinian villages and 10,000 Palestinians in the seam zone between the borders of 1967 and the wall so that the Palestinians consequently isolated cannot leave or enter their homes without permits.⁸⁸ With reference to the Palestinians living in the seam zones, the Special Rapporteur stated that: “For Palestinian residents isolated from the rest of the West Bank by the wall, and living under the permit regime and other restrictions, the issue is not only about status, but also about how life is made untenable, inducing more and more Palestinians to abandon their land and leave.” He also stated that racist and not security reasons were behind the construction of the wall, saying that: “If protection of Israeli citizens were indeed the only reason for the wall and the associated regime, it begs the question of why Israel continues to support the expansion of illegal settlements in the West Bank, thus moving an increasing number of Israeli citizens into the very area from which it says the risk emanates”;⁸⁹

(c) One of the main consequences of this regime is discrimination between Palestinians and the settlers living in illegal colonial settlements concerning the right to use West Bank roads, along which settlers are permitted to drive freely and without hindrance between settlements in the West Bank, between settlements and East Jerusalem, between West Bank settlements and East Jerusalem, and between Israeli cities inside the Green Line. These settlers, moreover, cross the annexation, expansion and separation wall, the enclaves and the Green Line without restriction, whereas the movement of Palestinians between those areas is severely restricted. To facilitate movement in the West Bank, the occupying Power designates roads for the exclusive use of settlers while prohibiting their access to Palestinians. It is for Palestinians to locate which roads they are barred from entering. Should they happen to pass along such roads, they are liable to be arrested and have their vehicles confiscated or to be threatened with violence and killing.

93. These policies have also had an impact on Palestinian racial and ethnic groups. The Samaritan community, for example, has fallen hostage to a military checkpoint belonging to the Israeli occupation army, which stifles their movements, restricts their freedom to enter and leave the city of Nablus, their only escape to the outside world, and prevents them from carrying out their normal daily activities. The checkpoint opens and closes at specific times in line with strict military orders. In the morning, students scramble to reach their

⁸⁵ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), “Humanitarian fact-sheet on the Jordan Valley and Dead Sea area” (2012). *Source:* https://www.ochaopt.org/documents/ocha_opt_jordan_valley_factsheet_february_2012_english.pdf.

⁸⁶ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, eightieth session (2012). CERD/C/ISR/CO/14-16.

⁸⁷ International Court of Justice, “Legal consequences of the construction of a wall in the Occupied Palestinian Territory”, Advisory opinion, International Court of Justice (2004), p. 136.

⁸⁸ HaMoked (Centre for the Defence of the Individual), “The permit regime: Human rights violations in the West Bank area known as the seam zone”, (2013). *Source:* http://www.hamoked.org/files/2013/1157660_eng.pdf.

⁸⁹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. (2014). A/HRC/25/67.

schools and universities and traders their shops, which they are forced to close in the early evening in order to return home before the soldiers close the checkpoint gate. It is furthermore impossible for anyone not a member of the Samaritan community to cross the checkpoint without undergoing elaborate security procedures, which has prevented visitors from reaching Mount Gerizim, in particular tourist groups making their way to the Samaritan Museum.⁹⁰ As to the Old City of Jerusalem, the occupation installed a new checkpoint in the summer of 2014 at the entrance to the Bab al-Majlis neighbourhood. Since that time, the members of the African community have had heavy restrictions imposed on their freedom of movement, which has affected their routines and livelihoods. Thanks to those restrictions, the activities of the African Community Association have been suspended since December 2015.⁹¹

94. **The right to leave and return:** Israel, the occupying Power, also discriminates between Palestinians and Israelis concerning the right to leave and return. The exit and entry of Palestinians is consequently governed by a complex system of Israeli laws and procedures, whereas settlers freely leave and return to their homes in the colonial settlements in Palestinian territory without difficulty. These procedures are as follows:

(a) On more than one occasion, the Committee has mentioned violation of the right of return and entry, in particular the right of return for Palestinian refugees. Its concluding observations of 1987, it stated that “members of the Committee wished to know why Israel did not permit the Palestinian Arabs who had been driven from their lands to come back and obtain the same treatment as Jewish people.”⁹² In its concluding observations of 1998, it noted that the right of Palestinians to return was denied and stated that the State party must remedy the situation.⁹³ In its concluding observations of 2007, it expressed concern about “the denial of the right of many Palestinians to return and repossess their land in Israel.”⁹⁴ Contrary to all these recommendations and to United Nations resolutions, foremost among them General Assembly resolution 194 (III), Israel, the occupying Power, violates the right of Palestinians displaced by the aggression of Israel in 1948 and 1967 to return, whereas the Israeli Law of Return allows any Jew to enter and reside in the country and become an Israeli citizen, as already mentioned. This right has been extended to include any person who has a Jewish grandfather, as well as to any non-Jew married to a Jew;

(b) The occupying Power, through its control of the “population register”, monopolizes the residence files and the issuance of permits so that no Palestinian passport can be issued unless linked to an identification number in the “population register”;⁹⁵

(c) The occupying Power unlawfully controls the entry to and exit from Palestinian territory in the West Bank and the Gaza Strip. Palestinians can therefore travel only through the Karamah crossing, where they are obliged to present their passports to the Israeli authorities, which limit the hours of operation to 11 hours on weekdays. On Saturdays, because it is an official holiday in the occupying State, the crossing closes at 10 a.m. According to statistics from the Palestinian Borders and Crossings Department, the number of Palestinian travellers suddenly denied passage through the Karamah crossing by the Israeli authorities amounted to 824 in 2013, 4,269 in 2014, and 2,007 in 2015. In the

⁹⁰ Palestinian Information Centre, Wafa, “Problems facing the Samaritan community” [in Arabic].
Source: <http://info.wafa.ps/atemplate.aspx?id=4059>.

⁹¹ B’Tselem, “Restrictions suffocate neighborhood of Bab al-Majles in Jerusalem’s Old City” (2016).
Source: https://www.btselem.org/photoblog/20160228_bab_al_majles.

⁹² Report of the Committee on the Elimination of Racial Discrimination (1987). A/42/18, paras. 578–604.

⁹³ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (1998). Fifty-seventh session. CERD/C/304/Add.45, p. 3.

⁹⁴ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2007), seventh session. CERD/C/ISR/CO/13, para. 18.

⁹⁵ Interim Agreement, annex III, appendix I, art. 28 (10) (b) and art. 28 (11).

same year, those prevented from travelling by prior decision of the occupying Power amounted to 83,895;⁹⁶

(d) In the Gaza Strip, the occupying Power has been taking strict measures against Palestinians for over 11 years, imposing a suffocating blockade that makes it virtually impossible to leave the area. Before 2000, over half a million Palestinians travelled out of Gaza every month, a figure that fell to 7,000 only in 2017.⁹⁷ Any Palestinian wishing to leave the Gaza Strip is required to obtain a permit for the West Bank and another permit to leave the West Bank via the Karamah crossing. The occupying Power, however, systematically refuses to issue permits to Gazan Palestinians other than in exceptional cases. Even in instances where a travel permit is needed for medical treatment or study purposes, the occupying Power is slow to complete the process, disregarding the adverse humanitarian, social and economic consequences of delays for applicants;

(e) In East Jerusalem, Jerusalemites easily lose their right of return and entry to Jerusalem if their residence permit is cancelled. On the instructions of the occupying Power,⁹⁸ Jerusalemite Palestinians lose their right of residence if they have lived in a foreign country for seven years, obtained residence in a foreign country, or acquired the citizenship of another country. In any event, Jerusalemites lose their rights if they are unable to prove that East Jerusalem is their “centre of life”, even if living in the suburbs outside the jurisdiction of the Municipality of Jerusalem, which is run by the occupation, as anywhere beyond the boundaries of that jurisdiction is considered a foreign country. These policies have affected Palestinian racial and ethnic groups in Jerusalem. Young Armenians, for example, have few opportunities for education or work in the Old City of Jerusalem and therefore go abroad to obtain a university education. On returning to Jerusalem, they suddenly find they have lost their right to residence and had their identity cards revoked.⁹⁹

95. **The right to nationality and residence:** The Palestinian Declaration of Independence establishes the essential features of Palestinian identity in providing that: “The State of Palestine is the State of Palestinians wherever they may be. Therein they shall develop their national and cultural identity, enjoy full equality of rights, and have their religious and political beliefs and human dignity safeguarded under a democratic parliamentary system based on freedom of opinion; the freedom to form parties; respect of the majority for minority rights; respect of minorities for majority decisions; social justice and equality; and non-discrimination in public rights on grounds of race, religion or colour or between men and women, under a constitution that ensures the rule of law and an independent judiciary, in full consistency with the age-old spiritual and cultural heritage of Palestine embodying tolerance and religious coexistence.”

96. Article 9 of the Amended Basic Law provides for the adoption of a law regulating Palestinian citizenship. Pending the enactment of such a law, the legal framework governing this issue is based on a set of United Kingdom and Jordanian laws hitherto current in Palestine alongside Palestinian laws. In this context, Palestinians are defined, without any discrimination on any of the grounds mentioned in the Convention, as follows:

(a) Article 5 of the Palestinian National Charter states that: “Palestinians are the Arab citizens who habitually resided in Palestine until 1947, whether those who were expelled therefrom or who remained therein. Anyone born to a Palestinian Arab father after that date, in or outside Palestine, is Palestinian”;

⁹⁶ Centre for Defence of Liberties and Civil Rights, “Freedom of travel and movement is a basic human right” [in Arabic] (2016), p. 5.

⁹⁷ OCHA, “Palestinian access from Gaza Strip declined sharply in 2017” (2018). *Source*: <https://www.ochaopt.org/content/palestinian-access-gaza-strip-declined-sharply-2017>.

⁹⁸ Art. 11 lit. c and 11 A, Entry into Israel law and regulations issued thereunder, 5734-1974; Israeli Collection of Regulations No. 3201 (18 July 1974), p. 1517. See also: *Mubarak Awad v. Prime Minister of Israel*, HJC 282/88, 1988 42(2) PD 424, judgment of 5 June of 1988; and U. Halabi, *The legal status of the population of East Jerusalem since 1967 and the implications of annexation on their civil and social rights* (2009), chapter one.

⁹⁹ Higher Presidential Committee for Church Affairs, “Armenians in Palestine” [in Arabic]. *Source*: <http://www.hcc-plo.ps/?q=ar/content/%D8%A7%D9%84%D8%A7%D8%B1%D9%85%D9%86-%D9%81%D9%8A-%D8%A7%D9%84%D9%82%D8%AF%D8%B3>.

(b) Article 27 of the General Elections Act No. 1 of 2007 provides that: “A person is deemed to be Palestinian: (a) If he or she was born within the borders of Palestine as delineated at the time of the United Kingdom Mandate or had the right to acquire Palestinian citizenship under the laws in effect at that time; (b) If he or she was born in the Gaza Strip or West Bank, including Jerusalem; (c) If the provisions of paragraph (a) above apply to any of his or her ascendants, regardless of their place of birth; (d) If such person is the spouse of a Palestinian woman or Palestinian man, as defined above”;

(c) In addition to the current legislation, article 28 of the draft constitution of Palestine of 2015 provides as follows: “Palestinians are the citizens who habitually resided in Palestine until 1947, whether those who were expelled therefrom or remained therein. Anyone born to a Palestinian father or a Palestinian mother after that date, in or outside Palestine, is Palestinian. Minorities brought to Palestine for colonial purposes are excluded from this definition. All those born to a mother or father holding Palestinian citizenship are entitled to Palestinian citizenship”;

(d) Article 30 of the draft constitution of Palestine provides that: “The Palestinian people are a single unit. Palestinians who were forcibly displaced from their homes in Palestine or compelled to leave Palestine before or after the Nakbah of the Palestinian people in 1948 and whose return thereto was prevented shall have the right to return to the homes and properties from which they were driven. This is part of the inherent right of the Palestinian people to self-determination, which is permanent and not subject to any period of limitation. The return of Palestinian refugees to the Palestinian State and their possession of citizenship in accordance with the law does not diminish their right to return to their original homes in accordance with General Assembly resolution 194 (III). The Palestinian State is committed to continue striving for the implementation of this legitimate right of Palestinian refugees to return to their homes, recover their property, and be compensated for their losses, damages and suffering.”

