



**Parallel Report to the Government of the State of Palestine Follow-up Report to the CEDAW Committee Concluding Observations and Recommendations to the Initial Report of the State of Palestine**

**Presented to the Committee on the Elimination of Discrimination against Women "CEDAW"**

**August 24, 2020**

## **An Introduction in the National and Social context:**

Since August 2018, Women Civic Coalition for the implementation of CEDAW, and following its Committee's submission of its final observations on the first report of the State party and the request to submit a follow-up report within two years, has made adjustments to its plan and the follow-up implementation through compelling the government to fulfill its obligations to implement human rights conventions including CEDAW, to monitor the extent to which the state is harmonizing its legislation, policies, procedures, and national plans vis-à-vis these conventions, to raise awareness of the provisions of the Convention among grassroots, and to develop a plan based on the observations of the CEDAW Committee.

In its plan, Women Civic Coalition focused on activating its role, starting with enabling and strengthening the capacities of its members through trainings aiming at deepening the understanding of the Convention, learning how to prepare the reports that shall be submitted to the CEDAW Committee by the relevant institutions and coordinating and networking with the different governmental institutions. In general, the government's implementation of the recommendations of the CEDAW Committee is very limited and does not live up to the aspirations and needs of Palestinian women.

Israel's colonial settlement occupation continues on the one hand to escalate its daily commission of violations and crimes against Palestinian people while denying their legitimate national rights. Such actions are being supported and endorsed by the Trump Administration who in turn declared the plan of the "Deal of the Century". President Trump sought to impose new realities on the ground to serve the interests of the occupying power; vis-à-vis the United States' recognition of Jerusalem as the capital of the occupying power, thus moving its embassy to Jerusalem. On the other hand, the United States halted the work of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) in an attempt to dissolve the rights of Palestinian refugees, changing the facts associated with their numbers as specified in the United Nations definition of a "Palestinian Refugee", to deprive them of the right to return to their homeland-as per the UN Resolution 194-from which they were originally displaced. The United States has also legalized the Israeli settlements, in violation of the International Law, the International Humanitarian Law, and all resolutions issued by the Security Council and the International Community, which consider building settlements a flagrant violation of the rights of our people, their right to establish an independent, fully sovereign state with Jerusalem as its capital, and the right to self-determination in accordance with the International Legitimacy Resolutions. All the above-mentioned acts shall widen the waves of violence that women will pay the greatest price for, according to the course of war and conflicts, and will threaten the world peace as a whole.

Moreover, Israel, the occupying power, has announced its plan to annex and Judaize additional Palestinian territories to meet one of the components of the Deal of the Century. These territories, the "Jordan Valley", are estimated to comprise 30% of the size of the West Bank where more than 60,000 people reside. By committing such an act, Israel disrespects all references and agreements,

signed with the PLO- the legitimate representative of the Palestinian people, which have affirmed the right of Palestinian people to establish an independent state with Jerusalem as its capital.

Violations by the occupying State against citizens of the Gaza Strip are still ongoing. The Gaza Strip has been under total siege since 2006; it is still secluded from the West Bank and the rest of the world due to Israel's policies, the recurrent military aggression, and the destruction of its infrastructure. Such practices posed a constant threat to the lives of citizens, led to a deterioration in the economic and health conditions, and increased the rate of violence within the society; particularly violence against women and girls.

With the emergence of the COVID-19 virus in Palestine and the declaration of a state of emergency and quarantine, women and girls in Palestinian communities were the most affected by the non-gender-sensitive measures and policies imposed by the government. Such measures were precautionary, to prevent the spread of the virus, yet the government had no intension to expand its scope of interventions to include other issues related to societal reality, most important of which is the gender-based violence. The CEDAW Coalition in Palestine has prepared a report on the pandemic and its impact on women in response to the request by the UN Special Rapporteur on Violence against Women.

