

# National Situation Analysis Report:

## Women's Human Rights and Gender Equality

### Occupied Palestinian Territory

*Enhancing Equality between Men and Women  
in the Euromed Region (2008-2011)  
Programme financed by the European Union*



EUROMED  
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*"This report has been drafted by independent experts.  
It does not necessarily reflect the views of the European Union."*



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# List of Acronyms

|        |  |
|--------|--|
| CEDAW  | Convention on the Elimination of all forms of Discrimination against Women     |
| EU     | European Union   |
| GBV    | Gender based violence  |
| GDI    | Gender Development Index   |
| GEM    | Gender Empowerment Measure   |
| GRB    | Gender Responsive Budgeting  |
| HDI    | Human Development Index  |
| HDR    | Human Development Report   |
| ICCPR  | International Covenant on Civil and Political Rights                           |
| ICJ    | International Court of Justice   |
| MOL    | Ministry of Labour   |
| MOSA   | Ministry of Social Affairs   |
| MOWA   | Ministry of Women’s Affairs  |
| NGO    | Non Governmental Organisation  |
| OPT    | Occupied Palestinian Territory   |
| PA     | Palestinian Authority  |
| PCBS   | Palestinian Central Bureau of Statistics                                       |
| PLC    | Palestinian Legislative Council  |
| PLO    | Palestine Liberation Organisation  |
| PM     | Prime Minister   |
| UNRWA  | United Nations Relief and Works Agency for Palestine Refugees in the Near East |
| UNFPA  | United Nations Population Fund   |
| UNIFEM | United Nations Development Fund for Women                                      |
| WCLAC  | Women’s Centre for Legal Aid and Counselling                                   |

# 1. Executive Summary

The programme “Enhancing Equality between Men & Women in the Euromed Region” referred to as the Euromed Gender Equality Programme (EGEP) is of three years duration (15 May 2008 – 15 May 2011); it is funded through the European Neighbourhood and Partnership Instrument (ENPI) and is implemented in the nine countries of the southern part of the EU neighbouring area: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Occupied Palestinian Territory, Syria and Tunisia.

The programme has three main purposes:

- Purpose 1: Support and reinforce current dynamics that favour both de jure and de facto gender equality and that provide support to the promotion of women’s rights in the region.
- Purpose 2: Improve understanding and knowledge of the various forms of violence against women
- Purpose 3: Ensure that the Istanbul ministerial conclusions on “Strengthening the role of women in society” are being followed up.

The present report is implemented under Purpose 1 of the EGEP programme. With the view of supporting current dynamics and strengthening the capacity of qualified actors in order to promote equality between men and women, Situation Analyses have been conducted in eight partner countries (Algeria, Israel, Jordan, Lebanon, Morocco, Occupied Palestinian Territory, Syria and Tunisia). The process has been twofold: the drafting by a national expert of a Situation Analysis Report and the presentation, debating and validation of the findings of the Situation Analysis Report during a national multi-stakeholder validation workshop.

The **overall objective** of the national report is to conduct a situation analysis of women’s human rights and gender equality, with an emphasis on legal reforms, participation in decision making in public and private life and gender-based violence.

In the framework of the Convention for the Elimination of all forms of Discrimination against Women and of the Istanbul Ministerial Conclusions, the **specific objectives** of this report are:

- To identify the status of women in the OPT;
- To improve knowledge on the situation of women and on gender based violence;
- To identify the main issues, obstacles and opportunities as well as challenges and priorities regarding women’s participation in decision-making at all levels (private and public sphere).



The **work methodology** used for the present report includes:

- A literature review of the international conventions and documents, particularly the Convention for the Elimination of all forms of Discrimination against Women (CEDAW) and the Istanbul Ministerial Conclusions;
- A review of local literature including Palestinian laws and legislations, Palestinian statistics and other support documents and material on the situation of women, particularly regarding their situation in decision making positions.
- In-depth interviews conducted with the relevant stakeholders: governmental actors and organisations, non governmental organisations and donors.

In the context of this report, it has been particularly challenging to access sources on the current situation of women in the Gaza Strip and to conduct interviews with people in Gaza. Therefore, the bulk of the report refers primarily to the current situation of women in the OPT with a stronger emphasis on the situation of women in the West Bank. Yet, the interviews conducted and cross-checking of sources point to worrying backlashes and to the deterioration in the situation of Gaza women, both *de jure* and *de facto*.

## Main findings of the situation analysis

The Basic Law of Palestine makes no difference between men and women. The country's Personal Status Laws however, based on religious laws inherited from Jordan (applicable in the West Bank) and Egypt (applicable in Gaza), contain discriminatory provisions in the areas of marriage, divorce, child custody and inheritance. Furthermore, Islamic law provides for detailed and complex calculations of inheritance shares. A woman may inherit from her father, her mother, her husband, her children, and under certain conditions, from other members of her family, but her share is generally smaller than a man's entitlement.

The non state status of the OPT implies that it does not have the capacity to undertake binding international legal obligations. It also means that there is no obligation for the Palestinian Authority to provide a state report to the CEDAW Committee. Yet, the symbolic signing of CEDAW by the President of the Palestinian Authority in March 2009 constitutes an opportunity for women's and human rights' organisations to advocate and lobby the government to implement its obligations under the Convention and to work towards changing and amending laws accordingly. The report highlights that additional efforts are needed to support the implementation of a national plan for gender equality, including in terms of legal reform. While many organisations both national and international provide training on women's rights

and CEDAW, these will usually target the more educated sectors of Palestinian society and rarely reach the more marginalized and deprived sectors.

The Palestinian Authority has upheld its commitment and pursued its efforts to improve the participation of women in political life: five women are represented in the June 2009 government (including one as Minister for Women's Affairs) out of 23 ministers, and 17 of the 132 members of the Legislative Council are women. Representation of women in political bodies is estimated at around 15% for senior positions, and around 9% in the judiciary. In June 2009, the Palestinian Cabinet decided to introduce gender-sensitive budgeting and to establish gender units in ministries and public institutions. Yet it is unclear how these measures will be implemented and funded and there is no substantial progress to report regarding the adoption of a Palestinian Women's Rights Bill<sup>1</sup>.

The Palestinian legal framework is made up of multiple and conflicting sources, predominantly the Jordanian Family and Penal Codes are in place in the West Bank and the Egyptian ones in Gaza. Other sources include: the Palestinian Basic Law, the Israeli military and civil law, Ottoman law, British Mandate law, Shari'a law and international law. It is not uncommon for conflict or post-conflict societies to have multiple legal codes; but it is the lack of effective legislative and judicial oversight that is particularly problematic in the OPT<sup>2</sup>. Weak rule of law has a particularly detrimental effect on gender equality and women's empowerment, especially related to domestic violence and family law. Provisions of the Penal Code in force in both the West Bank and Gaza related to rape, adultery, sexual violence committed in marriage and so-called "honour killings" display unambiguous discrimination against women. The recourse to informal justice in the form of tribal/clan based arbitration mechanisms also has a detrimental impact on women; as such entities are often governed by entrenched patriarchal social and cultural norms. In cases of Family Law administered by the Shari'a and clan-based courts, women's rights organization have pointed to women's chronic lack of legal awareness of their rights and entitlements. Evidence also suggests a rise in the rate of street harassment reported by women<sup>3</sup>.

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<sup>1</sup> ENP Progress Report, OPT, European Commission, May 2010

<sup>2</sup> Human Development Report, OPT, UNDP, 2009-2010, p. 48

<sup>3</sup> Ibid.

## Challenges to the advancement of women's rights

Women in the West Bank and Gaza have a low level of protection for physical integrity<sup>4</sup>. Violence against women tends to be exacerbated in conflict-ridden areas. Due to the occupied situation, Palestinian women continuously run the risk of arbitrary arrests, harassment at checkpoints and verbal abuse. In addition, there are no laws that protect women from domestic violence and social norms often prevent the reporting of such incidents. A 2005 survey on domestic violence showed that over 60 percent of women had been psychologically abused by their husband, 23 percent had been beaten and 11 percent had experienced sexual violence. Killings of women in the name of honour also occur and it has been estimated that there has been an increase in recent years, particularly in the face of rising conservatism in the Gaza Strip. Female genital mutilation is known to be practiced in Gaza, but there are no reports on the number of women affected.

Against this background, a National Committee to combat violence against women was established under the leadership of the Ministry for Women's Affairs (MoWA). It includes twelve different ministries and civil society organisations, with a view to drafting a national strategy to promote women's rights and gender equality in all areas of society.

In the context of the current socio-economic crisis, Palestinian women, although they constitute the majority of university students, remained seriously underrepresented on the labour market, with the female labour force participation rate in the fourth quarter of 2009 reaching only 15.1%. Female unemployment stands at 23.8%.

The report also emphasizes the central role of patriarchal culture and traditional values in reproducing inequalities and traditional gender roles.

## National priorities and perspectives for future action

Based on the analysis, challenges and opportunities, national actors have agreed on a common set of priorities. These are:

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<sup>4</sup> Gender Equality and Social Institutions in the West Bank and Gaza, OECD, Development Centre, 2006

- Disseminate the international framework on women’s rights and gender equality, particularly the less known Istanbul Ministerial Conclusions;
- Align laws with international human rights standards with an emphasis on the reform of the Family Code and the Penal Code;
- Combat violence against women and killing of women in the name of the honour through legal reform, policy measures and services, training and awareness raising of women;
- Ensure political will on promoting gender equality and women’s rights;
- Increase the number of women participating in political parties and holding leadership positions;
- Enhance female education and economic empowerment and mainstream gender in national economic strategies and policies;
- Combat stereotypes in school curriculum and in the media;
- Bring an end to the Israeli military occupation of the OPT;
- Enhance coordination of actions at both government and non-government levels and build additional knowledge through gender research.

## 2. Background and Objectives

### 2.1. Programme Context

The regional programme “Enhancing Equality between Men and Women in the Euromed Region” (EGEP) has been developed within the framework of the Istanbul Ministerial Conclusions on “Strengthening the Role of Women in Society” and is of three years duration (May 2008 – May 2011). It is funded through the European Neighbourhood and Partnership Instrument (ENPI) of the European Union. The programme is implemented in the nine countries of the southern part of the EU neighbouring area: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Occupied Palestinian Territories, Syria and Tunisia.

The overall objective of the programme is to enhance equality between men and women by building capacity of key actors, particularly State actors, and by supporting existing positive trends, and dynamics relative to women’s role in decision-making in the public as well as in the private domain, and to provide follow-up for the Istanbul Ministerial Conclusions.

The programme is based on three main purposes:

- Purpose 1: Support and reinforce current dynamics that favour both de jure and de facto gender equality and that provide support to the promotion of women’s rights in the region;
- Purpose 2: Improve understanding and knowledge of the various forms of violence against women;
- Purpose 3: Ensure that the Istanbul Ministerial Conclusions on “Strengthening the role of women in society” are being followed up.

With the view of supporting current dynamics and strengthening the capacity of qualified actors in order to promote equality between men and women, Situation Analyses have been conducted in eight partner countries (Algeria, Israel, Jordan, Lebanon, Morocco, Occupied Palestinian Territory, Syria and Tunisia). The process has been twofold: the drafting by a national expert of a Situation Analysis Report and the presentation, debating and validation of the findings of the Situation Analysis Report during a national multi-stakeholder validation workshop.

