



Arab American University
Faculty of Graduate Studies

**The CEDAW Agreement in the Palestinian Case
between the Requirements of the Text and the
Challenges of Practice**

By

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Supervisor

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**This thesis was submitted in partial fulfillment of the
requirements for the Master's degree in International
Law and Diplomacy**

February /2024

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Thesis Approval

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This thesis was defended successfully on February 18th 2024 and approved by:

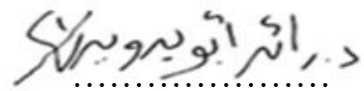
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Declaration

I, the author of the thesis, acknowledge that it was submitted to Arab American University to obtain a master's degree, and that it is the result of my own research, except for what was indicated wherever stated, and that this thesis, or any part of it, was not submitted to obtain any Postgraduate degree from any other university or institute.

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A handwritten signature in blue ink, appearing to read 'Nadeen Tamimi', enclosed within a light blue oval shape.

Date: 15/12/2024

Dedication

To those who do not discourage adapting to reality from trying to change it...

To those I love, they taught us how to love ourselves...

To every woman who challenges a world with a better physical list...

To those who get up and wake up...

To those who are not afraid of hope...

To my friends...

To my family...

To my safe haven... My mom

My father to your beautiful soul, I dedicate this thesis

Acknowledgment

I thank God Almighty who lit the path for me, opened the doors of knowledge for me and provided me with patience and will to accomplish this research. Praise be to God,

Lord of the worlds.

I thank the dear faculty members Dr. Raed Abu Badawia, Dr. Essam Abedeen, Dr. Sunnia Abu Omar. You taught me that the path of science is beautiful no matter how bumpy the road is. And that the next one is more beautiful, You were the example of patience, patience and giving.

My mother..., my brothers and sisters, my soul mate, thank you for everything that has passed, and for all that is to come.

Abstract

This research aims to conduct a comprehensive analysis of women's rights, along with the international standards set by the (CEDAW) convention with the legislative, political, economic, social and cultural realities faced by Palestinian women. The study came up with a main question, which is, what are the obstacles to the implementation of the CEDAW agreement in Palestine. The study is structured in two main chapters. The first chapter deals with the historical context of the women's convention, explores the waves of feminism, the influence of feminist ideology on international legal instruments, and the role of the United Nations in organizing women's rights. It then examines the principles of the convention on the elimination of all forms of discrimination against women, fundamental rights, and challenges in its implementation. The second chapter deals with the Palestinian situation after its accession to the convention on the elimination of all forms of discrimination against women. It provides an overview of feminism in Palestine, historical development, the impact of political stages on the women's movement, and the subsequent accession to the convention. The legislative, political, economic, social and cultural realities of Palestinian women are dissected, focusing on the differences between domestic legislation and the convention on the elimination of all forms of discrimination against women. The research uses the legal analytical descriptive approach, through a review of the legal literature and case studies. By examining the Palestinian legislative landscape through the lens of International Women's rights standards, this research contributes to understanding the challenges faced by Palestinian women that prevent the achievement of equality and non-discrimination. The study concluded that the current situation of

Palestinian women does not meet the standards of equality and non-discrimination set out in the convention. Legal reforms need real political will to reach the desired goal, and legal texts that reflect the culture of society need to communicate with the new youth vision that is separate from outdated customs and traditions and enshrines discriminatory social patterns. In addition, the Palestinian legislator needs to provide an interpretation of the texts of Islamic law in a new way, separate from the Islamic history that is not contemporary with the current reality. These results can be useful in legal reforms or advocacy initiatives, civil society institutions and help decision-makers in promoting women's rights in the Palestinian context.

Keywords: Women's Convention, Equality, Non-Discrimination, Feminism, Women Empowerment.

Table of Contents

Thesis Approval.....	I
Declaration	II
Dedication	III
Acknowledgment	IV
Abstract	V
Table Of Contents	VII
Introduction	XII
Introductory Chapter: Feminist Movements Their Origin And Development.....	1
1.1 The Historical Context Of Feminism.....	1
1.1.1 What is the Feminist Movement?:	1
1.1.2 Feminist History Before the Emergence of Organized Feminist Movements .	2
1.1.3 Historical Waves of Feminist Movements	3
1.2 Feminist Ideology And Its Impact On The Universal Declaration And The CEDAW Convention	8
1.3 United Nations And Legal Regulation Of Women's Rights:.....	12
2.1 Convention In The Elimination Of All Forms Of Discrimination Against Women:.....	18
2.1.1 Definition of the Convention and its Subsidiary Committee	18
2.2 Basic Principles Of The Convention On The Elimination Of All Forms Of Discrimination Against Women	20

2.2.1 The Principle of Non-Discrimination.....	20
2.2.2 The Principle of Equality.....	23
2.2.3 The Intersectional Principle.....	27
2.2.4 The Principle of Participation and Representation	28
2.2.5 The Principle of Universality.....	30
2.2.6 Women's Rights as an Integral Component of Universal Human Rights	31
2.3 The Most Important Rights Contained In The Convention On The Elimination Of All Forms Of Discrimination Against Women.....	33
2.3.1 Effective Measures.....	34
2.3.2 Development and Advancement of Women.....	36
2.3.3 Equal Rights in Marriage.....	37
2.3.4 Trafficking in Women.	38
2.3.5 The Role of Women in Decision-making.....	40
2.3.6 Women's Nationality Rights	41
2.3.7 Pregnancy and Motherhood.....	42
2.3.8 The Right of Health.....	43
2.3.9 Rural Women's Rights.....	44
2.3.10 The Procedural Rules of the Agreement.....	45
2.4 A Complementary Role To The Optional Protocol To The Convention On The Elimination Of All Forms Of Discrimination Against Women (Implementation Agreements Mechanism):	48
2.4.1 Achievements of the Optional Protocol	51
2.4.2 Optional Protocol Failures.....	52

2.5 Challenges In Implementing And Achieving Discrimination In The Convention On The Elimination Of All Forms Of Discrimination Against Women:	54
2.5.1 Cultural Relativism:	54
2.5.2 Religious and Political Objections:	62
2.5.3 Reservations to the Convention on the Elimination of All Forms of Discrimination against Women	65
2.5.4 Implementation and Enforcement of the Convention on the Elimination of All Forms of Discrimination against Women.	76
2.5.5 Economic Constraints and Political Instability	86
2.5.6 Lack of Accountability Mechanisms.....	89
Conclusion Of The First Chapter.....	92
Chapter Two: The Status Of Palestinian Women After Accession To The CEDAW Convention	95
3.1 Features Of The Emergence And Development Of The Palestinian Women's Movement.....	95
3.1.1 General Union of Palestinian Women as a Key Station for the Participation of Palestinian Women	96
3.1.2 The Crystallization of Feminist Frameworks in 1978	98
3.1.3 The Reality of the Participation of the Women's Movement in the First Intifada 1987.....	100
3.1.4 The Oslo Phase and its Impact on the Palestinian Women's Movement	101
3.1.5 Palestinian Feminist Movement within the Framework of the Palestinian National Authority.	103

3.2	Palestine Palestine's Accession To The Women's Convention.....	107
3.2.1	Entry Into Force and Implementation of the Convention in Domestic Law	110
3.2.2	The Legal Value of the Publication of Ratified International Conventions.	115
3.2.3	Aligning the Palestinian Legal System with the CEDAW	117
3.3	The Reality Of Palestinian Women.....	123
3.3.1	The Legislative Reality of Palestinian Women:	123
3.3.2	The Political Reality of Palestinian Women:	126
3.3.3	The Economic Reality of Palestinian Women:.....	129
3.3.4	The Social Reality of Palestinian Women.....	137
3.3.5	The Cultural Reality of Palestinian Women.....	144
3.3.5	The Reality of Palestinian Women under Israeli Occupation:	148
3.3.6	The Position of the Palestinian Society on the CEDAW	151
3.4	The Palestinian Legal System: Differences Between Domestic Legislation and the CEDAW Convention.....	159
3.4.1	Civil Rights.....	161
3.4.2	Women's Rights in the Palestinian Penal Code	172
3.4.3	Political Rights.....	177
3.4.4	Economic Rights	178
3.5	Obstacles to the Implementation of the CEDAW Convention in Palestine...180	
3.5.1	Political Obstacles.....	181
3.5.2	Fallacy Between Inherited Religious Jurisprudence and the Principles of Islamic Law	193
3.5.3	Legal Obstacles.....	202
3.5.4	Economic Obstacles:.....	208
3.5.5	Social Obstacles:.....	213

Conclusion.....	219
References	225
Appendices	233
المخلص.....	237

Introduction

The Convention on the Elimination of All Forms of Discrimination Against Women is an international treaty adopted by the United Nations General Assembly in 1979. It is widely considered one of the most comprehensive international legal instruments to promote and protect women's human rights. The Convention has been ratified by 189 countries, making it one of the most widely endorsed human rights treaties globally.

The Convention provides a comprehensive framework for eliminating discrimination against women in all areas of life, including political, social, economic, and cultural domains. It requires State Parties to take a range of measures to ensure women's equal rights and opportunities in these areas.

While the Convention is a powerful international legal tool for promoting gender equality, its implementation can be challenging, especially in countries where local laws and cultural practices may conflict with its provisions. To fully achieve the goals of the Convention, it is essential to align its provisions with local legislation and ensure the enforcement of these laws in practical applications.

The subject of women's rights has gained significant importance in human studies, exposing various legal, social, and religious issues worldwide. It is one of the most critical treaties regulating women's rights, emphasizing equality between men and women and the prohibition of discrimination. This study aims to explore the CEDAW Convention objectively and, from a practical perspective, its impact on Palestine after joining.

This research relies on a critical examination of the Convention to understand the reasons behind the opposition to it by various groups individually, globally, and within

Palestine. It also aims to assess the positives and negatives of the Convention and gather opinions on the obstacles to its implementation within Palestine.

Research Problem:

The problem lies in Palestine's non-compliance with its commitment to make progress regarding the harmonization of its legislation with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Since Palestine signed the CEDAW in 2014, the Palestinian National Authority has not aligned the Convention with its domestic legislation due to various obstacles, raising questions about whether these obstacles are the sole reason behind the non-implementation or if there is negligence on the part of the Palestinian National Authority. This study aims to answer these questions.

The problem is the failure of Palestine to fulfill its commitment to make progress in terms of aligning its legislation with the signed Convention or even from a practical perspective.

Significance of the Research:

The significance of this thesis lies in urging decision-makers in official and civil Palestinian entities to attempt the harmonization of the CEDAW Convention with domestic legislation and integrate it into societal thinking to promote equal respect for and preservation of women's dignity as an integral part of Palestinian identity. This involves making it part of realistic practices rather than negative practices that can be addressed in various aspects.

The study gains importance by analyzing the legal texts of the CEDAW Convention and understanding societal opposition to it. It is also crucial to assess the impact of Palestine's accession to CEDAW, determine the status of CEDAW compared to

domestic laws, especially by researching views on the legal basis contained in the Convention concerning domestic laws. Academically, the research addresses a significant gap in Palestinian academic research, providing a comprehensive exploration of the reasons behind the opposition to and obstacles facing the implementation of the CEDAW Convention. The study also delves into Palestinian societal perspectives on the Convention, considering political, religious, social, legal, and economic aspects of Palestinian women's reality. The study aims to offer recommendations for decision-makers to benefit from the research findings.

The research is crucial for addressing a controversial issue in Palestinian society, influencing the daily lives of Palestinian women. It attempts to understand women's rights in international treaties like CEDAW, propose amendments to the Palestinian Basic Law, and assist women's organizations in pressuring decision-makers to fully implement the Convention's commitments.

Presenting such mechanisms to the Palestinian and international academic community, including students, professors, and lecturers, and expanding the discussion beyond official forums is of great importance in conveying, promoting, and implementing the idea now and in the future.

The research aims to provide comprehensive insights into the CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) and its Optional Protocol, to clarify their purpose and operational mechanisms. Subsequently, the study aims to present the latest information available from official and non-official sources regarding the reality of Palestinian women since Palestine ratified the convention. The research also delves into legislative differences within the Palestinian legal system concerning this convention. It examines the measures taken by Palestine to align the

convention with its domestic legal system and studies the obstacles hindering Palestinian women from obtaining their rights to equality and non-discrimination. In summary, the study seeks to explore various aspects to assist decision-makers and civil society institutions in empowering women to secure all their rights.

Research Questions: Main Question

What are the obstacles to implementing the CEDAW within Palestine, examining the legislative framework, policies of the Palestinian political system, and practices towards Palestinian women?

Subsidiary Questions

- 1) What commitments does the State of Palestine have after ratifying the CEDAW?
- 2) To what extent is the Palestinian National Authority committed to implementing these obligations?
- 3) What obstacles hinder the alignment of Palestinian legislation with the CEDAW up to now?
- 4) What is the reality of Palestinian women in all aspects mentioned in the convention?
- 5) How can barriers be removed for Palestinian women to achieve the equality and non-discrimination stipulated by the convention?