Following the active and diverse activities organized by the different women's organizations on the occasion of the 16-day campaign to eliminate violence against women and according to the visit of the Convention Committee to Palestine in November 2019, the fundamentalists, traditional and tribal powers felt provoked and ignited a fierce campaign against women's organizations, stirring incitement against the CEDAW Convention, which in turn left a negative impact on the Palestinian society, thus intimidated it.

**First: The Progress Made on the Implementation of CEDAW in the State of Palestine:**

1. While we value the commitment of the State party to fulfill its obligations under Article 18 of the Convention by submitting its report to the Committee on the Elimination of Discrimination against Women "CEDAW", in particular the submission of the follow-up report, we see limited progress on women's human rights issues. Action has been restricted to:
  - a. The accession of the State party to the Optional Protocol on April 10<sup>th</sup>, 2019, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and the Optional Protocol to the Convention on the Rights of the Child regarding individual communications and complaints, indicating that the State party seeks to activate the individual complaints mechanisms to confirm that the different segments of the society have access to justice.
  - b. On November 3<sup>rd</sup> 2019, President Mahmoud Abbas issued Decree-Law No. (21) of 2019, amending the legislation that regulates the personal status of the age of marriage in the State party (published in the Palestinian Official

Gazette, Issue 161, November 28<sup>th</sup>, 2019). The Decree-Law entered into force on December 29<sup>th</sup>, 2019. The age of marriage in Palestine of no less than 18 years is in line with the International Human Rights standards and principles. It is an appreciated step within the framework of the fulfillment of the State party's commitment to implement the international conventions it has ratified, thus harmonizing its legislation to be in line with the International Human Rights standards and principles. However, the exception in the Decree-Law which allows the competent court to authorize the marriage of a person less than 18 years of age, would take place if the marriage was deemed to be of a necessity required by the interests of both parties and the approval of the Supreme Judge of Palestine or religious references of other religious sects. This defense has paved the way for the marriage of those who are under 18 years of age, accordingly marrying children, which is exclusively contradictory to the International Human Rights standards and principles, while defying the obligations of the State party to implement and apply the International Conventions it has ratified. The exception is generally and broadly stated, without reverting to explicit and measurable standards and controls; vis-à-vis the use of the general phrase "interests of the two parties", which means that this exception is not considered to be in accordance with the International Human Rights standards and principles. The Coalition has noted its reservation to include the concept of "exception" of age; i.e. under 18 years of age, in the text of the Decree-Law, demanding that it should be included in the executive regulations.

**Second: Harmonizing Laws and Legislation to CEDAW:**

1. Publication of the Convention: The State party did not respond to the Committee's request to publish the Convention in the official gazette, which means that the Convention will not be implemented in accordance with the laws in force in Palestine.
2. Discrimination: The occupied State party has not taken any executive measures on (paragraph 11 (a), which stipulates the speedy adoption of national legislation that incorporates a comprehensive definition of discrimination against women in the Palestinian Basic Law as stated in the Committee's recommendations; addressing all the prohibited causes of discrimination, including direct and indirect discrimination in the public and private spheres to adapt the local laws and legislations to CEDAW so as to prevent gender-based discrimination.
3. The State party has not unified laws between Gaza and the West Bank nor harmonized local laws and legislations pertinent to women with CEDAW, such as the Personal Status Law and the Penal Code. And despite the formation of a committee to harmonize laws and legislations to the Convention, yet it has not yielded results.

