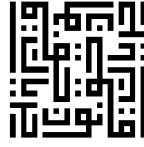


الهيئة المستقلة لحقوق الإنسان "ديوان المظالم"
The Independent Commission for Human Rights

Palestine and the Convention on the Elimination of All Forms of Discrimination against Women: Implications of Ratification CEDAW 1979





الهيئة المستقلة لحقوق الإنسان

“ديوان المظالم”

The Independent Commission for Human Rights

**Palestine and the Convention on the
Elimination of All Forms of Discrimi-
nation against Women:
Implications of Ratification
CEDAW 1979**

Lawyer

Khadeeja Hussein Naser



الهيئة المستقلة لحقوق الإنسان
"ديوان المظالم"
The Independent Commission for Human Rights

Palestine and the Convention on the Elimination
of All Forms of Discrimination against Women:
Implications of Ratification
CEDAW 1979

Lawyer
Khadeeja Hussein Naser

Aseries Of Legal Reports 82

Table of Contents

Introduction.....	5
Palestine’s Status as an Observer State in the United Nations.....	6
Development of Women’s Rights in International Conventions.....	8
Contents of CEDAW (1979).....	13
Committee on the Elimination of Discrimination against Women	15
Mechanisms of Accession to CEDAW 1979	16
Submission of Periodic Reports	19
Adapting National Legislation to the Provisions of the Convention	21
Review and Adaption of Penal Laws to the Convention	24
Adapting Personal Status Laws to the Convention	28
Adapting the Law of Public Retirement No. 7 of 2005 to the Convention	32
Positive Discrimination to Accelerate the Process of Equality.....	33
Conclusions	34
Recommendations.....	36
Appendix: (1) CEDAW 1979.....	37
(2) Palestine’s Declaration of Independence	51

Introduction

This report is complementary to the efforts exerted by ICHR to urge the State of Palestine to sign and ratify international human rights treaties and conventions. Among these efforts were the publications “Palestine and Its Membership as a State in the United Nations” in 2011 and “The Legal Obligations of Palestine as an Observer State in the UN” in 2012. The present report is published one year after Palestine was accorded the status of Observer State in the United Nations, and aims to explain the legal implications of ratifying the Convention on the Elimination of All Forms of Discrimination Against Women.

It is important to mention that the President of the Palestinian National Authority (PNA) issued Presidential Decree No. (19) concerning ratification of the Convention in 2009. This was considered to be a significant step towards the promotion of Palestinian women’s rights and the adoption of effective legislation and laws to conform to the content and provisions of the Convention. Despite this unilateral commitment, the PNA has not fulfilled its due obligations in this respect.

At present, the Convention on the Elimination of All Forms of Discrimination Against Women is the most important convention yet with regard to women’s rights because it addresses discrimination against women inclusively and broadly, and with a view to effect genuine change in women’s situations. It establishes the solutions and procedures which the States Parties to the Convention should take in the different fields. This is precisely what was not covered in other relevant and related conventions, as each of them only addressed certain aspects of women’s issues.

A review of the provisions of the Convention highlights that the State of Palestine still needs to adapt its effective legislation and laws to conform to its content and provisions. It also reveals that positive steps need to be adopted in order to promote women’s participation in economic and political life to achieve gender equality and combat the dominant patriarchal culture. With a view to examining the extent to which Palestine is committed to the Convention, the Convention’s Committee requests from the State of Palestine an initial written report one year after ratifying the Convention and to abide by writing periodic reports once every four years about the situation of Palestinian women and the steps it has taken as a consequence of ratifying the Convention.

Palestine's Status as an Observer State in the United Nations

On November 29 2012, the United Nations General Assembly issued Resolution 67\19 of 2012, upgrading the status of the Palestinian National Authority (PNA) to Observer State in the United Nations.¹ This resolution which was issued by the General Assembly of the United Nations pursuant to the proposal submitted by the Palestinian Representative at the UN, changing the designation of Palestine from a non-member entity to a non-member State². This new status of Palestine, which is identical to that of the Holy See,³ gives Palestine the opportunity to join international organizations, including the International Criminal Court (ICC) and to ratify international conventions. The Charter of the United Nations allows non-member States that are members of one or more specialized agencies to apply for the status of Permanent Observer in the UN.

The status of Permanent Observer is based purely on practice, and there are no provisions for it within the United Nations Charter. The practice dates from 1946, when the Secretary-General of the UN accepted the designation of the Swiss Government as a Permanent Observer to the United Nations. Candidates for Permanent Observer status were subsequently put forward by certain States; the Observers later becoming United Nations Members, including Austria, Finland, Italy and Japan. Switzerland, for example, became a UN Member on 10 September 2002. Permanent Observers have free access to most meetings and relevant documentation. Many regional and international organizations are also Observers in the annual sessions of the General Assembly.

According Palestine the status of being a Permanent Observer State in the UN has several legal implications. First of all, it changed its designation from being an observer entity to Observer State, whereby it is afforded legal personality in international law which regulates relations between States. The States with this status enjoy the rights of and abide by the obligations put forward under international law. Thus, States are considered, pursuant to the provisions of international law, as persons of international law because they have the ability to establish international rules with one

1 On this date, International Solidarity Day with the people of Palestine is celebrated.

2 The voting record shows 138 States in favor of this decision, (9) States against and (41) abstained.

3 Palestine exercised its right to vote pursuant to its new mandate at the UN on November 18, 2013 in electing one of the Judges of the International Criminal Tribunal for former Yugoslavia.

another. They can also resort to the Charter of the UN, especially article (1), which affirms the right of the people to self-determination. It also provides for developing friendly relationships based on respect for the principle of equal rights for peoples and the right to self-determination. The States Parties to the UN have, according to international law, legal responsibilities and obligations as well.

Palestine, pursuant to its status as Observer State in the UN, should consider application to join the specialized agencies of the UN and take into account the broad implications of membership in each of these agencies with respect to economy, culture, education, health and otherwise.⁴ The Economic and Social Council, for example, can hold agreements with any of these agencies and submit agreements to the United Nations General Assembly for approval. It can also coordinate activities with the specialized agencies through deliberations and present its recommendations to them and to the UN and its members. Some specialized agencies, such as the ILO, WHO, and UNESCO⁵, concentrate on human rights activities. For example, the conventions relevant to WHO, UNESCO and the UN Food and Agriculture Organization (FAO) concentrate on the rights to health, education and culture as well as the right to be free from hunger. All these rights are provided for in the International Covenant on Economic, Social and Cultural Rights. The United Nations in fact has (17) specialized agencies, and Palestine joined one of them (UNESCO) in 2011.⁶

Palestine may also sign on to the international human rights conventions and agreements based on international precedents and the pure practice principle, which applies to Permanent Observers. The UN General Assembly's resolution 58\314, dated June 16, 2014, entitled "Participation of the Holy See in the Work of the UN" states that the Holy See has been an Observer Member in the UN since 1964 and a Member in several international human rights conventions, among them the Rights of the Child Convention and two closely linked documents, the Optional Protocol on the Involvement of Children in Armed Conflict and the Convention Against Torture.⁷

4 Yasser Ghazi Allawneh, "Legal Obligations of Palestine As Observer State at the UN." Legal Reports Series No. (79).(Ramallah: ICHR, 2013).

5 International Labour Organisation, the World Health Organization, and the United Nations Educational, Scientific and Cultural Organization

6 There were (107) States voting in favor of the resolution, (14) against and (52) abstained.

7 Allawneh, see fn.(5).

Development of Women's Rights in International Conventions

UN support for the rights of women began with its founding Charter. Among the declared purposes of the UN, 1 of its Charter sets out “to achieve international co-operation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.” Within the UN’s first year, the Economic and Social Council established its Commission on the Status of Women as the principal global policy-making body dedicated exclusively to gender equality and advancement of women. Among its earliest accomplishments was ensuring gender-neutral language in the draft of the Universal Declaration of Human Rights. The landmark Declaration, adopted by the General Assembly on 10 December 1948, reaffirms that “All human beings are born free and equal in dignity and rights” and “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, birth or other status.”