## 2.2. Objectives of the situation analysis and Expected results

The **overall objective** of the national report is to conduct a situation analysis of women's human rights and gender equality, with an emphasis on legal reforms, participation in decision making in public and private life and gender-based violence in the Occupied Palestinian Territory.

In the framework of the CEDAW Convention and of the Istanbul Ministerial Conclusions, the **specific objectives** of this report are:

- To identify the status of women in the OPT;
- To improve knowledge on the situation of women and on gender based violence;
- To identify the main issues, obstacles and opportunities as well as challenges and priorities regarding women's participation in decision-making at all levels (private and public sphere).

The report is expected to:

- Provide information on the situation of Palestinian women in decision-making positions based on CEDAW recommendation and the Ministerial Istanbul Conference;
- Provide better understanding of the phenomenon of gender based violence in the OPT;
- Identify the obstacles and challenges faced by Palestinian women in achieving gender equality and enjoying their full rights in society;
- Set priorities and perspectives for future action in order to overcome these challenges.

### 3. Methodology

The **overall methodology** adopted to conduct the situation analysis is based on a desk review of primary and secondary sources and on the conduction of rapid assessment interviews with stakeholders. The analysis of the findings of both the review and the rapid assessment is embedded in the frameworks of the CEDAW and the Istanbul Ministerial Conclusions.

The situation analysis does not intend to prepare new assessments but rather at compiling existing information to allow government actors, civil society organisations and other regional and international partners to ensure consistency and reinforce synergies of efforts and interventions. Interviews were conducted with a representative sample of stakeholders from government and public institutions, civil society and the international community to assess efforts and challenges in promoting women's human rights at the country level.

In the final stages of the situation analysis process, a national validation workshop was organised to allow all stakeholders to debate and validate the findings of the situation analysis and to agree on a set of national priorities. The planning and organizing of the workshop was conducted in close collaboration with the National Women's Machinery to ensure ownership and commitment at the national level. The workshop gathered representatives of the National Women's Machinery, line Ministries, parliamentarians, researchers, civil society and women's organisations, journalists and representatives of donor agencies. The findings of the report were debated and validated with all participants to build a consensus on the main findings, priorities and perspectives for future action.

The validated national situation analysis findings and priorities have been presented and debated at the regional roundtable organised in Brussels on 15-17 March 2010 and which gathered representatives from southern and northern Mediterranean countries with the objective to share, discuss and finalize the national situation analysis reports and the regional compilation report based on the national reports.

The **specific work methodology** used for the present report includes:

- A literature review of the international conventions and documents, particularly the Convention for the Elimination of all forms of Discrimination against Women (CEDAW) and the Istanbul Ministerial Conclusions;
- A review of local literature including Palestinian laws and legislations, Palestinian statistics and other support documents and material on the situation of women, particularly regarding their situation in decision making positions.
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## 4. Overall Context

### 4.1. General information on the land and people

The Occupied Palestinian Territory (OPT) is defined to include the West Bank, Gaza and East Jerusalem. The total area of the West Bank and the Gaza Strip is a little more than 6000 km square, it is 5690 km<sup>2</sup> in the West Bank and it is 365km<sup>2</sup> in the Gaza Strip<sup>5</sup>.

The following is a summary of some most important demographic indicators of Palestinians in the West Bank (including East Jerusalem) and in the Gaza Strip.

Statistics compiled for the year 2007 indicate that there are approximately 3.76 million Palestinians living in the Occupied Palestinian Territory: 2.34 million in the West Bank, and 1.42 million in Gaza Strip<sup>6</sup>. More than half of the Palestinian population is made of refugees displaced from their lands as a result of the war in 1948. The refugees represent around 77% of the whole population in Gaza and they form 37% of the whole population in the West Bank<sup>7</sup>. More than half a million refugees live in camps, which are very crowded and lack services; these camps were established by the United Nations Relief and Works Agency (UNARWA) at the beginning of the 1950s.

More than 70% of the Palestinians from the West Bank and the Gaza Strip live in small villages, 15% of the Palestinians in the West Bank and Gaza Strip live in cities and 15% live in camps<sup>8</sup>.

### 4.2. Political status

The political status, and thus the political structure, of the Occupied Palestinian Territory is highly complex. Although it is not possible to address it at length in this report, some background information is relevant to understand the advances and challenges faced by Palestinian women in law and in practice.

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<sup>5</sup> Report on the situation of Palestinian Women, Women's Centre for Legal Aid and Counselling, 2001, p. 19

<sup>6</sup> Women and Men in Palestine, Issues and Statistics, Number 3, 2008, p. 23

<sup>7</sup> Report about the situation of Palestinian Women, op.cit., p. 23

<sup>8</sup> Report about the situation of Palestinian Women, op.cit., p. 21

Palestine has a long history of colonization and occupation. It was part of the Ottoman Empire until its collapse in 1922 and was then ruled through British Mandate until 1947 when a UN Partition Plan was passed by the United Nations General Assembly and Israel declared independence (14 May 1948). This time is known as *Nakba* by Palestinians, with the systematic exodus of many Palestinians.

The first Israeli-Arab war from May 1948 till January 1949 led to the control by the State of Israel of 78% of historic Palestine, more than proposed by the 1947 UN Partition Plan. The remaining part was annexed by King Abdullah of Jordan and known as the West Bank, while the Gaza Strip was placed under Egyptian military administration. In June 1967, the second Israeli-Arab war led to the occupation by Israel of the West Bank and Gaza. Israel annexed East Jerusalem for which it does not recognize the 'occupied' status.

The Israeli occupation was reaffirmed by the International Court of Justice in its 2004 Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, when it held that the Palestinian Territories (including East Jerusalem) "remain occupied territories and Israel continues to have the status of occupying power"<sup>9</sup>.

The Palestine Liberation Organisation (PLO) was formed in 1964, with Yasser Arafat elected Chairman of the Executive Committee of the PLO in 1969. In the early 1990s, the Oslo Accords between the Palestine Liberation Organisation and Israel led to the creation of the Palestinian Authority. At the time, this was an interim organisation created to administer a limited form of Palestinian self-governance in the territories for a period of five years during which final status negotiations would take place. Although the five-year interim period expired in 1999, the final status agreement has yet to be concluded despite attempts such as the 2000 Camp David Summit, the Taba Summit, and the unofficial Geneva Accords.

According to the Oslo Accords, the Palestinian Authority (PA) was designated to have security and administrative control over Palestinian areas designated as "Area A" (18 per cent of the West Bank), and only administrative control over areas designated as "B" (22 per cent of the West Bank). The other territories (including Israeli settlements, the Jordan Valley region, and bypass roads between Palestinian communities) were to remain under exclusive Israeli control ("Area C" comprising 60 per cent of the West Bank).

In the summer of 2005, Israel implemented a unilateral disengagement plan and about 8500 Israeli citizens living in the Gaza Strip were forcibly removed from the territory. Despite this, Gaza is still considered to be occupied by Israel because of the effective control Israel retains of the Strip. Currently, most of the West Bank is administered by Israel though 42%

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<sup>9</sup> A/ES-10/273, § 101, 111 and 112.

of it is under varying degrees of autonomous rule by the Fatah-run Palestinian Authority. The Gaza Strip is currently under the control of Hamas.

The extent of the geographical coverage of the OPT and the drawing of the OPT-Israeli border are still in dispute. While negotiations on the two-state solution have progressed, the OPT is not yet a fully independent and sovereign state. At the international level, the Palestinian Authority has a permanent observer status at the United Nations through the Permanent Observer Mission of Palestine to the United Nations. At the EU level, the OPT is one of the partners of the Euro-Mediterranean Partnership known as the Barcelona Process and of the Union for the Mediterranean.

### 4.3. Institutional and political structure

According to the Palestinian Basic Law which was signed by Arafat in 2002, the current structure of the PA is based on three separate branches of power: executive, legislative, and judiciary. The president of the PA is directly elected by the people, and the holder of this position is also considered to be the commander-in chief of the armed forces. In an amendment to the Basic Law approved in 2003, the president appoints a “prime minister” who is also the chief of the national security services. The prime minister chooses a cabinet of ministers and runs the government, reporting directly to the president.

The Palestinian Legislative Council (PLC) is an elected body of 132 representatives and acts as a parliament. The PLC must approve all government cabinet positions proposed by the prime minister, and must also confirm the prime minister himself upon nomination by the president. The first PLC was elected in 1996. The authority of this body is restricted to the Palestinian population in the West Bank and the Gaza Strip and is concerned with domestic rather than foreign policy issues or those concerning relations with Israel.

In recent elections (2006), the Hamas party gained control over the parliament, while the Fatah party leader is the president, leading to conflict between the two main political parties in the OPT. Hamas has the control over people in Gaza and Fatah has the control over people in the West Bank and, in practice, there are two governments with two different ideologies, strategies and programmes at all levels.

## 4.4. Human development indicators and Gender gaps

The breakdown of population by gender in the OPT is: 49.3% females and 50.7% males. The average life expectancy for women is 73.2 years and 71.7 for men for the year 2006<sup>10</sup>.

The average percentage population growth in the OPT is one of the highest in the world: it reached 2.8% in 2007, while the yearly average population growth worldwide is 1.4%<sup>11</sup>. The percentage of the female population above 40 years of age is 16.5%, while it is 15.5% among males, according to statistics for the year 2006. Women over 60 years represent 4.9%, against 3.7% for men (2006).<sup>12</sup>

The median age of marriage is 18 years among women according to the statistics of the year 2006<sup>13</sup>. The fertility rate is 4.6: it is 4.2 in the West Bank and 5.4 in the Gaza Strip.

In 2006, the percentage of women in the labour market was only 16%, despite the fact that the number of women in higher education is more than 50% of the total<sup>14</sup>. Yet, this is an increase since 2004 when the percentage was 12.8%: 9.2% in the Gaza Strip and 14.7% in West Bank<sup>15</sup>.

Literacy increased among both females and males aged 15 years and over between the period 2003 and 2007. It rose from 93.5% in 2003 to 93.9% in 2007. For men in 2007 it was 97.2% and for women it was 90.5%<sup>16</sup>.

The percentage of girls' withdrawal from secondary schools is 4.8% for the year 2004. The main reason for girls' withdrawal from secondary schools is early marriage. Yet, the percentage of girls' withdrawal decreased in comparison with the previous years, for example the percentage was 8.2% in 1997.

In 2004, the Human Development Report shows an average figure for maternal death of 12.7 for one hundred thousand infants; the figure is 21.3 in Gaza Strip and 6.7 in the West Bank.

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<sup>10</sup> Women and Men in Palestine, *ibid*.

<sup>11</sup> *Ibid*

<sup>12</sup> *Id.*, p. 30

<sup>13</sup> *Id.*, p. 37

<sup>14</sup> *Ibid*

<sup>15</sup> Palestinian Report of Human Development, 2004, p. 57

<sup>16</sup> *Ibid*

## 5. Palestinian Context and Frameworks: Women’s Human Rights and Gender Equality

### 5.1. The Palestinian legal framework<sup>17</sup>

#### 5.1.1. Multiple legal sources

The Bill of Palestine’s Independence promulgated by the National Palestinian Council in 1989 ensures equality between men and women and mentions partnership between men and women in pursuing development, as well as the need for equality, justice and equal opportunities for women and men citizens without discrimination.

According to Article 9 of the Palestinian Basic Law, amended in 2005, all Palestinians are equal before law, and there is no distinction between them on the basis of ethnicity, sex, colour, religion, political point of view or disability. This means that, at least in theory, men and women in the OPT are equal in all civil and political rights.