Research Tools

The study requires several tools, including texts of international treaties, international decisions, and the utilization of available data through electronic platforms of the Palestinian National Authority, civil society institutions, and international organizations specialized in studying women's status to achieve equality and non-discrimination. The researcher will also employ the observation tool and legal analysis in some aspects.

Recommendations issued by United Nations committees related to women's rights, primarily the Committee on the Elimination of Discrimination Against Women, will be reviewed. Additionally, personal interviews will be conducted.

Methodology:

This study will adopt a descriptive-analytical methodology, involving the collection and study of relevant data from various sources such as international human rights, academic research, journals, reliable documents, reports, and studies. Additionally, it will conduct a comprehensive review of recommendations issued by United Nations committees related to women's rights, with a focus on the Committee on the Elimination of Discrimination Against Women (CEDAW). This methodology was chosen for its suitability in achieving the desired results and addressing research questions scientifically, aiming to provide a comprehensive and objective analysis of the topic.

Literature Review:

1. A study from An-Najah National University titled "Palestinian Women's Rights between CEDAW and Palestinian Legislation" by researcher Faten Salhab. The study aimed to understand Palestinian women's rights, specifically the Personal Status Law in the West Bank, following Palestine's readiness to apply CEDAW. It emphasized the need to review all legislation, particularly the Personal Status Law, after Palestine's accession to the convention.
2. Another study by Darren Rosenblum titled "What's Wrong with CEDAW?" critically examines the role of the Convention on the Elimination of All Forms of Discrimination Against Women. It argues for a "gender-unspecific" approach

to effectively combat gender inequality, criticizing the binary male-female categorization. The study suggests addressing this central issue directly.

3. A study by Dr. Jameel Salama, titled "CEDAW and Its Application in Palestine between Sharia and Law," utilized a descriptive and comparative analytical approach. It focused on understanding CEDAW, its optional protocol, concepts, and content, and reviewed the convention. The study revealed contradictions between some CEDAW provisions and Islamic law.
4. A study by Khadija Hussein Nasr, titled "Consequences of Palestine's Ratification of CEDAW for 1979," reviewed CEDAW provisions, emphasizing the need for Palestine to align its legislation with the convention. The study highlighted the necessity of adopting positive measures to enhance women's participation in political and economic aspects.

These studies collectively shed light on the implications, challenges, and potential conflicts between CEDAW and local legal frameworks, providing insights into the status of women's rights in Palestine.

What's New in This Research?

First Study:

The initial study focused on Palestinian women's rights between CEDAW and the applicable Jordanian Personal Status Law in the West Bank. The additional contribution in this thesis will involve examining the Palestinian legal system, including the Personal Status Law, Penal Code, Labor Law, Civil Service Law, and Election and Nomination

Law. Additionally, it will analyze the decisions made by the Palestinian President regarding laws, highlighting points of divergence with the CEDAW⁽¹⁾.

Second Study:

The second study aimed to criticize CEDAW by mentioning its positive impacts on women and providing constructive criticism. It seeks alternative solutions that better promote gender equality and facilitate handling by countries. However, this thesis attempts to offer a comprehensive understanding of CEDAW first, providing clearer insights to the Palestinian society about the convention. It aims to understand the obligations imposed on Palestine upon joining the convention, assessing the commitment of responsible authorities to harmonization.⁽²⁾

⁽¹⁾ Faten Salhab, "Palestinian Women's Rights between CEDAW and Palestinian Legislation," An-Najah National University, Palestine, 2017.

⁽²⁾ Darren Rosenblum, "Unsex CEDAW, or What's Wrong with Women's Rights," Columbia J. Gender & L. 98 (2011).

Third Study:

The third study sought to understand the nature of CEDAW and its optional protocol, reviewing the entire content of the convention. The temporal scope of the study spans from the convention's global implementation in 1981 to Palestine's accession in 2014 and 2019. This differs from the present thesis, which focuses on the period since Palestine joined CEDAW up to the present day, attempting to access the latest data, particularly regarding the reality of Palestinian women⁽¹⁾.

Fourth Study:

The last study elucidates the measures Palestine should take to implement its commitments resulting from joining CEDAW. Notably, this thesis stands out for its dual theoretical and practical approach to the convention's application within Palestine, emphasizing both the theoretical aspects of policies and Palestinian legislation and the practical realities of CEDAW's implementation and the obstacles hindering its application as outlined in the convention⁽²⁾.

Despite the significance of studies addressing CEDAW and Palestinian legislation, this thesis uniquely concentrates on both the theoretical and practical sides by delving into Palestinian policies and legislation and their compatibility with CEDAW. It also studies the Palestinian perspective on CEDAW, explores the reasons for non-alignment, and identifies hindrances. Furthermore, it practically examines the reality of Palestinian women in various life aspects—economic, political, legal, societal, and religious—before proposing solutions that decision-makers and the Palestinian society can benefit from.

⁽¹⁾ Dr. Jameel Salama, "CEDAW and Its Application in Palestine between Sharia and Law," Palestinian Center for Legal and Judicial Studies, 2020.

⁽²⁾ Khadija Hussein Nasr, "Consequences of Palestine's Ratification of CEDAW for 1979," Independent Commission for Human Rights, 2013.

Introductory Chapter: Feminist Movements Their Origin and Development

1.1 The Historical Context of Feminism

1.1.1 What is the Feminist Movement?:

When discussing the history of feminism, it is imperative to begin with a foundational definition of this multifaceted and ever-evolving concept. It is important to note that there is no single universally accepted definition of feminism. However, feminism can be defined as “a social and philosophical movement aimed at achieving gender equality and achieving women’s rights in society⁽⁵⁾. Feminism seeks to remove the injustice and discrimination that women face in various fields such as work, education, legal rights and political participation.”

In addition to the most influential definitions formulated by prominent thinkers, such as Bill Hawks, he defined feminism as “a movement aimed at ending sexism, sexual exploitation and oppression⁽⁶⁾.” This perspective underlines the movement’s core mission of eliminating discrimination and inequality on the basis of sex.

Audrey Lorde, a central figure in the progress of feminism, has contributed a crucial vision, asserting, “I’m not free while any woman is not free, even when her limitations are vastly different from my own.⁽⁷⁾” Its perspective emphasizes the recognition of the interdependence between the various forms of oppression and the collective pursuit of liberation.

⁽⁵⁾ gender equality, the united nation. <https://www.un.org/en/sections/issues-depth/gender-equality/> .

⁽⁶⁾ Hazel T. Biana , Extending bell hooks' Feminist Theory, Journal of International Women's Studies, February 2020 <https://vc.bridgew.edu/cgi/viewcontent.cgi?article=2207&context=jjws>

⁽⁷⁾ THE USES OF ANGER: WOMEN RESPONDING TO RACISM” AUGUST 12, 2012 BY BLACKPAST <https://www.blackpast.org/african-american-history/speeches-african-american-history/1981-audre-lorde-uses-anger-women -responding-racism/>

In 1985, Cheris Kramari and Paula Trischler provided a brief definition in their book *A Feminist Dictionary*, in which they described feminism as “the radical idea that women are human.”⁽⁸⁾ This

brief statement affirms the fundamental belief in women’s inherent humanity and their right to enjoy and recognize their full rights.

Another noteworthy definition is Gloria Steinem, a prominent American feminist activist, who assumed that “feminism is anyone who recognizes equality and full humanity of women and men.”⁽⁹⁾ This definition places gender equality and the recognition of the full humanity of women. These diverse definitions reflect the multifaceted nature of feminism, which includes goals ranging from dismantling gender-based oppression to defending equality and fundamental rights of all sexes. It provides a foundational framework for understanding the complex and evolving history of feminism.

1.1.2 Feminist History Before the Emergence of Organized Feminist Movements

History boasts many women who have made their mark locally and globally, but their roles were not necessarily limited to women’s issues. In most societies, women have traditionally been confined to the roles of housewives, wives, and mothers. However, it is important to recognize that countless women have greatly influenced cultural and political life, despite their often overlooked contributions. One of the first to write about women as a group was Italian writer Christine de Pizan, who published a book on the place of women in society in 1495. De Pizan wrote about the books she had read by famous men, they wrote books about the sins and weaknesses of women, and wondered

⁽⁸⁾ *A Feminist Dictionary*, July 4, 2019 <https://debuk.wordpress.com/tag/a-feminist-dictionary/>

⁽⁹⁾ Kathleen B. Jones, *Women: The Longest Revolution, and: Dreams and Dilemmas, and: Outrageous Acts and Everyday Rebellions* (review), *Minnesota Review*, No. 25, Fall 1985 (New Series), pp. 148-152 (Review) <https://muse-jhu-edu.ezaccess.libraries.psu.edu/article/428570/pdf>

if women were really human at all, or whether they were more similar to animals, her book was showing the role and importance of women who were questioned by men.

In the 18th and early 19th centuries, feminism gained momentum in Europe and North America. During the French Revolution, Olympe de Gouges wrote the “Declaration of the Rights of Women and Citizenship” to highlight the revolution’s failure to recognize gender equality. In North America, early feminism emerged when women gained access to education, allowing them to question societal norms. The first women’s rights convention, Seneca Falls⁽¹⁰⁾, was concluded in 1848 in New York, and activists across the continent fought for women’s rights and an end to slavery. At the same time, European activists campaigned for women’s rights, advocating for thinkers such as Mary Wollstonecraft, in her book “Defending Women’s Rights⁽¹¹⁾” (1792), and later John Stewart Mill’s book *The Subjugation of Women* (1869)⁽¹²⁾. But the organized women’s movement as we know it today was truly entrenched in the end of the 19th century. Yet women’s activism and the pursuit of equality has always been inherent in human societies.

1.1.3 Historical Waves of Feminist Movements

1.1.3.1 The First Wave:

The first wave of feminism began at the end of the 19th century and the beginning of the 20th century in the USA and most of Europe in defense of women's rights and equality in education⁽¹³⁾. The first wave was also represented in other issues in the form

⁽¹⁰⁾ Feminism and Women’s Rights Movements, <https://www.coe.int/en/web/gender-matters/feminism-and-women-s-rights-movements>

⁽¹¹⁾ Wollstonecraft, *A Vindication of the Rights of Woman*, <https://www.britannica.com/topic/A-Vindication-of-the-Rights-of-Woman>

⁽¹²⁾ Mill’s *Moral and Political Philosophy*, Tue Oct 9, 2007, <https://plato.stanford.edu/entries/mill-moral-political/>

⁽¹³⁾ June Hannam, *Women's history, feminist history*, The Institute of Historical Research. 2008. https://archives.history.ac.uk/makinghistory/resources/articles/womens_history.html

of claims for political rights and property rights, where feminism began in the struggle for the right to vote in elections in the name of the "Women's Right to Vote Movement". This wave included demonstrations, discussions, establishment of organizations, publication of articles in newspapers, and the establishment of international organizations until women in most of Europe and North America won this right. Women have also become active in communist, socialist and democratic parties due to women starting to work outside the home. It also allowed her to learn at university for the first time in the early twentieth century. Feminist movements soon became more active after World War II, earning them almost equal political rights for men in most of Europe and North America⁽¹⁴⁾. One of the most famous examples is the Declaration of Intent issued at the Women's Conference in Seneca Falls in the USA where women asked that the Declaration of Independence should be included in the word women along with the word men so that they become: "The following facts are the intuitive truths of women and men created equals."⁽¹⁵⁾ It is worth mentioning that it was met in the Arab world by the emergence of feminist literature such as Hind Nofal, and the emergence of women's civil rights writers such as May Ziada⁽¹⁶⁾.

1.1.3.2 **The Second Wave:**

The second wave of feminism, which took place between 1960 and 1980⁽¹⁷⁾ also in the United States and Europe, revolves around several pivotal concerns, including issues related to gender, family dynamics, and domestication "confining women's roles in the domestic sphere." Discrimination in the workplace, reproductive rights, and legal

⁽¹⁴⁾ Feminism and Women's Rights Movements, <https://www.coe.int/en/web/gender-matters/feminism-and-women-s-rights-movements>

⁽¹⁵⁾ HISTORY.COM EDITORS, APRIL 8, 2022, Feminism, <https://www.history.com/topics/womens-history/feminism-womens-history>

⁽¹⁶⁾ Al-Atiyat, I., Al-Khatib, I., Aswilem, S., Murshad, H., & Mouawad, N. (2023). Solidarity Assets, Resistances, Intersectional Feminist Knowledge Guide. <https://takatoat.org/ar/archives/585>

⁽¹⁷⁾ Feminism and Women's Rights Movements, PR.

disparities were major themes of focus during this era. The overall goal of feminists, despite various ideologies, was also to emancipate women. Notably, feminism sought to address and eliminate violence and sexual abuse, from the point of view of socialist feminism involving patriarchy and capitalism as contributing factors. A notable achievement during this period was the establishment of women's studies as a prominent academic field within universities.