97. In the State of Palestine, the laws currently governing the status of foreign nationals and non-citizens define both categories without any discrimination and on the basis of the principles articulated in the Convention. Article 2 of the Migration Act of 1941 defines a foreign national as “any person not holding Palestinian citizenship” and a migrant as “any foreign national who is not permanently resident in Palestine but who enters Palestine lawfully with intent to reside permanently therein.” A permanent resident is defined as “a person who resides permanently in Palestine, whether a Palestinian or a foreign national.” A temporary worker is defined as “any foreign national who lawfully enters Palestine with intent to work temporarily in specific jobs or enterprises and who is not a permanent resident or traveller”. A traveller is defined as “any foreign national who, unlike a permanent resident, lawfully enters Palestine for any purpose other than to reside permanently in Palestine or to seek or accept employment therein”.

98. The laws in effect in the State of Palestine regulate the right to naturalization, without any discrimination, as follows:

(a) Article 12 of the Jordanian Citizenship Act No. 6 of 1955 states that applicants for naturalization must have been resident for four years in Palestine, be of good conduct and proficient in Arabic;

(b) Article 45 of the Civil Status Code (Act No. 2 of 1999) states that persons having acquired Palestinian citizenship must provide their full details to the Palestinian department or representative office in their place of residence within a period of 90 days from the date on which they acquired citizenship.

99. The laws in force in Palestine guarantee that there is no discrimination contrary to the Convention in the provisions governing the lapse or withdrawal of citizenship, as follows:

(a) Article 18 of the Jordanian Citizenship Act states that the withdrawal of citizenship is limited to the instances in which a person carries out one of the following: enters the military service of a foreign State without the authorization or permission of the Council of Ministers; enters and refuses to leave the civil service of another State; or enters the service of an enemy State”;

(b) Article 28 of the draft constitution of the State of Palestine provides that: “Loss of citizenship is prohibited. No Palestinian may be deprived of citizenship, which may not be withdrawn except by judicial order. The law shall regulate the acquisition, renunciation and withdrawal of citizenship, as well as the rights and obligations of citizens who have numerous citizenships or none.”

100. The exercise of rights arising from Palestinian citizenship is closely bound up with an end to the occupation, which unlawfully and arbitrarily controls the files relating to the civil affairs of Palestinians on which basis the criteria for naturalization and the grant of residence permits are determined.¹⁰⁰ Israel, the occupying Power, violates the right of Palestinians to citizenship by way of various procedures and practices, in particular:

(a) Israel discriminates between Israelis and Jerusalemite Palestinians in the city of Jerusalem in matters relating to citizenship, residence and civil transactions in general. Israelis meanwhile have the right to full permanent residence in East Jerusalem, which was annexed by force in flagrant violation of international law and the principles of international legality after the occupation of 1967. Palestinians are thus treated as “foreigners” in their own city and forced to carry permanent residence cards issued by the Israeli Ministry of the Interior. Time and again throughout their entire lives, “permanent residents” of Jerusalem are obliged to prove that Jerusalem is their “centre of life”, meaning that their homes are in Jerusalem, before they can receive services delivered by government institutions, such as the issuance of identity cards, which are in practice the sign of permanent residence, and of travel documents, and the registration of a marriage, birth or death of a spouse. The Entry into Israel Law also empowers the Minister of the Interior to issue decisions revoking residence permits. During the period 1967–2013, over 14,000 Jerusalemite Palestinians had their right of residence revoked¹⁰¹ as part of a clearly discriminatory policy designed to empty Jerusalem of its indigenous Palestinian inhabitants and forcibly expel them from their city;

(b) The occupying Power has full control of the residence files, with the result that many Palestinians and their spouses and families are denied residence in the State of Palestine. Meanwhile, it facilitates the relocation of foreign spouses of Israelis to Israel and their residence therein. The United Nations Special Rapporteur on the situation of human rights in the occupied Palestinian territory since 1967 stated that “Palestinians from the Occupied Palestinian Territory cannot live together with foreign spouses”;¹⁰²

(c) In its concluding observations of 1992, the Committee concluded that there was discrimination in matters of citizenship, saying that: “Concern was expressed over Israeli policy that, on the one hand, accorded citizenship automatically to Jewish immigrants arriving in Israel and, on the other hand, barred the return to their former homes of Arabs displaced by war.”¹⁰³ By contrast, the occupying Power continues to discriminate between Palestinians and Israelis in Israeli immigration and citizenship laws by preventing Palestinians from returning to the homes from which they were displaced in 1948,¹⁰⁴ in gross violation of the resolutions of international legitimacy and of the United Nations, in particular General Assembly resolution 194 (III). Those laws, in particular the Law of Return of 1950, permit any person of the Jewish faith to acquire Israeli citizenship and emigrate immediately to Israel.

101. **The right to marriage and choice of spouse:** The Palestinian legal system regulating matters of personal status is derived from the principles of religious laws, such as the Personal Status Code (Act No. 61 of 1976) applicable in the West Bank and the Family Rights Act of 1954 applicable in Gaza, both of which are derived from the principles of the

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¹⁰¹ Ir Amim, “Displaced in their own city: The impact of Israeli policy in East Jerusalem on the Palestinian neighbourhoods of the City beyond the separation barrier”, (2015), pp. 17–18. *Source:* http://www.ir-amim.org.il/sites/default/files/akurim_ENG_for%20web_0.pdf.

¹⁰² Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/4/17, para. 48.

¹⁰³ Report of the Committee on the Elimination of Racial Discrimination (1992). A/46/18, paras. 364–388.

¹⁰⁴ Israeli Citizenship Law of 1952, art. 3.

Islamic sharia, and confessional laws derived from the principles of Christianity, such as the Personal Status Code of the Syriac Community of 2000. None of these sharia and ecclesiastical laws includes any impediment to marriage on grounds of race, colour, descent, or ethnic or national origin. Such impediments are instead based mainly on age, kinship and previous marriage.

102. There are several difficulties entailed in guaranteeing the right to marriage in Palestine without discrimination. These are the following:

(a) Pursuant to article 20 of the Personal Status Code of 1976, which applies in the West Bank, financial suitability is a prerequisite for marriage and not for its validity, the aim being to achieve marital stability and permanence. Article 25 of the Family Rights Act applicable in the Gaza Strip, however, lays down the condition of professional suitability, stating that: “The trade or activity of the groom shall be similar in reputation to that of the trade and livelihood of the parents or guardians of the bride.” Such a broad-based requirement could lead to discrimination in terms of socioeconomic status and indeed to racial discrimination. In both the West Bank and Gaza, some circles of the Palestinian community step outside the law by setting descent as the criterion for suitability, with some families even forbidding the marriage of girls to anyone whom they regard as being of unsuitable pedigree. These customs are still practised because of the cultural and tribal legacy;

(b) Some provisions of the sharia and ecclesiastical laws prohibit marriage between persons of different faiths. In accordance with the principle of the intersectionality of race, ethnic and national origin, religion and confession, persons of various races and ethnic origins may therefore be denied their right to marriage and choice of spouse;

(c) A marriage-related problem faced by Palestinian racial and ethnic groups is lack of numbers. In the Samaritan community, for example, there are two males to every female. This large shortage of females has created a genuine crisis in view of the difficulty in marrying outside the community.¹⁰⁵ A substantial proportion of the community therefore miss out on marriage, which has led to social problems. In the case of Armenians, many of them marry from Jordan and Armenia.¹⁰⁶

103. A foreign national married to a Palestinian woman or a Palestinian man is entitled to Palestinian citizenship. Article 27 of the General Elections Act No. 1 of 2007 provides that: “A person is deemed to be Palestinian if the spouse of a Palestinian woman or man.”

104. Through its policies and laws relating to citizenship and residence, Israel, the occupying Power, violates the right of Palestinians to marry and form a family, as in the following:

(a) Israel, the occupying Power, discriminates between Israelis and Palestinians in matters of family reunification in that Jewish couples and persons married to Jews have the right to family reunification and residence, without restriction. Israel also facilitates the transfer of Israeli families to the illegal colonial settlements in the West Bank while applying strict procedures for the reunification of Palestinian families in the occupied territory and in other States. The reunification conditions and stringent procedures are also influenced by the prevailing political climate. In 2000, requests for family reunification were completely suspended as an additional punitive measure against Palestinians;¹⁰⁷

(b) In referring to the so-called “family reunification”, which includes return to the West Bank and Gaza Strip, the occupying Power has violated the right of Palestinians displaced in 1967 to reunite with their families (in addition to their right to return to country). Between 1967 and 1972, the occupying Power theoretically permitted the return of first-degree relatives only, with the exception of men aged from 16 to 60 years. Of the 140,000 applications made for “family reunification”, only one third were accepted. In 1973, the procedure for the acceptance of such applications became stricter and remained

¹⁰⁵ Palestinian Information Centre, Wafa, “Problems facing the Samaritan community” [in Arabic].
Source: <http://info.wafa.ps/atemplate.aspx?id=4059>.

¹⁰⁶ Palestinian Broadcasting Corporation. Interview with Armenians in Jerusalem.

¹⁰⁷

so until 1983, when it grew even more rigid following a policy review, with the result that the number of successful family reunification applications dwindled to only a few hundred annually. Some families were thus forced to apply for “temporary visiting” permits, which also involve labyrinthine bureaucratic procedures;¹⁰⁸

(c) Concerning the right to family “reunification” of Palestinians, Jerusalemite Palestinians and Palestinians holding Israeli citizenship, the Israeli Ministry of the Interior, in May 2002, issued Decision No. 1813, which resulted in a freeze on applications for the “reunification” of Jerusalemite Palestinian spouses and relatives and Palestinians holding Israeli citizenship on the one hand with their Palestinian spouses living in the West Bank and Gaza Strip on the other.¹⁰⁹ Many Jerusalemite Palestinians and Israeli citizenship holders were thus forced to leave their homes in Jerusalem and inside the Green Line to go and live in the occupied territory (excluding Jerusalem) with their spouses. Palestinians in the occupied territory (excluding Jerusalem) otherwise risk living “illegally”, in the eyes of the Israeli occupation, in East Jerusalem and inside the Green Line. The occupying Power may furthermore withdraw the residence permits of Jerusalemite Palestinians married to Palestinians in the occupied territory (excluding Jerusalem) when they go and live in the other occupied territory outside East Jerusalem, using as a pretext the requirement for Jerusalemite Palestinians continually to demonstrate, as previously mentioned, that Jerusalem is their “centre of life”.¹¹⁰ In 2003, the Knesset took this decision further by turning it into the Citizenship and Entry into Israel Law (Temporary Order), pursuant to which “reunification” applications were permanently frozen in a move targeted at Palestinians living in the West Bank and Gaza. In 2004, it was estimated that 24,000 families were affected by these policies.¹¹¹ In 2007, the Israeli Parliament or Knesset approved an amendment so as to include citizens of States considered hostile by Israel, such as Iraq, the Islamic Republic of Iran, the Syrian Arab Republic and Lebanon. In 2008, the occupying Power decided to prohibit the reunification of Palestinians from Gaza under any circumstances.¹¹² In its concluding observations of 2007, the Committee recommended that “the State party revoke the Citizenship and Entry into Israel Law (Temporary Order), and reconsider its policy with a view to facilitating family reunification on a non-discriminatory basis. The State party should ensure that restrictions on family reunification are strictly necessary and limited in scope, and are not applied on the basis of nationality, residency or membership of a particular community.”¹¹³ In its concluding observations of 2012, it furthermore stated that the Nationality and Entry into Israel (Temporary Order) Act was “thus greatly affecting family ties and the right to marriage and choice of spouse” and that it was “particularly concerned at the recent decision of the High Court of Justice, which confirmed its constitutionality;”¹¹⁴

(d) Although Israel follows no explicit policies against mixed marriage between Israelis and Palestinians, the aforementioned discriminatory policies and procedures with regard to citizenship, residency and family reunification confirm that such policies exist. The Israeli Family Courts Law of 1995 divides family courts into rabbinical courts, which adjudicate on the personal status matters of Jews, and Islamic, Christian and Druze courts for Palestinians holding Israeli citizenship. Although the parties in a mixed marriage relationship can register their marriage at the Israeli Ministry of the Interior, rabbinical family courts do not recognize marriages in which one of the parties is non-Jewish.¹¹⁵

¹⁰⁸ Al-Haq, “Occasional paper No. 8: The right to unite” (1990).

¹⁰⁹ B’Tselem, “Forbidden families: Family unification and child registration in East Jerusalem”, (2006), p. 15.

¹¹⁰ B’Tselem, “Forbidden families: Family unification and child registration in East Jerusalem”, (2006), p. 15.

¹¹¹ OCHA, “The humanitarian impact of the West Bank barrier on Palestinian communities”, (2007), pp. 4 and 23.

¹¹² Government resolution No. 3598, Citizenship and Entry into Israel Law (Temporary Order) (2003) – Validity Extension (15 June 2008).

¹¹³ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2007), seventh session. CERD/C/ISR/CO/13.

