

Al-Haq – Law in the Service of Man

Al-Haq’s Comments on the Responses of the State of Palestine
to the Committee on the Elimination of Discrimination against Women
during its First Periodic Review at the 70th Session on 11 July 2018

Submitted: 13 July 2018

Al-Haq presented its report to the 70th session of the Committee on the Elimination of Discrimination against Women (hereinafter ‘the Committee’) with regard to its evaluation of the first report of the State of Palestine and its compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to which the State of Palestine has acceded without reservations.¹ Al-Haq attended the Committee’s first review of the State of Palestine under CEDAW on 11 July 2018 and closely followed the questions addressed to the delegation of the State party by members of the Committee as well as the official replies given thereto. Al-Haq notes that a number of the responses by the delegation of the State of Palestine were general in scope and did not clearly address some of the Committee’s questions, while we also note that some of the answers were inaccurate. Accordingly, Al-Haq presents its follow-up report to the Committee ahead of the adoption of its Concluding Observations on the first periodic review of the State of Palestine.

1. The Palestinian political system continues to suffer from a major crisis due to the absence of the Palestinian Legislative Council (PLC) for over 11 consecutive years, leading the executive branch to legislate and enforce legislation at the same time. As a result, no new laws on personal status or penal laws, in line with CEDAW, have been adopted despite their impact on the lives of women and girls, while laws to protect women from violence have not been approved. Meanwhile, a number of laws have not been amended to adopt the principle of temporary special measures (quotas) in a way that would enhance the participation and empowerment of women in various fields. While President Mahmoud Abbas has the authority under the Palestinian Basic Law and the PLC Rules of Procedure to call the PLC to convene in a General Assembly in the West Bank and the Gaza Strip, the last official invitation by the Palestinian President for the convening of the PLC was on 11 July 2007. Since then, and at the time of the writing of this report, the Palestinian President has not called for the PLC to reconvene. The restoration of the role of the dissolved PLC was agreed upon in the 2017 Cairo Agreement and would contribute effectively to the reform of the political system

¹ Al-Haq’s submission to the Committee on the occasion of the State of Palestine’s first periodic review is available at: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/PSE/INT_CEDAW_NGO_PSE_31670_E.pdf.



and would work towards speeding up the adoption of laws that would effectively contribute to the protection and empowerment of women and girls and the implementation of CEDAW, to which the State of Palestine has acceded without reservations. **Al-Haq recommends that the Committee issue in its Concluding Observations a recommendation to the State of Palestine, through its President, to call for the convening of the PLC and to focus on laws promoting the protection and empowerment of women, which have been disregarded over the years in light of the PLC's absence.**

2. The Palestinian judiciary suffers from interference by the executive branch. The formation of the Supreme Constitutional Court (SCC) contravenes the Basic Law and the 2006 Law on the Supreme Constitutional Court, as it lacks independence and impartiality. Palestinian women are not represented in the SCC, the decisions of which have aroused great controversy on the part of Palestinian civil society organizations, particularly recent decisions related to the status of international conventions in domestic law (Decisions Nos. 4 and 5 of 2017), to the effect of which CEDAW is not applied in the State of Palestine. Notably, the Palestinian Basic Law and the 2006 Law on the Supreme Constitutional Court do not grant the SCC the authority to place reservations on international treaties. Nor do they grant the SCC the power to adopt the principle of “duality of legal norms” and to require that international conventions be issued by law or by law by decree issued by the President, then published in the Official Gazette, and then applied to the courts with the general reservations introduced by the SCC. Article 10 of the Palestinian Basic Law is clear that “[h]uman rights and fundamental freedoms are binding and respected”. Therefore, the Palestinian Basic Law places the entire human rights regime in the order of constitutional texts. **Accordingly, Al-Haq calls on the Committee to issue recommendations to the State of Palestine, through its President, to undertake substantial reforms in the judiciary through the formation of a professional and independent committee to undertake judicial reform within a specific time frame. Al-Haq further calls on the Committee to recommend that the State of Palestine focus on the importance of reconsidering the formation of the SCC to ensure its independence, impartiality, and the representation of women in the membership of the Court.**
3. The Gaza Strip continues to suffer from a severe humanitarian crisis due to the ongoing closure imposed by Israel, the occupying power, on the Gaza Strip and the continued imposition of punitive measures by the State of Palestine since April 2017. These measures have continued to exacerbate the suffering of Palestinian women and girls, and have led to more widespread poverty, unemployment, hunger, increased incidents of violence against women, divorce, and loss of livelihood. The humanitarian situation in the Gaza Strip is on the



brink of full collapse, and Palestinian women are paying a heavy price at various levels due to the catastrophic situation in Gaza. Peaceful assemblies were launched in the West Bank in June 2018 demanding that the State of Palestine lift the punitive measures imposed on the Gaza Strip. These peaceful assemblies continue. A number of peaceful assemblies were suppressed by the Palestinian security services and persons in civilian clothing. Perpetrators have not been held accountable for documented acts of sexual harassment, nor have victims been remedied for the violations they have suffered. At the same time, the punitive measures imposed on the Gaza Strip remain in place. **Al-Haq recommends that the Committee refer in its Concluding Observations to the ongoing punitive measures on the Gaza Strip and its repercussions on women and girls there, as well as the suppression of peaceful assemblies in the West Bank, the documentation of acts of sexual harassment, the absence of accountability for these violations, and the lack of remedies for the victims. Al-Haq further calls on the Committee to recommend that the State of Palestine set a time frame within which to lift its punitive measures on the Gaza Strip.** Al-Haq has detailed these violations ahead of the review of the State of Palestine in its report to the Committee at its 70th session.