Moreover, it marked the beginning of the recognition and celebration of women's contributions to literature, music, and science, which were often overlooked in the past. The second wave of feminism also saw the beginning of recording previously undocumented aspects of women's history. It had a significant impact on the drafting of the Universal Declaration of Human Rights and contributed to the drafting of auxiliary agreements such as the Convention on the Elimination of All Forms of Discrimination against Women⁽¹⁸⁾.

The most influential book of the time was Simone de Beauvoir's "Second Sex" in the United States of America, the author of the famous phrase "Women are not born women." Beauvoir tried to focus on the impact of socialization, and the expectations that society demands from women, as she explains in her book how society assumes that man is the criterion against which women's roles are measured. In addition to the book "Feminine Mystery" by Betty Friedan, which discussed the traditional gender roles of women, she explained the meaning of female ambiguity "that is, the feeling of

⁽¹⁸⁾ "Bloomington Women's Liberation Newsletter October 13, 1970. Women's Studies Archive. <https://link.gale.com/apps/doc/XHCURD411864759/WMNS?u=webdemo&sid=WMNS&xid=3f289f68>, <https://www.gale.com/primary-sources/womens-studies/collections/second-wave-feminism>

discomfort and lack of self-fulfillment that many women have,⁽¹⁹⁾ and researched women to go beyond traditional roles and engage in the public sphere and work⁽²⁰⁾.

1.1.3.3 **The Third Wave:**

The emergence of the third wave of feminism in the United States in the 1990s was a direct response to the assertions made by politicians and the media that declared the end of the era of feminism, under the term “post-feminism period.” Susan Faludi, in her 1991 book *A Backlash*, provided an insightful analysis of the patriarchal system’s reaction to the progress of the women’s liberation movement⁽²¹⁾. During this era, discussions covered critical issues such as sexual harassment, female genital mutilation, honor killings, the gender pay gap, and domestic violence⁽²²⁾.

This period was also marked by a heavy emphasis on re-evaluation and criticism of second-wave feminism, which was largely centered around white middle-class women in Western societies. The experiences and abuse of women of color served as a catalyst for a more thorough examination of feminist principles, and highlighted the conflicts faced by black women who served as caregivers for white women.

Moreover, the third wave of feminism witnessed a critical examination of the concept of gender, rooted in existential theory, and here lies the importance of the French philosopher Jean-Paul Sartre in his contribution to the production of existential philosophy in the mid-20th century. He made a central assumption that existence precedes substance. Which means that the most important consideration for individuals

⁽¹⁹⁾ The Second Sex Full Book Summary, spark notes.

<https://www.sparknotes.com/lit/secondsex/summary/>

⁽²⁰⁾ Study "The Feminine Mystique" by Betty Friedan. Read a summary of the work and understand what it is about. Discover the definition of "feminine mystique." Updated: 11/21/2023, <https://study.com/learn/lesson/the-feminine-mystique-betty-friedan-summary-analysis-criticism.html>

⁽²¹⁾ Dr. Ibtisam al-Atiyat, Islam Al-Khatib, Suad aswailem, Hayat Murshad, Nadine Mouawad. Assets, collectives, resistances. Friedrich Ebert Foundation, Beirut, 2023. <https://takatoat.org/ar/archives/585>

⁽²²⁾ SARAH PRUITT, What Are the Four Waves of Feminism?, H history, UPDATED: OCTOBER 4, 2023 | ORIGINAL: MARCH 2, 2022. <https://www.history.com/news/feminism-four-waves>

is that they are individuals of any independent, responsible, and conscious living beings rather than any stigma, role, stereotype, definition, or any prior classification that they can be placed in⁽²³⁾.

1.1.3.4 **The Fourth Wave:**

The fourth wave of feminism emerged in early 2010 with a sharp focus on addressing key issues related to sexual harassment and the spread of rape culture. The term “e-feminism” initially lacked a clear and universally accepted definition, which was evident at the inaugural gathering of e-feminist supporters in Kassel, Germany. Participants grappled with a brief explanation of this new form of feminism⁽²⁴⁾. This wave has been stimulated by the spread of a wide range of media, including movies, video games, and sexual literature, which contributed to women’s modification (women’s modification) and an increase in harassment and rape⁽²⁵⁾.

The pivotal development in the fourth wave was the rise of the #I too movement that appeared in the USA. I grew up on social media, especially on MySpace in 2006⁽²⁶⁾, and turned into a global movement by 2017, with the hashtag #I also bypassed language barriers. Activists from around the world rallied to break the silence surrounding sexual violence against women and to express gratitude to those who have come forward. This movement aimed to break the veil of silence on various forms of male violence,

⁽²³⁾ Casey Scott, MA Philosophy, GDipEd English and Humanities, BA(Hons) Professional , The Existential Philosophy of Jean-Paul Sartre, Mar 11, 2022. <https://www.thecollector.com/jean-paul-sartre-philosophy-ideas/>

⁽²⁴⁾ Feminism and Women’s Rights Movements. Council of Europe, PR. <https://www.coe.int/en/web/gender-matters/feminism-and-women-s-rights-movements>

⁽²⁵⁾ Dr. Ibtisam al-Atiyat, Islam Al-Khatib, Suad aswailem, Hayat Murshad, Nadine Mouawad, PR. <https://takatoat.org/ar/archives/585>

⁽²⁶⁾ (Myspace): is an American company social networking service founded in 2003, and has undergone a number of changes since then. From 2005 to 2008, MySpace was the largest social networking site in the world in terms of the number of visitors, it reached more than 100 million monthly users. <https://www.britannica.com/biography/Rupert-Murdoch/Scandal-and-reorganization>

especially in the workplace, and to confront the culture of blaming victims face to face⁽²⁷⁾.

The four waves of feminism played a pivotal role in shaping the early foundations of international law relating to women's rights. The advocacy and efforts of early women's rights advocates and feminists paved the way for the development of international norms and standards that continue to guide efforts to promote gender equality and women's rights on a global scale. It is important to consider the transition from the League of Nations to the United Nations in this context. The League of Nations faced failure due to the outbreak of World War II, which necessitated the need for a new international organization to ensure global peace and cooperation. The United Nations emerged as the successor to the League of Nations after the war, accompanied by a comprehensive reform plan that addressed not only the laws governing international relations but also the mechanisms of their implementation. This shift marked a critical turn in the development of international law, including the emergence of legal frameworks for the protection of women's rights on the global stage.

1.2 Feminist Ideology and its Impact on the Universal Declaration and the Cedaw Convention

Various feminist ideologies have emerged over time such as socialism, liberalism, radicalism, intersectionalism, colonialism, queerness, religious, and postcolonial feminism⁽²⁸⁾. These ideologies originated in different regions of the world and at different points in history. What is worth noting When tracing the origins of early feminist movements and studying their impact we see the eventual development of

⁽²⁷⁾ SARAH PRUITT, PR. <https://www.history.com/news/feminism-four-waves>

⁽²⁸⁾ Kinds of Feminism, University of Alabama in Huntsville.
https://www.uah.edu/woolf/feminism_kinds.htm

feminism whose role led to the contribution to the formulation of international legal instruments.

Before codifying international human rights law, thinking about the historical course of feminist movements, we see the progress of shifting from collective concerns to a greater focus on individualism and liberalism⁽²⁹⁾. This was at the beginning of the escalating Cold War between the Soviet Union and the United States, marked by Winston Churchill's famous "Iron Curtain" speech in 1946, which emphasized the Anglo-American alliance as a bastion of freedom⁽³⁰⁾. Which was the beginning of the emergence and development of the liberal feminist movement⁽³¹⁾, in which influential thinkers had already left their mark. Eleanor Roosevelt, the American political leader, played a pivotal role as chair of the United Nations Commission on Human Rights, and made indispensable contributions to the creation of the Universal Declaration of Human Rights in 1948. Her efforts stressed the importance of individual rights, which include civil, political, social and economic rights, as essential components of human dignity⁽³²⁾. She was influenced by feminist ideas and worked to ensure that the Declaration included gender rights. Article 1(3) of the Universal Declaration of Human Rights states that one of the purposes of the United Nations is "to promote and encourage respect for

⁽²⁹⁾ Liberalism: is a political and philosophical ideology focused on individual rights, freedoms and limited government intervention. It is characterized by a commitment to personal autonomy, the rule of law and the protection of Civil Liberties. Liberalism can take various forms, including classical liberalism and social liberalism, and has influenced the development of democratic and liberal-democratic regimes around the world. <https://www.encyclopedia.com/philosophy-and-religion/ancient-religions/ancient-religion/liberalism>

⁽³⁰⁾ Churchill's Iron Curtain Speech. <https://www.wcmo.edu/about/history/iron-curtain-speech.html>

⁽³¹⁾ Liberal feminism is a feminist perspective that focuses on achieving gender equality and women's rights through legal and political reform within existing societal structures. It emphasizes equal opportunities, individual rights and the elimination of discrimination on the basis of sex. This approach seeks to address issues such as workplace discrimination, gender pay gaps, and legal rights, often by advocating for legislative changes and policy reforms. <https://www-jstor-org.ezaccess.libraries.psu.edu/stable/40435890?typeAccessWorkflow=login&seq=1>

⁽³²⁾ Betty Boyd Caroli, Eleanor Roosevelt American diplomat, humanitarian and first lady . Jan11,2024. <https://www.britannica.com/biography/Eleanor-Roosevelt>

human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.⁽³³⁾” This was a direct result of feminist advocacy and contributed to the recognition of gender equality as a fundamental human right.

Albert Camus, the French philosopher, provided insight into the importance of individual rights and freedom in his literary works, such as “The Stranger” and “The Rebellious.” He criticized the repressive nature of ideologies that violate individual freedom. The contributions of Hannah Arendt, a German writer, were also no less important in her work, “The Humanitarian Situation” (1958), when she stressed the ultimate value of political freedom and individual rights. She introduced the concept of “the right to enjoy rights,” which emphasizes the founding role of individual rights in the context of citizenship and humanity⁽³⁴⁾.

Mary-Ann Glendon, in her book *A New World*, also emphasizes the diverse backgrounds of the key players involved in the drafting of the Universal Declaration of Human Rights. She claims that the results of this process genuinely reflect the views and interests of all humanity. Glendon’s novel reinforces this perspective as a global perspective, but when looking at the texts of the announcement, we clearly see that the diverse backgrounds of the participants are largely consistent with the liberal internationalist perspective⁽³⁵⁾. International human rights law has also faced much

⁽³³⁾ Universal Declaration of human rights, United Nations website. <https://www.un.org/ar/universal-declaration-human-rights/>

⁽³⁴⁾ Albert Camus. First published: Thu Oct 27, 2011. <https://plato.stanford.edu/entries/camus/>

⁽³⁵⁾ Internationalists: they are supporters of international organizations, treaties and agreements that promote diplomacy and cooperation at the international level to address pressing global issues and challenges.

criticism for its exclusive focus on individual rights at the expense of societal considerations⁽³⁶⁾.

There is also an impact of cross-feminism on human rights conventions that has emerged to provide legal protections that address multiple forms of discrimination. This may include language in conventions that explicitly recognize the rights of marginalized groups, such as indigenous women, members of the LGBTQ+ community⁽³⁷⁾, and people with disabilities. Intersectionalists believe in recognizing the interconnected nature of discrimination and inequality. This has led to a shift towards policies that address the diverse and cross-cutting identities of individuals, resulting in more equitable and effective measures to promote gender equality and protect the rights of all individuals, regardless of their background or identity⁽³⁸⁾.

An important question arises here about the relationship between the history of the feminist movement, the Convention on the Elimination of All Forms of Discrimination against Women, and the Universal Declaration of Human Rights. The Declaration is the founding document of all subsequent human rights conventions, including the two Covenants. It is worth noting that many of the prominent thinkers and writers mentioned earlier, along with other contributors to the Universal Declaration, also played a significant role in the drafting of the Convention on the Elimination of All Forms of Discrimination against Women. It becomes clear on examination that these

⁽³⁶⁾ Ibrahim J. Gassama, *A World Made of Violence and Misery: Human Rights as a Failed Project of Liberal Internationalism*, 37 *Brook. J. Int'l L.* (2012). Available at: <https://brooklynworks.brooklaw.edu/bjil/vol37/iss2/3> pg451.

<https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1087&context=bjil>

⁽³⁷⁾ LGBTQ+: people whose sexual orientations, gender identities or expressions may not correspond to traditional societal norms is an acronym for Lesbian, Gay, Bisexual, Transgender, and the "+" sign represents other identities and expressions that are not explicitly included in the first. It is a way of collectively referring to a diverse group of people whose sexual orientations, gender identities, or expressions may not conform to traditional societal norms.

⁽³⁸⁾ Georgina Waylen, Celis Karen, Kantola Johanna, and S. Laurel Weidon (eds.), *The Oxford Handbook of Gender and Politics*, (2013). <https://cutt.us/aG9rD>

documents share an ideological basis inherent in liberal, internationalist and intersectional feminist principles. Moreover, researchers such as Roger Normand and Sarah al-Zaidi have openly argued that the Universal Declaration of Human Rights is fundamentally based on similar views regarding individual rights⁽³⁹⁾.