¹¹⁴ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2012), eightieth session. CERD/C/ISR/CO/14-16.

¹¹⁵ Family Courts Law of 1995, sect. 3 (B1).

Furthermore, Palestinians in the occupied territory (excluding Jerusalem) who are married to Jewish Israelis enjoy none of the rights of residence and citizenship that generally arise on marriage.

105. **The right to inherit:** The Islamic sharia governs the right to inherit, succession issues, and distribution percentages. It establishes no impediments to inheritance on grounds of race, descent, or ethnic or national origin.

106. **The right to own property:** The State of Palestine guarantees the right to own property, without discrimination, in accordance with the following legal frameworks:

(a) Article 21 of the Amended Basic Law provides that: “Private property is protected and shall not be expropriated, except in the public interest and for fair compensation, in accordance with the law or pursuant to a judicial order”;

(b) Article 8 of the Land Acquisition for Public Purposes Act of 1943, which applies in the Gaza Strip, states that the owners of land to be acquired may reject an acquisition notice and refer the case to the competent court for a decision thereon;

(c) Article 4 of the Acquisition Act No. 2 of 1953, which applies in the West Bank, states that no acquisition shall take place except by a decision of the Cabinet and in the public interest;

(d) The Compendium of Ottoman Judgements of 1876, which constitutes the civil law applicable in Palestine, determines the reasons for private property acquisition, such as inheritance, contracts of sale and gifts, none of which are discriminatory in violation of the Convention;

(e) Article 47 of the Enforcement Act No. 23 of 2005 provides that neither family homes nor land owned by debtors may be seized insofar as they are needed for their own sustenance and that of their families, unless the home or land is a cause of the indebtedness;

(f) Article 33 of the Ordinary Courts Act No. 5 of 2001 states that the Supreme Court of Justice is competent to take up decisions of public institutions that affect individuals, their assets and their property.

107. By way of colonial settlement and unlawful control over the Palestinian territories, Israel, the occupying Power, discriminates concerning the right to own property. In its concluding observations of 2012, the Committee expressed concern “at the adverse tendency of preferential treatment for the expansion of Israeli settlements, through the use of “state land” allocated for settlements, the provision of infrastructure such as roads and water systems, high approval rates for planning permits and the establishment of Special Planning Committees consisting of settlers for consultative decision-making processes.” Despite the Committee’s recommendation, Israel, the occupying Power, continues to discriminate between Israelis and Palestinians concerning the right to own private and public property. It does so through its policy of land confiscation and seizure, which is among the illegal and unlawful occupation principles, practices and policies aimed at colonizing Palestinian land. The Israel Lands Basic Law provides that the property of the State, the Development Authority and the Jewish National Fund is reserved for the benefit of the Jewish people. On that basis, the occupying Power confiscates Palestinian land, including privately-owned land, and declares it to be state land, which is to say land set aside for the benefit of the Jews. These measures encompass over 55 per cent of the Occupied Palestinian Territory, especially in Area C. Here, the occupying Power has assigned over 70 per cent of the land for the construction of illegal settlements and their related infrastructure, whereas it prohibits Palestinians from owning such land and using it for development purposes.¹¹⁶ A glaring example of this is the fact that the Occupying Power controls 80 per cent of the Jordan Valley area, which has the highest proportion of fertile land and water resources. In addition, 37 Jewish settlements housing some 9,500 settlers exercise full control over 15 per cent of land in the Valley, another 40 per cent of which is

¹¹⁶ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. A/71/554 (2016), para. 52.

designated as closed military zones. Of the remaining land, 20 per cent is set aside for closed nature reserves. Israel, the occupying Power, employs these classifications to prevent the Palestinian use of those lands and keep them available for the expansion of Israeli colonial settlements.¹¹⁷ Studies conducted in 2006 showed that over 40 per cent of the lands on which settlements were built is privately owned by Palestinians.¹¹⁸ The United Nations fact-finding report of 2013 stated that over 30 settlements were built on private Palestinian land.¹¹⁹

108. These Israeli policies have also undermined the right of Palestinian racial and ethnic groups, particularly those in Jerusalem, to own property. Examples include the following:

(a) Since 1967, the Israeli Government has expropriated almost 80 dunums belonging to the Syriac community for the construction of a road. The Syriac Church in Jerusalem used to own many properties and endowments, including 10 convents, none of which remain except the Convent of Saint Mark in the Old City, now surrounded on three sides by Israeli colonial settlement;¹²⁰

(b) The Israeli authorities attempted to force the Armenian Church to sell its land in order to expand colonial settlement operations. They deliberately confiscated various properties, including the Fast Hotel building, which was demolished and the land sold to an Israeli company, which built a new hotel in its place. The Patriarchate has filed a claim with the Israeli High Court of Appeals but the Court has yet to rule on the case.¹²¹

109. **Religious freedom:** The State of Palestine recognizes the importance of the principle of the intersectionality of race and ethnicity on the one hand and religion on the other. It also recognizes that religious discrimination can open the door to racial discrimination, especially in the case of Palestinian groups protected under the Convention that combine religious and ethnic features, such as the Syriacs, Armenians and Samaritans.

110. The State of Palestine guarantees to its citizens, without discrimination, the right to freedom of thought, conscience and religion, as well as the right to perform religious ceremonies and rites, by way of the following legislative and administrative provisions:

(a) Article 4 of the Amended Basic Law states that: “Islam is the official religion of Palestine. Respect for the sanctity of all other divine religions shall be maintained”;

(b) Article 18 of the Amended Basic Law provides that: “Freedom of belief and worship and freedom to perform religious ceremonies shall be guaranteed, provided that there is no breach of public order or public morals”;

(c) Article 147 of the Penal Code of 1936 applicable in Gaza provides that: “Anyone who wilfully, and without lawful justification or excuse (the proof of which lies on him or her), disrupts a meeting of persons lawfully assembled for the performance of religious ceremonies, or assaults any person lawfully performing such ceremonies at that meeting or any other person there present, shall be deemed to have committed a misdemeanour and be liable to imprisonment for 2 months or a fine of 20 pounds”;

(d) Article 276 of the Jordanian Penal Code of 1960, which applies in the West Bank, provides that: “Anyone who wilfully, and without lawful justification or excuse, disrupts a meeting of persons lawfully assembled for the performance of religious ceremonies, ridicules such ceremonies, creates a disturbance during the performance thereof, or assaults any person lawfully performing such ceremonies at that meeting or any

¹¹⁷ B’Tselem, “Dispossession and exploitation: Israel’s policy in the Jordan Valley and northern Dead Sea” (2011).

¹¹⁸ Peace Now, “Breaking the law in the West Bank – one violation leads to another: Israeli settlement building on private Palestinian property” (2006).

¹¹⁹ Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, (2013), A/HRC/22/63, p. 36.

¹²⁰ Palestinian Information Centre, Wafa, “The Syriac church” [in Arabic]. *Source*: <http://info.wafa.ps/atemplate.aspx?id=5066>.

¹²¹ *Al-Safir*, “The Armenians in Palestine” [in Arabic], 2011. *Source*: <http://palestine.assafir.com/Article.aspx?ArticleID=2034>.

other person there present, shall be liable to imprisonment for 3 months or a fine of up to 20 dinars”.

111. In 2008, the President of the State of Palestine issued Decree No. 227 officially recognizing the accredited churches in the State of Palestine, including those of various racial and ethnic groups, specifically: the Armenian Orthodox Patriarchate, the Armenian Catholic Patriarchal Exarchate, the Syriac Orthodox Patriarchate, the Syriac Catholic Patriarchal Exarchate, the Coptic Orthodox Patriarchate, and the Ethiopian Orthodox Patriarchate.¹²²

112. The State of Palestine plans to take the positive measures required to rejuvenate religious confessions and churches, which will have an impact on those of their members with specific racial and ethnic origins for whom their faith is an integral part of their identity. Decree Law No. 9 of 2014 exempts recognized Christian confessional groups from various kinds of taxes and duties. In 2015, the Comprehensive Agreement between the Holy See and the State of Palestine was also signed with the aim of preserving freedom of worship and ecclesiastical rights.¹²³

113. Israel, the occupying Power, prevents the followers of all faiths and confessions and the members of all Palestinian racial and ethnic groups in the State of Palestine from exercising their religious rights and discriminates between them and Israelis in matters of religious freedom by way of the following policies and measures:

(a) The State of Palestine in general and its capital Jerusalem in particular are among the most important religious sites for Muslims and Christians worldwide. In a manner incompatible with freedom of belief, however, the occupying Power restricts the right of Muslims and Christians to visit those sites. It also routinely prevents Muslims and Christians from performing their religious ceremonies in the Dome of the Rock, Al-Aqsa Mosque, the Church of the Holy Sepulchre in East Jerusalem, the Sanctuary of Abraham in Hebron, and the Church of the Nativity in Bethlehem. It does so by imposing a strict system of roadblocks and closures and a punitive permit regime to ensure that the vast majority are denied exercise of their right to worship. Nor does it allow them to perform all of their faith ceremonies on religious holidays. The occupying Power furthermore heavily restricts the movement of Palestinians during Jewish holidays, such as Yom Kippur, when the Israeli authorities impose a full curfew that isolates Jerusalem completely from the rest of the West Bank.¹²⁴ Conversely, the occupying Power facilitates and protects the performance of religious ceremonies by Israelis, including settlers, on those occasions. In 2010, the Legal Unit of the Palestinian Centre for Human Rights filed 28 complaints of Christian Palestinians living in the Gaza Strip being denied travel to the West Bank during religious holidays.¹²⁵

(b) Through its expansionist, destructive and illegal policies in East Jerusalem, the occupying Power is endangering the sites holy to Muslims and Christians. In its concluding observations of 2007, the Committee expressed concern about the excavations beneath and around Al-Aqsa Mosque and the possible irreparable damage they may cause to the mosque.¹²⁶ Contrary to the Committee’s recommendations and as part of its colonial scheme, the occupying Power claimed that there were 136 Jewish holy sites to be “preserved and protected” while at the same time threatening the survival and sanctity of Islamic and Christian holy sites in Jerusalem. These measures have furthermore affected Palestinian racial and ethnic groups. The Israel Antiquities Authority, for example, is

¹²² Presidential Decree No. 2008 concerning confessions recognized by the State of Palestine.

¹²³ Decree No. 17 of 2015 concerning ratification of the Comprehensive Agreement between the State of Palestine and the Holy See.

¹²⁴ OCHA, *The Humanitarian Monitor*, No. 17 (2007), p. 11.

¹²⁵ Palestinian Centre for Human Rights, “Violations of the right to freedom of worship for Palestinians in the Gaza Strip”, Briefing note (2012).

¹²⁶ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2007). CERD/C/ISR/CO/13, para. 36.

carrying out works in the vicinity of Samaritan holy sites, stirring resentment in the members of the Samaritan community because of the damage caused to those sites.¹²⁷

(c) Israel violates the right of the Palestinian people to engage in worship through measures aimed at preventing the call to prayer in East Jerusalem mosques, including at Al-Aqsa. Indeed, efforts to enact legislation to that end are under way in the Israeli Parliament or Knesset, which completed its first reading of a bill on the subject in 2017.¹²⁸

114. **Freedom of opinion:** The State of Palestine guarantees the right to freedom of opinion and expression, without discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 19 of the Amended Basic Law provides that: “There shall be no impairment of freedom of opinion. All persons have the right to express and disseminate their opinions orally, in writing or through any other means of expression or art, as provided by law;”

(b) Article 2 of the Press and Publication Act of 1995 provides that: “The press and printing are free, and freedom of expression is guaranteed to all Palestinians, who may thus express their opinions orally, in writing, pictorially or graphically through any means of expression and information”;

(c) Article 3 of the Press and Publication Act provides that: “The press shall freely perform its function of providing news, information and comment and of contributing to the dissemination of ideas, culture and sciences, as prescribed by law and with a view to safeguarding public freedoms, rights and duties and respecting the personal liberty and privacy of others”;

(d) Article 4 of the Press and Publication Act provides that: “Citizens, political parties, cultural and social organizations and trade unions shall have the right to communicate in print their opinions, ideas and achievements in their respective spheres of activity;

(e) Article 12 of the Palestinian Child Act No. 7 of 2004 provides that: “Children have the right freely to communicate opinions and express themselves in a manner consistent with public order and public morals.”