4. The inadequacy in defining the legal status of CEDAW, shall stimulate judicial institutions (courts and public prosecution) not to commit or apply the Convention to the lawsuits before them, as well as not accepting to take a stand regarding this Convention in the course of defense or indictment. To confirm this conclusion, judicial institutions have never directly implemented any of the provisions of this Convention in their decisions or procedures.
5. Family Protection Against Violence Law: The 18<sup>th</sup> Government's failure to adopt the Family Protection Against Violence Law despite the submission of two drafts of the law by competent parties. The two drafts in question were discussed in consultative meetings between the relevant ministries and civil society, including the CEDAW Coalition, but none of the drafts were adopted due to the organized religious and clan attack against the law and CEDAW. This had implications on the government, society, women's movement, and women's rights defenders across the country. The attack distorted women's legal struggle and accused them of breaking from religion, customs and traditions, and violating cultural norms. The counter-campaign culminated during the outbreak of the COVID-19 pandemic in Palestine through exploiting social media to incite against the Convention.
6. The Palestinian Government has reinforced the Clan System by not addressing the clans and extreme fundamentalist groups organized incitement attacks against the Convention and women's institutions. It did not stand strongly in the face of their demands to annul the Convention, renounce the State's signature and ratification of it, whilst calling publicly to close women's organizations.

### **Women and Political Participation:**

1. The decision on assigning 30% quota to women in all state structures and institutions has not been implemented. Electoral laws have not been amended and the quota was raised neither in the General Elections law nor in the Local Elections Law. In practice, women's participation at the different levels of decision-making is still low; for example, women's participation in senior positions still marks 5-10% only in a small number of public sites such as in diplomatic corps, judiciary, national committees, and security agencies.
2. Discrimination and exclusion were clearly manifested regarding the participation of women in the Emergency Committees that were formed to combat the spread of the pandemic. Their participation ranged between 14-16% only.

### **Women and Economic Participation:**

The participation of women is still absent and weak in economic development programs. This is due to the frail measures applied that should have instead encouraged women to join the private sector and own private projects that enable them to access resources and property:

1. The State party has not provided supervision and guarantees of the rights of women in the informal labor sector. There is also a clear absence of official plans and policies that should protect women in the labor market despite the increase in the economic

participation of women in this sector. The labor market is considered a place where women's labor rights are mostly violated.

2. Labor courts have not been established to facilitate women's access to justice.
3. Poor implementation of about 5% by the State party in terms of what was stipulated in the Labor Law pertaining to the participation of persons with disabilities in the labor market.
4. The State party has not developed the necessary policies and measures to apply the minimum wage policy in the informal sector.
5. Failure to implement the measures taken by Palestine to attain the Sustainable Development Goals, especially the fifth goal on gender equality and the eighth goal on decent work and economic growth.
6. Failure by the State party to eliminate discrimination against rural women to empower them to access resources and provide them with protection in terms of safeguarding their labor rights.
7. Suspension on passing the Social Security Law, which forms the basis for protecting women from exposure and destitution.
8. An escalation in economic violence against women during the COVID-19 pandemic, especially in the private and informal sectors. Many workers, especially those working in private enterprises, have not received their salaries, or only a small part of the salaries have been paid. Many women working in the informal sector lost their entire source of income, which reflects the failure and inadequacy of the Labor Law in protecting the rights of workers in times of emergency and disasters.

### **Health Rights:**

1. The State party has not developed health policies to ensure the provision of free health services to women regarding their reproductive health; a substantial shortage of integrated reproductive and sexual health services such as counseling is well noticed, especially for adolescent girls. Weakness in health policies on safe abortion services for women victims of violence is also spotted; the services of the Ministry of Health are only limited to married women, whereas single women are excluded from accessing such health services.
2. Medical staffs lack the needed expertise and the know-how of maintaining privacy and confidentiality during the implementation of the National Referral System when dealing with women in different circumstances, especially in cases of violence. Health centers are the first to receive women victims of violence.
3. Poor provision of the necessary and ongoing trainings to medical staff on mechanisms to deal with cases of violence against women, from a women's human rights perspective.
4. Poor provision of health services in marginalized areas.