In conclusion, ideologies and feminist activity have left a lasting impact on international conventions on women's rights. It has contributed to the recognition of women's rights as fundamental human rights and influenced the content and language of documents such as the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women, which continue to play an essential role in advancing and addressing discrimination against women on a global scale.

1.3 United Nations and Legal Regulation of Women's Rights:

The United Nations is the largest international organization with 193 member states, whose primary mission is to promote world peace, security, cooperation and development. The United Nations brings together a diverse group of Member States from around the world and serves as a platform for dialogue and diplomatic cooperation on a wide range of issues, including international conflicts, human rights, humanitarian aid and sustainable development through its various agencies, programmes and initiatives aimed at addressing global challenges and promoting cooperation between nations⁽⁴⁰⁾.

⁽³⁹⁾ T. Jeremy Gunn, Do Human Rights Have a Secular, Individualistic & Anti-Islamic Bias? <file:///C:/Users/N/OneDrive/Desktop/%D8%B3%D9%8A%D8%AF%D8%A7%D9%88/%D9%87%D9%84%20%D8%AD%D9%82%D9%88%D9%82%20%D8%A7%D9%84%D8%A7%D9%86%D8%B3%D8%A7%D9%86%20%D8%AA%D8%AD%D9%8A%D8%B2%20%D8%B9%D9%84%D9%85%D8%A7%D9%86%D9%8A%20%D9%85%D8%B9%D8%A7%D8%AF%D9%8A%20%D9%84%D9%84%D8%A7%D8%B3%D9%84%D8%A7%D9%85/Do%20Human%20Rights%20Have%20a%20Secular,%20Individualistic%20&%20Anti-Islamic%20Bias.pdf>

⁽⁴⁰⁾ Information about the United Nations, United Nations website. <https://www.un.org/en/about-us>

The United Nations was created in 1945. Its unwavering commitment to advancing women’s rights began with the signing of the United Nations Charter in San Francisco, 1945. Article 1(3) of the Charter explicitly states one of the fundamental purposes of the United Nations:

“to promote and encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.”⁽⁴¹⁾ This commitment, enshrined in the UN Charter, has provided a solid foundation for subsequent efforts aimed at promoting women’s rights and promoting a spirit of gender equality on a global scale.

A year later, the United Nations Economic and Social Council (ECOSOC) was established⁽⁴²⁾, whose mission is to achieve the three dimensions of sustainable development – economic, social and environmental. As part of his initial and core tasks, he requested the formation of a Commission on the Status of Women (CSW)⁽⁴³⁾ to promote women’s rights within the UN system. It was the first UN body to focus on women’s rights and served as a platform for discussions and initiatives on gender equality⁽⁴⁴⁾.

From its inception until 1962, the Commission’s primary priorities have been to advocate for women’s rights and promote gender equality. Their dedicated efforts have focused on developing international standards to correct discriminatory legislation. This

⁽⁴¹⁾ United Nations Charter, <https://www.un.org/en/about-us/un-charter/full-text>

⁽⁴²⁾ 1946: BIRTH OF THE COMMISSION ON THE STATUS OF WOMEN, A SHORT HISTORY OF THE COMMISSION ON THE STATUS OF WOMEN, UNW. New York, January 2019. <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2019/A-short-history-of-the-CSW-en.pdf>

⁽⁴³⁾ The committee on the elimination of discrimination against women is a body of independent experts responsible for monitoring the implementation by states parties of the convention on the elimination of all forms of discrimination against women. It plays a crucial role in the promotion and protection of women’s rights around the world. <https://www.ohchr.org/en/treaty-bodies/cedaw>

⁽⁴⁴⁾ Convention on the Elimination of All Forms of Discrimination against Women Twentieth Anniversary, 1979-1999, CEDAW Information Note 3 <https://www.un.org/womenwatch/daw/cedaw/cedaw20/history.htm>

critical work aims not only to address gender disparities, but also to increase global awareness of women's issues. Its concerns included combating gender-based violence, promoting women's political participation, promoting economic empowerment, ensuring access to quality education, and advocating for sexual and reproductive health and rights. Furthermore, the Committee stressed the importance of data collection and analysis in order to comprehensively assess the prevalence of gender discrimination in legal frameworks and real-world contexts⁽⁴⁵⁾.

The first International Women's Year, declared by the United Nations in 1975, was a pivotal event in the global women's rights movement. This historic year aims to raise awareness of women's issues, promote gender equality, and empower women around the world. It was the culmination of the World Conference in Mexico City, which brought together representatives from governments, NGOs and women's rights activists. This historic conference played a pivotal role in shaping the women's rights agenda through the adoption of the Global Plan of Action. This plan not only sets critical goals for achieving gender equality, but also proposes the creation of a comprehensive international treaty. This treaty laid the foundation for the Convention on the Elimination of All Forms of Discrimination against Women⁽⁴⁶⁾. The Commission proposed equality and development as two themes for this year, and the General Assembly added the theme of peace in recognition of women's increasing contribution to world peace⁽⁴⁷⁾. The first event of the International Women's Year was a critical catalyst in mobilizing international attention and support for women's rights. It marked

⁽⁴⁵⁾ 1946: BIRTH OF THE COMMISSION ON THE STATUS OF WOMEN, INTERGOVERNMENTAL SUPPORT DIVISION, UN WOMEN, New York, January, 2019.

⁽⁴⁶⁾ International Women's Year (1975), Schlesinger Library on the History of Women in America. https://guides.library.harvard.edu/schlesinger_IWY

⁽⁴⁷⁾ 1946: BIRTH OF THE COMMISSION ON THE STATUS OF WOMEN. PR.

a turning point in the global recognition of women's rights, paving the way for significant progress on gender equality.

A team was formed to participate in the drafting of the treaty from experts and diplomats from various countries. During the drafting process, the UN actively sought input and collaboration from women's rights activists, NGOs and women's groups, such as the International Women's Alliance (IAW), the Asia-Pacific Women's Rights Action Watch (AP) (IWRAW-), the Association for Women's Rights in Development (AWID), and the Women's International League for Peace and Freedom (WILP)⁽⁴⁸⁾. This cooperation ensured that the treaty reflected the needs and aspirations of the women's rights movement. The process of drafting the convention concluded in 1979 with the adoption by the United Nations General Assembly of the Convention on the Elimination of All Forms of Discrimination against Women. It was opened for signature in 1980 when the Convention entered into force in 1981, and ratified by a specified number of countries to meet the conditions required to become effective. The number of countries that ratified it at the time was 20. Once reached this stage, the Convention on the Elimination of All Forms of Discrimination against Women became legally binding for those 20 countries⁽⁴⁹⁾, and were considered parties to the Convention. They are Afghanistan, Denmark, Finland, France, Ghana, Guinea, Hungary, Iceland, Iraq, Italy, Japan, Libya, Malta, Mexico, Norway, Philippines, Senegal, Sweden. The United Kingdom and the United States⁽⁵⁰⁾.

⁽⁴⁸⁾ Convention on the elimination of all forms of discrimination against women, Times of signature and ratification and reservations of states to the Convention, UN website. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

⁽⁴⁹⁾ CEDAW Information Note 3 A Short History of the Convention, UN website, PR. <https://www.un.org/womenwatch/daw/cedaw/cedaw20/history.htm>

⁽⁵⁰⁾ Convention on the elimination of all forms of discrimination against women, Times of signature and ratification and reservations of states to the Convention, UN website. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

A set of pivotal global conferences were then held to set comprehensive agendas, serving as benchmarks to assess progress and challenges in the pursuit of gender equality and women's empowerment. Strengthening the commitment of the international community to these rights is one of the famous Fourth World Conference on the Beijing Declaration and Platform for Action, adopted in 1995, which sets a comprehensive global agenda for gender equality.

The platform proposed specific goals, this historic agreement led to significant progress by highlighting critical areas of work, and the Committee received 170 country reports that served as the basis for recommendations made at the Forum including women's participation in decision-making and the elimination of violence against women⁽⁵¹⁾. This conference called on women to demand their right to file complaints. This was one of the main achievements of the Committee, which was the development of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women on the right of women victims of discrimination to file petitions. In 1996, the Commission on the Status of Women established an open-ended working group that concluded its deliberations in 1999. This pivotal effort resulted in a resolution in 1999, when the General Assembly adopted, without objection, an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Which we will address in later stages of research.

In addition, there are many international laws that have cared about women, although they are not the central theme of the Convention, but inevitably have a part that protects their rights. An example, United Nations Security Council Resolution 1325, issued in 2000, deals with the impact of armed conflicts on women and emphasizes their crucial

⁽⁵¹⁾ Resolution 1 of the World Conference on women, held in Beijing from 4 to 15 September 1995, Beijing Declaration and platform for action. <http://hrlibrary.umn.edu/arabic/BeijingDeclPl.html>

role in peacebuilding. It is considered the starting point by talking about the specific challenges faced by women in conflict areas and the importance of involving them in peace processes⁽⁵²⁾.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol) of the United Nations Convention against Transnational Organized Crime focuses on combating human trafficking, with special attention to women and children, which is dedicated to providing a framework for addressing human rights violations related to human trafficking, especially as they affect vulnerable groups. The Inter-American Convention on the Prevention, Punishment and Elimination of Violence against Women (Convention of Belém do Pará), which was created in 1994, is a legal instrument binding on the member states of the Organization of American States (OAS), and plays a central role in protecting women's rights and combating all forms of violence against women in the Americas. It recognizes women's rights to live free from violence and provides a regional framework to address this issue⁽⁵⁴⁾. The European Convention on Human Rights prohibits discrimination on the basis of sex⁽⁵⁵⁾. ILO Convention, No. 100 on Equal Pay contributes⁽⁵⁶⁾. ILO Convention No. 183 on the

⁽⁵²⁾ Landmark resolution on Women, Peace and Security. UN website. OSAGI. <https://www.un.org/womenwatch/osagi/wps/>

⁽⁵³⁾ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000) https://www.unodc.org/documents/treaties/Special/2000_Protocol_to_Prevent_2C_Suppress_and_Punish_Trafficking_in_Persons.pdf

⁽⁵⁴⁾ American Convention on the prevention, eradication and punishment of violence against women, 1994, University of Minnesota, Human Rights library. <http://hrlibrary.umn.edu/arab/am6.html>

⁽⁵⁵⁾ Article 14 of the European Convention on Human Rights prohibits discrimination on any grounds related to other rights enshrined in the convention, including protection from discrimination on the basis of sex or gender. For information on the European Convention on Human Rights on discrimination, the following website can be checked: <https://www.coe.int/en/web/gender-matters/european-convention-on-human-rights>

⁽⁵⁶⁾ Equal Remuneration Convention, 1951 (No. 100), EU GSP. [https://gsphub.eu/conventions/Equal%20Remuneration%20Convention,%201951%20\(No.%20100\)](https://gsphub.eu/conventions/Equal%20Remuneration%20Convention,%201951%20(No.%20100))

Protection of Maternity, in achieving gender equality in work and employment worldwide⁽⁵⁷⁾.

2.1 Convention in the Elimination of all Forms of Discrimination Against Women:

2.1.1 Definition of the Convention and its Subsidiary Committee

The Convention on the Elimination of All Forms of Discrimination against Women is a United Nations treaty adopted in 1979⁽⁵⁸⁾. Entered into force in 1981⁽⁵⁹⁾. At present, it has 186 member states and 98 signatories to the Convention on the Elimination of All Forms of Discrimination against Women. Which makes it the second most ratified convention, after the Convention on the Rights of the Child⁽⁶⁰⁾. It is often described as the International Bill of Women’s Rights. The primary objective of the Convention is to end the discrimination faced by women in their pursuit of civil, political, economic and cultural rights. The Convention on the Elimination of All Forms of Discrimination against Women establishes a comprehensive framework to address discrimination against women in all its forms, in addition to addressing women's rights and promoting gender equality in all aspects of life. The CEDAW Convention contains thirty articles. In its preamble, it acknowledges that “widespread discrimination against women persists,” and asserts that such discrimination “violates the principles of equal rights and respect for human dignity.”

By ratifying this Convention, States have legally committed themselves to “condemning all manifestations of discrimination against women” and to “effectively and

⁽⁵⁷⁾ C183 - Maternity Protection Convention, 2000 (No. 183) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C183./Document

⁽⁵⁸⁾ Convention on the elimination of all forms of discrimination against women, official website of the United Nation. <https://www.ohchr.org/ar/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

⁽⁵⁹⁾ Convention on the elimination of all forms of discrimination against women, PR.

⁽⁶⁰⁾ Convention on the elimination of all forms of discrimination against women, PR.

expeditiously implement measures to eliminate discrimination against women through the use of appropriate means⁽⁶¹⁾. The persistence of discrimination against women and their right to legal equality are key elements of the Women's Convention.