As the international feminist movement began to gain momentum during the 1970s, the General Assembly declared 1975 as International Women’s Year and organized the first World Conference on Women, held in Mexico City. At the urging of the Conference, it subsequently declared the years 1976-1985 as the UN Decade for Women, and established a Voluntary Fund for the United Nations Decade for Women. The Universal Declaration for Human Rights contributed much to women’s rights by clearly and expressly recognizing gender equality and encouraging the issuance of further conventions specific to women. The most important of these conventions are featured below.

Convention on the Political Rights of Women 1952

In 1952, the UN General Assembly approved of (Resolution No. 640 \ D 7), a special convention relevant to women’s political rights which is considered to be the first world-wide convention in which the States Parties pledge to legally commit themselves to fulfilling the political rights of their citizens. These rights would include the right of all to vote in all elections, the right to hold public office and other functions, and

the right to run for all publicly elected commissions.

Convention on the Nationality of Married Women 1957

In 1949, the United Nations called for holding an international convention relevant to women's nationality that guarantees women's right of nationality on equal terms with men. It prohibits women being deprived of this right upon marriage or divorce. The UN General Assembly did not approve this Convention until 1957.

Convention Concerning Discrimination in Respect of Employment and Occupation 1958

This is an ILO convention, and in it discrimination is defined as:

“distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction, and social origin which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; or any other forms of discrimination, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment.”

This document binds States Parties to implementing national policy aimed at achieving equality in employment by drafting legislation that guarantees equality, nullification of any discriminatory instructions or decisions and promotion of governmental oversight of workplaces in order to prohibit discrimination.

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1962 and 1965

The Member States are requested by this Convention to record all marriages in an official registry by the competent authority. It was kept open for States Parties to specify the minimum age for marriage; the 1965 Recommendation complementary to the Convention specifies fifteen years as the minimum age at which one is permitted to marry.

International Covenant on Human Rights (Economic, Social and Cultural Rights and Civil and Political Rights) 1966

In 1966, the UN General Assembly approved of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the Optional Protocol of the latter. These two covenants prohibit discrimination based on sex, viewing it as another element of discrimination, including discrimination on grounds of religion and language.

Declaration on Elimination of Discrimination against Women 1967

The Declaration on Elimination of Discrimination against Women provides for “the constitutional right of women to vote in elections, equality before the law, marriage, education and economic and social aspects of life.” The UN General Assembly approved of this declaration unanimously in 1967. Despite the prominence and significance of this declaration - which does not have the framework of a contractual convention - it does not set forth obligations binding on States. Drawing on that, the Commission on the Status of Women considered in 1972 the feasibility of preparing a convention that would render this Declaration binding on States Parties.

UN General Assembly’s Declaration of 1974 and Designating (1975) as the International Year of the Woman

The World Conference on the International Year of the Woman, held in Mexico City in 1975, recognized the goals of the International Year of the Woman and its international action plan through which these goals would be implemented. Among these goals is the necessity of granting women their rights on equal terms with men in respect to voting and participating in public and political life on the local, national and international levels.

International Declaration on the Elimination of Violence against Women 1993

The UN General Assembly adopted the Declaration on the Elimination of Violence against Women in 1993, and this declaration reaffirmed the rights of women as human rights, such as the right to life, equality, freedom and

security of person, equality before the law, not to be subjected to any form of discrimination, the highest possible level of physical health and the right not to be subjected to torture, inhuman or degrading treatment. It also featured that violence against women constitutes a major violation of human rights and fundamental freedoms, and that it impairs and nullifies the enjoyment by women of these rights and fundamental freedoms. The UN General Assembly expressed its concern about the long-standing failure to protect and promote these rights and freedoms in relation to violence against women.

Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) 1979⁸

In 1967, the UN General Assembly adopted the Declaration on the Elimination of Discrimination against Women, and in 1972 the Commission on the Status of Women began to survey States Parties' opinions about the form and content of issuing an international instrument concerning women's rights. In 1974, the Commission began drafting the Convention on the Elimination of All Forms of Discrimination against Women. The UN General Assembly approved the Convention in 1979 and it entered into force in 1981. The Convention was the culmination of thirty years of work by the UN's Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women's rights. The importance of this Convention stems from the fact that it put women's issues within the goals of the priorities of the UN. It has become part of international human rights law as it emphasized the human element of women's rights and addressed discrimination exclusively and inclusively with a view to effect genuine change in women's situations. It set forth solutions and measures that should be taken by the States Parties to eliminate discrimination against women in all fields. This is what the conventions that preceded it had not stated, as each of them addressed a specific aspect of women's issues.

The Convention consists of a list of women's rights aimed at laying the legal groundwork for the protection of women's rights. It also recognized the principle of non-discrimination against women as a principle closely linked

8 Rather confusingly, the acronym CEDAW is formally used for both the Convention on the Elimination of All Forms of Discrimination Against Women **and** the Committee to Eliminate Discrimination Against Women. In this discussion, *CEDAW* and *the Convention* will be used to refer to the former and *the Committee* to refer to the latter.

to human rights and combined the standards of the previous instruments. It could be said to be a document that considers discrimination against women as a violation of the principle of equal rights and respect for human dignity. It reaffirms that human rights are inclusive, indivisible and inalienable. The following are the main three functions of CEDAW:

1. *Interpretation of States' obligations or responsibilities related to these rights;*
2. *Setting mechanisms to monitor the compliance of States with their obligations;*
3. *Ensuring enjoyment by individuals of special rights to make available an individual complaints mechanism (Optional Protocol) if any of their rights are subjected to violations.*

States' and governments' accession to international conventions is optional, but the States that choose to become party to these conventions are legally bound to put their provisions into practice and submit national reports on the measures they have taken to comply with the Convention's obligations. Thus, when States ratify CEDAW, they must commit themselves to undertake two basic obligations:

Legal obligation: to include the principle of equality into their national laws and legislation, and review their effective national laws to abrogate legislated discrimination against women (civil laws, labour law, penal law and other relevant laws);

Practical obligation: a practical implementation of the principle of equality between men and women in accordance with the provisions of the Convention. This could be achieved through implementation of appropriate legislative and other relevant measures with a view to abrogate all discriminatory norms, customs and practices.

Contents of CEDAW (1979)

CEDAW consists of (30) articles divided into (6) sections, defining what constitutes discrimination against women and clarifying the obligations of States Parties thereof. The States Parties are expected to work to accomplish the following: develop and advance women; adopt special temporary measures to upgrade women's status; abrogate customary traditions that are harmful to women; combat trafficking in women and exploitation of women; ensure women's political rights by eliminating discrimination against them in respect to political and public participation, government's representation, acquisition, change or retention of nationality; guarantee women's economic, social and cultural rights and equal job opportunities; ensure health care, especially in regards to pregnancy and breastfeeding; and guarantee equal economic and educational opportunities as well as equal social participation.

CEDAW clearly defines discrimination against women. Besides incorporating "any distinction, exclusion or restriction" carried out on the basis of sex which impairs or nullifies women's ability to exercise their rights, it is also carefully written to include that this applies "irrespective of their marital status." It is clear that the definition of discrimination in the Convention covers several different areas of concern. Interestingly, it also points out that adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women are absolutely not to be considered discrimination. However, the Convention also states that these special measures are not to be used as a type of lead-in to full exercise of women's rights and so temporarily continue to maintain "unequal or separate standards"; in fact, the special measures are required to be rescinded when the full exercise of women's rights is widespread and complete.