## **Violence against Women:**

1. During the past two years, the Palestinian society has witnessed an upsurge in domestic violence rate, which was clearly reflected in the Domestic Violence Survey conducted by the Palestinian Central Bureau of Statistics in October 2019. The Survey concluded that the violence rate against married women has mounted to 29%, while the violence of all forms has escalated significantly since the outbreak of COVID-19 pandemic. This has been documented by the CEDAW Coalition in a special report on “Violence during the pandemic” as per the request of the Special Rapporteur on Violence at the United Nations. Due to the absence of procedures that control domestic violence in particular and external violence in general, the report unveiled women’s vulnerability and lack of legal protection caused by various reasons, including the reluctance to pass the Family Protection Law.
2. Though the President of the Palestinian National Authority issued on May 15, 2011 Decree-Law to amend the Penal Code No. (16) of 1960 -in force in the West Bank-, and the Penal Code No. (74) of 1936 - in force in the Gaza Strip, which includes the nullification of Article 340 of the Penal Code No. (16) of 1960 and the amendment of Article (18) of the Penal Code of 1936, which is in force in Gaza. However, the Decree-Law is criticized for considering that the end of “honor crimes (femicides)” shall be by nullifying Article (340), failing to pay attention to articles (98) and (99) of the same law. Hence, the nullification of Article 340 is not considered enough, as perpetrators receive mitigating factors based on other articles of the law, especially that Article 340 has not been implemented since the Penal Code was passed. All cases of women homicide are based on the application of articles (97, 98, 99, and 100) of the Penal Code of 1960, which have not been nullified. They give immunity to the perpetrator and allow violence against women.

## **Commentary on the Follow-Up Report:**

First: Harmonization is not a priority: We have previously noted the limited progress made in implementing the final recommendations made to the government, both from the Convention Committee and those requested by the CEDAW Coalition. From the Coalition's point of view, the justification indicates that the process of harmonizing legislation was not included in the government's priorities and agenda.

Second: Justifying the shortcoming: The government saw in the extreme fundamentalist attack a justification and a pretext to rationalize its failure of carrying out its duties and implementing its plan. It has used the counter-attack against the Convention, the announcement of the state of emergency, and the plans set to face the spread of the pandemic as excuses to justify the absence of political will in regards to the publication of the Convention as stated in section 14. It also resorted to finding justifications regarding the inadaptation of laws and legislations towards achieving equality; just like when the Corona Virus emerged and the State of Emergency was declared, the Penal Code, in turn, was invoked as stipulated in Article 17, and the same is the case for the failure to issue the Family Protection Law as stipulated in Article 18. As for the Personal Status Law, it was justified that the formed committee had halted its work regarding the adaptation of the Personal Status Law to the tribal attacks, as stipulated in Article 23 of the follow-up report,

even though the State party has signed and ratified the agreements with its own free will and based on its vision to the nature of the Palestinian regime identity according to local references such as the Independence Document and the Basic Law.

Third: The Council of Ministers has not yet adopted the executive plan for the implementation of CEDAW in the State party despite that the plan was discussed with civil society organizations. This is an indicator of the lack of seriousness in including the provisions of the Convention in the policies and plans of the ministries.

### **CEDAW Coalition Recommendations**

1. Publish the Convention on the Elimination of All Forms of Discrimination against Women “CEDAW” in the Official Gazette, for it is the only way to implement the Convention.
2. Take executive measures to adapt domestic laws with CEDAW, especially the Personal Status Law, the Penal Code, and the Family Protection Law.
3. Have clear and direct provisions prohibiting gender-based discrimination in the Palestinian Basic Law and all Palestinian laws.
4. Consider Gender-based discrimination as an offense punishable by the law.
5. Establish a national mechanism to monitor and follow-up on the implementation of the Convention and its alignment with the Palestinian reality.
6. Take the necessary measures to prevent the clans from applying their biased clan laws against women, and demand the government to strengthen the rule of law.
7. Enforce the decision to increase women's participation in decision-making committees by 30%.
8. Allocate gender-sensitive budgets to eliminate all forms of discrimination against women in the society as part of a comprehensive strategy on all social, legal, economic, educational, cultural, and media levels.
9. Activate the National Observatory for the Documentation of Cases of Violence.