To ensure adherence to the CEDAW Convention, the Convention established the Committee on the Elimination of Discrimination against Women, which is responsible for monitoring the progress of the Convention. The main task of this Committee is to consider the reports submitted by States parties within one year of their ratification or accession to the Convention, and thereafter every four years in accordance with article 18 of the Convention. The Committee, which is composed of twenty-three independent experts, regularly evaluates reports submitted by individual States, detailing measures taken to implement the provisions of the Convention. Issuing general recommendations for the effective implementation of the Convention, considering individual complaints, conducting investigations into serious rights violations, and actively engaging with civil society organizations to advocate for gender equality on the international scene⁽⁶²⁾.

The Committee's critical role in holding States accountable for their commitments to eliminate discrimination against women and promote gender equality is evident through its comprehensive monitoring processes, which include assessing State reports, providing guidance, addressing violations, and ultimately shaping national policies and promoting progress in safeguarding women's rights. States parties to the CEDAW Convention are also obliged to uphold these rights through the enactment and implementation of national laws and policies. Within one year of signing the

⁽⁶¹⁾ Gilchrist, H. (2001) 'The Optional Protocol to the Women's Convention: An argument for ratification', *Columbia Journal of Transnational Law*, 39 (3), pp. 763-84. <https://heinonline-org.ezaccess.libraries.psu.edu/HOL/Page?lname=Gilchrist&handle=hein.journals/cjtl39&collection=&page=763&collection=journals>

⁽⁶²⁾ Tasks of the CEDAW Commission, the official website of the United Nations. <https://www.ohchr.org/ar/instruments-mechanisms/instruments/convention-elimination-all-formsdiscrimination-against-women>

Convention, a State must report to the Committee on its efforts to achieve the objectives of the Convention. After that, a country report must be submitted once every four years⁽⁶³⁾.

2.2 Basic Principles of the Convention on the Elimination of all Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination against Women is based on a set of basic principles that guide its mission, including:

2.2.1 The Principle of Non-Discrimination

The dictionary of language shows the meaning of discrimination, which means "the difference between the two things" and the distinction of the thing means "isolating or separated from others" and it is explained here that the purpose of the convention is not to use acts that discriminate between men from women, and exclude women while not affecting men. It is worth mentioning that the definition of discrimination contained in the Convention in Article 1, defines discrimination as the exclusion of women, and when referring to the language lexion, we see the definition of exclusion means "abolition" and its origin after any "after, or after, from. And it means setting the distance or gap." Here, as women's rights are part of human rights, we see when we look at the preamble to the Universal Declaration of Human Rights, which explicitly recognizes the inherent dignity of all members of the human family and their equal and inalienable rights, is the basis of freedom, justice and peace in the world. Non-discrimination and equality between women and men are fundamental to the International Covenant on Civil and Political Rights and the International Covenant on

⁽⁶³⁾ Charlesworth, H. (1999). Feminist methods in international law. *The American Journal of International Law*, 93(2), 379-394. Retrieved from <https://ezaccess.libraries.psu.edu/login?url=https://www.proquest.com/scholarly-journals/feminist-methods-international-law/docview/201124395/se-2>

Economic, Social and Cultural Rights, which prohibit discrimination on the basis of sex⁽⁶⁴⁾.

The Convention on the Elimination of All Forms of Discrimination against Women attaches the utmost importance to the elimination of all forms of discrimination against women. It provides a comprehensive definition of “discrimination against women”, similar to the definition of “discrimination” contained in the International Convention on the Elimination of All Forms of Racial Discrimination. In Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women, “discrimination against women” includes acts that discriminate between women and men, exclude women while not similarly affecting men, or impose restrictions on women’s rights, different from men. Discrimination can manifest in differential treatment, explicitly rooted in sex (direct discrimination), or in cases of ostensibly identical treatment that ultimately limit women’s rights (indirect discrimination). The basic criterion of discrimination under Article 1 is that preferential treatment must lead to the weakening or nullification of women’s rights, which adversely affects women’s human rights and fundamental freedoms⁽⁶⁵⁾.

In this regard, any action that impedes, excludes or imposes restrictions on the basis of sex with the intent or effect of impeding the recognition, enjoyment or exercise by women of human rights, regardless of their marital status, in the pursuit of gender equality and fundamental freedoms in various fields (whether political, economic,

⁽⁶⁴⁾ Preamble to the Dulce Covenant on civil and political rights, University of Minnesota, Human Rights library. <http://hrlibrary.umn.edu/arab/b003.html>

⁽⁶⁵⁾ General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010. Advocates for Justice and Human Rights. <https://www.icj.org/sogijurisprudence/general-recommendation-no-28-on-the-core-obligations-of-states-parties-under-article-2-of-the-convention-on-the-elimination-of-all-forms-of-discrimination-against-women-cedawcg28-16-december-20/>

social, cultural, civil or other) constitutes discrimination under the Convention on the Elimination of All Forms of Discrimination against Women. Discrimination should clearly erode women's rights, suggesting a detrimental impact on these rights. Activities, practices or policies that promote women's rights and freedoms do not fall within the scope of discrimination under the Convention⁽⁶⁶⁾.

The understanding of discrimination under the Convention on the Elimination of All Forms of Discrimination against Women extends far beyond the rights explicitly enshrined in the Convention itself. It includes rights recognized in other international treaties, such as the right to life⁽⁶⁷⁾ and a fair trial⁽⁶⁸⁾. The Committee interprets the spirit of the Convention on the Elimination of All Forms of Discrimination against Women as including rights not explicitly defined in the Convention but necessary to promote gender equality, and any violation of these rights can be considered a form of discrimination⁽⁶⁹⁾.

The Committee's clarification of practices not explicitly addressed in the Convention on the Elimination of All Forms of Discrimination against Women, such as gender-based violence and barriers to women's health and sexual rights, as forms of discrimination,

⁽⁶⁶⁾ Simon Cusack, and lizabozzi. Convention on the elimination of all forms of discrimination against women and the right to non-discrimination and equality, Melbourne Journal of international law, Vol.14. <file:///C:/Users/N/OneDrive/Desktop/%D8%B3%D9%8A%D8%AF%D8%A7%D9%88%20%D9%88%D8%A7%D9%84%D8%AD%D9%82%20%D9%81%D9%8A%20%D8%B9%D8%AF%D9%85%20%D8%A7%D9%84%D8%AA%D9%85%D9%8A%D9%8A%D8%B2%20%D9%85%D9%87%D9%85/%D8%A7%D8%AA%D9%81%D8%A7%D9%82%D9%8A%D8%A9%20%D8%B3%D9%8A%D8%AF%D8%A7%D9%88%20%D9%88%D8%A7%D9%84%D8%AD%D9%82%20%D9%81%D9%8A%20%D8%B9%D8%AF%D9%85%20%D8%A7%D9%84%D8%AA%D9%85%D9%8A%D9%8A%D8%B2%20%D9%88%D8%A7%D9%84%D9%85%D8%B3%D8%A7%D9%88%D8%A7%D8%A9.pdf>

⁽⁶⁷⁾ International Covenant on civil and political rights; See also General Recommendation No. 19, United Nations document. Article 6.1.

⁽⁶⁸⁾ See for example Article 14 of the International Covenant on civil and political rights.

⁽⁶⁹⁾ General Recommendation No. 28, United Nations document. The committee appears to be downplaying other fundamental rights within the convention on the elimination of all forms of discrimination against women, because they are covered in the message of the convention on the elimination of all forms of discrimination against women, in particular Articles 2 and 3 .

provides a critical clarification of what constitutes discriminatory treatment under the Convention.

For example, in general recommendation No. 19, the Committee identifies gender-based violence as a form of discrimination, and sets out the obligations of States to eliminate such violence, including acts committed by non-State entities. In general recommendation 24, the Committee emphasizes the criminalization and neglect of gender-specific health care as obstacles to women's well-being and the expression of gender-based discrimination. These interpretations provided by the Committee have contributed significantly to the discrimination of what constitutes discrimination under the Convention on the Elimination of All Forms of Discrimination against Women.

2.2.2 The Principle of Equality

The main requirement in the Convention, which is explained in the title of the Convention, which is equality and non-discrimination against women, comes to clarify the meaning of equality in the language dictionary "by making things at one level", and it also means "without preferring anyone over others" and comes from the word except that "making them equal and equal". Women's human rights treaties guarantee equality with men and this right is covered by the two covenants. Article 26 of the International Covenant on Civil and Political Rights states: "All people are equal before the law and have without any discrimination an equal right to enjoy its protection. In this regard, the law must prohibit any discrimination and ensure to all persons alike effective protection against discrimination on any grounds, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property or birth, or other

status⁽⁷⁰⁾.” Although the Convention does not explicitly provide a definition of the concept of equality, a thorough examination of its provisions reveals the fundamental existence of various equality theories, including formal equality⁽⁷¹⁾, substantive equality⁽⁷²⁾, and transformative equality⁽⁷³⁾.

The Committee on the Elimination of Discrimination against Women has been tasked with determining the content and effects of the right to equality as guaranteed by the Convention on the Elimination of All Forms of Discrimination against Women, and its interaction with the substantive provisions of the Convention. The Committee, in particular in General Recommendation No. 25 on temporary special measures⁽⁷⁴⁾ and General Recommendation No. 28 on State obligations⁽⁷⁵⁾, adopted an expanded interpretation of the right to equality. It addresses every aspect of equality covered by the Convention on the Elimination of All Forms of Discrimination against Women.

Formal equality, as provided for in the Convention on the Elimination of All Forms of Discrimination against Women, imposes on States parties a “formal legal obligation to treat women and men equally.” It affirms the fundamental principle that women and

⁽⁷⁰⁾ International Covenant on civil and political rights.PR.

⁽⁷¹⁾ Formal equality: also known as legal equality, is a concept that emphasizes equal treatment under the law without considering the underlying societal or structural factors that may lead to inequality. In a formal equality framework, individuals are treated equally without addressing the systemic inequalities or historical context that may contribute to inequality. <https://edeq.stanford.edu/sections/section-2-conceptions-equality-opportunity/formal-equality-opportunity>

⁽⁷²⁾ substantive equality: recognition that different individuals or groups may need different treatment to achieve true equality. The focus is on achieving equal results and addressing the root causes of inequality, rather than just ensuring equal treatment . <https://cedaw.iwraw-ap.org/cedaw/cedaw-principles/cedaw-principles-overview/substantive-equality/>

⁽⁷³⁾ Transformational equality: transformational equality takes the concept of substantive equality even further by seeking to change societal norms, institutions and power structures to eliminate discrimination and achieve lasting equality. It seeks to change the basic structures of society that perpetuate discrimination, often challenging power dynamics and traditional norms. <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRPD/GC/Equality/OxfordHumanRightsHub.doc>

⁽⁷⁴⁾ Committee on the elimination of discrimination against women, forty-eighth session. <https://www.refworld.org/docid/453882a7e0.html>

⁽⁷⁵⁾ Convention on the Elimination of All Forms of Discrimination against Women , 16 December 2010 <https://www.refworld.org/docid/4d467ea72.html>

men should be treated equally under the law. The concept of equality is echoed in many articles of the Convention on the Elimination of All Forms of Discrimination against Women, focusing primarily on the essence of laws and practices and their impartial enforcement. For example, Article 7(a) obliges States Parties to take measures to ensure that women have equal voting rights with men⁽⁷⁶⁾, Article 9 obliges women to ensure equal rights with regard to nationality⁽⁷⁷⁾. The Convention emphasizes that the advancement of the status of women requires addressing the underlying causes and factors of discrimination and inequality.

The Convention on the Elimination of All Forms of Discrimination against Women also places a strong emphasis on achieving substantive (de facto) equality between women and men. This focus is particularly reflected in Articles 3 and 4 of the Convention. Article 3 obliges States parties to take all necessary measures to ensure the full development and advancement of women⁽⁷⁸⁾, enabling them to enjoy the rights enshrined in the Convention on the Elimination of All Forms of Discrimination against Women. Similarly, Article 4 requires states to take positive action to accelerate gender equality. To ensure that women do not face systemic disadvantages that hinder their progress. This requires achieving equality of outcomes and addressing biological, social and cultural differences between women and men, recognizing that similar treatment may not be sufficient to overcome these differences⁽⁷⁹⁾.

The principle of substantive equality, as adopted by the Committee on the Elimination of Discrimination against Women, also requires addressing the root causes and

⁽⁷⁶⁾ See Article 7 of the CEDAW convention.

⁽⁷⁷⁾ See Article 9 of the CEDAW convention.

⁽⁷⁸⁾ See Article 3 of the CEDAW convention.

⁽⁷⁹⁾ See Article 4 of the CEDAW convention.

structures of gender inequality. This includes measures to transform institutions, systems and structures that perpetuate discrimination. States are encouraged to implement strategies that redistribute power and resources between women and men⁽⁸⁰⁾.