Yet the status of legislation in the OPT is particular due to its political status. Because the Palestinian National Authority (PNA) is not a State, legally the PNA cannot ratify or sign any international convention according to the United Nations’ system. In practice, other means of expressing the OPT’s acceptance of the international legal framework on women’s rights have been found, for instance, through Presidential symbolic ratification of CEDAW. In this sense, similarly to other countries in the region, the Palestinian legal framework has undergone and is undergoing a process of reforms to align legislation with international women’s rights standards.

A number of amendments were introduced to laws that provide women in Palestine with rights. These include, for instance:

- the right of a woman to have a passport without the agreement of the guardian;
- the right of a woman to keep the name of her family after her marriage;
- equality in the age of retirement for men and women;

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<sup>17</sup> More specific information on the legal framework (penal, civil, social, etc.) and on legal debates and reforms underway in the OPT are included in section 6 and analyzed in the light of the CEDAW. Section 5.1 provides a more general overview of the specificities of the Palestinian legal framework on women’s rights and on the actors.

- equality in the age for compulsory education for both females and males and free education for both;
- the law of administrative service grants mothers 70 days maternal paid leave and one hour for breast feeding.

The recognition of the international women’s rights framework is linked to efforts deployed by Palestinian women. In 1994, the General Union of Palestinian Women created the “Palestinian Feminist Bill” with support from the feminist Palestinian movement and non governmental organisations. It is based on the document of the “Declaration of Palestine’s Independence” and also relies on the Universal Declaration of Human Rights and on other human rights instruments, particularly CEDAW. Through the Bill, women asked the Palestinian National Authority to consider this document as a reference for the Constitution and the legislations of the future Palestinian State.

The Palestinian Feminist Bill focused on equality between men and women in all aspects of life and on taking all necessary legislative procedures in order to eliminate all forms of discrimination against women and to protect women through legislation.<sup>18</sup> The Bill focused on political rights (the right for women to vote and stand for elections). It also recommended that more women should be included in decision making positions in politics and be appointed to the judiciary. It further recommended that women should have full citizenship in that women should have the right to give citizenship to their husband and children.

It is encouraging that the PNA asserts its commitment to all international documents and that it is enshrined in the articles of the Basic Law. However, the implementation of the law in practice does not always reflect what is written in the text.

Further, legal instability in the OPT is drawn from the existence of parallel and conflicting legal codes. Legal sources abound and are drawn from:

- Palestinian Basic Law;
- Israeli military and civil law;
- Ottoman law;
- British Mandate law;
- Jordanian law;
- Egyptian law;
- Shari’a law;
- International law.

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<sup>18</sup> National report on the situation of Palestinian Women, 5 years after Beijing, 2002

While these multiple and often contradicting sources create an unstable and unsecure legal environment with major distinctions between the West Bank where Jordanian Codes (Family and Penal) are implemented and Gaza where Egyptian Codes apply, it is not uncommon for conflict or post-conflict societies to have multiple legal codes. What is particularly challenging in the OPT is the lack of effective legislative and judicial oversight that is particularly problematic in the OPT<sup>19</sup>. Weak rule of law has a particularly detrimental effect on gender equality and women's empowerment, especially related to domestic violence and family law. Provisions of the penal code in force in both the West Bank and Gaza related to rape, adultery, sexual violence committed in marriage and so-called "honour killings" display unambiguous discrimination against women. The recourse to informal justice in the form of tribal/clan based arbitration mechanisms also has a detrimental impact on women; as such entities are often governed by entrenched patriarchal social and cultural norms. In cases of family law administered by the Shari'a and clan-based courts, women's rights organization have pointed to women's chronic lack of legal awareness of their rights and entitlements. Evidence also suggests a rise in the rate of street harassment reported by women<sup>20</sup>.

### 5.1.2. The Family Code and the Penal Laws

The Basic Law of Palestine makes no difference between men and women.

In terms of **family matters**, different personal status laws apply to Muslims and non-Muslims. The country's Personal Status Law which applies to Muslim citizens is based on Islamic laws inherited from Jordan (applicable in the West Bank) and Egypt (applicable in Gaza) contains discriminatory provisions in the areas of marriage, divorce, child custody and inheritance<sup>21</sup>.

Palestinians have a long tradition of **early marriage** but recent years have seen an increase in the marriage age, partly because marriage has become unaffordable for many. The United Nations (2004) estimates that almost one quarter of Palestinian girls between 15 and 19 years of age are married, divorced or widowed. The Palestinian Central Bureau of Statistics (PCBS) carried out a survey in 1999 that showed that 55 percent of women married out of choice, while close to 40 percent married following a decision by their parents<sup>22</sup>.

**Polygamy** is legally accepted in Palestine as Islamic law allows a Muslim man to take up to four wives. However, by Israeli law, Muslim Palestinians in East Jerusalem cannot enter into polygamous unions. According to the PCBS, less than four percent of men in the West Bank and Gaza had multiple wives in 1997.

<sup>19</sup> Human Development Report, OPT, UNDP, 2009-2010, p.48

<sup>20</sup> Ibid.

<sup>21</sup> Gender Equality and Social Institutions in the West Bank and Gaza, OECD, Development Centre, 2006

<sup>22</sup> Ibid.

Islamic Personal Status Laws generally discriminate against women with regards to parental authority, as only the father is considered to be the natural **guardian** of his children. In the event of divorce, a mother normally has the right to physical custody of sons until the age of 10 and of daughters until the age of 12. A divorced woman will forfeit her custody rights if she remarries. Women cannot confer citizenship to their children.

Islamic law provides for detailed and complex calculations of **inheritance** shares in the OPT and applies to Muslims and Christians. A woman may inherit from her father, her mother, her husband, her children, and under certain conditions, from other members of her family, but her share is generally smaller than a man's entitlement. A daughter, for example, inherits half as much as a son. This is commonly justified by the fact that a woman has no financial responsibility towards her husband and children. At times, women are pressured into transferring their inheritance altogether to their brothers or other male relatives.

In terms of **penal matters**, the Jordanian Penal Code (n°16) of 1960 applies to the West Bank until today and the British Penal Code of 1936 applies to the Gaza Strip. The outdated nature of these Codes and the difference in legal norms between Gaza and the West Bank account for criticism from human rights activists and organisations. The legal situation in the OPT is far the most complex in the region and relates to the multiplicity of authorities that ruled Palestine and to the partition of the Palestinian territories. Since the signature of the Oslo Accords (13.09.1993) between the PLO and Israel, Palestinians have executive and legislative powers, yet still limited and incomplete. Since the election of the first Palestinian Legal Council in 1996, the Palestinian Authority has adopted numerous laws, yet these coexist with former legal systems inherited from Ottoman, British, Egyptian and Jordanian legal systems which have themselves been reformed in between.

The multiplicity and outdated nature of legal sources is particularly detrimental to women and are a challenge to address gender-based violence. For instance, the legal system applicable in the Gaza Strip imposes harsher penalties on an **adulterous** woman (2 years), than on an adulterous man (6 months). The evidentiary requirements are also unbalanced: while a woman may be penalized for committing adultery in any location, a male may only be charged with adultery if it is committed in the marital home<sup>23</sup>.

Similarly, the law applicable in the West Bank provides for an increased sentence "by one third or one half" if the **rape** victim was a virgin. The law applicable to the Gaza Strip does not discriminate between virgin and non-virgin victims, and the maximum penalty imposed for the crime of rape is 14 years. Laws in force in both the West Bank and the Gaza Strip relieve rapists who marry their victim of any criminal responsibility, constituting a violation

<sup>23</sup> Based on the Egyptian Penal Law enforced in Gaza; Human Development Report, Palestine, UNDP, 2009-2010, p.46



of a woman's dignity and choice. Marital rape is not recognized. In the Gaza Strip, both men and women are permitted to file incest charges. The law applicable in the West Bank denies children who are victims of sexual abuse the right to file charges; only male family members are granted the right<sup>24</sup>.

Against this background, the Ministry of Women's Affairs, in collaboration with the President's office and partner institutions, is reviewing legislation and launching proposals to amend articles 281, 292, and 340 related to sanctions in cases of violence against women (physical and psychological violence and rape). Amendments include the withdrawal of article 340 that justifies a husband killing his wife in case of adultery and of article 98 which reduces penalty for a husband which kills his wife under the influence of anger.

### 5.1.3. Ownership and property rights

Women have the legal right to own land and property, but actual female ownership is low due partly to social norms that limit female economic activity. The 1999 PCBS survey showed that less than 8 percent of women own or share ownership of a property, and only 5 percent own or share a piece of land<sup>25</sup>.

Women are not legally hindered in their access to credit and they are free to dispose of their income independently. Nevertheless, social norms may hinder women from engaging in economic activity and conclude financial contracts. Several Palestinian women's organizations encourage female entrepreneurship and have also facilitated the establishment of micro-credit institutions for women.

To the extent that security threats make it more difficult for women than men to move between the occupied territories, limited physical access to banks and business partners also restrict women's control over various assets outside of their immediate vicinity.

### 5.1.4. Coalitions for legal reforms and amendments

In the face of the remaining obstacles to the equal rights of women and men in the OPT, NGOs and women's organisations are at the forefront of a series of initiatives and coalitions to work on amendments to the local law. These will be further detailed in section 6 when considering the advances and challenges to women's rights in the light of CEDAW. At this stage, one shall mention:

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<sup>24</sup> Based on the Egyptian (Gaza) and Jordanian (West Bank) Penal Laws; op cit.

<sup>25</sup> Azzouni, S., Women's Rights in the Middle East and North Africa: Citizenship and Justice – Palestine Country Report, Freedom House Inc., 2005

- The Personal Status Coalition

One of these coalitions is the Personal Status Coalition, which consists of ten Palestinian non-governmental organisations that work together on gender and human rights issues. The main goal of this coalition is to modify and work towards the amendment of personal status legislation so as to reflect women’s rights as equal to men. The personal status code is a strategic element for women as it is the cornerstone of discriminations and inequalities both in private and public status and spheres. For example, one recommendation from the coalition is to raise the age of marriage to 18 years (it currently stands at 14.5 years for women). Another recommendation relates to equal rights in terms of child custody, maintenance, guardianship, and alimony.

- The Penal Code Coalition

Another coalition of local Palestinian NGOs works on the reform of the Penal Code/Law and articles that subordinate and discriminate against women.

- Coalition for Combating Violence Against Women (VAW)

Furthermore, work is being done on a new law which aims to protect families from domestic violence. The proposed legislation is in draft form and was provided to the Palestinian legislative council in order to discuss the draft. The work is led by a Coalition for Combating Violence against Women established in 2000 to achieve equality between men and women and to combat violence against women.

## 5.2. Women in the Gaza Strip

Since the election of Hamas, the deterioration of the political, socio-economic and security situation in the Gaza Strip has had negative impacts on people in general and on women in particular. According to an interview conducted with a women’s rights advocate from Gaza, Hamas limits freedom of movement, especially for women, and free expression of opinions which directly hampers the work of human rights and development actors. The advocate reported that, in recent years in Gaza, it has become difficult to implement programmes related to women’s issues and that most women’s organisations have converted their programmes from development to emergency programmes to address rising poverty and unemployment. The burden of the deterioration of human development in Gaza is put overwhelmingly on the shoulders of women who traditionally supply their families with services and goods which have become scarce such as food, water, housing, and education.