The States Parties should take the appropriate measures without further delay to eliminate discrimination against women, and particularly commit themselves to mainstreaming the principle of equality between men and women into their national laws and legislation. This principle then needs to be put into practice and all discriminatory laws abrogated. This includes national penal provisions, desisting from taking any discriminatory action against women and all appropriate legislative and other measures to prohibit discrimination against women by any person, organization or enterprise. They should also ensure effective legal protection for women's

rights through tribunals and other public institutions.

The Convention also indicates that States parties have obligations to work towards modifying any social and cultural patterns of individual conduct in order to eliminate “prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” There needs to be family education, which includes recognizing maternity as an important social function and acknowledging the common responsibility of men and women in the upbringing and development of their children. This latter point is based on the understanding that the interest of the children is a “primordial consideration in all cases.” Action is also to be taken in addressing the trafficking and exploitation of women, the discrimination against them in political and public life as well as education and health care. States Parties are also required to consider the special problems of rural women as well as the pivotal roles they rural women play in the economic survival of their families. This refers to their access to health care, information, family planning services, social security programs, training, self-help groups and cooperatives, agricultural loans and marketing facilitations. There are also to be guarantees for women in terms of equal treatment in land and agrarian reform and resettlement schemes.

States Parties are also to grant women equal rights with men to acquire, change or retain their nationality and the nationality of their children. Consideration also must be made in terms of education, from ensuring women have equal opportunity to attend educational institutions to reducing the female student drop-out rate, organizing programs for girls and women who left school prematurely, and efforts to bridge the educational gap between men and women. There are also to be guarantees regarding access to information on family health and family planning and well-being. Necessary steps also must be taken to guarantee women’s rights to work on equal terms with men and have the same job and occupation opportunities. The Convention also has articles covering women’s the right to promotion, job security, vocational training, equal pay and equal treatment in respect of work of equal value. Consideration is additionally given to the right to social security, particularly in cases of retirement, unemployment, illness, and old age and other incapacities to work, including the right to paid leave and prohibition of dismissal from work on the grounds of pregnancy or maternity leave or even marital status. There must be an introduction of paid maternity leave, and

guarantees to provide women with appropriate services in connection with pregnancy, confinement, the post-natal period and nutrition during pregnancy and lactation.

Appropriate measures are also to be taken by States Parties in eliminating discrimination against women in respect to the right to family entitlements, bank loans, mortgages, other financial credits and participation in the different aspects of cultural life. Women are to be accorded equality with men before the law and be granted to them in civil matters a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, women are to be given equal rights to conclude contracts and to administer property and shall be treated equally in all stages of procedure in courts and tribunals. Women are to have the same rights as men with regard to laws concerning the movement of persons and the freedom to choose their residence and domicile.

States Parties are to agree that all contracts and all other private instruments of any kind with a legal effect that are directed at restricting the legal capacity of women shall be deemed null and void. Measures must also be put in place which eliminate discrimination against women in matters relating to marriage and family relations, and this includes the right to enter into marriage only with free and full consent and the right to freely choose a her spouse. In addition, the betrothal and the marriage of a child is not to have any legal effect, and all necessary action, including legislation, must be taken to specify a minimum age for marriage and to register all marriages in a compulsory official registry.

Committee on the Elimination of Discrimination against Women

Here, the contents of the Committee on the Elimination of Discrimination against Women are presented and discussed. Formed pursuant to article (17) of the fifth chapter of the Convention, its purpose is to watch over the implementation of the Convention according to specified criteria. It is composed of (23) experts on women's issues from around the world who are elected by secret balloting, and they are nominated by States upon request by the UN's Secretary-General, who takes into account an equitable geographical distribution. The membership term for these

experts is (4) years starting from the first day of January of the year that follows their election. In the event that a member resigns his post before the end of his \ her term, his \ her State Party would be notified to nominate another person to fill in the vacancy for the rest of the term. The Secretary-General would refer the name of the person selected with his\her resume to the Committee for approval. It is then that the States Parties would be informed of the change. CEDAW's Committee undertakes the task of watching over and activating the provisions of the Convention through:

1. Consideration of the national reports;
2. Presenting final observations about the periodic national reports;
3. Issuing general recommendations;
4. Considering individual complaints;
5. Investigation.

Mechanisms of Accession to CEDAW 1979

Due to its membership in the UN, the State of Palestine should commence taking the necessary steps to accede to international human rights conventions and declarations, including CEDAW, based on the provision of Palestinian Basic Law, which calls for signing and ratifying both regional and international conventions and declarations safeguarding human rights and freedoms, and thus making them binding.⁹

CEDAW is the most significant international convention in the field of women's rights because it is inclusive of all women's rights and aims to eliminate All Forms of gender-based discrimination. It was drafted and adopted with a view to recognizing and safeguarding women's rights and achieve equality between men and women in private and public life; this was in addition to ensuring monitoring mechanisms for the States Parties through the submission of periodic country reports on the status of women's rights. Apart from that, it provides States with enough room to present their reservations concerning the Convention and the possibility of withdrawing these reservations.

The 1969 Vienna Convention on the Law of Treaties regulates the position

⁹ Article (12), Palestinian Basic Law.

of international law within international treaties. It grants States the right to sign, accede or ratify international conventions. CEDAW is compliant in this way and thus allows for all States to sign, ratify and accede to it with no restrictions.

The Vienna Convention differentiates between signing, ratification and accession to the convention, as each of these acts has its own specific legal implication. For example, a diplomatic representative or a member of the government of the State expressing its principled position should conduct the signing of international conventions. The consent of a State to be bound by a treaty is to be expressed by the signature of its representative or a member of its government. The signing of a convention shall not have a binding effect unless the document also provides that the signature shall have that effect; it is otherwise established that the negotiating States agree that the signing should have that effect, or the intention of the State to give that effect to the signing appears from the full powers of its representative or was expressed during the negotiation. States can also ratify and accede to conventions, and ratification is considered as an expression by the State of its readiness to be bound by a treaty. A State accedes to a treaty by expressing its consent to be bound by the treaty after the negotiations if it is not among the negotiating States.

However, CEDAW does not include any provisions or have any indication in respect to whether its signature is binding. It is subject to ratification by States, and ratification instruments are deposited with the Secretary-General of the United Nations. Meanwhile, it is open to accession by all States. Accession shall be effected by depositing an instrument of accession with the Secretary-General of the United Nations.

The Vienna Convention also provides for the dates of an international treaty to be entered into force. It states “an international treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.

CEDAW does provide that it is to enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession; for each State ratifying or acceding to it after the deposit of the twentieth instrument

of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Under the Vienna Convention, States are also granted the right to make reservations on a treaty during its signing or ratification. Such reservations are considered unilateral, and aimed at excluding or changing the legal effect of the treaty or convention. States can, for example, respect the treaty, save for certain provisions deemed to be in contravention of their national laws.

A reservation has three restraints, however. The treaty, for example, may rule out reservations or prohibit certain types of them, and a reservation incompatible with the object and purpose of a treaty is not permitted. In addition, the reservation should be specifically aimed at excluding or changing the content of the treaty in regard to the reserving State. Based on this, CEDAW grants States the right to make reservations during ratification or accession to it provided that these reservations would be presented to the Secretary-General of the United Nations. At the same time, the Convention gives States the right to withdraw their reservations any time by presenting notification to the Secretary-General of the United Nations to this effect.