Finally, the principle of transformative equality is an essential role in the various provisions of the Convention on the Elimination of All Forms of Discrimination against Women. Notable examples include Articles 2(f) and 5, which collectively authorize States Parties to address gender relations and the continued prevalence of gender-based stereotypes⁽⁸¹⁾. The Committee on the Elimination of Discrimination against Women presented an outstanding perspective on the concept of transformative equality, which can be classified into two interrelated areas of obligations.

The first category focuses on the transformation of institutions, systems, and structures that cause or perpetuate discrimination and gender inequality. The Committee recommends that States parties adopt effective strategies geared towards the redistribution of power and resources between women and men. The second category of obligations relates to the modification or conversion of harmful rules, prejudices, and stereotypes. States Parties are called upon to eliminate these negative prejudices that undermine women's rights. By doing so, it creates an environment conducive to women to exercise their autonomy, take care of their personal abilities, and pursue their interests without unnecessary obstacles. In this way, the Convention's approach emphasizes the need to address not only structural inequalities, but also deeply

⁽⁸⁰⁾ General recommendations, made by the Committee on the Elimination of Discrimination against Women. <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

⁽⁸¹⁾ See Article 2 and 5 of the CEDAW convention.

engrained cultural and social prejudices, thus ensuring the overall advancement of women's rights⁽⁸²⁾.

2.2.3 The Intersectional Principle

The Convention on the Elimination of All Forms of Discrimination against Women implicitly recognizes the principle of intersection in several ways, although it does not use the term “junction” persons⁽⁸³⁾. The intersection refers to the idea that individuals' experiences of discrimination and deprivation result from the interaction of multiple factors, including gender, race, class, disability, sexual orientation, and other characteristics. Cross-sectionality is a concept

first coined by Professor Kimberly Crinshaw in an article he published in 1989 eight years after the adoption of the Convention on the Elimination of All Forms of Discrimination against Women⁽⁸⁴⁾.

For Crinshaw, intersectionality is an approach that recognizes that not all women are equally disadvantaged, but some by virtue of their innate identities bear greater burdens than others. In her groundbreaking article “Removing the Marginalization of Intersectionals of Race and Gender: A Black Issue” “Feminist Criticism of Anti-Discriminatory Doctrine, Feminist Theory and Anti-Racism Policies,” Crinshaw explained the unique experience of black women, particularly in the American context. It found a “one-axis analysis” or the idea that women are women and nothing more as

⁽⁸²⁾ General recommendations made by the Committee on the Elimination of Discrimination against Women, UNW. <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

⁽⁸³⁾ Look at the decision of the Supreme Court of India on August 13, 1997 in the case of Vishaka v. State of Rajasthan.

⁽⁸⁴⁾ Crenshaw, “de-marginalizing the intersection of race and gender: a black feminist critique of anti-discrimination doctrine”. Feminist theory and anti-racist politics. P. 57.

limited and flawed in nature. Instead, I wrote about the “multidimensional” of the black experience⁽⁸⁵⁾.

But the Committee on the Elimination of Discrimination against Women recognizes that women can face multiple and intersecting forms of discrimination on the basis of gender, despite severe obstacles to their work, limited resources, and uneven and changing focus. In General Recommendation No. 28 of 2010. Which speaks on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. Emphasizes that States parties should consider the intersectional forms of discrimination faced by women, taking into account the plurality of identities and characteristics, including sex, race, ethnicity, age and other grounds. States are encouraged to adopt measures that address these cross-cutting factors in their efforts to eliminate discrimination against women. This supports that women belong to diverse racial, ethnic, cultural, religious and socio-economic groups. These cross-identities can lead to unique experiences and challenges. The Convention recognizes that discrimination against women may take different forms on the basis of these identities.

The Convention also addresses various areas where women may be discriminated against, including in the political, economic, social and cultural spheres. The Convention thus recognizes that women’s experiences can be shaped by a combination of factors, and that these factors may vary greatly from woman to woman.

2.2.4 The Principle of Participation and Representation

The principle of participation and representation is truly fundamental to the objectives of the Convention on the Elimination of All Forms of Discrimination against Women.

⁽⁸⁵⁾ Previous reference P. 140.

This principle stresses the importance of women's active participation in decision-making processes and their representation at all levels of society. The main reason for the principle of participation is to promote gender equality, it is necessary to ensure that women's voices are heard and have a say in the shaping of policies and laws that affect their lives. The principle of participation and representation supports this goal by calling for the active participation of women in the political, economic and social spheres.

The opinion of Ruth Rubio, a professor of transnational governance at the European University Institute, in her book, *Universal Constitutionalism of the Gender and Women's Citizenship*, expresses a special vision that historically, since the birth of modern constitutionalism i.e. "written constitutionalism" we have standards that are supposed to be "massive norms" and legal structures, formulated by men, and interpreted by men on the assumption of a certain gender system. Therefore, it has been somehow entrenched in the constitutional structure since its inception⁽⁸⁶⁾.

Legal theorist Robert Cover has supported this view that the domestic law of any state, and its legislation, as defined, intellectual ideas and their transformation, is a key "container" at present for how it has evolved and how it actually creates what he called the *Provide for jurisprudential societies*, with a certain interpretative obligation (including the development and practice of the law as an obligation (or resistance) of the state to minority rights, whether based on gender or otherwise. At present, this is especially important because the law is the central location for participation in the

⁽⁸⁶⁾ TRANSCRIPT: Dr. Ruth Rubio Marín: Gendered Constitutionalism, The Oxford Human Rights Hub. <https://ohrh.law.ox.ac.uk/gendered-constitutionalism/>

political exclusion of women, as well as for feminist arguments and claims against such exclusion⁽⁸⁷⁾.

In conclusion, participation and representation enable women to control their lives and contribute to the development of their communities. When women actively participate in decision-making processes, they can defend their rights, needs and concerns. This empowerment helps challenge and change discriminatory practices and stereotypes that perpetuate gender inequality.

2.2.5 The Principle of Universality

The principle of universality in international law means that a treaty or convention applies to all states, regardless of their size, strength, or territorial affiliation. It reflects the idea that some fundamental human rights are inherent and should be universally respected and protected. The Convention on the Elimination of All Forms of Discrimination against Women has worked on the principle of universality⁽⁸⁸⁾.

The principle of universality in the Convention on the Elimination of All Forms of Discrimination against Women reflects a fundamental belief in the equality of all human beings, regardless of gender. It recognizes that gender-based discrimination is a global issue that affects women and girls in different societies and cultures. Through a global approach, the Committee on the Elimination of Discrimination against Women reinforces the idea that women's rights are human rights, and encourages all States to work towards gender equality and the elimination of discrimination against women.

⁽⁸⁷⁾ Robert M. Kafr (1983) " introduction: Nomos and narrative: the Supreme Court term of 1982 " Harvard Law Review, Vol.97, No. 4 - 68. <https://websebscohostcom.ezaccess.libraries.psu.edu/ehost/pdfviewer/pdfviewer?vid=0&sid=09173a02-227b-4a12-abbc-381c1f1b59ce%40redis>

⁽⁸⁸⁾ Human rights, the official website of the United Nations. <https://www.un.org/ar/sections/issues-depth/human-rights/index.html>

The reason for the inclusion of the principle of universality in the Convention on the Elimination of All Forms of Discrimination against Women is to create a global framework to address discrimination and inequality on the basis of gender. Discrimination against women is not limited to certain regions or countries; it exists all over the world. By making the Convention on the Elimination of All Forms of Discrimination against Women a universal convention, it sends a strong message that discrimination against women is unacceptable everywhere and that all States should take action to eliminate it. This helps to create a common standard and a shared commitment to women's rights throughout the international community⁽⁸⁹⁾.

On the other hand, this principle reinforces the commitment of states in the realization of women's rights. It is worth mentioning that any State that becomes a party to the Convention on the Elimination of All Forms of Discrimination against Women is committed to taking measures to eliminate discrimination against women in all spheres of life. This includes enacting laws, implementing policies and taking other actions to address gender-based discrimination and promoting gender equality.

2.2.6 Women's Rights as an Integral Component of Universal Human Rights

The CEDAW Convention has integrated women's rights into the broader human rights framework. The preamble to the Convention on the Elimination of All Forms of Discrimination against Women explicitly links women's rights to human rights. It emphasizes that discrimination against women is an obstacle to the full enjoyment of

⁽⁸⁹⁾ Shimonovich, D. (Chairperson of the Committee on the Elimination of Discrimination Against Women, -2007 to 2008). Convention on the Elimination of All Forms of Discrimination Against Women. United Nations website. https://legal.un.org/avl/pdf/ha/cedaw/cedaw_a.pdf

human rights and fundamental freedoms, and stresses the importance of promoting and protecting women's rights as an integral part of universal human rights⁽⁹⁰⁾.

To be sure, the International Court of Justice and various regional courts have played key roles in addressing issues related to women's rights and gender-based discrimination, reinforcing the idea that these violations are in fact violations of international human rights law.

An example of this is the case of application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro): Although this case of the International Court of Justice did not directly focus on women's rights, it dealt with genocide during the Bosnian War, which included widespread sexual violence against women. The ruling of the International Court of Justice recognized that acts of sexual violence can constitute acts of genocide under international law, reinforcing the principle that women's rights are an integral part of human rights. In 1995, the Beijing Declaration and Platform for Action also reinforced the idea that women's rights are human rights. He called for the elimination of all forms of discrimination and violence against women and considered that women's rights are fundamental⁽⁹¹⁾. Taken together, these principles form the basis of the mission of the Convention on the Elimination of All Forms of Discrimination against Women to promote gender equality, protect women's rights, ensure equal opportunities and recognition of women in society.

Which is understood through the texts of the articles of the Convention which include political participation, access to education, protection from discrimination in the

⁽⁹⁰⁾ Access to the preamble to the convention on the elimination of all forms of discrimination against women.

⁽⁹¹⁾ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro). INTERNATIONAL COURT OF JUSTICE. <https://www.icj-cij.org/case/91>

workplace, access to health care, nationality rights, equality in marriage and family, safeguards against discrimination and violence, economic and social rights, legal rights, and freedom of movement. These rights are enshrined in various articles of the Convention, and aim to eliminate gender-based discrimination⁽⁹²⁾.

2.3 The Most Important Rights Contained in the Convention on the Elimination of All Forms of Discrimination Against Women.

The embodiment of the CEDAW Convention, contained in various articles, which gave a comprehensive commitment to eliminate gender-based discrimination and promote gender equality, where the concept of discrimination is comprehensively clarified in Article 1⁽⁹³⁾, which includes any act of discrimination, exclusion or restriction on the basis of sex that intentionally or unintentionally impairs or nullifies the recognition, realization or exercise of women's fundamental human rights. This applies to all women, regardless of their marital status, and upholds the principles of gender equality and fundamental freedoms in various fields, including the political, economic, social, cultural, civil sphere, or any other field.

The definition also includes indirect discrimination, and condemns these practices even when their discriminatory effect is not the primary intent. More importantly, Article 1 provides for the elimination of discrimination by bodies in both the public and private sectors, requiring a thorough study of both the purposes and consequences of possible discriminatory actions. The integration of private institutions into the Women's Convention is critical, as discrimination often prevails in private spheres. This provision obliges States parties to combat discrimination committed by individuals, recognizing

⁽⁹²⁾ Access to the convention on the elimination of all forms of discrimination against women.

⁽⁹³⁾ See Article 1 of the convention on the elimination of all forms of discrimination against women.

that women are often subjected to discrimination or violence at the hands of individuals⁽⁹⁴⁾.

The Committee on the Convention on the Elimination of All Forms of Discrimination against Women has also described repressive practices against women that are not explicitly addressed in the Convention as forms of discrimination, covered by article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. For example, in its general recommendation No. 19, the Committee described gender-based violence as a form of discrimination against women and clarified the obligations of States parties towards the elimination of such violence, including by non-State actors. In another example, in its general recommendation No. 24, the Committee described the criminalization and neglect of health care that only women need as barriers to their health and gender/gender. The Committee's characterization of these practices as forms of discrimination has helped to clarify differences in treatment that constitutes discrimination under the Convention on the Elimination of All Forms of Discrimination against Women⁽⁹⁵⁾.

2.3.1 Effective Measures

Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women constitutes a core provision mandated by States to take effective measures to eliminate discrimination against women⁽⁹⁶⁾.

It sets out the binding obligations of States Parties to the Convention. In addition, the general recommendation of the Committee on the Elimination of Discrimination against

⁽⁹⁴⁾ Internationalizing Women's Struggle against Discrimination: The UN Women's Convention and the Optional Protocol, Kwong-leung Tang, *The British Journal of Social Work*, Vol. 34, No. 8 (DECEMBER 2004).P 3. <https://www.jstor.org/stable/23720537>

⁽⁹⁵⁾ General Recommendation No. 19 (tenth session, 1992) .Violence against women, UN document. <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

⁽⁹⁶⁾ See Article 2 of the convention on the elimination of all forms of discrimination against women.