The worsening of the situation of women in Gaza is related to a series of factors. On the one hand, the Israeli blockage of the Gaza Strip and the closure of the Rafah Gate limit movements of people in and out the Gaza Strip as well as access to health services, education, employment and other facilities. On the other hand, Hamas is implementing measures and reforms that constitute severe backlashes for women's rights. Among others, Hamas started working on the amendment of the Personal Status Law and of the Penal Code in a very regressive manner, depriving women from their basic rights.

While there is a general lack of information and transparency on the current situation of women in the Gaza Strip, and a breakdown in the flow of communications between actors in Gaza and in the West Bank, all sources, governmental and non-governmental, point to backlashes and deterioration in the situation of Gaza women, both *de jure* and *de facto*<sup>26</sup>. The advocate interviewed for this report referred to the situation of women in Gaza as "living in jail".

It is particularly challenging to access sources on the current situation of women in the Gaza Strip and to conduct interviews with people in Gaza. Therefore, the bulk of the report refers primarily to the current situation of women in the OPT with a stronger emphasis on the situation of women in the West Bank.

### 5.3. Women's role and participation in decision-making

The Law of Election gives the right to women to vote and to stand for political office. Yet, in practice, women remain underrepresented in decision making bodies at various levels of public life.

#### 5.3.1. Women in the Palestinian Legislative Council and in government

Palestinian men and women over 18 years can vote and stand for elections<sup>27</sup>. There are two systems in the electoral Palestinian legislature, one is at the national country level, and the other is at the level of the local governances. Two legislative elections have taken place in Palestine since the establishment of the Palestinian Authority in 1994, the first one was in

<sup>26</sup> In June 2009, the EGEP programme team conducted an introductory visit to Ramallah during which several meetings were organized with government and non-government actors; similar concerns were expressed by interlocutors on regressions regarding the situation of women in Gaza.

<sup>27</sup> The law of Election

1997 and the second legislative election was in 2006. Since, there was an increase in the number of women in the Palestinian Legislative Council (PLC). In 1997, the percentage of female members of the PLC was 5.6%, 5 out of a total of 88. This rose to 12.9% after the elections in 2006, with 17 female members out of a total of 132.

The representation of women in parliament (PLC) in Palestine is the fourth among the Arab countries and the percentage is only 6% below the world average percentage estimated at 18.4% according to a current study conducted by the United Nation<sup>28</sup>.

In 2009, there were only three female ministers in the government: one of them was minister for two ministries (Ministry of Tourism and Ministry of Women's Affairs), one was the Minister of High Education and the third one was the Minister of Culture. While preparing this research, a new government was formed and five female ministers were appointed to the following portfolios: Education, Social Affairs, Culture, Women's Affairs, and Tourism.

Further, available statistics indicate a very low level of representation for women in the Palestinian Embassies. The percentage of women ambassadors is currently 5.4%, up from 2.1% in 1992<sup>29</sup>.

### 5.3.2. Women in local and municipal councils

The election of representatives at the local level in the OPT occurred in three stages.

The first stage was in December 2004 (West Bank) /January 2005 (Gaza) and covered 36 locations in the West Bank and Gaza. The second stage was in May 2005 and covered 82 different locations.

In the first stage 424 candidates were elected and in the second stage 898 candidates were elected giving a total of 1322 seats. The percentage of women elected during the two stages was 17.4% of the total.

In the third stage which took place in September 2005, a quota system was implemented. Women gained 231 seats out of the total seats; 82 of those seats were the result of the quota system, the remainder were attributed through the normal electoral process. As such, the percentage of women rose to 20 % of the total number of representatives elected in the local and municipal elections<sup>30</sup>. In one city, Ramallah, a woman was elected as the president of Ramallah Municipality.

<sup>28</sup> Women and Men in Palestine, op.cit., p.121

<sup>29</sup> Id., p.119

<sup>30</sup> Id., p.122

The implementation of the quota system<sup>31</sup> has proven to be an important factor for women to win in the local and municipal elections.

### 5.3.3. Women in the judicial system

According to data from the Palestinian Bureau of Statistics, in 2006, out of the 1714 lawyers working in Palestine, there are only 290 female lawyers working in the West Bank and Gaza. This, however, is an improvement in the figures from 2000 which indicate that there were only 75 female lawyers out of a total of 808. As such, the percentage of female lawyers in the year 2000 was 9.3 % in the West Bank and 9.4% in Gaza. In 2006, the number increased in both the West Bank and the Gaza Strip, reaching 17% in the West Bank and 16.3% in the Gaza Strip.

The unstable political situation in the OPT limits women's progress in the judiciary: the geographic and political separation between the West Bank and Gaza prevents the unification and development of the authority of one judge. Further, regression is noticeable in women's access to the judiciary in the Gaza Strip as opposed to the West Bank.

In 1997 women made up 3.1% of the judges in the West Bank and 5.6% in Gaza strip. By 2006, the percentage of female judges had increased in the West Bank to 7%, while in Gaza it had decreased to 4.2%. The explanation for this decrease can be traced to acute competition with men and high unemployment in Gaza but further research is needed to understand the exact reasons and consequences of this decrease.

In 2009, for the first time, two women were appointed as judges in the Shari'a courts. These appointments came about as a result of pressure and demands from the Palestinian women's movement and organisations. These appointments are seen as strategic because the Shari'a court judge's rulings directly impact the daily life of women as it decides over issues related to contracts of marriage, divorce, custody, maintenance and other personal matters. Yet, as evidenced in other countries, the appointment of women to Shari'a courts does not necessarily imply that rulings will promote gender equality and women's rights. Further research is needed to understand the linkages between women's presence in Shari'a courts and the possible impact on the court's rulings. Similarly, training measures need to address judges, both men and women, to ensure sensitization and implementation of gender equality legislation.

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<sup>31</sup> A quota system has been established to increase the participation of women in the Parliament (today 13%) and on local councils; UNDP (2009) 'Gendered Impacts of Violence, Insecurity and Disintegration in Palestine' Unpublished draft, 10 Sep. 2009.

### 5.3.4. Women in the political parties

It is difficult to estimate the number of women in the Palestinian parties before the establishment of the Palestinian Authority and the Oslo Accords, because membership of political parties was illegal. After the Oslo process, it became possible for women and men to join a political party and thus possible to analyze the structure of the Palestinian parties. The evidence suggests that in general the political parties in the OPT are male dominated, although most of the major parties have adopted internal quota in their governance structures<sup>32</sup>.

In the Fatah party, women represent 25% of the General Assembly and 5% of the Central Committee.

In the Palestinian Popular Front, women represent 10% of the Central General Committee and 20% of the Central Committees for the different branches.

In the Democratic Front, women represent 19.5% of the Central Committee in the West Bank and 16.5% in the Gaza Strip.

In the Fida party, women represent 30% of the Executive Office and 19% of the Central Committee.

The report did not find sufficient and clear source to address the current situation of women in the Hamas structure.

Despite the larger increase in the number of women in higher positions in the leftist parties in comparison to the situation of women in the Fatah party, this is not reflected in the representation of women in Palestinian political life, in part because the popularity of those parties decreased after Oslo Accords<sup>33</sup> and because the representative and appointed offices are linked to the Fatah party.

### 5.3.5. Women in student councils

Palestinian students have been very active in the political activities since the early ages. In this sense, student councils represent spaces for political access and socialization.

The average percentage of women in student councils in the Palestinian universities evolves around 24.6%. Yet, it differs according to the area and university. For instance, women are not represented at all in the Najah University in Nablus and in the Arab American University in Jenin. This can be related to social conservatism and traditionalism in these areas which

<sup>32</sup> Human Development Report, op.cit., p. 48

<sup>33</sup> Women and Men in Palestine, op.cit., p.125

prevents female students from suggesting themselves for the election of the student councils' elections<sup>34</sup>.

## 5.4. Obstacles and challenges to women's rights and gender equality

Similarly to other countries in the region and worldwide, a series of social, cultural, legal, political and economic factors limit women's participation in public life and in decision-making structures. Yet, in the OPT, the particularity of the situation marked by the Israeli-Palestinian conflict and the current political disruption between the Fatah-run West Bank and the Hamas-run Gaza Strip bears heavier consequences on women.

On the one hand, the prevailing culture and gender stereotypes in the OPT undermine women's enjoyment of their rights and equal participation<sup>35</sup>. On the other hand, the unstable geo-political and socio-economic situation, particularly deteriorating in the Gaza Strip, reinforce legal instability and disrupt human security in ways that are particularly detrimental to women.

One of the main obstacles to the realisation of equal participation of women in decision-making mentioned by interviewees for this report is the prevailing culture within Palestinian society which does not consider men and women to be equal. The widespread belief that women cannot and should not participate in the public and political spheres and that women do not have the talent and ability of men remain vivid. This culture is maintained by the lack of a clear vision or strategy to change dominant beliefs. Overall, the formal media fails to address gender stereotypes which are in turn reinforced by school curriculum and material that reproduce traditional gender roles.

Many women and men believe that the home is the appropriate place for women, that women must take care of children and perform the reproductive role and only work outside the home when there is an urgent financial need for the family. Both women and men do not believe in the equal division of house work.

In the agenda of Palestinian political parties, the report notes the absence of social programmes which promote the rights of women. There appears to be little political will to support a comprehensive developmental plan in respect of women's issues.

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<sup>34</sup> Id., p.126

<sup>35</sup> National report on the situation of Palestinian Women, 5 years after Beijing, 2002, p.7

In legal terms, because the Palestinian National Authority does not exert control over the entire Palestinian territory, which is still in dispute and occupied, it is difficult to impose Palestinian laws on all citizens. Similarly, the PNA is not a State and cannot sign or ratify international conventions<sup>36</sup>. This explains in part the absence of laws which could support women and gender equality, such as legislation to combat domestic violence.

In the context of State building, the experience of both governmental and non governmental organisations in promoting and protecting women's rights is work in progress. For women's organisations, skills of lobbying and advocacy need to be strengthened.

In a context of political instability, conflict and socio-economic crisis, primarily in the Gaza Strip, the priority seems to be given to emergency and relief programmes in detriment of programmes that address women's issues, among others women in decision making<sup>37</sup>. The budget allocated to women and gender equality programmes is very limited<sup>38</sup>.

Due to the particular nature of the Palestinian State (non-contiguous territories separated by numerous Israeli checkpoints), freedom of movement is limited for both men and women. Women face additional restrictions in that they often need their male guardian's permission to apply for a passport. Although this requirement has been revoked for women over 18 in the Jordanian passport law, government officials continue to ask women for a written consent. In addition, Egyptian and Jordanian family laws contain provisions that can force a woman to return to the house of her husband, should she have left him against his will.

Women themselves, especially in the marginalized areas of the OPT, are not aware of their rights. Further education and information measures are required to raise awareness of women and of service providers but also to strengthen women's access to justice.

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<sup>36</sup> Id., pp. 65-66

<sup>37</sup> Id., p. 65

<sup>38</sup> Id., p. 27



## 6. International Conventions, CEDAW and Palestinian Laws

### 6.1. CEDAW ratification

Because the Palestinian National Authority (PNA) is not a State, legally the PNA cannot ratify or sign any international convention according to the United Nations' system. In practice, other means of expressing the OPT's acceptance of the international legal framework on women's rights have been found.

Palestinian authorities participated in the international conferences on women, population and development which were held in Vienna, Cairo and Beijing. In the follow up, the recommendations of these conferences have been addressed in different forms in the OPT. For example, after the Cairo conference, the OPT implemented some of the recommendations through the design and implementation of national programmes, strategies and plans in the territories.