115. The occupying Power violates the right of Palestinians to freedom of opinion and expression by way of the following practices and policies:

(a) The occupying Power attacks Palestinian and foreign press institutions and also assaults, kills and injures journalists, as occurred in the repeated aggression against the Gaza Strip when Israel bombed 19 media outlets, destroying some of them completely and others partially. More than 15 radio local radio stations have ceased broadcasting because the occupation authorities either interfered with transmission or hacked into them in order to broadcast direct threats to citizens from the Israeli army, which has also hacked into a large number of Palestinian media websites. These attacks on the media have taken the lives of 17 journalists, including Italian national Simone Camilli and most recently a driver for a media outlet and 2 media activists. Twenty journalists have also been injured, some of them seriously;¹²⁹

¹²⁷ Palestinian Information Centre, Wafa, “Problems facing the Samaritan community” [in Arabic].
Source: <http://info.wafa.ps/atemplate.aspx?id=4059>.

¹²⁸ *The Independent*, “Israel bill to limit Muslim call to prayer passes parliamentary first reading” (2017).
Source: <http://www.independent.co.uk/news/world/middle-east/israel-bill-mosque-call-to-prayer-muslim-islam-mosque-pass-first-reading-parliament-a7620336.html>.

¹²⁹ Palestinian Information Centre, Wafa, “Abuses suffered by journalists during the war of 2014 on Gaza” [in Arabic]. Source: <http://info.wafa.ps/atemplate.aspx?id=9460>.

(b) The occupying Power attacks Palestinian and foreign media outlets through raids and closures, as occurred recently, on 18 October 2017, when it raided and closed down the offices of eight media and production companies in Bethlehem;¹³⁰

(c) The occupying Power arrests journalists and artists for expressing their ideas, as in the case of Palestinian cartoonist Mohammad Saba'aneh;

(d) The occupying Power arrests Palestinians for expressing their opinions on social media. From October 2015 to August 2016, it arrested 200 Palestinians, including women and children, for messages they posted on social media;¹³¹

(e) As mentioned earlier, the occupying Power suppresses the right to assemble peacefully in protest against its policies and abuses against the Palestinian people.

III. Social, economic and cultural rights

116. The Palestinian State guarantees social, economic and cultural rights to the Palestinian people in accordance with the International Covenant on Economic, Social and Cultural Rights and without any discrimination on grounds of race, colour, ethnic or national origin, or descent.

117. **The right to work:** The State of Palestine guarantees the right to work, without discrimination, on the basis of equal opportunity and merit, in conformity with the following provisions:

(a) Article 25 of the Amended Basic Law provides that: "Work is the right of every citizen and is a duty and an honour. The National Authority shall strive to provide work for all those capable thereof";

(b) Article 2 of the Palestinian Labour Code (Act No. 7 of 2000) provides that: "Work is the right of every citizen capable thereof. The National Authority shall provide work to citizens on the basis of equal opportunities, without any kind of discrimination";

(c) Article 16 of the Palestinian Labour Code provides that: "Discrimination among workers in Palestine with respect to terms and conditions of employment is prohibited";

(d) Article 24 of the Civil Service Code (Act No. 4 of 1998) provides that persons appointed to public office must be "Palestinian or Arab; have attained 18 years of age; be free of diseases that would prevent them from discharging the duties of the office to which they are to be appointed; enjoy their civil rights; and not have been convicted by a competent Palestinian court of a serious offence or a misdemeanour involving a breach of honour or trust."

118. The State of Palestine seeks to take appropriate measures for guaranteeing employment, without discrimination, as follows:

(a) The National Development Plan 2014–2016 states that the Palestinian Government is undertaking efforts in the area of economic development and employment with a view to "guaranteeing the right to decent work and the right to a dignified life for all citizens";¹³²

(b) The National Policy Agenda 2017–2022 states that, in the light of the continuing colonization of Palestine, economic policy must strike a balance between the immediate provision of job opportunities as an urgent requirement and laying the foundations of an independent national economy.¹³³

¹³⁰ *Haaretz*, "Israeli army raids multiple Palestinian media outlets across West Bank" (2017). *Source*: <https://www.haaretz.com/israel-news/israeli-army-raids-multiple-palestinian-media-outlets-across-west-bank-1.5458610>.

¹³¹ *Addameer*, "Daring to post: Arrests of Palestinians for alleged incitement" (2016). *Source*: <http://www.addameer.org/publications/daring-post-arrests-palestinians-alleged-incitement>.

¹³² State of Palestine, "National Development Plan 2014–2016: State building to sovereignty" [in Arabic] (2014), p. 10.

¹³³ State of Palestine, "National Policy Agenda 2017–2021: Putting citizens first" [in Arabic], p. 26.

119. In the State of Palestine, there is nothing to limit or prevent members of Palestinian racial or ethnic groups from entering any job or profession. They therefore take up various occupations, including as public servants, traders, skilled workers and teachers, in the same way as their other fellow Palestinians. Because of their cultural specificities and geographical locations, however, some groups tend to pursue certain lines of work. Syrians work in tourism and sell Eastern artefacts, for example, and Armenians excel in craftsmanship and industry.¹³⁴

120. The State of Palestine guarantees to all Palestinians, including members of racial and ethnic groups, the right to religious leave. In addition to the leave provided for in the Labour and Civil Service Codes, Armenians and Syrians, pursuant to Cabinet Decision No. 217 of 2004, are entitled to leave on Eastern and Western Christian holidays, while Samaritans are entitled to leave on Samaritan religious holidays, pursuant to Cabinet Decision No. 6 of 2016.

121. The State of Palestine guarantees, without discrimination, the right to establish and join trade unions and the right to organize, as follows:

(a) Article 26 of the Amended Basic Law of 2003 provides that Palestinians have the right to form trade unions, associations, federations and leagues;

(b) Article 5 of the Palestinian Labour Code (Act No. 7 of 2000) provides that: “Workers and employers have the right to establish occupational unions to look after their interests and uphold their rights”;

122. The State of Palestine is taking the following positive steps in respect of the right to form trade unions:

(a) Article 1 of Cabinet Decision No. 22 of 2005 provides that: “A special committee shall be formed to resolve the claims of workers belonging to occupational trade unions. Its membership shall include two representatives from each of the Legislative Council, the Ministry of Finance, occupational trade unions and the General Secretariat of the Council of Ministers. Persons delegated from other relevant ministries may also be invited to join the membership”;

(b) Article 1 of Cabinet Decision No. 152 of 2005 provides that: “A sum of US\$ 20,000 shall be disbursed annually to cover the costs of the three main offices of the General Federation of Trade Unions in Jerusalem.”

123. As to foreign workers, their rights are regulated by Cabinet Decision No. 45 of 2004, concerning the conditions for the grant of work permits to non-Palestinian workers. Article 2 thereof provides that: “In granting work permits to non-Palestinian workers, the following conditions shall be observed: non-competition with the national workforce; the actual need for their employment; and the suitability of their qualifications and experience for the occupation pertaining to the requested work permit.” It also adds that the Ministry of Labour may require reciprocity from the State of which those with work permits are citizens.

124. The impact of occupation on the right to work cannot be discussed without also discussing the general economic situation. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 states: “The contradictions of attempting to build a sovereign economy under a prolonged occupation, without the realization of genuine self-determination on the foreseeable horizon, have become quite apparent. A stifled and distorted Palestinian economy provides a non-viable foundation for the sustainable and equitable social development of the Occupied Palestinian Territory.”¹³⁵ The situation has not changed since the time of that report, as the occupying Power, through a series of measures taken to impede the right of movement, prevents Palestinians from exercising their right to choose their jobs and workplaces and their right to access the workplace with ease. The above report cites, among others, the annexation and apartheid

¹³⁴ Palestinian Information Centre, WAFA, “Armenian skills” [in Arabic]. *Source*: <http://info.wafa.ps/atemplate.aspx?id=5051>.

¹³⁵ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. United Nations General Assembly. A/71/554 (2016), para. 43.

wall, the system of checkpoints, the permit regime, the suffocating blockade of the Gaza Strip, and the separation of Jerusalem, the main economic centre of the State of Palestine, from the rest of the West Bank and from its Palestinian Arab environment. According to United Nations estimates, over 95 per cent of Palestinian workers in the West Bank (excluding Jerusalem) and over 77 per cent of Palestinian workers in East Jerusalem face serious difficulties in accessing their places of work.¹³⁶ In 2011, it was estimated that more than 51 per cent of Palestinian citizens with family dependents living in occupied East Jerusalem were obliged to change their workplaces owing to the policies of the Israeli occupation authorities, particularly after the construction of the annexation, separation and racist expansionism wall,¹³⁷ which also prevents Palestinian farmers from accessing their farms.¹³⁸ The occupying Power furthermore bars Palestinian fishers in the Gaza Strip from 85 per cent of the marine areas where fishing is permitted, having prohibited fishing in areas more than six nautical miles off the coast.¹³⁹

125. **The right to housing:** The State of Palestine guarantees the right to adequate housing, without discrimination, by way of the following legislative and administrative frameworks:

(a) Article 23 of the Amended Basic Law provides that: “Adequate housing is the right of every citizen. The National Authority shall strive to secure housing for those without shelter”;

(b) Article 6 of the Owners and Tenants Act No. 62 of 1953 provides that: “No court or bailiff may issue a ruling or order to evict a tenant from any property, irrespective of whether the lease has expired”;

(c) Article 1 of the Minister of Housing’s Decision No. 2 of 1997 provides that: “All persons have the right to own one or more floors, apartments or commercial spaces in a building erected on their property or that of a third party as a separate and detached part, which may be disposed of as such”.

126. The State of Palestine has adopted the following strategies to promote the right to housing and strengthen the resilience of the population in the Palestinian territory:

(a) The National Development Plan 2014–2016 stipulated that one of the strategic objectives of the infrastructure sector is to provide adequate and affordable housing, allow access to public services, and meet the needs of all citizens. Measures to that end include promoting the development of an urban environment and a comprehensive infrastructure in the light of socioeconomic shifts; expanding housing and urban construction in areas threatened with confiscation, especially in East Jerusalem and Area C; providing the financial and legal support needed to assist Jerusalemites and strengthen their resilience in the face of the demolition policies systematically pursued by the occupation authorities in East Jerusalem; and endeavouring to provide financial facilities for housing projects for Jerusalemites;¹⁴⁰

(b) The National Policy Goals 2017–2022 affirm, in national priority 10, the importance of promoting the resilience of communities through expanding their access to clean water and sanitation, reliable energy and affordable housing.

127. Civil society institutions and NGOs contribute to guaranteeing the right of Palestinians to housing. In 1991, the Palestinian Housing Council was established with the aim of providing loans and alleviating the critical housing situation of families with limited incomes. Over 7,000 Palestinian families, amounting to more than 40,000 individuals, have

¹³⁶ United Nations Information System on the Question of Palestine (UNISPAL), “The separation wall in Jerusalem: Economic consequences” (2007).

¹³⁷ OCHA, “Barrier update” (2011), p. 16.

¹³⁸ OCHA, “Three years later: The humanitarian impact of the wall since the International Court of Justice opinion” (2007).

¹³⁹ OCHA and the World Food Programme, “Special focus: Between a fence and a hard place” (2010), p. 5.

¹⁴⁰ State of Palestine, “National Development Plan 2014–2016: State building to sovereignty” [in Arabic] (2014), p. 75.

directly benefited from these services. Taawon, a non-profit Palestinian organization, has renovated some 334 homes in the old cities of the State of Palestine, particularly Jerusalem, and implemented a project to renovate the African community's courtyard house (Ribat Ala' al-Din al-Basir). The Centre for Cultural Heritage Preservation, in collaboration with the municipality of Bethlehem, also launched a project to rehabilitate and renovate the Syriac courtyard building.¹⁴¹

128. In the State of Palestine, racial and ethnic groups suffer the same problems as the rest of the Palestinian people concerning the right to housing. Armenians, for example, experience financial difficulties when it comes to finding adequate housing. The Armenian Monastery in Bethlehem, however, endeavours to secure housing for members of the community, in cooperation with the International Institution of Armenians. The Samaritan community is also experiencing a reduction in the area of land they own in Nablus, which warns of an acute housing crisis in future. To avoid that situation, some of them are seeking to purchase land close to their neighbourhood.¹⁴²

129. Israel, the occupying Power, systematically implements wide-scale policies reflecting practices that violate the right of Palestinians to housing, which are exemplified in its repeated military aggression against the Palestinian territory, the punitive demolition of Palestinian homes as a reprisal measure, the administrative demolition of houses, and indirect forced displacement, as described below.

130. Israeli attacks on Palestinian homes: During its aggression of 2009, Israel, the occupying Power, destroyed over 3,354 houses fully and another 11,112 partially.¹⁴³ Two years after its aggression against Gaza, in 2014, in which over 18,000 homes were fully or partially destroyed, the number of Palestinians forcibly displaced reached over 65,000.¹⁴⁴ The Israeli blockade also prevents entry of the building materials needed to reconstruct the homes destroyed.