The Palestinian Basic Law of 2002 does not include any articles or provisions regulating the mechanisms of ratifying international treaties and conventions. In light of the absence of such constitutional provisions, the highest authority of the State of Palestine can locally ratify CEDAW and then present the ratification instrument to the Secretary-General of the United Nations. Once the Convention is ratified, the State shall be bound by it. The State of Palestine can make reservations concerning certain articles, taking into account the terms of Vienna Conventions and those of CEDAW. However, making a reservation on substantive articles of the Convention may sound incompatible with the object and purpose of it, which is the achievement of gender equality and elimination of gender based discrimination.

The Basic Law also does not regulate the relationship between international treaties and national laws and legislation in terms of significance. The regulation of such relationships arises when the different authorities refuse to implement the Convention or any of its provisions on the pretext of its contravention of national laws. In light of the absence of a constitutional

provision concerning the relationship between international treaties and national laws, it should be referred to the Basic Law. If there is a claim that the Convention or any of its provisions constitute a contravention of the Basic Law, the ruling should be in favor of the Basic Law because it expresses the rights and political will of the State.¹⁰

Submission of Periodic Reports

States Parties undertake following their accession to the Convention to inform the Committee on the Elimination of Discrimination against Women through periodic reports about the progress made towards legislative, administrative and judicial measures to enforce the provisions of the Convention. The periodic reports are subsequent official reports prepared by the governments of the States Parties and submitted to the Secretary-General of the United Nations under article (18) of the Convention and the United Nations form.

Types of Reports

There are three main types of reports, each with its own time frame, purpose, and who is to submit it. Guidelines are also indicated for when and how the reports are presented. They are as follows:

Initial report: The State Party presents this report within the first year after its ratification of the Convention. The aim of this report is to clarify the framework of the implementation of the Convention and present a comprehensive and accurate picture of the legal, political and social framework of the State. The initial report is intended to be a detailed and comprehensive description of the situation of women in that country at the time of submission. It is also meant to provide a benchmark against which subsequent progress can be measured.

Periodic report: a State Party presents this type of report every four years. These reports are intended to update the previous report, detailing significant developments that have occurred over the last four years, noting key trends, and identifying obstacles to the full achievement of the Convention.

10

Shadow reports: Such reports are prepared by a civil society organization or a coalition of civil society organizations to provide the Committee on the Elimination of Discrimination against Women with additional information or information overlooked by the national reports about the effort made by the governments to implement the Convention, especially if the national periodic reports are prepared without the presence of civil society organizations.

The submission of periodic reports is neither a formal exercise nor a procedural matter. Conversely, they show to what extent States Parties fulfill their obligations, and allow the Committee to evaluate their achievements thereof and monitor and identify the strategies adopted. This grants the Committee the opportunity to accurately assess the obstacles to the implementation of the Convention and understand the strengths and weaknesses States Parties have in this respect. Preparation of periodic reports gives an opportunity for reviewing laws, policies and practices to identify to what extent States Parties are committed to the provisions of the Convention. Thus, they enable the Committee to measure the positive impact of States Parties' commitment to presenting periodic reports on the implementation of the Convention. They shed light on the laws that discriminate against women, the gap between the provisions of the law and their implementation, the changes effected due to accession to the Convention and the obstacles to the implementation of the Convention.

According to article (18) of the Convention, the Committee holds regular sessions every year for (3) weeks each. A State Party to the Convention also holds upon a decision of its members or upon request special sessions. It usually invites (8) States Parties to the Convention to present their reports in each session. Priority is given to suspended and initial reports, but with taking into account balance among reports in terms of equitable geographical distribution. A pre-session work group of five Committee members (Chairperson, "3" Vice Chairpersons, Rapporteur) reviews the national report in coordination with the representative of the reporting State (Rapporteur). They hold pre-session, five-day closed meetings in which they consider the reports and draft a list of questions. The members of the Committee desist from participating in the process of considering the reports of their own States Parties for the purpose of neutrality.

These periodic reports generally consist of four parts, the first being a

report review and the second being a drafting a list of questions related to the report. This list is communicated to the concerned States within a week from the date of the report review by the working group, and is done so in order for the States to respond within a course of (6) weeks. The third entails translating the list of questions and States' replies to the official languages of the United Nations for publishing on the website of the Human Rights Commission. The reply of the States Parties is expected to be accurate and concise, ranging between 25-30 pages of font Times New Roman 12 with a space between every other line and be presented in an electronic copy. A definite number of additional pages of statistical data could be supplemented. The last part is the constructive dialogue or discussion of periodic reports, which is conducted according to the jurisdiction of the Committee under article (18) of the Convention. The Committee considers the report through a constructive dialogue with the representatives of the reporting State with a view to improving the concerned State's achievement of the rights enshrined in the Convention. The Committee dedicates two open sessions for consideration of the initial report, and each session lasts three hours. The session starts with not more than (30) minutes of introductory comments by the State Party. Consideration of the initial report begins thereafter in line with each article of the Convention, save articles (15, 16, 8, 7, 2, 1). These articles are considered collectively whereby experts ask a set of questions to be answered by the State Party. The experts of the Committee can include any general comments in their questions concerning articles (1) and (2). The approach of considering initial reports also relates to integrating an initial report into one or more periodic reports. After a number of experts ask questions within the given framework, the State Party would be given the chance to reply. From there, a new round of questions and replies follows until there has been coverage of all the groups.

Adapting National Legislation to the Provisions of the Convention

The States ratifying the Convention are to review their effective laws and legislation to adapt them to the Convention and the principle of gender equality and non-discrimination. In the case of the State of Palestine, the domestic legal context is a major obstacle to adapting the national Palestinian laws and legislation to conform to the Convention, and this is

due to the multiplicity of the legislation and laws regulating Palestinian legislative life. This could be owing to the political conditions which Palestine has been experiencing, which in turn have impacted on its legislative system.

In recent history, Palestine has undergone several political stages, beginning in 1917 when Ottoman rule ended and the rule of the British Mandate was in place. Until the end of the Ottoman rule in 1917, the legal system in Palestine was based primarily on principles of the Islamic Law, but it was also influenced by the Latin system in Europe. The legal system was reviewed and redrafted once the Mandate period began. Ottoman rule was not completely terminated by the establishment of the British Mandate, although some of the principles of British law were added. Some Ottoman law still applied, but with amendments or replacements for some of it. Overall, according to Birzeit University's online Law Center, the "Mandate Government re-formed the legal system by converting it from the Latin-Ottoman system to the Anglo-Saxon system (The British Common Law)."¹¹ The Criminal Code Ordinance of 1936, however, is still in place in the Gaza Strip.

In addition, Palestine's Declaration of Independence, which was issued by the National Council of the PLO on 15 November 1988, is the most important document in the history of Palestine because of the fundamental principles, rights and freedoms of the Palestinian people it includes. This indispensable document constitutes the basis of the principle of equality between men and women in Palestinian national law. It states:

"The State of Palestine is the state of Palestinians wherever they may be. The state is for them to enjoy in their collective national and cultural identity, theirs to pursue in a complete equality of rights. In it will be safeguarded their political and religious convictions and their human dignity by means of a parliamentary democratic system of governance, itself based on freedom of expression and the freedom to form parties. Governance will be based on principles of social justice, equality and non-discrimination in the public rights of men or women, on grounds of race, religion, color or sex, under the aegis of a constitution which ensures the rule of law and an independent judiciary."

¹¹ http://lawcenter.birzeit.edu/iol/en/index.php?action_id=210

The Palestinian Amended Basic Law of 2002 serves as a temporary Constitution, and is the document upon which all other Palestinian laws are based.¹² It is the guarantor of all the public rights and freedoms that Palestinian citizens enjoy. It shapes the political regime which governs the State of Palestine and embodies the principle of separation of powers and other particulars of the Palestinian legal system. Based on the principle of legislative hierarchy, the Constitution is the source of all other laws, and so no law or decree can be put in contravention of it. Article (9) of the Palestinian Basic Law states: “Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, color, religion, political views or disability.”