Women, specifically General Recommendation No. 28 (2010), provides a comprehensive framework for the practical implementation of Article 2. The general recommendation emphasizes that discrimination against women often intersects with other forms of discrimination based on factors such as race, ethnicity, social class, disability or sexual orientation. Thus, States are encouraged to recognize and address the multifaceted and cross-cutting nature of discrimination to which women are subjected⁽⁹⁷⁾.

States are also responsible for combating stereotypes and harmful practices that perpetuate discrimination. This includes challenging traditional gender roles and norms that not only limit women's opportunities, but also promote unequal power dynamics. One of the main points of contact for general recommendation No. 28 is the importance of reviewing and amending legislation to ensure its consistency with the core principles of the Convention on the Elimination of All Forms of Discrimination against Women. It encourages the removal of discriminatory laws and regulations while calling for the adoption of new laws enavocating gender equality⁽⁹⁸⁾.

The recommendation strongly affirms that the obligations of the Convention on the Elimination of All Forms of Discrimination against Women extend far beyond the public domain to the private sphere, and include aspects such as the family, marriage and relationships.

States are expected to adopt measures to eliminate discrimination and promote equality in all aspects of women's lives. The imperative role of temporary special measures, such as affirmative action, is reaffirmed. These measures, which may include the

⁽⁹⁷⁾ General Recommendation No. 28 of 2010. Previous reference.

⁽⁹⁸⁾ General Recommendation No. 28 of 2010. Previous reference.

implementation of quotas or targeted programmes, are useful in accelerating gender equality, particularly in areas where women are underrepresented⁽⁹⁹⁾.

One of the highlights of General Recommendation No. 28 is a focus on data collection and analysis with a focus on gender distribution. This approach is necessary to assess the impact of policies and programs on women. States are encouraged to report regularly to the Committee on the Elimination of Discrimination against Women, a practice that allows for continuous monitoring of progress and the identification of challenges faced in the ongoing journey towards the elimination of discrimination against women⁽¹⁰⁰⁾.

2.3.2 Development and Advancement of Women

Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women obliges States to take all necessary measures to ensure the full development and advancement of women, with the ultimate aim of realizing the human rights and fundamental freedoms of women, thereby reaffirming the overall commitment to gender equality⁽¹⁰¹⁾.

In 2004, the Committee on the Elimination of Discrimination against Women issued General Recommendation No. 25, which provides comprehensive guidance on the practical implementation of Article 3⁽¹⁰²⁾.

This directive includes several key elements, including proactively addressing stereotypes and challenging traditional gender roles that hinder women's opportunities and perpetuate asymmetric power dynamics. States are encouraged to take measures to

⁽⁹⁹⁾ General Recommendation No. 28 of 2010. Previous reference.

⁽¹⁰⁰⁾ General Recommendation No. 28 of 2010. Previous reference.

⁽¹⁰¹⁾ See Article 3 of the convention on the elimination of all forms of discrimination against women.

⁽¹⁰²⁾ The committee on the elimination of discrimination against women issued General Recommendation No. 25, United Nations website.

[https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)

ensure equal access to education and to remove gender-based barriers within educational systems, such as addressing disparities in literacy rates, enrolment, and attention to girls and women who are not educated.

In addition, General Recommendation No. 25 stresses the importance of promoting gender equality in employment, and urges States to eliminate discriminatory practices in the workplace and promote equal opportunities for women in various sectors and professions. States are also called upon to review and amend legislation to eliminate discriminatory laws and practices that impede the full development of women and their participation in economic, social and cultural life. The recommendation stresses the need for women to actively participate in political and public life, enhance their representation in decision-making roles and ensure that their voice is heard in the formulation and implementation of policies.

Furthermore, the recommendation acknowledges the value of temporary special measures, such as affirmative action in accelerating progress towards gender equality, which may include quotas or targeted programmes aimed at promoting women's participation, particularly in decision-making positions where they are underrepresented⁽¹⁰³⁾. This holistic approach ensures women's full enjoyment of human rights and fundamental freedoms, furthering the cause of gender equality.

2.3.3 Equal Rights in Marriage.

Article 5/a of the Women's Convention stresses the importance of ensuring equal rights and responsibilities between spouses in marriage, during marriage and at its dissolution.

Article 16/1 of the Women's Convention calls for equal rights and responsibilities between spouses, particularly in property relations, and states that both spouses should

⁽¹⁰³⁾ The committee on the elimination of discrimination against women issued General Recommendation No. 25. Previous reference.

have the same rights with respect to the ownership, possession, management, enjoyment and disposition of property, whether the property is jointly owned or owned by one spouse only⁽¹⁰⁴⁾.

International bodies have provided further clarification of these provisions. For example, in 1989, the Human Rights Committee affirmed that States have a “positive duty” to ensure equal rights between spouses and can use various measures, including legislative and administrative procedures⁽¹⁰⁵⁾. The Human Rights Committee’s general comment No. 28 in 2000 stressed that married women should have equal rights to own and manage property, and suggested that legislation be reviewed to achieve this. Equality during marriage involves the sharing of responsibilities and power within the family for both spouses⁽¹⁰⁶⁾. In 1994, the Committee on the Elimination of All Forms of Discrimination against Women, in its general recommendation No. 21, considered article 16, which discusses family relations, the division of labour and responsibilities, and their effects on gender equality⁽¹⁰⁷⁾.

2.3.4 Trafficking in Women.

Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women places a crucial responsibility on States to combat trafficking in women⁽¹⁰⁸⁾. General Recommendation No. 30 (2013) of the Committee on the Elimination of Discrimination against Women provides extensive guidance on the implementation of

⁽¹⁰⁴⁾ Hellum, A., & Sinding Aasen, H. (2013). *Women's Human Rights: CEDAW in International, Regional and National Law*. Cambridge University. p:242. https://books.google.ps/books?hl=ar&lr=&id=UANAAAAQBAJ&oi=fnd&pg=PR8&dq=CEDAW+&ots=DG6TPIMvU7&sig=hYAWEEazr0aZLrIxDR0TpTSlltrE&redir_esc=y#v=onepage&q&f=false

⁽¹⁰⁵⁾ Human rights council, general comment No. 18, non-discrimination, November 10, 1989, UN document. (Volume 1), Para. 5. <https://www.refworld.org/docid/453883fa8.html>

⁽¹⁰⁶⁾ Human rights council, general comment No. 28, equal rights of men and women (Article 3). Paragraph 25. <https://www.refworld.org/pdfid/45139c9b4.pdf>

⁽¹⁰⁷⁾ In 1994, the committee on the elimination of all forms of discrimination against women, in its General Recommendation No. 21, examined Article 16. https://www2.ohchr.org/english/bodies/cedaw/docs/comments/cedaw-c-52-wp-1_en.pdf

⁽¹⁰⁸⁾ See Article 6 of the convention on the elimination of all forms of discrimination against women.

this provision. The recommendation emphasizes a multifaceted approach, with a particular focus on women. It also stresses the importance of preventive measures to address trafficking by addressing root causes such as poverty and gender-based discrimination, making women vulnerable to trafficking.

In addition, the recommendation emphasizes strong protection for victims of trafficking, including access to health care, legal aid and advice. Prosecuting traffickers is a key element, encouraging states to define and criminalize trafficking in line with international standards.

The recommendation also highlights the importance of international cooperation and data collection, and stresses the need to integrate efforts to combat human trafficking into other relevant international instruments. In essence, Article 6, guided by General Recommendation No. 30, involves a comprehensive strategy to combat trafficking in women, encompassing prevention, victim protection, prosecution, international cooperation, and data monitoring, with women's particular vulnerabilities at the forefront of these efforts⁽¹⁰⁹⁾.

General Recommendation No. 30 affirms that the obligation under Article 6 is not limited to criminalizing trafficking, but requires a holistic approach that addresses prevention, victim support, prosecution and international cooperation in the fight against trafficking, with a particular focus on women most at risk. This comprehensive strategy ensures that States fulfil their obligation to effectively suppress trafficking in women and in line with international standards⁽¹¹⁰⁾.

⁽¹⁰⁹⁾ General Recommendation No. 30 (2013) of the committee on the elimination of discrimination against Women, UN WOMEN website, New York 2015. <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2015/Guidebook-CEDAW-General-Recommendation-30-Women-Peace-Security-en.pdf>

⁽¹¹⁰⁾ General Recommendation No. 30 (2013) of the committee on the elimination of discrimination against Women. Previous reference.

2.3.5 The Role of Women in Decision-making

Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women is a crucial provision that focuses on women's right to vote and participate in governmental and non-governmental organizations⁽¹¹¹⁾.

General Recommendation No. 23 (1997) of the Committee on the Elimination of Discrimination against Women provides comprehensive guidance on the implementation of this article⁽¹¹²⁾. The recommendation emphasizes the removal of barriers to women's political participation and emphasizes the importance of enhancing their representation in decision-making roles.

General Recommendation No. 23 emphasizes the critical nature of women's participation in politics and in decision-making processes, both in governmental and non-governmental spheres. It highlights the need for States to act proactively to remove discriminatory legal practices, norms and obstacles that impede women's full participation in public and political life.

This includes reviewing electoral laws, addressing gender-based violence in politics, and creating an enabling environment that promotes women's participation. Furthermore, the recommendation calls for positive measures to accelerate gender equality in political representation, including temporary special measures such as quotas. He emphasizes that women's equal participation in governance and leadership positions is not only a matter of justice, but also essential for the development and advancement of societies. In essence, Article 7, as guided by General Recommendation No. 23, defends women's rights to vote and participate in governance, and calls for the

⁽¹¹¹⁾ See Article 7 of the convention on the elimination of all forms of discrimination against women.

⁽¹¹²⁾ General Recommendation No. 23 (1997) of the committee on the elimination of discrimination against Women, United Nations library.

https://www.eods.eu/library/UN_International%20Convention%20on%20the%20Elimination%20of%20Racial%20Discrimination_General%20recommendation%2023_1997_EN.pdf

removal of barriers to their political participation and the strengthening of their representation in decision-making roles, ultimately contributing to increased gender equality in public life⁽¹¹³⁾.

2.3.6 Women's Nationality Rights

Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women is an important provision that focuses on ensuring that women have equal rights with men with regard to nationality⁽¹¹⁴⁾. General Recommendation No. 32 (2014) of the Committee on the Elimination of Discrimination against Women provides comprehensive guidance on the implementation of this article. The recommendation underlines the critical importance of ensuring women's rights to nationality, regardless of their marital status⁽¹¹⁵⁾.

General Recommendation No. 32 highlights the principle that women should have equal rights with men when it comes to acquiring, changing or retaining their nationality. It stresses the need for states to reform any discriminatory nationality laws that may exist, and to ensure that their legislation is consistent with the principles of gender equality and non-discrimination. This includes addressing issues related to nationality and marriage, where a woman must not lose her nationality or face challenges in obtaining the nationality of her partner on the basis of her gender alone.

The recommendation also stresses the importance of ensuring that children do not become stateless due to discriminatory nationality laws. In essence, Article 9, guided by General Recommendation No. 32, calls for women's equal rights to nationality, regardless of their marital status, and stresses the need for States to address and reform

⁽¹¹³⁾ General Recommendation No. 23 (1997) of the committee on the elimination of discrimination against Women, Previous reference.

⁽¹¹⁴⁾ See Article 9 of the convention on the elimination of all forms of discrimination against women.

⁽¹¹⁵⁾ General Recommendation No. 32 (2014) of the committee on the elimination of discrimination against Women, United Nations library. file:///C:/Users/N/Downloads/CEDAW_C_GC_32_7559_E.pdf

any discriminatory laws in this regard, ensuring that women fully enjoy their rights to nationality⁽¹¹⁶⁾.

2.3.7 Pregnancy and Motherhood

Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women plays a crucial role in prohibiting discrimination in employment on the basis of sex, with a particular focus on addressing issues related to pregnancy and motherhood⁽¹¹⁷⁾.

General Recommendation No. 27 (2010) of the Committee on the Elimination of Discrimination against Women provides comprehensive guidance on the implementation of this article. The recommendation emphasizes that States must ensure equal pay for equal work and prioritize the protection of women's rights in the workplace⁽¹¹⁸⁾.

General Recommendation No. 27 emphasizes the need to develop and implement measures to prevent discrimination against women in employment, including issues related to employment, promotion and working conditions. The recommendation emphasizes the principle of equal pay for equal work, and highlights that women should receive the same pay as men for work of equal value.

Furthermore, it calls for measures to address the challenges faced by women during and after pregnancy, ensuring that maternity does not constitute an obstacle to their employment and career advancement. States are encouraged to adopt policies that protect women's rights, in particular with regard to maternity leave, breastfeeding leave,

⁽¹¹⁶⁾ General Recommendation No. 32 (2014) of the committee on the elimination of discrimination against Women. Previous reference.

⁽¹¹⁷⁾ See Article 11 of the convention on the elimination of all forms of discrimination against women.

⁽¹¹⁸⁾ General Recommendation No. 27 (2010) of the committee on the elimination of discrimination against Women, United Nations library.