131. Punitive demolition of Palestinian homes as a reprisal measure: Israel, the occupying Power, uses collective punishment as a means of retaliation and demolishes the homes of families suspected of participating in anti-occupation activities. The occupying Power, however, does not apply the same measure to the settlers who attack and threaten Palestinians on a daily basis.¹⁴⁵ Between 1967 and 2004, Israel demolished more than 2,464 Palestinian homes in carrying out this punitive reprisal policy.¹⁴⁶

132. Administrative demolition of Palestinian homes: This policy plays an instrumental part in demographic engineering and the indirect forced displacement of Palestinians. Israel empowers itself exclusively, without any legal basis, to issue building permits for Palestinian homes. Meanwhile, it arbitrarily refrains from issuing permits, which subsequently provides it with a pretext for demolition. In that regard, the Special Rapporteur on adequate housing pointed out that Israel uses various means to restrict Palestinians from building legally and that the number of permits issued by the occupation authorities is grossly inadequate to housing needs, leading many Palestinians to build without obtaining a permit, under penalty of demolition.¹⁴⁷ The occupying Power approved

¹⁴¹ Bethlehem municipality, "Bethlehem municipality launches a series of projects funded by the Italian Government" [in Arabic] (2015). *Source*: <http://www.bethlehem-city.org/italian>.

¹⁴² Palestinian Information Centre, WAFA, "Problems facing the Samaritan community" [in Arabic]. *Source*: <http://info.wafa.ps/atemplate.aspx?id=4059>.

¹⁴³ Report of the United Nations Fact Finding Mission on the Gaza conflict (2009). A/HRC/12/48, para. 67.

¹⁴⁴ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. A/71/554 (2016), para. 45.

¹⁴⁵ B'Tselem, "No fault of their own: Punitive house demolitions during the al-Aqsa intifada (2004)". Mentioned are some of those known to be responsible for attacks, such as Baruch Goldstein and Shahar Dvir Zeliger, who have never had their own homes or those of their relatives demolished by the State.

¹⁴⁶ B'Tselem, "No fault of their own: Punitive house demolitions during the al-Aqsa intifada (2004)". For documented examples of the wide-scale punitive house demolitions, see Human Rights Watch, "Razing Rafah: Mass home demolitions in the Gaza Strip" (October 2004).

¹⁴⁷ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Raquel Rolnik, "Preliminary remarks on

some 34 of the 2,000 permit applications submitted by Palestinians between 2009 and 2013, only 1 permit in 2014 and none in 2015.¹⁴⁸ By contrast, and evidencing its racist policies that discriminate between Palestinians and Israelis, it authorized the construction of almost 1,500 illegal settlement units,¹⁴⁹ which led to the uncontrolled expansion of colonial settlement building. In 2016, the occupation authorities demolished in excess of 168 housing units in the West Bank, including East Jerusalem, leaving over 740 Palestinians homeless, among them 384 children.¹⁵⁰ By the end of that year, the number of housing units demolished by the occupation authorities stood at 1,100, which was double that in 2015.¹⁵¹ In its concluding observations of 2012, the Committee considered that the planning and zoning policy of the occupation authorities breached a range of fundamental rights under the Convention, including the right to housing.¹⁵²

133. Reduction and fragmentation of Palestinian land on account of Israeli colonial expansionism: Israel has infringed the obligations incumbent on it as an occupying Power under international humanitarian law. Without any legal basis, it has taken exclusive charge of zoning and planning in the Occupied Palestinian Territory with the aim of forcibly annexing Palestinian land as an immutable fait accompli. Its major statutory plans have narrowly delineated Palestinian localities, villages and towns based on what was originally built and whereby it must be kept to in future.¹⁵³ Conversely, it has imposed no such arbitrary restrictions on colonial settlement localities, which are endowed with extensive areas of undeveloped Palestinian land with no fixed boundaries. It has used 1 per cent of Area C, or 1,800 dunums, for Palestinian construction as opposed to one quarter of Area C, or 400,000 dunums, for settlement construction, confining Palestinians to narrow areas with a high population density while giving settlers vast areas of Palestinian land seized by force.¹⁵⁴ Its construction of the annexation, separation and racist expansion wall has been another factor in promoting colonial expansion. The wall violates the right of Palestinians to live in Bethlehem, for example, as its construction thwarted the planned development of a residential neighbourhood there for Palestinians.

134. **The right to public health services, medical care, social security and social services:** The State of Palestine guarantees, without discrimination, the right of citizens to access public health services, medical care, social security and social services, in accordance with the following legislative and administrative frameworks:

(a) Article 22 of the Amended Basic Law provides that: “The law shall regulate social security and health services, disability benefits and older person’s allowances”;

(b) Article 25 of the Amended Basic Law provides that: “Labour relations shall be regulated so as to guarantee justice for all and provide care, security and health and social services for workers;

(c) Article 2 of the Public Health Act No. 20 of 2004 provides that the functions of the Ministry of Health include “the delivery of preventive, diagnostic, therapeutic and

the mission to Israel and the Occupied Palestinian Territory – 30 January to 12 February 2012”, (2012).

¹⁴⁸ Yotam Berger, “EU slams Israel’s destruction of Palestinian homes in West Bank’s Area C”, *Ha’aretz*, 28 July 2016; Dov Lieber, “UN: Israel ‘systematically’ emptying Area C of Palestinians”, *The Times of Israel*, 28 July 2016.

¹⁴⁹ Yotam Berger, “EU slams Israel’s destruction of Palestinian homes in West Bank’s Area C”, *Ha’aretz*, 28 July 2016; Dov Lieber, “UN: Israel ‘systematically’ emptying Area C of Palestinians”, *The Times of Israel*, 28 July 2016.

¹⁵⁰ B’Tselem, “Israel demolished more Palestinian homes in West Bank in first half of 2016 than in all of 2015” (2016).

¹⁵¹ OCHA, “Humanitarian Bulletin: Occupied Palestinian Territory” (2017), 1–4.

¹⁵² Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel. CERD/C/ISR/CO/14-16 (2012), para. 25.

¹⁵³ “Spatial Planning in Area C of the Israeli occupied West Bank of the Palestinian territory. Report of an International Advisory Board” (2015), p. 25. *Source*: <https://unhabitat.org/spatial-planning-in-area-c-of-the-israeli-occupied-west-bank-of-the-palestinian-territory/>.

¹⁵⁴ Norwegian Refugee Council, “A guide to housing, land and property law in Area C of the West Bank” (2012), p. 66.

rehabilitative health services, establishment of the health institutions required for that purpose” and “provision of the population with health insurance to the extent possible;

(d) Article 46 of the Public Health Act provides that: “The Ministry shall distribute government health institutions and available services on the basis of the health needs and locations of citizens”;

(e) Article 15 of the Palestinian Local Authorities Act No. 1 of 1997 provides that: “Ambulance services, clinics, hospitals and other health institutions shall be established and monitored in coordination with the competent government authorities;

(f) Article 25 of the Palestinian Child Act No. 7 of 2004 provides that: “The Ministry of Health shall take all appropriate measures for developing its capacities in the area of preventive and therapeutic health care and guidance relating to child health, nutrition and protection”;

(g) Decree Law No. 19 of 2016, concerning social security, covers basic social insurance, without discrimination, with regard to: older age, disability, natural death, work injury, maternity, sickness, health, unemployment, family allowances, and voluntary supplementary retirement pensions;

(h) Article 1 of Cabinet Decision No. 6 of 2006 provides that: “A strategic development plan shall be formulated for development of the health sector through community-based participation, including the government sector and decision-makers, with a re-emphasis on primary health care as fundamental all-embracing concept. This endeavour shall give rise to a national document serving as a viable plan for meeting the health needs of the people in line with the Palestinian economic and financial situation”;

(i) One of the objectives of the National Strategic Health Plan 2014–2015 is to guarantee access to comprehensive and integrated health services for all groups, with a focus on those most in need of health care, whether children, women, adolescents, older persons or persons with special needs;¹⁵⁵

(j) One of the overall objectives of the National Strategic Development Plan 2014–2016 is to continue to provide sustainable, high-quality, rights-based and gender-sensitive social services that contribute to poverty reduction, the achievement of social justice among groups and areas, and the protection and empowerment of children, women, youth, older persons and persons with disabilities in a society governed by a pluralistic, innovative national culture that safeguards its heritage and preserves its social cohesion and solidarity.¹⁵⁶

135. The occupying Power systematically violates the right of Palestinians to health and social care, imposing restrictions on the right of movement of those seeking medical attention. Transfers of seriously ill patients are frequently delayed because of the military checkpoints. Patients requiring transport abroad for treatment also need to obtain permits from the occupying Power, which is not legally authorized to issue them. This involves convoluted procedures that might end in the permit being arbitrarily denied. According to studies and reports by the United Nations and other institutions, the occupying authority rejects 15 to 30 per cent of medical treatment permit applications.¹⁵⁷

136. In a flagrant violation of international humanitarian law, which prohibits occupying Powers from imposing their laws on peoples under occupation, Israel, in addition to its forcible annexation of East Jerusalem, subjects Jerusalemite Palestinians to its laws, including those relating to health and social care. This affords them no protection from discrimination concerning their rights to such care. The Special Rapporteur on human rights in the Palestinian territory stated that: “For Palestinians living in East Jerusalem, their

¹⁵⁵ State of Palestine, “National Development Plan 2014–2016: State building to sovereignty” [in Arabic] (2014), p. 14.

¹⁵⁶ State of Palestine, “National Development Plan 2014–2016: State building to sovereignty” [in Arabic] (2014), p. 14.

¹⁵⁷ World Health Organization, “Right to health. Crossing barriers to access health in the Occupied Palestinian Territory 2014–2015” (2016). Available at: http://applications.emro.who.int/dsaf/EMROPUB_2016_EN_19231.pdf.

situation would not be as precarious if, despite the illegality of annexation, they were treated equally and afforded access to quality education, health care and housing.”¹⁵⁸ Jerusalemites continue to suffer from all kinds of discrimination and socioeconomic marginalization in their own city, even to the point where the occupying authority revokes the residence permits of Palestinians living in East Jerusalem. In such instances, not only do they lose their right of residence but also their right to receive health and social services from the Israeli social security agency.¹⁵⁹

137. **The right to education:** The State of Palestine guarantees the right to education for all citizens, without discrimination, by way of the following legislative frameworks:

(a) Article 24 of the Amended Basic Law provides that: “Education is the right of all citizens, is compulsory up to the end of the basic level at least and is free of charge in public schools, academies and institutions”;

(b) Article 37 of the Palestinian Child Act No. 7 of 2004 provides that: “All children have the right to free education in public schools until completion of the secondary level.” It likewise provides that: “Education is compulsory until completion of the higher basic level as a minimum”;

(c) Article 38 of the Palestinian Child Act No. 7 of 2004 provides that: “The State shall adopt appropriate and effective measures aimed at the eradication of all forms of discrimination in enjoyment of the right to education and shall work to guarantee equal opportunities for all children”;

(d) Article 2 of the Higher Education Act No. 11 of 1998 provides that: “Higher education is the right of all citizens who meet the academic and substantive requirements prescribed in the present Act and in regulations issued pursuant thereto”;

(e) Article 1 of the Education Act of 2017 defines inclusive education as “education that excludes no student, irrespective of difficulties, disability, gender or colour, and takes into account individual differences and needs, in accordance with the required fundamental changes in the education system and in keeping with agreed international principles”;

(f) Article 4 of the Education Act of 2017 provides that the functions of the Ministry of Education are to “provide education opportunities for all students, irrespective of their individual differences, propensities and performance levels, including those with disabilities, juveniles, abused children and individuals who drop out as a result of their social circumstances”;

(g) One of the aims of the National Development Plan 2014–2016 is to develop education, higher education and technical and vocational education and training systems ensuring high-quality education for all, without discrimination, that are linked to labour market and society needs and keep pace with scientific and academic advancements.

138. There are several schools and educational institutions in the State of Palestine that cater specifically to racial, ethnic and linguistic groups protected under the Constitution. Members of those groups therefore have the option of either attending those schools all or some of the time or enrolling in government or private schools. The institutions concerned are as follows:

(a) **The Samaritan community:** The Samaritan community has a school attached to the Ministry of Education, which, in addition to the children from that community, is attended by others living next to the Samaritan neighbourhood in Nablus. The school follows the curriculum prescribed for other Palestinian schools and is where a member of the community teaches evening classes in Hebrew and theology to other members;

(b) **The Armenians:** In Jerusalem, there is a school for the Armenian community named Tarkmanchatz, which was founded in 1924 and accommodates 120 students. Its aim

¹⁵⁸ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. Human Rights Council. A/HRC/25/67 (2014), para. 34.