Articles (1-10) state that human rights and fundamental freedoms are binding. They also bind the PNA to respect the international human rights conventions. Article (31) of the same law provides for the establishment of the Independent Commission of Human Rights which in turn presents its reports to the President of the PNA and to the PLC. Additionally, the legislature confirms that the human rights of men and women should be maintained and respected in accordance with the provisions of the law, and the State’s institutions should be monitored to make sure of their respect and commitment to these rights. ICHR was established to serve this purpose and examine to what extent the government is committed to human rights. Article (32) of the Basic Law, for example, states:

“Any violation of any personal freedom, of the sanctity of the private life of human beings, or of any of the rights or liberties that have been guaranteed by law or by this Basic Law shall be considered a crime. Criminal and civil cases resulting from such violations may not be subject to any statute of limitations. The National Authority shall guarantee a fair remedy to those who suffer from such damage.”

Thus, the Amended Basic Law does not only provide for equal rights and freedoms for men and women, but it also establishes an institution to monitor and supervise the implementation of equality measures.

12 For the full text of this document, see <http://www.palestinianbasiclaw.org/basic-law/2002-basic-law>

Review and Adaption of Penal Laws to the Convention

The Penal Law in Palestine reflects the political realm that was prevalent in the Middle East since the Ottoman Rule and then the English, French and Israeli occupation. The occupying power focused on the penal legislation, using it as a major mechanism for controlling the relationship between individuals and its own authority.

Regarding the situation of women's rights in local and penal legislation, the local legal system stopped short of respecting and ensuring legal protection for women due to the cultural attitude towards women and patriarchal authority. The Penal Law includes several provisions and articles that run counter to the principle of equality between men and women. It provides for varied sanctions for the same offence, depending on whether the offender is a man or a woman. Article (282) of this law, for example, states "a woman who commits adultery shall serve a term of (6 -24) months in prison". The second paragraph of the same article states "the man who commits the same offence (adultery), while married, shall serve a term of (3-12) months in prison". Having two gender-based penalties for the same offence runs counter to article (1) of the Convention, which defines discrimination against women as:

"any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

It also runs counter to paragraph (A) of article (2) of the Convention, which calls on States Parties to "embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle". There is also paragraph (B), which calls on States Parties to "adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women". It also runs counter to paragraph (F) of the same article of the Convention, which requests States

Parties to take appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

The effective penal laws embodied men's hegemony over women's lives. For example, Penal Law No. (16) of 1960, which is in force in the West Bank, stipulates with regard to incest offences that a male relative of a woman as a victim of incest (up to the fourth grade) can file a complaint on behalf of her. It also convicts both parties (man and woman) in such cases, based on its consideration of the element of consent between both of them and acceptance by the woman, ignoring the fact that it is a relationship among members of a family which is based on power and domination. These articles of the Penal Law constitute a breach of article (15) of the Convention, which requests from States Parties to accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they are expected to give women equal rights to conclude contracts and to administer property as well as treat them equally in all stages of procedure in courts and tribunals."

Article (308) of the Penal Law, which is also active in the West Bank, allows competent authorities to stop pursuit of perpetrators of honor crimes under Chapter Seven of the Law. The honor crimes stated under this chapter include adultery, indecent act, breach of public morality, rape, and abduction in cases of an appropriate marriage contract between the victim and the perpetrator. It links the right of the Public Prosecution to pursue the perpetrator to the dismissal of the marriage relationship. This allows the rapist or the abductor to escape punishment by means of marrying his victim, regardless of the psychological impact of such crimes on the victims. The right to life of the victims of such crimes is some times violated due to the cultural dimension, which considers the victims of sexual crimes to be accomplices and bearers of social stigma. In cases of rape and abduction, victims sometimes find no other option but to marry the perpetrator as a way to avoid social stigma or lose their life. This runs counter to article (16) of the Convention, which states that women have the right to freely choose a spouse and to enter into marriage "only with their free and full consent".

Article (302) of the Penal Law states that the crime of abduction through manipulation or coercion is punishable by a term of (2-3) years in prison if the abductee is a male aged under (15) years, with temporary hard labour

if the abductee is female of the same age, with hard labour for not less than (5) years if the abductee is a married female aged (15) or less than that. It is also punishable with hard labour for (10) years if the abductee (male or female) is subjected to rape or an indecent act, and with hard labour also for not less than (10) years if the abductee is a married woman aged (15) years or less than that and subjected to the sex act (intercourse). There is also the punishment of hard labour for not less than (7) years if the abductee is married, aged over (15) years and subjected to the sex act (intercourse). However, this provision is discriminatory since it is based on sex, age and marital status of the female. It constitutes a breach of article (1) of the Convention, which defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”. It also constitutes a breach of article (2) of the Convention, which is paraphrased below and urges States Parties to:

a. Embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated, and to ensure the practical realization of this principle through law and other appropriate means;

(b) To adopt appropriate legislative and other measures, including sanctions, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men, and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

In 2011, the President of the PNA issued Presidential Decree No. (7) of 2011, relevant to amendment of the Penal Law enforced in the Northern governorates and the Penal Law enforced in the Southern governorates. Pursuant to this Decree, article (340) of the first section of Chapter 8 of Penal Law No. (16) of 1960 enforced in the Northern governorates was repealed. The first paragraph of that article states: "he who discovers his wife, or one of his female ascendants or descendants or sisters committing the crime of adultery in the act and kills, wounds or injures one or both of them, benefits from a penalty reduction". The second paragraph thereof states: "he who discovers his wife, or one of his female ascendants or descendants or sisters with another in an unlawful bed or adulterous situation and he kills, wounds or injures one or both of them, benefits from a penalty reduction". It also repealed article (18) of Penal Law No. (74) of 1936, enforced in the Southern governorates, by adding "this does not include 'honor killing' crimes" to the final part of the article, which states that "it is permissible to accept excuse for a crime where the perpetrator proves that his commission of it was unavoidable and otherwise the results would be damaging to his honor, property, person or the honor of his relatives whom he is bound to protect or to a property entrusted to him. This provision could be implemented provided that what is committed does not go beyond what is necessary to achieve the end and that the damage resulting from such a crime is proportional to the damage avoided." Article (340) of the Penal Law exempts from penalty males who murder their wives or female relatives discovered committing adultery. The second clause of the article reduces the penalty if the victim was found in an "adulterous situation." The purpose of the two clauses is to justify minimizing the punishment for "honor crimes".

It is worth mentioning that the President of the PNA issued the above said decision with the power of law pursuant to article (43) of the Palestinian Basic Law, which gives the President of the PNA the power to issue such decisions in cases of emergency provided that they be put before the PLC in its first session.

Adapting Personal Status Laws to the Convention

The Personal Status Law establishes an inequitable gender relationship, granting men supremacy over women within the family structure. Such an imbalanced relationship subjugates women to men by allowing them to have control over women's bodies, work and movement.

The Jordanian Personal Status Law No. (16) of 1976, enforced in the West Bank, and the Family Rights Law issued by virtue of Order No. (303) of 1954, enforced in the Gaza Strip, grants men exclusively the power to file for marriage and gives them the right to guardianship and trusteeship. It also considers a man responsible for supporting his wife, and so she must obey him and accept his decisions with regard to changing their place of residence or preventing her from working. The law also grants the man the right to divorce with no conditions or restrictions while conditioning the wife's right to request divorce on presenting justifications (absence, discord, dispute, imprisonment of the husband) and the consent of the Sharia judiciary.