Recently, on the 8<sup>th</sup> of March 2009, on the occasion of International Women's Day, the President of the Palestinian Authority, Mahmud Abbas, symbolically ratified the Convention on the Elimination of all forms of Discrimination against women (CEDAW). The signing of CEDAW by the President without any reservation was an important step towards the realization of gender equality in the OPT. Yet, it is too early to assert whether this symbolic act of signing the Convention will have any practical effect on the ground.

While no reservations were made to CEDAW, the act of symbolic signature states that where there is contradiction with the Basic Law, the Basic Law takes precedence over the Convention.

Despite the inability of the PNA to sign or ratify international conventions, Article 10 of the Palestinian Basic Law states that "human rights and fundamental freedoms must be respected and protected and that the PNA will work without delay to become party to international instruments for the protection of human rights". Further, the PNA expressed its commitment to implementing its obligations under the Convention on the Rights of the Child (CRC)<sup>39</sup>.

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<sup>39</sup> National report on the situation of the Palestinian Women, op. cit., p. 69

## 6.2. CEDAW implementation: the Basic Law and other Palestinian laws

After a comparison between the content of the preamble of CEDAW and the laws in place in the OPT, the following can be concluded:

- In the Palestinian Basic Law, there is overall consistency with the preamble of CEDAW regarding equality between men and women. Article 9 of the Basic Law states “that Palestinians are equal before the law and that there should be no discrimination because of ethnicity, sex, colour, religion, political opinion or disability”. Article 10 of the Basic Law states that human rights and the basic freedoms must to be respected.
- The Declaration of Independence already asserted equality between men and women and emphasized justice and non discrimination because of colour or religion or ethnicity.
- The Law of Education and the Law of Higher Education ensure equality between men and women. Article 2 of the Law of High Education states that education is a right of everyone.
- The Law of Labour emphasizes equality between men and women on the basis of equal opportunities for both without discrimination.

The dilemma though is that the principles which are included in the Basic Law and the Declaration of Independence are not expressed in all Palestinian laws. For example in the Personal Status Law and the Penal Code Law, there are contradictions between some articles in these two laws and the contents of the Basic Law and the Declaration of Independence. One of the reasons for these contradictions is that the Basic Law came into force in 2003 whereas the Personal Status Law preceded it by many years, passed in 1976 and the Penal Code Law was passed in 1960. Since then there have been no amendments or modifications to the laws to bring them in line with the principles of the Basic Law and the CEDAW Convention.

The following points provide some further clarification of the contradictions and problems within Palestinian laws and between Palestinian Laws and CEDAW.

- Article 5 of the Personal Status Law, which concerns **the age of marriage**, provides that the age of marriage is 14 .5 years for females and 15.5 for males. This is in contradiction with the international conventions (CEDAW, CRC) and also with the Basic Law and with the Declaration of Independence. It is further inconsistent with the Palestinian Law for the Child, which provides in Article 7 that the age of childhood runs until 18 years. Article 16 of CEDAW provides that the marriage should be 18 years for both females and males in order to have their rights of education, labour and independency to build their family life.
- Another issue concerns **witnesses** to the contract of marriage. Article 16 of the Personal Status Law states that in order to ensure the validity of the contract of marriage, it is a

condition for two Muslim males or one male and two females Muslims to witness the marriage. This provision enshrines discrimination in the law by providing that there is doubt to the witness of women, by providing that the witness of two women is equal to the witness of one man. This is clearly inconsistent with Article 9 of the Palestinian Basic Law.

- Article 9 of the Personal Status Law concerns the notion of **guardianship**. Men have to agree to a woman's marriage, and usually this man is the woman's father or brother. If they are not available then the judge "Qadi" will assume the guardianship. The agreement of the woman is therefore superfluous and sometimes, women will not even be asked for opinion. However, if a woman is above 18 years old and she has been married before, in this case only, she has the right to marry without the permission of a guardian.
- According to the Personal Status Law, a man has the right to get married to four wives. This is not consistent with Article 16 of CEDAW, which provides that States have to take the appropriate measures and procedures to eliminate discrimination against women in the issues relate to marriage and family relations. Studies about **polygamy** have highlighted that: it lowers women's self-esteem, it is insulting to women, it increases family problems, poverty, and psycho-social problems and that it further reflects negatively on society as a whole. It decreases empowerment and participation of women in public life and is a clear violation to women's human rights.
- Current Palestinian laws provide the husband with the absolute right to **divorce** his wife, regardless of when or why. A husband can divorce his wife without any reason, and can divorce her when she is not present and without her knowing. He can then ask her to return in the period of the first three months. In comparison, if a woman wants to divorce her husband, it is very difficult and she has to provide proof, witnesses and evidence to prove that she is justified in asking for divorce. In most cases, it is difficult for women to provide proof and therefore to divorce.
- Article 162 (Part 16) of the current Personal Status Law states that the mother has the right of **custody** of her children until they become mature, and by law, maturity means physical maturity rather than mental and psychological maturity. This is inconsistent with Article 16 of CEDAW, which provides that the interests of the children should be the paramount consideration in determining custody.
- **Alimony and maintenance** is a central issue for it may be a source of conflict between spouses both during married life and after the ending of the marriage. Currently, there is no disposition in the Personal Status Law which assists spouses to resolve such issues despite the evident need for it. The dominant culture looks upon women as not productive because a majority of women do not work outside the home and because their productive role inside the home is not evaluated or calculated in the income of the family. Article 16 of CEDAW, provides some assistance on this in stating that both spouses have the same rights in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property.

- **Honour crimes:** Article 340 of the Jordanian Penal Code (Law No 16 of 1960) in force in the West Bank and which deals with crimes committed on grounds of “family honour” enshrines discrimination within the law. It grants exemption from prosecution and reduced penalties to husbands or male blood relatives who kill or assault wives or female relatives on grounds of “family honour”.

To address incoherencies among Palestinian laws and between Palestinian laws and international instruments, particularly CEDAW, a series of coalitions for legal reform have formed: the coalition for the revision of the Personal Status Law, the coalition for the revision of the Penal Law and the coalition to criminalize violence against women<sup>40</sup>.

### 6.3. CEDAW reporting and awareness-raising

Since the PNA is unable to formally ratify CEDAW and the PA President only symbolically signed the Convention in March 2009, there has been no Palestinian report on the compliance with obligations under CEDAW to date.

In addition, the PA is not a signatory to the CEDAW Optional Protocol meaning individual complaints cannot be made to the Committee and while Palestine has ratified the Arab Charter on Human Rights, it is unclear at the moment when the monitoring body will examine any report from Palestine.

Israel is a State Party to the CEDAW Convention, but it considers that it is not responsible for implementing CEDAW within the OPT. However, the CEDAW Committee has not accepted Israel’s position and in its Concluding Comments in 2005 the Committee urged Israel to reconsider its position “and to give full effect to the implementation of its obligations under the Convention in regard to all persons under its jurisdiction, including women in the Occupied Territories”. This position is consistent with all the other Treaty bodies, including the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture and is also the position of the International Court of Justice (ICJ)<sup>41</sup>. The Human Rights Committee, for example, in response to Israel’s consistent denial that the International Covenant on Civil and Political Rights (ICCPR) applies to the

<sup>40</sup> See section 5.1.4 for further information on the coalitions for legal reform

<sup>41</sup> See for example: Committee on the Elimination of Discrimination against Women, Consideration of Reports Submitted by State Parties: Third periodic report of Israel, 685th and 686th meetings, 6 July 2005, paragraph 243 of Committee’s report.

West Bank and Gaza<sup>42</sup> has confirmed that the provisions of the Covenant do apply to Israel's military occupation of the OPT.<sup>43</sup>

Israel presented its State report to the CEDAW Committee in 2005 and a group of Palestinian women's NGOs prepared an alternative report for the Committee. These are the Women's Centre for Legal and Aid Counselling (WCLAC), Al Haq and the Palestinian Centre for Human Rights in Gaza. This alternative report was prepared in co-ordination with a number of other Palestinian NGOs and aimed to ensure that the Committee was fully briefed on the situation of Palestinian women and the ways in which the occupation violated the rights of women and Israel's obligations under the Convention. The authors of the report attended the CEDAW Committee in July 2005 to present the report and answer questions from the Committee. The report was printed and distributed to several women's organisations and human rights organisations. Additionally, three workshops were conducted in the West Bank (Hebron, Ramallah, Nablus) after the report was prepared and presented in New York, and discussions were held about the findings of the report and the methodology of preparing it. The media covered the workshops and wrote about the findings of the report in the local news papers.

The process of drafting the alternative report has supported awareness-raising of Palestinian women on their rights. Some further initiatives have been taken to promote awareness among the public of the rights of women in line with the CEDAW and the CRC conventions. They are implemented by Palestinian women's committees. These include two radio programmes, broadcasted weekly on Radio for Palestine, that discuss issues related to women, their situation, problems, achievements, obstacles and challenges. One of these is produced by the Committee of Rural Woman and is called *Ded al Samt* (Against the silence). The other is produced by the Technical Women's Affairs Committee and is called *Ali Sawtak* (Raise your voice). In addition, the Ministry of Women's Affairs and the Ministry of Social Affairs initiated activities to conduct training on CEDAW, the CRC and on other human rights issues.

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<sup>42</sup> CCPR/C/ISR/2002/2, 4 December 2001, Para. 8

<sup>43</sup> Concluding Observations of the Human Rights Committee: Israel, 21.08.03 CCPR/CO/78/ISR, para. Also see Committee on the Elimination of Discrimination against Women, Consideration of Reports Submitted by State Parties: Third periodic report of Israel, 685th and 686th meetings, 6 July 2005, paragraph 243 of Committee's report.

## 7. National initiatives on Women’s Rights and Gender Equality: institutional structures, actions and measures

### 7.1. The Ministry of Women’s Affairs

In 1996, the Department of Planning and Participation of Women was established as part of the Ministry of Planning. Its main goal was to implement gender mainstreaming in Palestinian legislation, plans and policies in order to overcome the gender gaps between men and women in Palestinian society. The department was coordinated with other ministries in order to monitor and follow up gender mainstreaming in other ministries, in addition, the department worked with the NGOs on gender issues.<sup>44</sup>

Line Ministries have also adopted gender structures in some form or shape. In 1997, a gender department was created in the Ministry of Education with the objective to mainstream gender in the Ministry’s plans and programmes and gender training was conducted. At the sectoral level, the predominant form to date is the establishment of gender focal points. A coordination committee headed by the Ministry of Women’s Affairs brings together these focal points on a periodical basis. Yet, gender focal points lack technical and financial resources and generally perform the responsibility on top of regular tasks.

The current Ministry of Women’s Affairs (MOWA) was established in 2003.

While most women’s machineries have been established under the auspices of sovereign States, the Palestinian Machinery has to shoulder two tasks at the same time:

- Achieving national independence (the national agenda);
- Achieving social change for women (the gender agenda)<sup>45</sup>.

Occupation put specific pressure on MOWA. From time to time, it has to endure serious interruptions to its plans and programmes, and has to shift to emergency plans to deal with the immediate consequences of military occupation. As a consequence, MOWA also addresses the survival needs of women, putting aside women’s strategic gender interests.