¹⁵⁹ Jerusalem Centre for Social and Economic Rights, “The racial discrimination policy in Jerusalem” [in Arabic]. *Source:* <http://www.jcser.org/ara/images/articles/durbanara.pdf>.

is to serve children from the community until they complete their secondary education. There is also another Armenian school for monks where Christianity is taught;

(c) The Syriac community: Founded in September 2003, the Saint Ephrem Syriac school began with only 15 students and 2 teachers but now has 285 students from kindergarten to tenth grade. Its aim is to have classes up to secondary level by adding one grade per year. At the end of 2018, the first cohort will graduate from this school, which is the only one to teach Aramaic to its students.

139. Israel, the occupying Power, impedes the right of the Palestinians to education through its pursuit of racist policies and practices targeted at the Palestinian educational system, as follows:

(a) Restriction of the right of access to educational institutions: Palestinian students and teachers have difficulty accessing schools because of the permanent and mobile military checkpoints, where they are searched, harassed and denied passage on their way to and from school.¹⁶⁰ These restrictions also affect the right of Palestinians to choose their places of residence and study in the State of Palestine, as Palestinian students living in Jerusalem have difficulty accessing universities in the West Bank from the Palestinian territory and Gazan Palestinians are fully prevented from accessing them because of the blockade imposed on the Gaza Strip. Restrictions on the right to travel similarly affect the ability of Palestinians to complete their higher education abroad. Jerusalemite Palestinians in fact avoid travelling outside the country for fear of losing their rights and having their identity cards revoked under the racist Israeli laws. Many Palestinian students are additionally prevented from studying abroad because of Israeli travel bans and the blockade;

(b) Students are vulnerable to assault by the Israeli occupation army and settlers on their way to school and university and while on the premises, especially in the case of schools surrounded by colonial settlements and scattered checkpoints;¹⁶¹

(c) Although not legally empowered to carry out planning or issue building permits in the Palestinian territory, the occupying Power nonetheless does so, and in a discriminatory manner, most notably in Area C, where it prevents the construction of schools and school facilities and demolishes anything built without “permission”;

(d) Schools run by Palestinian racial and ethnic groups also suffer from the occupation policies. The occupation authorities, for example, prevent Eastern Armenians from Lebanon, the Syrian Arab Republic and Iraq from coming to Jerusalem to study at the Armenian Theological Seminary, which is consequently threatened with permanent closure owing to lack of students;

(e) Israel, the occupying Power, discriminates between Jerusalemite Palestinians and Israelis with regard to the right to education. A report by the United Nations Conference on Trade and Development stated that Jerusalemites are made to pay high municipal taxes in return for poor services and disproportionately low public expenditure (for which there is no legal basis insofar as occupying Powers have no right to impose their laws on peoples under occupation). This has been particularly evident with respect to education, characterized by a shortage of classrooms, a high overall dropout rate of 13 per cent among Palestinian schools in East Jerusalem, and a general neglect of the Arab schooling system in comparison to their Jewish counterparts literally metres away in West Jerusalem.¹⁶²

140. **The right to equal participation in cultural activities:** The State of Palestine guarantees the cultural rights of citizens, without discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 24 of the Amended Basic Law provides that the law guarantees “freedom of scientific research and literary, cultural and artistic creativity”;

¹⁶⁰ Ma’an Development Centre, “Attacks on education: A focus on 10 schools in Area C”, 2015, p. 4.

¹⁶¹ *Ibid.*

¹⁶² Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Human Rights Council, A/HRC/25/67 (2014), para. 35.

(b) Article 26 of the Amended Basic Law provides that Palestinians have the right to “form trade unions, associations, federations, leagues, clubs and people’s institutions in accordance with the law”;

(c) Article 1 of Cabinet Decision No. 227 of 2004 provides that: “The Ministry of Culture shall work to create an environment conducive to the development of Palestinian culture; provide opportunities for its dissemination, promotion and sponsorship; foster its development role for the sake of social and democratic progress; affirm the linkage between the homeland’s cultural fabric and the diaspora; strengthen the Palestinian cultural identity; and share local culture through interaction with countries and Arab and international organizations facilitated by the establishment of an infrastructure and the provision of cultural facilities”;

(d) Article 2 of Cabinet Decision No. 227 of 2004 provides that one of the objectives of the Ministry of Culture is to “increase cultural awareness among the most culturally disadvantaged social groups” by “encouraging and supporting the establishment of cultural centres and public libraries in remote and marginalized areas, promoting the establishment of artistic and folkloric groups and funding artistic activities in those areas, and fostering and developing the culture of children, women and youth”;

(e) Cabinet Decision No. 367 of 2005 provides for the establishment of a cultural development fund for promoting cultural activity, with priority given to children and marginalized areas;

(f) Article 5 of the Palestinian Child Act No. 7 of 2004 provides that: “Children have the right to participate extensively in the identification and implementation of recreational, cultural, artistic and scientific programmes consistent with public order and public morals, thereby affirming their right to knowledge and to means of innovation and creativity”;

(g) A key aim of the National Strategic Plan for Culture and Cultural Heritage 2014–2016 is to increase public participation in cultural activities, with a particular focus on creative individuals, women and children in rural and marginalized areas, as well as in Jerusalem¹⁶³;

141. The State of Palestine is taking measures to encourage and facilitate access, without discrimination, to newspapers and to television and radio programmes and to authorize the establishment of media catering to various communities and groups by way of the following legislative frameworks:

(a) Article 27 of the Amended Basic Law provides that: “The establishment of newspapers and all media is a right guaranteed to all citizens by the present Basic Law. Their sources of financing shall be subject to monitoring by law”;

(b) Article 4 of the Press and Publication Act No. 9 of 1995 provides that: “Citizens, political parties, cultural and social organizations and trade unions shall have the right to communicate in print their opinions, ideas and achievements in their respective spheres of activity”;

(c) Article 5 of the Press and Publication Act No. 9 of 1995 provides that: “Any person, including political parties, has the right to own and issue newspaper publications”.

142. Palestinians from all racial and ethnic groups enrich their Palestinian culture through exercising their right to participate in cultural activities, as follows:

(a) **Syriacs:** The Syriacs have a scout group known as the Syriac-Orthodox Scouts and pursue various cultural and national activities aimed at reviving the Syriac heritage, such as publication of the magazine *Al-Hikmah*, which includes articles on religious themes and Syriac-related studies and research. The Convent of Saint Mark also houses a valuable old library containing hundreds of ancient manuscripts that are important

¹⁶³ State of Palestine, “Strategic Plan for Culture and Cultural Heritage: Life and practice” [in Arabic] (2013).

source material on the history of Palestine. Over history, the Convent has been the diocese of seven Syriac bishops;

(b) Armenians: Armenians have scout movements, such as the Jerusalem Armenian Benevolent Union, sports clubs, such as Homenetmen, and cultural clubs focused on raising the profile of the Armenian culture and language, such as the Catholic Arax Club. The cultural infrastructure of the Armenians also includes the Saint James Cathedral library, which holds the largest collection of ancient Armenian manuscripts in the world, the Saint James Cathedral museum, and the Armenian Printing House founded in the nineteenth century;

(c) Afro-Palestinians: The African Community Association is an important neighbourhood centre that organizes political and cultural events in the Old City, where its headquarters also host art exhibitions and serve as venue for social initiatives. The Association regularly organizes a local boys' football tournament and a girls' basketball tournament, both involving various teams representing all Palestinian neighbourhoods. The cultural participation of Afro-Palestinians additionally includes activities relating to their African identity, such as lighting candles in the Old City of Jerusalem to mourn the death of South African leader Nelson Mandela, who was known for his struggle against the apartheid regime in South Africa. Their view of such acts is that they highlight their composite identity and maintain their connection with Africa;

(d) Samaritans: The Samaritans exercise their cultural rights through a number of institutions, such as the Samaritan Legend Association, which is a cultural, social and artistic association founded by a Samaritan youth group. In short, its aims are to preserve the heritage, culture and history of the Samaritan community and to disseminate Samaritan culture and history worldwide through the organization of conferences, symposiums and lectures. The Association additionally works to dispel mistaken beliefs about the community. Samaritans also have a youth club offering cultural, social and sports activities to its members, both male and female. The club is registered with the Palestinian Ministry of Youth and Sports, has a basketball team and owns a recreation ground where a variety of sports are played. For its part, the Institute of Samaritan Studies records Samaritan history using modern scientific methods, preserves and photographs ancient manuscripts, provides researchers and scholars with information about the Samaritan community, and teaches ancient Hebrew to members of the community. The Samaritan Museum was established in 1997 on the summit of Mount Gerizim, in the middle of the Samaritan neighbourhood, and overlooks the altar where the Samaritan Passover ceremonies are performed. The Museum contains manuscripts chronicling Samaritan history and providing previously unknown historical facts about the Samaritans, as well as ancient Hebrew documents and books on history and science, stones, coins, belts, and ceramic and glass vessels. There is also a Samaritan group that showcases worldwide the community's religious folk music, which is sung a capella in a tradition handed down over 135 generations.

143. Israel, the occupying Power, prevents Palestinians from exercising their right to engage in cultural activities, particularly in East Jerusalem, by closing down cultural institutions and associations, such as Orient House, the Palestinian National Theatre and the Palestinian Prisoners' Club. As part of the plan to Judaize the city, it also systematically eliminates, suppresses and cancels cultural events and activities that express the Palestinian identity in Jerusalem. To cite just a few examples, Israel interrupted and called off a social event at the Hakawati Theatre on Palestinian Prisoners' Day; it cancelled the inaugural ceremony of the Samid Community Education Foundation in the Aqabat al-Khalidi neighbourhood of the Old City; it cancelled a key ceremony organized by the Education Department of the Waqf Foundation; it prevented summer school camps from visiting Al-Aqsa Mosque; and it descended on a summer camp run by the Wadi al-Jawz Foundation at the UNRWA girls' school and closed it down.¹⁶⁴ In East Jerusalem, one of the main events disrupted by the occupation authorities was the celebration of Jerusalem as the capital of Arab culture for 2009 after they stormed into the Ambassador Hotel to interrupt a meeting of the organizers of the event and confiscate materials and computers. Based on prior

¹⁶⁴ Civic Coalition for Palestinian Rights in Jerusalem, Submission to the United Nations Human Rights Council for the Universal Periodic Review of Israel (2011), p. 42.

information, Israeli forces invaded a number of schools and community organizations and obstructed cultural and sports activities by arresting the organizers and confiscating flags and materials to be used for marking the events. They also cracked down on peaceful protests against those actions.¹⁶⁵

Article 6

I. Remedies for acts of racial discrimination at the Palestinian national level

144. In accordance with paragraph 6 of the Committee's general recommendation No. 31 (2004) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, "States parties are obliged to guarantee the right of every person within their jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination." The Palestinian judicial system thus provides effective remedies for acts that violate human rights, including those perpetrated in the context of racial discrimination or against individuals from racial or ethnic groups, as follows:

(a) Criminal courts have jurisdiction to consider acts perpetrated on the basis of racial discrimination where constituting an offence punishable by law. Under article 1 of the Code of Criminal Procedure (Act No. 3 of 2001), "[t]he Public Prosecutor's Office has exclusive jurisdiction to initiate and pursue criminal proceedings, which may not be brought by third parties except as prescribed by law".

(b) Criminal courts have jurisdiction to hear civil proceedings arising from acts perpetrated on the basis of racial discrimination where constituting an offence punishable by law. In that regard, article 3 of the Code of Criminal Procedure states: "The Public Prosecutor's Office shall launch criminal proceedings if an injured party claims their civil rights in accordance with the rules set forth in law". Article 170 of the Code also provides that: "The criminal courts shall hear civil proceedings for compensation of damage arising from the offence, irrespective of the value thereof, and consider them as ancillary to the criminal proceedings";

(c) Criminal courts have jurisdiction to hear civil proceedings arising from an infringement or negligence or omission perpetrated on the basis of racial discrimination if such acts constitute a civil wrong for which compensation is required by law. In that regard, article 58 of the Civil Wrongs Act No. 66 of 1944 provides that: "All ordinary courts in Palestine, each within its jurisdiction, shall be authorized to give rulings on civil wrongs."