In 2012, the Chief Justice Bureau issued a number of decisions within the sphere of its powers to facilitate litigation proceedings and do justice to the categories affected by the valid law. The first decision was relevant to the right of the father and the mother to host and meet with their children. The parent who does not have the right to guardianship has the right according to this decision to host the children at his\her home for (24) hours per week. The second decision was relevant to Khul' (separation), whereby the fiancée can divorce her fiancé before the consummation of marriage provided she pays him back the expenditures of the betrothal. The third decision is relevant to the procedures of separation due to dispute and discord. Pursuant to this decision, the condition of proof by the plaintiff was revoked and replaced with the condition of verification. The plaintiff should, in cases of separation due to dispute and discord, support the reason of claim through verification of the occurrence of harm through a testimony by witnesses, medical report or a complaint to the police. The recognition of the principle of "verification" grants the judge the power to decide divorce based on the facts of the lawsuit, and so minimize the proceedings of litigation in cases of separation due to dispute and discord.

These partial reforms by the Chief Justice Bureau which aim to reform the Personal Status Law are insufficient to eliminate the enormous contraventions of the principle of equality. Most provisions of the Personal Status Law are in contravention of articles (16, 15) of the Convention. Article (5) of the Personal Status Law No. (16) of 1976, which is relevant to conditions of the eligibility for marriage, states: "It shall be a condition precedent to the eligibility for marriage that the fiancé has completed sixteen (16) years of age and the fiancée has reached fifteen (15) years of age".

Article (6) of the same law states:

"a. the judge shall have the right, upon request, to wed a virgin who has reached fifteen if the guardian has barred the marriage from occurring [as to unjustifiably prevent her from marriage], other than the father or grandfather from among the guardians, without a legitimate reason; b. On the other hand, in case her father or grandfather barred her from marriage, her request shall not be heard unless she has reached eighteen (18) years of age and the barring was without a legitimate reason".

Within the same law, article (7) states:

"the conclusion of the contract with a woman who has not yet reached eighteen (18) years of age shall be prevented in case her fiancé is more than twenty (20) years older than she, unless the judge had verified her consent and choice and her interest is established therein."

These provisions of the law are also in clear contravention of article (16), paragraph (2) of the Convention, which states that "the betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory." The same law considers on more than one occasion the guardianship of females as a condition for marriage. For example, article (10) states: "it shall be a condition precedent that the guardian is of sound mind and an adult and be a Muslim in the event the fiancée is a Muslim." Article (12) of the same law maintains: "in the event the closer guardian is absent, and waiting for him might cause the loss of the fiancée's interest, the right

to guardianship shall be transferred to his successor. If it is impossible to consult with his successor immediately or if the latter does not exist, the right to guardianship shall be transferred to the judge.” Conversely, it does not entail any stipulation concerning guardianship of males, thus in clear discriminatory manner against women and impairment of women’s legal eligibility and in contravention of article (16, b) of the Convention, which reaffirms the women’s right to freely choose a spouse and to enter into marriage only with their free and full consent. In addition, there is paragraph (d) of the same article, which reaffirms the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount”. They also contravene article (15) of the Convention, which asserts: 1) States Parties shall accord to women equality with men before the law; 2) States Parties shall, in civil matters, accord to women a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they are to give women equal rights to conclude contracts and administer property and shall treat them equally in all stages of procedure in courts and tribunals.

This Personal Status Law grants a man the right to divorce in all cases (articles: 83-101), but deprives a woman of this right, with the exception of certain cases. A woman has the right to divorce her husband in three ways and the first is Mukhala’ in which she waives her monetary rights resulting from divorce. This kind of divorce cannot be affected without the consent of the husband. A second type is a Judicial Khul’ (divorce before consummation of marriage), invoked by a recent decision of the Chairman of the Sharia’ Judicial Council. In this type, the fiancée is granted the right to divorce her fiancé before the consummation of marriage by paying him back all the expenditures he incurred during their engagement. In such a case, the consent of the fiancé’ will not be requested and the divorce would be endorsed by the judge based on different reasons, including dispute, discord, imbecility or disease. However, affording the absolute right to divorce to the husband while restricting it to the wife is a form of discrimination against women in contravention of article (15) of the Convention, which reaffirms equality of women with men before the law and provides for affording women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. It also requires that women are to be given equal rights to conclude contracts and administer property, and that they are to be treated equally in all stages of procedure in courts and tribunals.

All States Parties agree that all the contracts and instruments that have a legal effect aimed at undermining women's legal capacity are to be considered null and void. Accordingly, article (16) of the Convention affirms:

"States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage; (b) The same right to freely choose a spouse and to enter into marriage only with their free and full consent; (c) The same rights and responsibilities during marriage and at its dissolution."

Another important point is that the Personal Status Law allows, in more than one location within the document, the practice of polygamy. Article (28) of the law, for example, covers the issue of a man with four wives or wives within their legally prescribed waiting periods, and that he cannot complete the marriage process with one of them if he is also in the process of divorcing another, and that the divorce process must be concluded before he can marry again. Article (31) of the same law provides another, slightly different example, stating the prohibition of a man to become married to two women who have a "prohibiting blood or wet-nursing relationship between them", the closeness of that relationship determined by comparison to the same prohibitions on closeness of blood-relationship between a man and a woman planning to marry. These types of articles run counter to the principle of equality under the Convention, especially article (16), which reaffirms "the same right freely to choose a spouse and to enter into marriage only with their free and full consent" and "the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount". They also run counter to article (15) of the Convention, which stresses, as mentioned earlier, the importance of women's equality with men before the law and their identical legal capacity in civil matters, including the exercise of those capacities, especially in cases of concluding contracts, administering property, and procedural practices in courts and tribunals.

Adapting the Law of Public Retirement No. 7 of 2005 to the Convention

The Palestinian Law of Public Retirement No. 7 of 2005, particularly articles (32) and (33), contradict the principle of equality between men and women by the way it defines the conditions for the successor(s) to benefit from a retirement pension. Article (33), for example, states:

“The husband, upon the death of his wife, shall be entitled to the share that is determined in the table, if he was at the time of her death suffering from a physical disability prohibiting him from earning a living. The state of his disability shall be proven by a decision of a medical committee appointed by the Commission. At the time of death, he shall not have a private income, which is equal to or exceeds the amount of his entitlement to the retirement pension. If the income is less than the amount to which he is entitled, a retirement pension shall be paid to him in the amount of the difference. In such case, the remainder of the retirement pension due to the wife shall be distributed to the beneficiaries within the limits set forth in the following table in Article 34 without the presence of the husband.”

This provision runs counter to the Palestinian Amended Basic Law, of which article (9) confirms that all the Palestinians are equal before the law without distinction as to race, sex, color, religion, political opinion or disability. It is clear that the Palestinian Basic Law confirms equality of all the Palestinians before the law, and there is to be no discrimination between men and women, including women’s rights to enjoy the same rights and treatment as men. Thus, paragraph (7) of article (32) and paragraph (6) of article (33) of the Palestinian Law of Public Retirement need to be amended in order to conform to the principle of equality stated under the Convention. As part of the Convention’s tenets urging States to respect and embody the principle of equality between men and women in all their national laws and legislations, it also refers to the States ensuring translation and implementation of equality in their public and private institutions’ practices, and that they are to draft and promulgate legislation which promotes equality and prohibits discrimination.

Positive Discrimination to Accelerate the Process of Equality

National data through ICHR and other sources herein indicates that women's participation in economic and political life has declined. Despite the fact that women's participation rate in the PLC increased to 12.9% due to the quota system adopted in 2006, this ratio is not enough to reflect women's participation on the whole, especially in decision-making circles and expression of their visions, priorities and needs. The rate of women participating in the public institution decision-making circles is very weak compared to that of men. The rate of women who work as Assistant Under Secretaries in the Ministries amounts to 4% compared to 96% of men. Most of the women working in the public sector institutions are placed at grades (1-10), and at a rate of 32% compared to 68% of men. The rate of women working in the public sector in total amounted to 31% compared to 69% of men.