<sup>44</sup> National report on the situation of the Palestinian Women, op. cit., p. 69

<sup>45</sup> Assessment of National Women’s Machineries in 10 Mediterranean Partner Countries, RWEL, EC, 2007

For instance, when elections brought to power the government of Hamas in Gaza, followed by the international boycott, one of the consequences has been to legitimize the move of the Ministry of Women's Affairs from mainstreaming gender into welfare provision and supplying direct emergency aid for women affected by the national siege.

Yet, MOWA managed to realise some important gains for women at the levels of legal reform, increasing political and economic participation and raising awareness on gender issues. In this sense, the sustainability of the Palestinian women's machinery is linked, to a great extent, to a state of political stability and security in the OPT.

The current position of two different ruling political powers in the OPT, a Hamas-run conservative religious power in the Gaza Strip and a Fatah-run secular authority in the West Bank, clearly demonstrates different prevailing gender policies and approaches and has brought new challenges for the Ministry of Women's Affairs.

The attempts of the Ministry to ensure national and local laws, policies, and budgets are gender sensitive are work in progress. MOWA recently adopted a three year action plan to address some of the most pressing needs of women but institutional and political instability cloud the prospects for achieving sustainable results. Its impact on institutional structures should not be underestimated. Research has reported that "the flooding of MOWA with experts and donors willing to raise the status of Palestinian women and of the Palestinian women's machinery was influenced to a great extent by 'blue print' agendas for women's empowerment applied worldwide". Yet, "most of these agendas assume the presence of a fully-fledged functioning State as a prerequisite to ensure sustainability for any development effort or plan"<sup>46</sup>.

In 2008, a National Committee for Combating Violence against Women was formed. The committee is composed of governmental organisations, non governmental organisations and the General Union for Palestinian Women. The aim of this committee is to gather and unify all efforts to combat violence against women. Drafting of a National Strategy to Combat Violence against Women is currently underway under the leadership of MOWA and with support of UN agencies. The final draft will be submitted to the Palestinian Cabinet for approval.

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<sup>46</sup> Ibid.

## 7.2. Actions and measures in favour of women's rights and gender equality

### 7.2.1. Government actions

In 1997, after the Beijing Conference, a first National Strategic Plan for Palestinian women was developed, based on CEDAW and on the Universal Declaration for Human Rights as well as other international human rights instruments and standards; different ministries participated in the implementation of the plans and programmes involved in the National Strategic Plan.

The strategic plan was devised by the Governmental Coordination Committee and the General Union for Palestinian Women. It was a comprehensive plan prepared in coordination with women's centres and organisations through workshops in different areas in the West Bank, the Gaza Strip and in the Diaspora. The objective of the approach was to set the priorities of Palestinian women. A series of goals were identified in the following areas:

- Women in the political domain;
- Women in the economic domain;
- Women and the law;
- Women and media;
- Women and the social domain (including health and education);
- Women and the environment.

For each domain, a national plan was set and the strengths, weakness, opportunities and the obstacles and challenges were analyzed. Furthermore, there was monitoring and follow up for the plan, and an evaluation of the achievements<sup>47</sup>.

Similarly, a National Strategy for the Child was devised to set priorities in order to implement the Convention on the Rights of the Child. One of the focuses was the elimination of discrimination against the girl child. It also aimed to design developmental programmes for children in rural and marginalized areas.<sup>48</sup>

Currently, the ***Palestinian Reform and Development Plan*** 2009-2011 places particular emphasis on women and youth, as does the Cabinet Minister's 13th Government Programme ('Palestine: Ending the Occupation and Establishing the State', National Plan 2011-2013) in which gender and youth are positioned as cross-sectoral strategies.

<sup>47</sup> National report on the situation of Palestinian Women, *ibid*.

<sup>48</sup> *Id.*, p. 69



In this framework, the Ministry of Social Affairs (MOSA) and the Ministry of Labour (MOL) support programmes that focus on ensuring female job creation and employment generation initiatives. Yet, to date, limited financial and/or technical support has been afforded to these initiatives<sup>49</sup>.

In the OPT, specific efforts have been directed at improving the knowledge and information on the situation of Palestinian women through the collection of **sex disaggregated data and statistics**.

A programme of gender disaggregated statistics was established in the Palestinian Central Bureau of Statistics, with the aim of providing data about the situation of men and women in the Palestinian context to evidence and understand the gap between them and to disseminate the data and raise the awareness of stakeholders (decision makers, governmental organisations, NGOs, media and the public). The ultimate aim is to develop a knowledge and information base in order to take action to improve the situation of Palestinian women through appropriate planning and effective programmes and policies.<sup>50</sup>

Another important step in this process has been the creation of the National Coordination Committee made up of 16 ministries and of the programme of gender disaggregated statistics. The main goals of this Committee are to:

- Co-ordinate government efforts to overcome the gap between men and women;
- Provide data and information about the situation of women;
- Develop the role of women in all the Palestinian ministries;
- Monitor the changes in the situation of women on the basis on the plans and programmes;
- Study and analyze the achievements, obstacles, challenges and provide recommendations.

### 7.2.2. Civil society actions

Several **studies** on women's rights and discrimination against women have been conducted by organisations working in Palestine in order to enhance equality between men and women through various means: raising awareness, providing legal and social services, capacity building and lobbying decision makers.

Some of these studies are the following:

- Law and the future of Palestinian Woman, WCLAC, 1998

<sup>49</sup> Progress Report on the Palestinian Reform and Development Plan, World Bank, 2008

<sup>50</sup> Ibid.

- Islamic Family Law, WCLAC, 1999
- The violations of Women’s rights in the West Bank, WCLAC, 2000
- Report about the situation of Palestinian woman based on CEDAW, WCLAC, 2001
- Women from Jerusalem talking about the impact of the wall, Jerusalem Centre for Women, 2004
- Analytical research: To what extent the Palestinian Laws which Related to Health are sensitized to Gender and to International Documents, WCLAC, 2004
- The perceptions of the Palestinian society towards the health rights of women, WCLAC, 2004.
- Femicide in Palestinian Society, WCLAC, 2004
- Women and the military conflict and the missing, Women’s Study Centre, 2004
- The Situation of Palestinian Women in the Penal Code Law, WCLAC, 2005
- Gender-Based Violence in Palestine, MIFTAH, 2006
- Crimes of Women’s Killing in Palestine in the period 2004-2006, Al Muntada, 2007

Several women’s organisations run programmes and activities in the benefit of Palestinian women. For example, the Women’s Centre for Legal Aid and Counselling (WCLAC)<sup>51</sup> has programmes to **raise awareness** on women’s rights in the community. The programmes target different groups in the community such as graduates, community volunteers and university students. The aim of all these programmes is to raise awareness amongst these groups on the topics of gender based violence, human rights, and Palestinian law, among others.

Another programme implemented by civil society (WCLAC) provides **training** for judges and police offices on gender awareness and violence against women. These groups are targeted because they deal with women in frontline situations as well as in the courts. Another programme trains educational counsellors in schools to ensure they have basic awareness of gender issues including gender based violence which they can then use to promote awareness in their work with students. A manual has been prepared in cooperation with the educational counsellors to address the issues of equality between men and women, gender based violence, and gender gaps.

In marginalized areas, away from the main cities, **grassroots’ organisations** have been established which hold a similar vision and mission to women’s organisations. They develop activities such as raising awareness on women’s issues and capacity building for professionals (employees, judges, educational counsellors, health providers, media personal) in areas such as: gender based violence, human rights, laws, CEDAW and Security Council Resolution 1325. Two examples of such work are the organisation Women for Life in Salfit, in the north of the West Bank near Nablus, and the organisation al Najda which is based in Tulkarem in the north of the West Bank.

<sup>51</sup> A Palestinian NGO with offices in Jerusalem, Hebron and Ramallah.

In the OPT, **coalitions** have formed on several issues to support and advocate on women's rights, gender equality and on combating violence. Some of these coalitions are the following:

- **The Coalition for the Personal Status Law** was established in 1999 and consists of 10 non-governmental organisations which work on human rights and women's issues. The main objective of this coalition is to amend the Personal Status Law in order to guarantee equality and dignity for women. The coalition conducted several studies to highlight the gaps and discriminations against women in the current Personal Status Law. The coalition targets decision makers and members in the Palestinian Legislative Council to advocate for women's rights. It also works at the community level to raise awareness amongst the public about the articles and parts of the law which discriminate against women<sup>52</sup>.
- **The Coalition for the Penal Code Law** consists of ten non-governmental organisations and was established in the year 2000. Its main goal is to amend the Penal Code Law and particularly the articles that discriminate against women. The members of the coalition advocate to decision makers in the different ministries and to members of the Palestinian Legislative Council. At the community level, the coalition conducts training workshops to raise the awareness of different groups (students at universities, members in local municipalities, active women in political parties and women in the marginalized areas)<sup>53</sup>.
- **The Media coalition in support of Women's issues** is hosted by the Women's Center for Legal Aid and Counselling. It was established in 2005 and since, one hundred media professionals from the West Bank and Gaza have joined the coalition. Its aim is to enhance capacity and awareness of media personnel to be more gender sensitive in their work, whether in the written media, the visual media or in the radio. To achieve this goal, training workshops are conducted on gender equality, violence against women, the Personal Status Law, the Penal Code Law, the law of Protecting Families from Domestic Violence, international conventions like CEDAW, the Universal Declaration of Human Rights, and the two first generations of rights (Civil and Political ; Social, Cultural and Economic). Training is also organized for the members of the coalition to monitor the image of women in the media<sup>54</sup>.

The coalition hopes that the active participation of the media will encourage the public to engage in lobbying the PLC and decision makers to take progressive actions on the issues affecting women.

Further, magazines are published by women's organisations and institutions. One of them is *Soat al Nisa* (The voice of women). This magazine is published twice a month by the Women's Technical Affairs Committee. It addresses topics such as the difficulties faced by women and how local laws discriminate against women. Another magazine,

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<sup>52</sup> Reports of the coalition, internal documents

<sup>53</sup> Reports of the coalition, internal documents

<sup>54</sup> Brochure of the forum

published by the Committee of Working Rural Women is called *Yanabee*. It also aims to raise awareness amongst the public about gender issues.

Further media coverage of women's issues can be found on local radio stations. There are two radio programmes broadcasted weekly that discuss issues related to women. One of these is produced by the Committee of Rural Woman and is called *Ded al Samt* (Against the silence). The other is produced by the Technical Women Affairs Committee and is called *Ali Sawtak* (Raise your voice).

- **Al Muntada: the Palestinian forum of NGOs against Domestic Violence** was established in 2000 at the initiative of a group of Palestinian NGOs, working on women's empowerment in general and on combating violence against women in particular. The practical experience of this group of NGOs indicated that many Palestinian women are experiencing all kinds of violence, including psychological, physical, sexual, economic, political and social violence. Studies and research corroborated this belief, emphasizing the seriousness of the problem and the adverse impact it has on women and on society in general. In order to address this issue, the Palestinian NGOs combined efforts to attempt to convert the issue from a private issue into an issue to be addressed in the public sphere. The objectives of the Forum are: to promote and advance co-operation and coordination between Palestinian NGOs concerned with the issue of combating violence against women; to influence laws and policies related to violence against women; to raise awareness of the general public on the impact and dangers associated with violence against women and its adverse role in weakening and marginalizing women's participation in the public sphere; and to activate debate and dialogue on these issues.<sup>55</sup>
- **The Coalition for Abortion** was formed in the year 2006 with the main goal of amending the articles related to abortion in the Penal Code Law and in the Health Law and to combat unsafe abortion. The coalition consists of the Ministry of Health, UNARWA, the Red Cross, Al Quds University, Bethlehem University, Sawa Center, Women's Centre for Legal Aid and Counselling, the Union of Health Work Committee, MIFTAH, Women worker organisation, and the Family Planning Association<sup>56</sup>.
- **The Palestinian coalition for combating Child's abuse and neglect** was formed in the year 2006 as the result of an initiative from *Defence for Children International – Palestine*. It consists of groups of professional individuals, academics, and governmental and non governmental organisations which work in the field of childhood in Palestine. The vision of this coalition is to build a Palestinian society free from all forms of child assaults and neglect. Its mission is to raise awareness among the institutions and the community on the issues of children subjected to abuse and neglect.