145. The administrative justice system and Palestinian public institutions provide effective remedies for racial discrimination in administrative decisions issued by public law persons, including professional trade unions, by way of the following frameworks:

(a) Article 33 of the Ordinary Courts Act No. 5 of 2001 provides that the Supreme Court of Justice has jurisdiction to hear "applications from concerned parties for the revocation of regulations, ordinances or final administrative decisions affecting persons or property and issued by public law persons, including professional trade unions." It further provides that the Court has jurisdiction over "matters that are neither cases nor trials but simply petitions or summonses outside the jurisdiction of any court that require adjudication for the achievement of justice." Article 34 of the same Act also provides that the Supreme Court of Justice has jurisdiction to hear appeals against decisions flawed by "arbitrariness or abuse of authority";

(b) Article 8 of Cabinet Decision No. 8 of 2016 provides that offices and units are to be set up in government departments and governorates for handling complaints filed by citizens and civil society institutions about those departments.

¹⁶⁵ Al-Haq, "A culture of repression: Israeli authorities ban Palestinian cultural festival in East Jerusalem", (2009). *Source*: <http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/224-a-culture-of-repression-israeli-authorities-ban-palestinian-cultural-festival-in-east-jerusalem>.

146. Through one of the following methods, the Palestinian constitutional justice system provides remedies for racial discrimination in legislation, laws, regulations, ordinances and decisions that are unconstitutional:

(a) Article 27, paragraph 1, of the Constitutional Court Act No. 3 of 2006 provides that persons injured by an unconstitutional legal provision may bring proceedings directly before the Court, without the intercession of any other judicial body;

(b) Article 27, paragraph 2, of the Constitutional Court Act provides that: “If, during the course of proceedings, the court or body with jurisdiction finds that a provision of law or a decree, regulation, ordinance or decision necessary for the settlement of a dispute is unconstitutional, it shall stay the proceedings and transfer the papers, without fees, to the Supreme Constitutional Court for a decision on the constitutional matter;”

(c) Article 27, paragraph 3, of the Constitutional Court Act provides that: “If, during the course of proceedings before a court or body with jurisdiction, litigants argue that a provision of law or a decree, regulation, ordinance or provision is unconstitutional and the court or body believes that the argument has merit, it shall adjourn the proceedings and set a deadline of not more than 90 days within which the person who raised the argument may take the matter to the Supreme Constitutional Court. If he or she fails to do so by the deadline, the argument shall be deemed never to have been made.”

147. In accordance with the following frameworks, the Palestinian justice system provides effective remedies for human rights violations committed by Palestinian law enforcement agencies:

(a) Pursuant to article 47 of the Revolutionary Code of Criminal Procedure of the Palestine Liberation Organization, any person injured as a result of a serious offence or misdemeanour may file a complaint as a civil claimant with the Public Prosecutor. Article 349 of the Code authorizes all detainees and prisoners to submit a written complaint at any time to the official in charge of the correctional centre and request him or her to report it to the Public Prosecutor’s Office. The official must accept the complaint and report it immediately;

(b) Article 90 of the Palestinian Security Act No. 8 of 2005 provides that: “All officers who violate the duties provided for in the present Act or in decisions issued by the competent minister, or who breach the requirements of duty in the performance of their functions, or whose conduct or appearance infringes the dignity of the office, shall be liable to disciplinary action, without prejudice to the initiation of civil or criminal proceedings, where necessary”;

(c) Article 33 of the Ordinary Court Act No. 5 of 2001 provides that the Supreme Court of Justice has jurisdiction over “applications challenging detention and requesting an order for the release of unlawfully detained persons.”

148. The State of Palestine provides remedies for public officials and workers concerning decisions made by public, private and non-governmental institutions, in accordance with the following frameworks:

(a) Article 33 of the Ordinary Courts Act provides that the Supreme Court of Justice has jurisdiction over “disputes relating to public office with respect to appointment, promotion, allowances, salary, transfer, retirement, discipline, provisional retirement, separation and all other job-related matters”;

(b) Article 107 of the Labour Code (Act No. 7 of 2000) provides that: “The Minister shall establish a labour inspection authority comprising an appropriate number of inspectors and academically and professionally qualified persons to monitor the application of the present Code and regulations issued pursuant thereto.” Article 110 of the Code also provides that the inspection authority is competent to “monitor the application of labour legislation, especially concerning employment terms and conditions, by all lawful means, including the receipt of complaints and reports.”

149. The State of Palestine, through its organizations and specialized trade unions, provides the following remedies for any kind of hate speech and incitement to racism:

(a) The Complaints Department at the Ministry of Endowments and Religious Affairs follows up cases of hate speech and incitement to racism in which mosque preachers might be involved and concerning which any citizen may file a complaint. The Documentation and Archives Department registers such complaints and transmits them to the competent entity in the Ministry of Endowments and Religious Affairs for it to establish the credibility of the complaint before attempting to resolve the case amicably and caution the preacher concerned. In the event of failure to settle the case in that manner, the disciplinary punishments set out in the Civil Service Act for officials about whom complaints are made are applied. While all such procedures are ongoing, the imam who is the subject of the complaint may be transferred to another geographical district or be forbidden to work until the case is resolved;

(b) Under article 31 of the Journalists' Syndicate Act No. 17 of 1952, citizens have the right to bring disciplinary proceedings against journalists who violate their professional duties, which includes cases involving hate speech and incitement to racial discrimination.

150. In addition to the above, the State of Palestine intends to incorporate a new remedy by making the optional declaration provided in article 14 of the Convention concerning the competence of the Committee to receive and consider communications from individuals or groups of individuals within the jurisdiction of the State of Palestine claiming to be victims of a violation on its part of any of the rights set forth in this Convention.

II. Judicial safeguards for victims during proceedings

151. In accordance with paragraph 7 of the Committee's general recommendation No. 31 (2005), the State of Palestine, in collaboration with organizations, trade unions and specialized institutions, provides the necessary judicial safeguards and assistance through the following legislative and administrative frameworks and strategic plans:

(a) The bill of 2014 on the Palestinian Legal Aid Fund includes provisions guaranteeing the right of indigent persons, without discrimination, to apply for legal aid at all stages of trial and in accordance with the same conditions;

(b) The National Strategies for Justice and Rule of Law 2011–2013 and 2014–2016 stipulate that the legal aid system must be institutionalized so as to meet the needs of marginalized and vulnerable groups;¹⁶⁶

(c) The National Development Agenda 2017–2022 stipulates that fair access to judicial services must be improved, together with the integrated delivery of those services, particularly for women and children;

(d) The Palestinian Bar Association Strategic Plan 2015–2017 states with respect to legal aid that one of its goals is to "increase access to legal aid for marginalized persons."

152. In addition to providing remedies for victims of racial discrimination, the State of Palestine offers them procedural status in conformity with paragraph 17 (a) of the Committee's general recommendation No. 31 (2005). Article 194 of the Code of Criminal Procedure (Act No. 3 of 2001) provides that: "Any person injured by an offence may apply to the Public Prosecutor's Office or the court hearing proceedings in which he or she expressly assumes the capacity of a civil claimant for reparation for the injury suffered as a result of the offence." Article 196 of the Code also provides that: "Civil claims may be brought before the court of first instance at any stage of the criminal proceedings up until the close of pleadings."

153. In keeping with paragraph 17 (b) of the Committee's general recommendation No. 31 (2005), the State of Palestine guarantees the right of victims of racial discrimination to obtain the services of an interpreter. Article 294 of the Code of Criminal Procedure provides that: "If any of the accused persons or witnesses is not proficient in Arabic, the president of the court shall appoint a licensed interpreter, who must take an oath to interpret statements honestly and faithfully."

¹⁶⁶ State of Palestine, "National Strategy for Justice and Rule of Law 2014–2016" [in Arabic] (2014).

154. The State of Palestine guarantees protection for victims of racial discrimination and their families against intimidation or reprisals, in accordance with paragraph 17 (d) of the Committee's general recommendation No. 31 (2005). Article 237 of the Code of Criminal Procedure provides that: "Trials shall be public, unless the court decides to conduct a trial in camera in the interest of preserving public order or morality. In all cases, juveniles or specific groups of persons may be forbidden to attend a trial."

III. Denial of the right of Palestinians to protection and remedies by Israel, the occupying Power

155. Paragraph 87 of the Durban Programme of Action urges States parties to adopt legislation implementing the obligations they have assumed to prosecute and punish persons who have committed or ordered to be committed grave breaches of the Geneva Conventions of 12 August 1949 and Additional Protocol I thereto and of other serious violations of the laws and customs of war, in particular in relation to the principle of non-discrimination. Paragraph 6 of the Committee's general recommendation No. 31 (2005) mentions that: "States parties are obliged to guarantee the right of every person within their jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination." The Israeli justice system is biased, however, and serves as a tool for promoting and justifying colonial settlement. This is a flaw that alone infringes the right of Palestinians to access effective remedies and obtain reparation for human rights violations in general and for racial discrimination and exclusion measures in particular. Such discrimination is exemplified in various ways, notably:

(a) The law enforcement authorities fail to prosecute racist offences committed by Israeli settlers and are complicit on that score. In its concluding observations of 2012, the Committee stated: "[It] is concerned about the increase in racist violence and acts of vandalism on the part of Jewish settlers in the Occupied Palestinian Territory targeting non-Jews, including Muslims and Christians and their holy places, and about information according to which 90 per cent of Israeli police investigations into settler-related violence carried out between 2005 and 2010 were closed without prosecution. The Committee is particularly alarmed by reports of impunity of terrorist groups such as Price Tag, which reportedly enjoy political and legal support from certain sections of the Israeli political establishment."¹⁶⁷ Contrary to the Committee's recommendation, the security agencies have continued in their bias to create a legal vacuum in which Israeli settlers commit offences involving racist violence without any accountability.¹⁶⁸ Between 2005 and 2014, 1,045 investigations were opened into offences committed by settlers against Palestinians. Charges were brought in no more than 72 cases, ending in full convictions in only 6 cases and partial convictions in only 13 cases. In 14 cases, the charges were proved but no convictions were handed down, while in 13 cases the charges were dropped. Acquittals were handed down in only 5 cases. Of all the cases filed, only 1.9 per cent ended with the suspect being arrested, charged, tried and convicted.¹⁶⁹

(b) The Israeli military judiciary either fails or is unwilling to prosecute abuses committed by Israeli military personnel, in which it is therefore complicit. In its concluding observations of 2012, the Committee expressed concern at "the monetary and physical obstacles faced by Palestinians seeking compensation before Israeli tribunals for loss suffered, in particular as a consequence of the IDF Operation Cast Lead in the Gaza

¹⁶⁷ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2012), eightieth session. CERD/C/ISR/CO/14-16, para. 28.

¹⁶⁸ See also: <http://www.yesh-din.org/infoitem.asp?infocatid=702>. Various interested actors have duly recorded the discriminatory attitude of military tribunals in the occupied territories. See, for example: International Federation for Human Rights, "Shielded from accountability – Israel's unwillingness to investigate and prosecute international crimes", (2011).

¹⁶⁹ Yesh Din, "Prosecution of Israeli civilians suspected of harming Palestinians in the West Bank" (2015), datasheet. Monitoring figures. See: http://files.yesh-din.org/userfiles/Prosecution%20of%20Israeli%20Civilians%20Suspected%20of%20Harming%20Palestinians%20in%20the%20West%20Bank_May%202015.pdf.

Strip.”¹⁷⁰ The role of that judiciary is extremely limited. It investigates violations committed by soldiers as a result of disobeying orders or instructions but it does not examine the actual orders or instructions to determine whether they in themselves constitute a violation and nor does it investigate the military superiors who issued them. This not only denies victims a remedy for violations of international humanitarian law and for human rights violations based on racism but also creates a climate in which military personnel repeat such violations, especially in the course of military operations. In its analysis of 739 cases filed through it against the Israeli Government since 2000, an Israeli NGO found that no investigations had been opened in 182 of those cases; investigations had been opened and closed without further action in 343 cases; charges had been brought in only 25 cases; and disciplinary action had been taken in no more than 13 cases.¹⁷¹ Even in the instances where accused soldiers are convicted, the ruling may be lenient and the sentence incommensurate with the racist offence perpetrated;¹⁷²

(c) The Israeli Supreme Court fails to address violations of international humanitarian law and human rights violations, including those based on racism and relating to the colonial settlement system, such as land confiscation, attacks on public and private property, colonial settlement building, and transfer of the civilian population to the occupied territory. In addition to disregarding violations relating to the settlement system, the Israeli Supreme Court has contributed to creating a protective legal environment in which settlements expand without control, having rendered the question of the legality of the settlements non-justiciable.¹⁷³ While on occasion the judicial rulings of the Supreme Court have favoured Palestinians, there is a consistent lack of enforcement of those rulings on the ground.¹⁷⁴ Even with regard to settlement outposts built outside (illegal colonial) settlement areas, the judicial organs of the occupying Power intentionally fail to follow up these cases in the courts and its police deliberately omit to enforce court decisions to dismantle such outposts.¹⁷⁵ The report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 concluded that: “While the Israeli High Court of Justice formally exercises judicial oversight of the Israeli administration in occupied Palestine, according to NGOs, case law illustrates a trend whereby major policy decisions of government, e.g. relating to the wall and settlements, tend to be immune from judicial intervention, and that human rights and protection under international humanitarian law have not been adequately upheld by the High Court in its rulings.”¹⁷⁶

Article 7

I. Education to promote tolerance and combat racism in the State of Palestine

156. Paragraph 95 of the Durban Declaration affirms that education at all levels and all ages is a key to changing attitudes and behaviour based on racism and racial discrimination. It further affirms that such education is a determining factor in the promotion, dissemination and protection of the democratic values of justice and equity, which are

¹⁷⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel (2012), eightieth session. CERD/C/ISR/CO/14-16, para. 27.