4. The delegation of the State of Palestine noted in its responses to the Committee concerning the obstacles and legislative challenges that prevent the passage of legislation related to the protection and empowerment of women that the Palestinian National Council (PNC) is the Parliament of the State of Palestine and that its powers have been transferred to the Central Council, which will adopt laws relating to the protection and empowerment of women. Al-Haq reaffirms that neither the instruments of the Palestine Liberation Organization (PLO) nor the Palestinian Basic Law grant the PNC or the Central Council (serving as a mini-parliament of the PNC) any powers relating to Palestinian legislation. Moreover, no legislation has been issued by any PLO institution in matters concerning women and girls, and no legislation in this regard has been published in the Official Gazette. In addition, these councils are almost paralysed as the PNC meeting in 2018 followed the last meeting of the PNC in 1996. In contrast, the Central Council meeting that took place in 2018 followed the last Central Council meeting in 2015. **Al-Haq reaffirms the importance of restoring the role of the PLC and adopting laws that effectively contribute to the protection and empowerment of women and girls and the importance of institutional reform, especially the holding of general elections in accordance with the Cairo dialogue of 2017 on Palestinian reconciliation.**
5. The delegation of the State of Palestine noted in its responses to the Committee that the Commission on Harmonization of Legislation with International Conventions ('the



Harmonization Commission'), established by the Council of Ministers in 2017, placed on its agenda and prioritised the Personal Status Law and the Penal Law. However, personal status issues are not on the Harmonization Commission's agenda while the Draft Penal Law has been discussed since 2011 when it was presented to the Harmonization Commission and is yet to be completed. Nor does it appear, as seen through a number of indicators, that there is political will to approve the 2011 Draft Penal Law and to publish it in the near future. The Harmonization Commission formed by the Council of Ministers consists mostly of Government ministries and public institutions, while civil society organisations are not adequately represented and do not have the right to vote on decisions within the Commission. The Harmonization Commission's first practical test in relation to the Law by Decree on Cybercrimes was a failure despite the Law by Decree's flagrant violation of international treaties to which the State of Palestine has acceded without reservations. **Al-Haq recommends that the Committee issue Concluding Observations emphasizing the need to immediately adopt new laws in relation to personal status, penal laws, and the protection of women from violence, which are in line with CEDAW. Further, Al-Haq impresses on the need to reform the Harmonization Commission to ensure that professional standards, impartiality, and the genuine representation of civil society are taken into account in the membership of the Commission and that civil society actors are given the right to vote on decisions within the Commission where the need may arise.**

6. The delegation of the State of Palestine did not clearly answer the Committee's questions regarding the issue of multiple references and strategic plans related to the protection and empowerment of Palestinian women, for which a clear vision, evaluation mechanisms, and timetables for implementation are lacking. The budget of the Ministry of Women's Affairs in the State's general budget is very modest and does not allow it to implement its activities, especially in relation to development. **Al-Haq recommends that the Committee issue in its Concluding Observations calls to enable the Ministry of Women's Affairs to implement its programmes, especially with regard to its development activities, capacity-building of human resources at the Ministry of Women's Affairs, the development of gender units in various ministries and public institutions, and the need to work according to a unified plan, with clear evaluation mechanisms and indicators, and clearly defined goals and priorities that contribute effectively to achieving the Sustainable Development Goals (SDGs), in particular Goal 4 on ensuring quality, equitable, and inclusive education for all and Goal 5 on achieving gender equality and the empowerment of all women and girls.**

7. Despite the important efforts made at the Palestinian level to implement United Nations Security Council resolution 1325 (2000) and relevant resolutions, as indicated by the delegation of the State of Palestine in its responses to the questions of the Committee, the absence of continued monitoring and evaluation greatly weaken the efforts made in this regard. **Al-Haq calls on the Committee to issue a recommendation in its Concluding Observations emphasizing the importance of establishing mechanisms and timetables for the implementation of United Nations Security Council resolution 1325 (2000) and relevant resolutions and of internal procedures for the protection of women in armed conflict.**
8. There have been extensive referrals into forced early retirement in the Gaza Strip since April 2017 and in the West Bank since February 2018. These referrals were not based on any objective, professional, or transparent grounds, and in many cases discriminated against women, notably by referring women employees of the Ministry of Education and the Ministry of Health into forced early retirement. The delegation of the State of Palestine did not address these violations committed against Palestinian women, nor did it address the criminal prosecutions of prominent Palestinian women journalists in violation of their rights to freedom of opinion and expression and media freedoms, which did not appear in the official State report. **Al-Haq addressed these violations in its report submitted to the Committee at its current 70th session and recommends that the State of Palestine be requested to immediately ensure an effective remedy for Palestinian women who have suffered forced early retirement and violations of media freedoms and the right to freedom of opinion.**