<sup>55</sup> Brochure of Al Muntada

<sup>56</sup> Brochure of the coalition

The goals of the coalition are:

- Advocacy and lobbying with decision makers and with the Palestinian Legislative Council in order to stipulate laws and legislations for the protection of children from all forms of assaults and neglect;
- Document assaults against children in the institutions, by conducting researches and studies;
- Networking at the local, regional and international levels to exchange experiences;
- Lobbying the Ministry of Education to include children’s rights in the educational curriculum;
- Capacity building for employees who work with children to support the development of appropriate skills and knowledge in professional methods<sup>57</sup>.

Further exchanges between Palestinian women’s organisations and stakeholders and experiences in other countries have been central to learn from strategies and lessons aboard. It has strengthened the work in the OPT and build bridges between actors in the region. For instance, the coalition called *Salma* consists of four countries (OPT, Jordan, Egypt, and Lebanon) and works on combating violence against women. It produced draft legislation for protecting families and women from domestic violence, among others.

## 7.3. Combating gender based violence

### 7.3.1. Understanding gender based violence

#### National survey

A survey conducted by the Palestinian Central Bureau of Statistic in 2005 in the OPT found that 61.7 percent of women were exposed to psychological violence, 23.3 percent were exposed to physical violence, and 10.9 percent were exposed to sexual violence, at the hands of their husbands.<sup>58</sup> The survey also indicated that there is a relationship between the education and employment status of women subjected to violence and the type of violence, especially physical and sexual violence. Namely, violence decreases as women’s education and employment levels increase. This would indicate that it is necessary to implement compulsory education until secondary school stage, ensure financial support for the most impoverished, and provide scholarships for girls’ university education<sup>59</sup>.

<sup>57</sup> Brochure of the coalition

<sup>58</sup> PCBS, Gender Study, 2005

<sup>59</sup> PCBS, Survey on Violence against women, 2005

## Killing women in the name of honour

There is an absence of official statistics on how frequently women are killed for reasons of 'honour' and inadequacies in the reporting of the real causes of female deaths. In the period 2004-2006, 32 cases concerning honour killings were documented. These are distributed into 18 cases in 2006, 11 cases in 2005 and one case in 2004. Yet, two of the cases lacked the exact date and it is generally acknowledged that these figures underestimate the phenomenon because most honour killings go unreported and attribute death to other causes. In 2007, until the end of October, the number of women killed in the name of honour was 58 according to multiple sources of official and civil society organisations. Yet, only 26 cases were documented officially: 10 cases in the West Bank and 16 cases in the Gaza Strip. Up until the end of October 2008, the number of women who were killed in the name of honour reached 18, according to similar data.

The publication *Honour crimes in Palestine (2004-2006)*<sup>60</sup> came to the following conclusions: "the absence of laws to protect women against all forms of violence, including killing, and the absence of laws that penalize the abusers and perpetrators is one primary source for the perpetuation of the criminal practice of women's killing in the name of honour". The author also concluded that halting police investigation procedures is another contributing factor to the practice of 'honour' killing. Indeed, in the case of claiming that the killing was conducted for reasons of "honour," the police generally halts investigation procedures. The police will usually "honour" the family's desire to close down the case of female death, and will not investigate the actual cause of death even if there are suspicious circumstances.

The author also highlights the fact that "the notion of honour is viewed as a collective rather than an individual concern, which makes preserving it or cleansing it from shame responsibility of the community as a whole". This means that male relatives and community members exercise pressure to enforce an honour killing. After the killing, male family members also exercise pressure on the extended family and the community to gather social and material support to clear themselves from the criminal act they committed in the name of honour<sup>61</sup>.

Female genital mutilation is also known to be practiced in Gaza, but there are no reports on the number of women affected<sup>62</sup>.

## Early marriage

Early marriage is interpreted as marriage before the age of 18 years based on the age of a child given in the Convention on the Rights of the Child (CRC). According to this reference,

<sup>60</sup> Lamis Abu Nahleh, *Honour Crimes in Palestine (2004-2006)*, Al Muntada, 2007

<sup>61</sup> *Crimes of Women's Killing in Palestine in the period 2004-2006*, 2007, Al Muntada

<sup>62</sup> OECD, *ibid*.

the percentage of early marriage evolves around 20% in the OPT (data of the Palestinian Statistics Bureau). Early marriage is more common among females than among males (2001 statistics)<sup>63</sup>. The percentage of girls who get married under the age of 18 years was 32.2% of the total number of marriages in the year 2003. Statistics also indicated that 50 % were under the age of 19 years when they had their first babies<sup>64</sup>.

There are several explanations for the phenomenon in the OPT, the most frequently cited one being the traditional system of values which underpins believes that marriage will protect women from misbehaving. Another explanation is the economic situation and poverty. Many families feel forced to have girls married in order to ease the financial burden and because they can't meet their needs. Another explanation offered is that men in Palestine wish to marry younger females in order to shape their personalities, according to the belief that it will then be easier to maintain peaceful marital relations.

Early marriage affects a variety of women's rights. Women who get married in early age overwhelmingly withdraw from schools and miss out on completing their education. This then affects their ability to work and/or the type of work that they are able to do because of their lack of education and qualifications. This unequal participation in the labour force impacts the economic situation of the family. Studies have shown that poverty is more common among families where couples marry young. Early marriage also has negative impacts on women's health, particularly during pregnancy and when giving birth.

### **Access to maternal health services**

An additional barrier to the enjoyment by Palestinian women of their human rights is the prolonged Israeli occupation. The policy of closure practiced by Israel led to the deterioration of the economic and social situation of the Palestinian population, with clear implications on women's rights. This closure policy includes restrictions on movement and the establishment of checkpoints between cities, towns and villages in the OPT and the building of a wall separating Palestinian neighbourhoods and cutting off the economic centre of Jerusalem. This resulted in specific violations of the right to health in the OPT. This has been particularly detrimental to women's access to services of maternal and reproductive health. Numerous cases of denial of access to health centres in cases of delivery and of holding women for hours at military checkpoints have been documented. These have resulted in death of newborns and in the development of severe complications to pregnant women's health. The erection of the wall further hinders access to health centres and the utilization of medical services.

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<sup>63</sup> Sireen Al Shaksheer, Paper about the problem of early marriage in Palestine, unpublished

<sup>64</sup> Palestinian Central Bureau of Statistics, Marriage and divorce for the year 2003

Women suffering from chronic diseases and needing regular treatment also suffer particularly by limitations in movement<sup>65</sup>.

### 7.3.2. Actions and measures to combat violence against women

A **National Committee for Combating Violence** was formed in 2008 with the main objective of co-coordinating all the efforts to combat gender based violence. The Committee consists of governmental and non-governmental organisations and of the General Union for Palestinian Women.

It builds on the recommendations of the **national conference** organised by the Ministry of Women's Affairs in December 2007 entitled: *Towards a national strategy for combating violence against women*. The main recommendations of the conference were:

- The development and implementation of a national plan for combating violence against women;
- The amendment of laws which discriminate against women;
- Raising public awareness on the phenomenon of violence; and
- Lobbying the cabinet of ministers to form a national committee for combating violence against women<sup>66</sup>.

In this sense, work being done on a **new law** which aims at protecting families from domestic violence. Draft legislation has been presented to the Palestinian Legislative Council for debate. The work started in 2005 at the initiative of civil society and is part of the work with the regional coalition consisting of four countries (*Salma*: OPT, Jordan, Egypt and Lebanon). The goal of this coalition is to combat violence against women, and one of the outcomes is the production of drafts of proposed laws in the four countries. In the OPT, the process involved the conduction of workshops in different districts to inform people about the draft law and to get feedback from the participants. The target groups are: the police, lawyers, legislators, members of the Palestinian Legislative Council, and representatives of municipalities, political parties, students at universities, and women and men in marginalized areas.

Drafting of a **National Strategy** to Combat Violence against Women is currently underway under the leadership of MOWA and with support of UN agencies. The final draft will be submitted to the Palestinian Cabinet for approval.

Previous to these efforts, a grassroots-led initiative to address gender based violence was the formation of an NGO Coalition for Combating Violence against Women in 2000. The

<sup>65</sup> Report on the Israeli occupation violations and their impact on Palestinian women, WCLAC, 2007

<sup>66</sup> Ministry of Women's Affairs, Violence conference in Palestine, 2007, p. 9



coalition intended to contribute to combat gender based violence through advocacy and lobbying decision makers and the general public and by making the issue of violence against women a public issue.

Further, a series of initiatives have been implemented to provide services to women victims of violence. These include shelters and the establishment of departments for family protection in police stations.

There are two **shelters** in the West Bank: one in Bethlehem (Mehwar) and one in Jericho. These have been implemented in partnership between the Ministry of Social Affairs and women's organisations. There are currently no shelters for victims of domestic violence in the Gaza Strip.

The Shelter in Bethlehem (Mehwar) which officially started operating in February 2007 provides shelter and services to women and their children who are victims of domestic violence. In 2008, Mehwar received 46 abused women whose ages ranged between 14 and 40 years from all over the West Bank. From the total number of women who have used the Mehwar shelter (152 cases), 86 were hosted at the shelter and 66 received external counselling. In short, Mehwar provides a home for the women and children and services which aim to restore dignity to the affected women<sup>67</sup>.

The other shelter in Jericho was established in 2006, as an emergency centre for the protection of women and girls from violence. Similarly, the target group is made up of women who are subjected to all kinds of violence. It also provides services and shelter for women between the ages of 15 and 18 years. In these cases, the director of the shelter has to get the agreement from the Ministry of Social Affairs and cases have to be notified to the police. The total number of cases registered during the years 2006, 2007 and 2008 was 53 cases, with 26 cases in 2006, 18 cases in 2007, and 9 cases up to June 2009. The shelter also provides sheltered women with social and legal counselling services<sup>68</sup>.

The establishment of **departments for the protection of families in police stations** is a recent initiative in the OPT. Such a department was first established in Bethlehem in 2007. Interviewees reported that they hoped that this experience will be transferred to all districts in the West Bank. The aim of such departments is to protect women and children from all kinds of violence in a sustained way. They aim at providing women with counselling and support the transferring of cases to Mehwar or another women's shelter or child institution where appropriate. In the second half of 2009, two more of these departments were scheduled to be opened: one in Ramallah and the second one in Hebron. The departments aim

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<sup>67</sup> Annual report of the shelter, 2007

<sup>68</sup> Annual reports of the shelter for the years 2006, 2007 and 2008

to develop a task force of well qualified female police officers who are gender sensitive and well trained in women’s rights as well as in social and legal counselling. The director of the department in Bethlehem referred to the initiative as pioneering because “it has encouraged women to ask for help from the police in a society where there has traditionally been much distrust of the police system”.