The rate of women occupying decision-making posts at the Palestinian political parties also does not realistically reflect their political participation; for example, one woman only was appointed as a member of Fatah Central Committee in 2009. The rate of women occupying decision making posts in the other the Palestinian political parties - according to the data of the Palestinian Central Bureau of Statistics in 2006 - was 10% in the PFLP; 19.5% in the Central Committee of DFLP in the West Bank and 16.5% in the Gaza Strip; 19% in the Central Committee of the Palestinian Democratic Federation; 20% in the Central Committee of the Struggle Front and 25% in the different levels of the Palestinian Arab Front. Though the rate of women working in the political public sector reached 29.3% in 2008, their participation in decision-making circles remains low. Only 6% of them work as Assistant Undersecretaries; 12.9% as Director Generals; and 10.3% as Directors. The rate of the Palestinian women ambassadors increased to 5.4% in 2008 but is still very low.

Women's participation in the Palestinian military judiciary does not exceed 2% of the staff of this sector and 3% in the police service. Such data reflects a very weak representation of Palestinian women and needs to be increased. Similarly, the data of the Judiciary, the Public Prosecution and Sharia' Judiciary indicate that the rate of women working in the civil judiciary is 15.1% in the West Bank; 5.5% in the Public Prosecution; 1%

in the administrative levels of the Sharia' courts and 6% in the Sharia' Prosecution and Sharia' Judiciary. The Local Council Elections Law stipulates a required quota for women on local councils in order to increase women's participation and representation in the local authorities. This system guarantees women 20% of elected local councils' seats. This is an acceptable rate, but it still falls short of the international standard of 30%, which ensures effective participation of women in decision-making circles.

There are different political, social, economic and cultural factors that keep women's participation in decision-making circles low. Among these factors are lack of support by political parties, the prevailing electoral environment, patriarchal structure of the Palestinian family, poverty among women and absence of affirmative action to support women.

Mindful of the different forms of discrimination and difficulties undermining women's participation in decision making circles, the Convention urges States Parties to take all appropriate measures to accelerate the process of equality of men and women. Article (4) of the Convention is very clear about this, and stresses the adoption of "temporary special measures" to accelerate "de facto equality" which are not to allow the continued application of "unequal or separate standards." It also adds that the special measures can cease being applied once the "objectives of equality of opportunity and treatment have been achieved." A second part to Article (4) is the provision for maternity, and that any special protection for it "shall not be considered discriminatory."

Conclusions

Because the State of Palestine has become an Observer Member in the United Nations, it has the right to accede to international human rights treaties and conventions. This right of Observer States was established through pure international practice and precedents. As an Observer State, Palestine should commence with the necessary procedures to sign and ratify or accede to international human rights conventions, including the Convention on the Elimination of All Forms of Discrimination Against Women. This is especially recommended since Palestinian Basic Law supports adhering to and supporting international and regional

declarations and treaties that safeguard human rights.

The Palestinian Basic Law of 2002 does not include any provisions regulating the mechanisms for ratifying or acceding to international treaties. In light of this situation, the highest authority within the State of Palestine is appropriate for locally ratifying the Convention and then depositing the ratification instrument with the Secretary-General of the United Nations. Once the State of Palestine ratifies the Convention, it must respect its provisions, especially ensuring that Palestinian Basic Law is consistent with it in terms of gender equality and non-discrimination. It is important to bear in mind that the Convention is considered to be the most important international document to date which is committed to women's rights. It addresses discrimination against women inclusively and broadly in order to effect genuine change in the situation of women. It also sets forth the solutions and measures that States Parties should take in the different areas of women's rights. This is also what other conventions in the past have not included, as each one of them was limited to addressing a specific component or area of women's issues.

The Convention also grants States the right to make reservations during ratification or accession to it, but provided that they present these reservations to the Secretary-General of the United Nations. In addition, these reservations must be compatible with the object and purpose of the Convention. States are also granted the right to withdraw their reservations at any time by sending a notification to this effect to the Secretary-General of the United Nations. Considering the provisions of the Vienna Convention, the State of Palestine would be included here in that it would also be permitted to make reservations about any article within the Convention. However, any reservation about a substantive article of the Convention could run counter to its object and purpose to achieve gender equality and eliminate gender based discrimination.

The State of Palestine should, following its ratification of the Convention, prepare several different reports relating to the Convention and its own circumstances, such as an initial report presenting a comprehensive and accurate view of the social and political legal framework of the State. It would also describe the circumstances of women in Palestine through carefully selected indicators covering the many fields that help measure the progress made in the different fields. Subsequent periodic reports might cover these fields separately, comparatively and over time. The State of Palestine should consider committing itself to presenting periodic

reports every four years to highlight the progress made during the previous four years, and this could include areas such as the measures taken to put the Convention into practice. These measures could be of legislative, judicial, administrative and other natures, and the progress made thereof, diagnosis of the obstacles to the implementation of the Convention and specification of the mechanisms which the State shall adopt to promote equality. This is highly recommended since several laws and legislation enforced in the State of Palestine run counter to the principle of gender equality, and these shortfalls can be found in the Penal Law, Personal Status Law and Public Retirement Law. This is particularly essential since the national indicators for Palestinian women's participation show their weak and quite limited participation in political life and decision-making circles.

Recommendations

- The State of Palestine should sign and ratify all relevant international human rights treaties and conventions, as so stated in Palestinian Basic Law.
- The State of Palestine should ratify the Convention on the Elimination of All Forms of Discrimination Against Women.
- The State of Palestine should – once it ratifies the above Convention - present initial and periodic reports to the Committee on Elimination of All Forms of Discrimination Against Women.
- The State of Palestine should review all the legislation and laws currently in force in order to adapt them to conform to the principle of equality.
- The State of Palestine should take into consideration continued affirmative action to accelerate the process of equality.

APPENDIX (1)

Convention on the Elimination of All Forms of Discrimination Against Women

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women.

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex.

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights.

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women.

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women.

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist.

Recalling that discrimination against women violates the principles

of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women.

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women.

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women.

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women

and society as a whole.

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women.

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations.

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in

conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate

discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same Opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including

apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life

in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first

election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United

Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

- 1. The present Convention shall be open for signature by all States.
- 2. The Secretary-General of the United Nations is designated as the

depository of the present Convention.

3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any

one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

APPENDIX (2)

Palestine's Declaration of Independence

15 November 1988

In the name of God, the Compassionate, the Merciful,

Palestine, the land of the three monotheistic faiths, is where the Palestinian Arab people was born, on which it grew, developed and excelled. The Palestinian people was never separated from or diminished in its integral bonds with Palestine. Thus the Palestinian Arab people ensured for itself an everlasting union between itself, its land and its history.

Resolute throughout that history, the Palestinian Arab people forged its national identity, rising even to imagined levels in its defense, as invasion, the design of others, and the appeal special to Palestine's ancient and luminous place on that eminence where powers and civilisations are joined ... All this intervened thereby to deprive the people of its political independence. Yet the undying connection between Palestine and its people secured for the land its character, and for the people its national genius.

Nourished by an unfolding series of civilisations and cultures, inspired by a heritage rich in variety and kind, the Palestinian Arab people added to its stature by consolidating a union between itself and its patrimonial Land. The call went out from Temple, Church and Mosque that to praise the Creator, to celebrate compassion and peace was indeed the message of Palestine. And in generation after generation, the Palestinian Arab people gave of itself unsparingly in the valiant battle for liberation and homeland. For what has been the unbroken chain of our people's rebellions but the heroic embodiment of our will for national independence? And so the people was sustained in the struggle to stay and to prevail.