¹⁷¹ B’Tselem, “The occupation’s fig leaf: Israel’s military law enforcement system as a whitewash mechanism” (2016), p. 40.

¹⁷² OHCHR, “Press briefing note on Israel: Elor Azaria case” (2017). *Source:* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21221&LangID=E>.

¹⁷³ See, in general: International Federation for Human Rights, “Shielded from accountability: Israel’s unwillingness to investigate and prosecute international crimes”, (2011); “2.3 The HCJ’s role in facilitating Israel’s settlement policy”, *Mara’abe v. the Prime Minister of Israel*, the Supreme Court sitting as the High Court of Justice, HCJ 7957/04, Judgement of 15 September 2005, para. 19. Available at: http://elyon1.court.gov.il/Files_ENG/04/570/079/A14/04079570.A14.pdf.

¹⁷⁴ Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem. See A/HRC/22/63, para. 45.

¹⁷⁵ Yesh Din, (2017), *Crime without Punishment: Law enforcement in cases of illegal construction and violation of judicial and administrative orders by Israelis in the West Bank. Position Paper*.

¹⁷⁶ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Human Rights Council, A/HRC/25/67 (2014), para. 68.

essential to prevent and combat the spread of racism. In this respect, the State of Palestine is taking appropriate measures in the field of education to promote understanding and tolerance and to combat stereotypes that lead to racial discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 4 of the Higher Education Act No. 11 of 1998 provides that higher education in Palestine is designed to “develop scientific and spiritual values, foster in individuals a sense of belonging to the homeland and the Arab world, and promote in students a spirit of cooperation and collective action”. It is also designed to “contribute to the advancement of science, protection of liberties and integrity of scientific research and to build the State on foundations guaranteeing the rule of law and respect for public rights and freedoms”;

(b) Article 3 of the Education Act of 2017 provides that one of the objectives of the Act is to “develop values and conduct associated with respect for human rights and freedoms and the principles enshrined in international instruments and national human rights legislation”;

(c) In both vision and mission, the aims of the Ministry of Education and Higher Education include “nurturing Palestinian human beings who are proud of their religion, national belonging, homeland and Arab and Islamic culture; contribute to the advancement of their society; strive for knowledge and innovation; respond positively to the demands of scientific and technological development; are able to compete in the scientific and practical spheres; are open to regional and global cultures and markets; and are capable of building a society based on gender equality, adherence to humanitarian values, and religious tolerance.”¹⁷⁷

157. Through the following measures, the State of Palestine is developing educational curricula in line with the objectives of promoting understanding and tolerance and combating stereotypes conducive to racial discrimination:

(a) Article 45 of the Education Act of 2017 states that the Ministry of Education is to develop educational curricula centred on the principles and precepts set forth in domestic legislation and international human rights instruments, as well as the principles of community-based philosophy and national values bound up with the religious, moral and human values system connecting citizenship with democracy. It also requires the Ministry to keep pace with all scientific, technical, economic and cultural developments;

(b) The academic curriculum plan approved by the State of Palestine in 1998 is aimed at, inter alia: strengthening the moral, religious and spiritual values of society; affirming the principles of justice, equality, dignity, national responsibility and respect for human life; and creating and promoting understanding, cooperation and peace at the Arab, regional and international levels. Those ends are to be achieved by promoting the concepts of national liberation, justice, democracy and human rights, as well as by encouraging respect for the culture and religious beliefs of others;¹⁷⁸

(c) The National Strategic Plan for Culture 2014–2016 states that one of its aims is to invest in educational curricula and extracurricular activities with a view to reinforcing the values of pluralism, democracy, belonging, citizenship and gender equality. It also states that the aim is to be achieved by integrating the cultural dimension into the curricula and teaching methods in a way that highlights pluralism and cultural diversity.¹⁷⁹

158. Examples of courses added to the curricula in line with the principles enshrined in the International Bill of Human Rights and the Convention comprise:

¹⁷⁷ State of Palestine: Ministry of Education and Higher Education. *Source*: <http://www.moehe.gov.ps/%D8%B9%D9%86-%D8%A7%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D8%A9%D8%A7%D9%84%D8%B1%D8%A4%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D8%B1%D8%B3%D8%A7%D9%84%D8%A9>.

¹⁷⁸ Palestinian Curriculum Development Centre, “Aims of the curriculum plan”. *Source*: http://www.pcdc.edu.ps/ar_new/index.php?p=about1.

¹⁷⁹ State of Palestine, Ministry of Culture, “Strategic Plan for Culture and Cultural Heritage: Life and practice” [in Arabic] (2013), p. 27.

(a) A tenth-grade course on contemporary world history, which includes a lesson on dictatorships and modern ideologies based on racism, such as fascism and Nazism;¹⁸⁰

(b) A twelfth-grade course on contemporary issues, which includes a unit on human rights covering the Universal Declaration of Human Rights, human rights in Islam, and the importance of human rights;¹⁸¹

(c) A twelfth-grade course on twentieth-century Arab and world history, which includes a unit on racial discrimination covering such matters as racist persecution, ethnic cleansing and apartheid South Africa, as well as international measures to combat racism and the reasons preventing their application on the ground;¹⁸²

(d) A ninth-grade civic education course, which includes a unit on political, social, intellectual and religious pluralism in Palestinian society, as manifested, inter alia, in the allocation of seats to ensure political representation for Palestinian religious groups, the establishment of parties, and the licensing of pluralistic and diverse media;¹⁸³

(e) The national education curriculum for the first to tenth grades is designed to introduce students to such topics as the specificity of the Palestinian national identity and the features of Palestinian society, including its composition and its religious and racial pluralism; instil the values of democracy, tolerance, equality and acceptance of others; and build Palestinian civil society.

159. The achievements of the Ministry of Education in combating prejudices that might lead to racial discrimination are exemplified in various programmes and projects promoting integration and coexistence, including:

(a) A citizenship programme encompassing activities and events focused on international human rights instruments and teaching students to work collectively in addressing the key social and cultural challenges facing them;

(b) A programme on human rights and international humanitarian law run in over 50 schools to teach students about the concepts of human rights, international humanitarian law and related international instruments. Public hearings are also organized in local communities and student meetings are held to discuss human rights violations in Palestine.

II. Cultural activities aimed at building a tolerant and anti-racist culture in the State of Palestine

160. The State of Palestine is taking appropriate measures by way of the following legislative and administrative frameworks to promote mutual understanding and tolerance and combat stereotypes that might lead to racial discrimination:

(a) Article 1 of Cabinet Decision No. 227 of 2004 states that the Ministry of Culture works to create an environment conducive to the development, dissemination, promotion and sponsorship of Palestinian culture; foster its development role for the sake of social and democratic progress; affirm the linkage between the homeland's cultural fabric and the diaspora; strengthen the Palestinian cultural identity; and share local culture through interaction with countries and Arab and international organizations facilitated by the establishment of an infrastructure and the provision of cultural facilities. Article 2 of the Decision also provides that the Ministry of Culture is to give priority to the most socially disadvantaged groups by encouraging and supporting the establishment of cultural centres and public libraries in remote and marginalized areas;

(b) One of the aims of the National Strategic Plan for Culture 2014–2016 is to create more accessible cultural spaces for all Palestinians that are characteristically

¹⁸⁰ Ministry of Education, "Modern and contemporary world history" [in Arabic], tenth grade, chap. II, p. 60.

¹⁸¹ Ministry of Education, "Contemporary issues" [in Arabic], twelfth grade, chap. II, p. 91.

¹⁸² Ministry of Education, "Twentieth-century Arab and world history" [in Arabic], secondary second grade, pp. 94–97.

¹⁸³ Ministry of Education, "Civic education" [in Arabic], basic ninth grade, p. 9.

pluralistic, open and innovative, denounce all forms of discrimination, and preserve and renew the cultural heritage;¹⁸⁴

(c) The Palestine Culture Sector Plan 2014–2016 includes among its strategic objectives the creation of a more enabling environment for Palestinian culture that contributes to the dissemination of a pluralistic national culture; promotes unity and communication among Palestinians in the homeland and the diaspora, as well as exchanges with Arab and foreign peoples; supports and stimulates innovation both materially and morally; increases public participation; refines cultural taste; and focuses attention on Jerusalem and marginalized areas. Those objectives are to be achieved by inspiring and expanding the scope of artistic activities in the geographical regions so as to deepen and promote a cultural awareness based on plurality, openness and equality;¹⁸⁵

(d) In its tenth national priority, the National Policy Agenda 2017–2022 underscores the importance of political intercession to protect the Palestinian cultural identity by supporting innovation and cultural output and safeguarding the Palestinian cultural heritage and its development;

(e) The Ministry of Culture runs various programmes in this sphere, such as the Culture for All programme, the intention of which is to foster a more enabling environment for the dissemination of a renewed, creative, democratic and humane Arab national culture; the development of citizenship based on pluralism and respect for the values of equality, social justice and human dignity; the establishment of a stimulating environment for cultural innovation; attention to marginalized areas and areas vulnerable to attacks by the occupation and settlers; and the official promotion of cultural communication between Palestinians, wherever they may be, Arab peoples and humanity.

III. Media combating racism and promoting tolerance in the State of Palestine

161. Concerning the media, the State of Palestine is taking appropriate measures to promote understanding and combat stereotypes that might lead to racial discrimination, in accordance with the following legislative and administrative frameworks:

(a) Article 7 of the Press and Publication Act No. 9 of 1995 provides that the press is prohibited to publish “anything incompatible with the principles of freedom, national responsibility, human rights and respect for the truth. Citizens shall have the right to freedom of thought, opinion, expression and information, as shall the press”;

(b) Pursuant to article 2 of Cabinet Decision No. 213 of 2004, one of the aims of the Ministry of Information is to ensure that “the Palestinian media champion the values of freedom, progress, justice, brotherhood and peace among peoples, as well as the principles of democracy and respect for the rights of individuals, peoples and minorities”;

(c) The Code of Conduct for Palestinian Media Institutions provides that the media must “systematically pursue freedom and democracy, preserve the cultural and national identity of the Palestinian people without it leading to isolation, adopt the values of tolerance and acceptance of others’ opinions, and give due coverage to matters of public interest through documented information and attention to marginalized groups and areas”;

162. The Palestinian media have taken measures to promote understanding and tolerance and likewise to guarantee the cultural and social participation of Palestinian racial and ethnic groups, as follows:

(a) The Palestinian Broadcasting Corporation has conducted interviews with Palestinian racial and ethnic groups, such as Armenians, Afro-Palestinians and Samaritans, and produced news reports and documentaries on those groups. The information obtained as a result has been an important reference assisting the preparation of this report;

¹⁸⁴ State of Palestine, State of Palestine, “National Development Plan 2014–2016: State building to sovereignty” [in Arabic] (2014), p. 65.

¹⁸⁵ State of Palestine, “Strategic Plan for Culture and Cultural Heritage: Life and practice” [in Arabic] (2013), p. 25.

(b) The Palestinian Information Centre, which is part of the Palestinian News & Info Agency (Wafa), has documented information and established a database on confessional groups, doctrinal groups and communities in Palestine. The database includes information on the history and faiths of peoples and religions in Palestine up until the twentieth century and on the religious, racial and ethnic groups currently in Palestine, such as Armenians, Copts, Baha'is, Turkmen, Africans, persons of Maghrebi descent, Ahmadis, Druze, Roma, Samaritans, Syriacs, Bosnians, Circassians, Maronites and Kurds. This information is published on the Wafa website and has been a key reference assisting the preparation of this report.¹⁸⁶

¹⁸⁶ Palestinian Information Centre, "Confessional groups, doctrinal groups and communities in Palestine".
Source: <http://info.wafa.ps/atemplate.aspx?id=3950>.