Other efforts to combat GBV led by women’s organisations have targeted judges and the police through **training programmes**. These help raise awareness about domestic violence, human rights issues and international conventions on women’s rights.

Further, at the occasion of the annual **international campaign** for combating violence against women (15 Days), the Ministry of Women’s Affairs -in coordination with women’s organisations and other NGOs- produces press releases and other support material about gender based violence to sensitize public opinion. An annual press conference is conducted at the occasion of the international campaign.

## 7.4. National efforts to implement the Istanbul Ministerial Conclusions

In the context of the report, it has been difficult to trace back efforts and measures adopted for the follow up and implementation of the Istanbul Ministerial Conclusions. First of all, a large majority of those interviewed, including women’s rights activists, are not aware of the Conclusions and what they entail. This clearly illustrates the importance of the dissemination of international frameworks, principles and agreements on women’s rights and gender equality. The lack of awareness of the general public and of direct stakeholders hampers the support and legitimacy such international instruments can bring to the realisation of women’s human rights.

Twenty interviews were conducted with different representatives from ministries, NGOs, the media, the Palestinian Legislative Council, the General Union of Palestinian women, women committees and donors (UNIFEM, UNFPA and Heinrich Boll Foundation). Among those, only one person knew about the Istanbul Ministerial Conference on “*Strengthening the role of Women in society*” and had participated to it in 2006. The other interviewees had either heard of it but did not know the substantive issues raised either not even heard of it. This is despite the fact that all those interviewed – governmental and non governmental actors – are active in women’s issues included in the Istanbul Ministerial Conclusions. Even donors knew very little about the Istanbul Ministerial Conference.

The main recommendations from interviewees to address the implementation of the Istanbul Ministerial Conclusions include:

- Conducting workshops, meetings, and seminars locally and nationally to discuss the Istanbul Ministerial Conference and its Conclusions and to help stakeholders – both governmental and non governmental – identify the added value of the Conclusions and Istanbul process;
- Increasing cooperation through networking and lobbying between governmental and non governmental organisations to work on implementing the framework encompassed in the Ministerial Conclusions;
- Involve the media in disseminating information on the Istanbul process;
- Develop and disseminate user-friendly resources such as websites and leaflets;
- Conduct regular situational analysis to evaluate the progress or the regression on women’s rights and empowerment in the light of the Ministerial Conclusions.

## 8. Findings and Priorities for future action

### 8.1. Main findings of the situation analysis

Palestinian laws provide the onset of a framework for equality between men and women. This is for instance the case of the Basic Law and the Law of Education and there is a draft law in process to protect families from domestic violence. Yet, some articles in Palestinian laws (Basic Law and Declaration Bill of Independence) are in compliance with CEDAW, while others are in contradiction with it and discriminate against women. This is for instance the case of the Personal Status Law and the Penal Code Law in terms of the differential age of marriage, child custody, polygamy, the issue of guardianship and divorce.

The symbolic ratification of CEDAW on the 8<sup>th</sup> of March 2009 by the President of the PA and the creation of the Presidential Committee for the amendment of articles in the Penal Code Law provide encouraging prospects to deepen legal reform and to bring legislation in line with international human rights standards.

Yet, comprehensive strategies and action plans should be devised to implement women's rights and gender equality policies in the OPT and special budgets need to be allocated to the implementation process. Some of the recently appointed female ministers have a history of being active in women's rights. According to interviewees, they may be strategic entry points to advocate for and implement gender mainstreaming in sectoral policies, including through the provision of technical support and capacity building of services.

Institutional structures have been created to support gender equality and address women's priorities. This is the case of the Ministry of Women's Affairs and of the National Committee for Combating Violence against Women. Also, gender focal points have been established in several ministries but they lack technical and financial resources and generally perform this responsibility on top of their other tasks.

In terms of data, there is a department in the Palestinian Bureau of Statistics that specializes in conducting surveys and studies at the national level. Efforts are underway to disaggregate data and statistics by sex and a survey on gender based violence was conducted.

Civil society, research centres and women's organisations have conducted a series of training, advocacy, lobbying and awareness raising activities with decision makers and women on women's rights, CEDAW and combating violence against women. Yet, coordination of

efforts among civil society actors and between civil society and government actors needs to be strengthened.

If Palestinian women have secured some rights, **obstacles and challenges** to women's full enjoyment of their rights remain. These include:

- Limited participation of women in decision-making

Women are not represented equally to men who still take up the vast majority of decision making positions. The percentage of women in decision making positions is low, whether in the Palestinian Legislative Council, the ministries, the local municipalities, political parties, or the Palestinian Liberation Organisation.

- Violence against women

Women are still subjected to all kinds of violence: physical, psychological, sexual, and economical. The national survey conducted in 2005 by the Palestinian Central Bureau of Statistics indicated that approximately 66% of the women in the OPT had been subjected to psychological violence and almost 25% had been subjected to physical violence from the husband. Equally concerning is the fact that Palestinian women are still being killed in the name of honour. While recent official data on the situation in the Gaza Strip is difficult to find, interviews reported concern on an increase in honour killing in Gaza since the access of Hamas to power in recent years.

- Patriarchal culture and traditional values that reproduce traditional gender roles
- Military occupation

Palestinian women are further deprived of the enjoyment of their rights because of the Israeli occupation. The practices of the occupation like the checkpoints, curfews, closure and the separation wall have a profound impact on the rights and dignity of Palestinian women, especially in terms of access to maternal health facilities. The occupation further deprives women of their freedom of movement and precludes their enjoyment of their rights to education and work which negatively impacts the economic wellbeing of Palestinian women and their families.

- Political will and stability

One of the major limitations to the implementation of the Istanbul Ministerial Conclusions and CEDAW is the fact that women's issues are not priorities for decision makers and that the geo-political agenda is still the first priority in the Palestinian context.

Related to the political context is the fact that the Palestinian government is not steady, it is changing. Eleven governments were formed during the past 14 years, so when women's organisations lobby some members of the Palestinian Legislative Council to support women's issues, the high turn over impedes sustainable work.

At the current date for instance, Palestinian local elections scheduled to be held in the West Bank on July 17, 2010 have been postponed indefinitely because the Fatah party hasn't been able to reach an agreement over the candidates for many of the municipalities and councils<sup>69</sup>. Hamas had already said they would boycott the vote.

These instabilities impair negatively on the institutionalisation of a gender equality policy in the OPT.

- Hamas' conservative politics

The Hamas party's control over the Gaza Strip has worsened the situation of women *de facto and de jure*. Hamas amended the Penal Code Law to include regressive measures such as the amputation of hands. Serious concern is expressed about the increase in honour crimes in the Gaza Strip since Hamas has taken over power. In light of the worsening situation in the Gaza Strip, women's organisations have expressed concern not be able to work freely in Gaza and not to be able to undertake activities similarly to the West Bank where they are much more active.

At the same time, the next elections scheduled for 2010 may disrupt advances and progress if conservative parties win. Many conservatives do not believe in nor support women's issues. In this sense, it will become more difficult to integrate the principles of CEDAW into law.

## 8.2. Priorities for future action

Based on the analysis and on the interviews conducted for this report, a series of priorities were identified on common concerns shared by the different actors. These are:

### 8.2.1. International legal frameworks

Because the OPT is not a State, it cannot ratify international conventions and instruments. In practice, the PA has found *de facto* means to signify its acceptance of these frameworks. For instance, it symbolically signed CEDAW and participated in the Istanbul Ministerial Confer-

<sup>69</sup> Press article by Ali Waked, I Net News, 10.06.2010

ence and in the follow up process. Yet, there is a general lack of knowledge of international legal frameworks and agreements. While direct stakeholders are more familiar with CEDAW, the report has evidenced the absence of reference to the Istanbul Ministerial Conclusions in both documents and interviews. In this sense, further dissemination of the Istanbul Conclusions is needed, among others to support lobbying actions by non governmental organisations and support legitimacy of women's priorities.

### 8.2.2. Legal reform

Different actors have underlined the importance of the implementation of laws and legislations which stress equality between men and women but also the adoption of procedures and protocols to implement them. If legal reform is needed - with an emphasis on the personal status and penal matters - there also is a need for gender awareness capacity building of legal and judicial actors, particularly the police. Further awareness raising programmes for the public in general and women in particular on women's rights are recommended.

### 8.2.3. Combat violence against women

Combating violence against women especially killing of women in the name of the honour is a central priority. Actions should gather:

- The adoption and enforcement of laws to combat violence;
- Amending the article of the Penal Code Law which concerns killing of women in the name of honour with increased penalties for those responsible;
- Developing an action plan for the national committee for combating violence against women;
- Working with grassroots organisations and community based organisations on combating violence against women to reach consensus and build legitimacy;
- Increasing training and capacity building for the police, especially because the police is currently not trusted by women while it should provide important services for the protection of women from violence;
- Raising awareness among women on their rights and how to protect themselves from violence; also implement rehabilitation programmes to re-involve women in their communities;
- More male involvement in programmes which aim to combat violence.

#### 8.2.4. Political participation

To consolidate and ensure political will on gender equality and women's rights, an increase in the number of women participating in political parties and holding high positions may work both as a role model to encourage women to take up leadership positions and as a levy for addressing and advocating for the inclusion of women's and social issues in the programmes of the political parties. Further measures would be the introduction of quotas of 30% for women in the Palestinian Legislative Council and increasing the members of women in the local municipalities.

Measures should also focus on preparing women for the elections of the PLC and the municipal elections. This includes capacity building, networking and drawing on the lessons learned from the previous elections.

#### 8.2.5. Education and economic empowerment

Another important issue is to increase women's participation in economic affairs, both in the family and in the public sphere. To this end, efforts should concentrate on mainstreaming gender in national economic strategies and policies.

At the level of education, work should be conducted with the Ministry of Education to introduce gender equality and human rights courses for students in schools and universities. This could be implemented through cooperation between human rights organisations, the Ministry of Education and the department of gender. Examples of such co-operation can be found in already existing programmes.

Similarly, increasing the number of women in academic positions and revising school curriculum to address the gender imbalance should be pursued. Girl drop out of schools should be addressed by providing young women who withdraw from schools with vocational training and assistance to find work.

#### 8.2.6. Combat stereotypes

There is a need to change the stereotypes of women and men in school curriculum and in the media. At the community level, there should be programmes for raising awareness regarding gender issues. Lobbying should target the media institutions to advocate for women's rights.



### 8.2.7. Military occupation

Bringing an end to the Israeli military occupation of the OPT is a vital factor in restoring dignity to the lives of Palestinian women and enabling them to fully enjoy all their human rights.

### 8.2.8. Coordination of actions and knowledge building

The analysis and interviews also pointed out a series of crosscutting priorities related to the strategies and actors. They refer to:

(1) Enhancing policy implementation and coordination through:

- The implementation of the document of the Rights of Palestinian women which was adopted by the PA President;
- Increasing networking and lobbying between the actors to achieve the goals of enhancing equality between men and women and ensuring the full enjoyment of women of their rights;
- Increasing budgets for gender equality and women's programmes;
- Implementing the plan of the MDGs;
- Creating effective protocols and systems to implement legislation;
- Coordinate the efforts of all the organisations which work on women's issues and to avoid overlapping or conflicting work.

(2) Build and refine knowledge through:

- Conducting studies about violence against women and on the situation of women in decision making positions to evaluate their roles and devise appropriate actions.

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