When in the course of modern times a new order of values was declared with norms and values fair for all, it was the Palestinian Arab people that had been excluded from the destiny of all other peoples by a hostile array of local and foreign powers. Yet again had unaided justice been revealed

as insufficient to drive the world's history along its preferred course.

And it was the Palestinian people, already wounded in its body, that was submitted to yet another type of occupation over which floated the falsehood that "Palestine was a land without people." This notion was foisted upon some in the world, whereas in Article 22 of the Covenant of the League of Nations (1919) and in the Treaty of Lausanne (1923), the community of nations had recognised that all the Arab territories, including Palestine, of the formerly Ottoman provinces, were to have granted to them their freedom as provisionally independent nations. Despite the historical injustice inflicted on the Palestinian Arab people resulting in their dispersion and depriving them of their right to self-determination, following upon UN General Assembly Resolution 181 (1947), which partitioned Palestine into two states, one Arab, one Jewish, yet it is this Resolution that still provides those conditions of international legitimacy that ensure the right of the Palestinian Arab people to sovereignty.

By stages, the occupation of Palestine and parts of other Arab territories by Israeli forces, the willed dispossession and expulsion from their ancestral homes of the majority of Palestine's civilian inhabitants, was achieved by organised terror; those Palestinians who remained, as a vestige subjugated in its homeland, were persecuted and forced to endure the destruction of their national life.

Thus were principles of international legitimacy violated. Thus were the Charter of the United Nations and its Resolutions disfigured, for they had recognised the Palestinian Arab people's national rights, including the right of return, the right to independence, the right to sovereignty over territory and homeland.

In Palestine and on its perimeters, in exile distant and near, the Palestinian Arab people never faltered and never abandoned its conviction in its rights of Return and independence. Occupation, massacres and dispersion achieved no gain in the unabated Palestinian consciousness of self and political identity, as Palestinians went forward with their destiny, undeterred and unbowed. And from out of the long years of trial in ever mounting struggle, the Palestinian political identity emerged further consolidated and confirmed. And the collective Palestinian national will forged for itself a political embodiment, the Palestine Liberation Organisation, its sole, legitimate representative recognised by the world

community as a whole, as well as by related regional and international institutions. Standing on the very rock of conviction in the Palestinian people's inalienable rights, and on the ground of Arab national consensus and of international legitimacy, the PLO led the campaigns of its great people, molded into unity and powerful resolve, one and indivisible in its triumphs, even as it suffered massacres and confinement within and without its home. And so Palestinian resistance was clarified and raised into the forefront of Arab and world awareness, as the struggle of the Palestinian Arab people achieved unique prominence among the world's liberation movements in the modern era. The massive national uprising, the intifada, now intensifying in cumulative scope and power on occupied Palestinian territories, as well as the unflinching resistance of the refugee camps outside the homeland, have elevated awareness of the Palestinian truth and right into still higher realms of comprehension and actuality. Now at least the curtain has been dropped around a whole epoch of prevarication and negation. The intifada has set siege to the mind of official Israel, which has for too long relied exclusively upon myth and terror to deny Palestinian existence altogether. Because of the intifada and its revolutionary irreversible impulse, the history of Palestine has therefore arrived at a decisive juncture.

Whereas the Palestinian people reaffirms most definitively its inalienable rights in the land of its patrimony: Now by virtue of natural, historical and legal rights, and the sacrifices of successive generations who gave of themselves in defense of the freedom and independence of their homeland; In pursuance of Resolutions adopted by Arab Summit Conferences and relying on the authority bestowed by international legitimacy as embodied in the Resolutions of the United Nations Organisation since 1947; And in exercise by the Palestinian Arab people of its rights to self-determination, political independence and sovereignty over its territory, The Palestine National Council, in the name of God, and in the name of the Palestinian Arab people, hereby proclaims the establishment of the State of Palestine on our Palestinian territory with its capital Jerusalem (Al-Quds Ash-Sharif).

The State of Palestine is the state of Palestinians wherever they may be. The state is for them to enjoy in it their collective national and cultural identity, theirs to pursue in it a complete equality of rights. In it will be safeguarded their political and religious convictions and their human dignity by means of a parliamentary democratic system of governance, itself based on freedom of expression and the freedom to form parties.

The rights of minorities will duly be respected by the majority, as minorities must abide by decisions of the majority. Governance will be based on principles of social justice, equality and non-discrimination in public rights of men or women, on grounds of race, religion, color or sex, under the aegis of a constitution which ensures the rule of law and an independent judiciary. Thus shall these principles allow no departure from Palestine's age-old spiritual and civilisational heritage of tolerance and religious coexistence.

The State of Palestine is an Arab state, an integral and indivisible part of the Arab nation, at one with that nation in heritage and civilisation, with it also in its aspiration for liberation, progress, democracy and unity. The State of Palestine affirms its obligation to abide by the Charter of the League of Arab States, whereby the coordination of the Arab states with each other shall be strengthened. It calls upon Arab compatriots to consolidate and enhance the emergence in reality of our state, to mobilize potential, and to intensify efforts whose goal is to end Israeli occupation. The State of Palestine proclaims its commitment to the principles and purposes of the United Nations, and to the Universal Declaration of Human Rights. It proclaims its commitment as well to the principles and policies of the Non-Aligned Movement.

It further announces itself to be a peace-loving state, in adherence to the principles of peaceful coexistence. It will join with all states and peoples in order to assure a permanent peace based upon justice and the respect of rights so that humanity's potential for well-being may be assured, an earnest competition for excellence may be maintained, and in which confidence in the future will eliminate fear for those who are just and for whom justice is the only recourse.

In the context of its struggle for peace in the land of Love and Peace, the State of Palestine calls upon the United Nations to bear special responsibility for the Palestinian Arab people and its homeland. It calls upon all peace- and freedom-loving peoples and states to assist it in the attainment of its objectives, to provide it with security, to alleviate the tragedy of its people, and to help it terminate Israel's occupation of the Palestinian territories.

The State of Palestine herewith declares that it believes in the settlement of regional and international disputes by peaceful means, in accordance with the UN Charter and resolutions. Without prejudice to its natural right

to defend its territorial integrity and independence, it therefore rejects the threat or use of force, violence and terrorism against its territorial integrity or political independence, as it also rejects their use against the territorial integrity of other states.

Therefore, on this day unlike all others, November 15, 1988, as we stand at the threshold of a new dawn, in all honour and modesty we humbly bow to the sacred spirits of our fallen ones, Palestinian and Arab, by the purity of whose sacrifice for the homeland our sky has been illuminated and our Land given life. Our hearts are lifted up and irradiated by the light emanating from the much blessed intifada, from those who have endured and have fought the fight of the camps, of dispersion, of exile, from those who have borne the standard for freedom, our, children, our aged, our youth, our prisoners, detainees and wounded, all those whose ties to our sacred soil are confirmed in camp, village and town. We render special tribute to that brave Palestinian Woman, guardian of sustenance and Life, keeper of our people's perennial flame. To the souls of our sainted martyrs, to the whole of our Palestinian Arab people, to all free and honourable peoples everywhere, we pledge that our struggle shall be continued until the occupation ends, and the foundation of our sovereignty and independence shall be fortified accordingly.

Therefore, we call upon our great people to rally to the banner of Palestine, to cherish and defend it, so that it may forever be the symbol of our freedom and dignity in that homeland, which is a homeland for the free, now and always.

In the name of God, the Compassionate, the Merciful: "Say: O God, Master of the Kingdom, Thou givest the Kingdom to whom Thou wilt, and seizest the Kingdom from whom Thou wilt, Thou exaltest whom Thou wilt, and Thou abasest whom Thou wilt; in Thy hand is the good; Thou art powerful over everything." God the Most Mighty has told the truth.