<https://documents.un.org/doc/undoc/gen/g10/472/53/pdf/g1047253.pdf?token=zXDpoUeOWR1qTCOb14&fe=true>

and non-discrimination against women who choose to become mothers. In essence, Article 11, guided by General Recommendation No. 27, seeks to eliminate gender-based discrimination in the workplace, emphasizing the principle of equal pay, and protects women's rights during pregnancy and motherhood, ultimately advancing gender equality in employment⁽¹¹⁹⁾.

2.3.8 The Right of Health.

The right to health includes important principles such as accountability, non-discrimination, information and participation, which must be integrated into local health policies and regulations. This right is based on article 12 of the International Covenant on Economic.

Social and Cultural Rights and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women. These international agreements clarify the right to health and the obligations of States parties to respect this right⁽¹²⁰⁾.

Article 12 of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. It outlines steps that States should take to realize this right, such as reducing infant mortality, improving environmental and industrial hygiene, preventing and treating diseases, and ensuring access to medical services. While Article 12 does not directly mention women, it does indirectly refer to maternal health by addressing rates of perinatal death "which means a child who dies after 28 weeks of pregnancy,

⁽¹¹⁹⁾ General Recommendation No. 27 (2010) of the committee on the elimination of discrimination against Women. Previous reference.

⁽¹²⁰⁾ See Article 12 of the International Covenant on economic, social and cultural rights. Article 12 of the convention on the elimination of all forms of discrimination against women. Previous reference.

but before or during childbirth”⁽¹²¹⁾, infant mortality, child development, and the provision of medical services for “maternal diseases.”

Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women also focuses on women’s health. It obliges States parties to eliminate discrimination against women in health care, and to ensure equal access to health services, including family planning. She stresses that simply allowing abortion is not enough; a woman should be in a position to make a real choice regarding abortion.

These international treaties impose obligations on states, which include immediate core obligations to respect, protect, and fulfil the right to health. States must refrain from putting in place laws or policies that indirectly or directly deny women equal access to their human rights. This means that states are responsible for meeting women’s unique health needs, as highlighted in a situation where inadequate maternal health services in Brazil were considered a violation of the Convention on the Elimination of All Forms of Discrimination against Women.

2.3.9 Rural Women's Rights

Article 14 of the Convention on the Elimination of All Forms of Discrimination against Women focuses primarily on women’s rights related to rural areas. It should have equal rights with men in rural development, particularly in areas such as agriculture, access to health care, and access to education. The article calls for measures to ensure that rural women have the opportunity to participate in and benefit from rural development⁽¹²²⁾, thereby addressing the gender-based disparities that can exist in rural communities.

⁽¹²¹⁾ Definition of stillbirth, World Health Organization. https://www.who.int/ar/health-topics/stillbirth#tab=tab_1

⁽¹²²⁾ See Article 12 of the convention on the elimination of all forms of discrimination against women.

General Recommendation No. 34 (2016) of the Committee on the Elimination of Discrimination against Women focuses on the importance of the rights of rural women. It emphasizes the need for rural women to have access to basic resources, education and health care. This recommendation also calls on States to address the specific challenges faced by rural women, including issues related to land rights and the availability of health care services⁽¹²³⁾. UN General Assembly resolution 66/140 (2011) also recognized the pivotal role of rural women in agriculture and rural development. The resolution urges Member States to empower rural women by ensuring their access to productive resources, education and health care. It recognizes that rural women make an essential contribution to food security and economic development, and highlights the need to provide them with the opportunities and resources to thrive in these roles⁽¹²⁴⁾.

Commission on the Status of Women resolution 56/11 (2012) focuses on the empowerment of rural women, particularly in the context of poverty reduction and sustainable development. The resolution calls for the elimination of discrimination and violence against rural women and stresses the need to promote their economic and social rights. It recognizes the pervasive challenges faced by rural women and their crucial role in addressing global development issues⁽¹²⁵⁾.

2.3.10 The Procedural Rules of the Agreement.

The Convention on the Elimination of All Forms of Discrimination against Women includes a series of important articles that set a framework for its implementation.

⁽¹²³⁾ General Recommendation No. 34 (2016) of the committee on the elimination of discrimination against Women, United Nations library. [file:///C:/Users/N/Downloads/CEDAW_C_GC_34-EN%20\(1\).pdf](file:///C:/Users/N/Downloads/CEDAW_C_GC_34-EN%20(1).pdf)

⁽¹²⁴⁾ United Nations General Assembly resolution 66/140 (2011), United Nations library. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_66_140.pdf

⁽¹²⁵⁾ Commission on the status of women resolution 56/11 (2012) on the empowerment of Rural Women, United Nations library. file:///C:/Users/N/Downloads/E_2012_27--E_CN.6_2012_16-EN.pdf

Article 17 establishes the Committee on the Elimination of Discrimination against Women, which is responsible for reviewing and overseeing the progress made by States parties in the implementation of the Convention. This Committee shall be composed of experts elected by States Parties on the basis of their status and high moral competence, ensuring equitable geographical representation and diversity⁽¹²⁶⁾. Article 18 obliges States parties to report regularly to the Committee on measures taken to give effect to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, stressing the importance of transparency and accountability⁽¹²⁷⁾.

Article 19 empowers the Commission to set its rules and elect its officers, which facilitates the effective conduct of the review process⁽¹²⁸⁾. This article ensures that the Committee meets annually to evaluate the reports of States and make recommendations.

Furthermore, Article 21 provides that the Committee shall submit an annual report to the UN General Assembly highlighting its work and making proposals to promote gender equality and eliminate discrimination against women⁽¹²⁹⁾. In essence, these articles form the basic executive structure of the Convention on the Elimination of All Forms of Discrimination against Women, ensuring that States comply, report and accountable while advancing the global cause of gender equality.

Recent articles of the Convention on the Elimination of All Forms of Discrimination against Women set out several essential actions and provisions for the implementation of the treaty. Article 22 highlights the participation of United Nations specialized agencies, enabling them to send representatives to participate in discussions on the implementation of the Convention on the Elimination of All Forms of Discrimination

⁽¹²⁶⁾ See Article 17 of the convention on the elimination of all forms of discrimination against women.

⁽¹²⁷⁾ See Article 18 of the convention on the elimination of all forms of discrimination against women.

⁽¹²⁸⁾ See Article 19 of the convention on the elimination of all forms of discrimination against women.

⁽¹²⁹⁾ See Article 21 of the convention on the elimination of all forms of discrimination against women.

against Women within the scope of their respective work⁽¹³⁰⁾. Furthermore, Article 23 ensures that the provisions of the Convention on the Elimination of All Forms of Discrimination against Women do not undermine any existing national legislation or other international agreements that provide more favorable conditions for achieving gender equality⁽¹³¹⁾. This provision protects the principles of gender equality while recognizing diverse national and international legal frameworks.

Article 24 emphasizes the obligation of States parties to take all necessary measures at the national level for the full realization of the rights set forth in the Convention on the Elimination of All Forms of Discrimination against Women, reaffirming their determination to align their legal and administrative frameworks with the principles of the Convention⁽¹³²⁾.

Articles 25 to 30 relate to administrative aspects of the agreement, including its entry into force, ratification and accession provisions, review procedures, dispute settlement mechanisms, and appointment of the depositary. It ensures the effective operation of the Convention on the Elimination of All Forms of Discrimination against Women globally and facilitates the commitment of States to its principles. These articles constitute the institutional backbone of the Convention on the Elimination of All Forms of Discrimination against Women, enabling the implementation and support of the Convention at the international level, thus promoting gender equality and eliminating all forms of discrimination against women⁽¹³³⁾.

The main objective of the Convention on the Elimination of All Forms of Discrimination against Women is to strengthen mechanisms for the protection of

⁽¹³⁰⁾ See Article 22 of the convention on the elimination of all forms of discrimination against women.

⁽¹³¹⁾ See Article 23 of the convention on the elimination of all forms of discrimination against women.

⁽¹³²⁾ See Article 24 of the convention on the elimination of all forms of discrimination against women.

⁽¹³³⁾ See Article 25-30 of the convention on the elimination of all forms of discrimination against women.

women's human rights. Achieving this goal, particularly in addressing the restrictions on the Convention on the Elimination of All Forms of Discrimination against Women, was a difficult task and necessitated the development of the Optional Protocol to the Convention. The adoption of this Optional Protocol is the essential step towards fulfilling the complementary role of the Convention on the Elimination of All Forms of Discrimination against Women.

2.4 A complementary Role to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (Implementation Agreements Mechanism):

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women is a supplementary treaty. It serves as an extension of the Convention on the Elimination of All Forms of Discrimination against Women, and provides an additional mechanism for enforcing women's rights. It is the body responsible for monitoring the implementation of the Convention by States Parties. This protocol consists of 21 articles and presents two basic procedures. The first is the reporting procedure, and the second is the investigation procedure. The Optional Protocol entered into force in 2000, following the ratification of the Convention by the tenth State party⁽¹³⁴⁾, and subsequently ratified by 115 States⁽¹³⁵⁾, representing a critical milestone in ensuring universal respect for women's rights.

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women plays a crucial role by providing a mechanism for individuals to file complaints with the Committee on the Elimination of Discrimination

⁽¹³⁴⁾ Optional Protocol to the convention on the elimination of all forms of discrimination against Women, United Nations. <https://www.ohchr.org/ar/instruments-mechanisms/instruments/optional-protocol-convention-elimination-all-forms>

⁽¹³⁵⁾ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Previous reference.

against Women when they believe that their rights under the Convention have been violated by a State party to the Optional Protocol, in particular after domestic remedies have been exhausted. In addition, the Committee on the Elimination of Discrimination against Women is given the power to conduct investigations into serious or systematic violations of women's rights in States parties, even in the absence of a complaint. Furthermore, the Optional Protocol enables the Committee to issue general recommendations and interpretations⁽¹³⁶⁾, which help to clarify the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and promote their understanding. Overall, it strengthens the enforcement and monitoring mechanisms of the Convention on the Elimination of All Forms of Discrimination against Women, and reaffirms the commitment to promote gender equality and eliminate discrimination against women at the international level.

The process of submitting a report or complaint to the CEDAW Committee follows a structured sequence. As set out in article 2 of the Optional Protocol, women, individually or collectively, embark on this process by drafting written communications addressed to the secretariat of the Convention on the Elimination of All Forms of Discrimination against Women, indicating alleged violations of women's rights in a particular country. In accordance with Article 7 of the Protocol, the Secretariat, upon receipt and review of the communication to ensure its completeness and relevance, shall formally register it and then transmit the communication to the State Party concerned. This step allows the State party to address and respond to allegations⁽¹³⁷⁾.

⁽¹³⁶⁾All Answers Ltd, 'An Analysis of the Cedaw' (Lawteacher.net, January 2024) <https://www.lawteacher.net/free-law-essays/international-law/an-analysis-of-the-cedaw.php?vref=1> accessed 31 January 2024.

⁽¹³⁷⁾ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Previous reference.

The communications procedure provides women under the jurisdiction of the State party with a mechanism to submit complaints to the Committee on the Elimination of Discrimination against Women if they believe that the State has violated the provisions of the Convention. This process adheres to existing human rights instruments, enabling the Commission to directly address rights violations. Complainants have the right to seek remedies, including financial compensation, legislative revisions, or preventive measures against future violations. The Committee thoroughly reviews communications based on the specific admissibility criteria set out in Article 3 of the Protocol, which states that communications must be in writing and cannot be anonymous. A communication may not be accepted by the Committee if it concerns a State Party to the Convention that is not a Party to this Protocol.

While domestic remedies are generally required, Article 5 of the Protocol allows for exceptions when local remedies are considered ineffective or overly delayed. In cases of imminent damage, the Commission can recommend interim measures. After reviewing and collecting relevant information, the Committee may request the State party to provide information on action taken in response to the Committee's recommendations within a period of six months, as set out in article 7(5) of the Protocol.

If the State party's response is deemed unsatisfactory or if the matter remains unresolved, the Committee may choose to initiate an investigation. This investigation process includes the collection of additional information, the opportunity for both the complainant and the State party to present their views, and a comprehensive assessment. The investigation may culminate in recommendations urging the State party to take specific measures to remedy the situation and be consistent with the principles of the Convention.

The implementation mechanism includes the Committee, which oversees the progress made by the State party in addressing the issues raised. The Committee ensures that its recommendations are adhered to and may request periodic reports to verify the status of implementation, as defined in Articles 8 and 9 of the Protocol⁽¹³⁸⁾.

2.4.1 Achievements of the Optional Protocol

The Optional Protocol was considered a catalyst encouraging States to take vital measures to implement the Convention on the Elimination of All Forms of Discrimination against Women. This motivation extends to the revision of discriminatory laws and practices, and the strengthening of existing mechanisms for the realization of human rights within the United Nations system. An illustrative issue is *R. Against Ioanchuk*" in 1999, which is of great importance in Canadian jurisprudence⁽¹³⁹⁾. In this case, the Supreme Court of Canada addressed the crucial issue of sexual assault and consent.

The court issued a pivotal ruling, in which it affirmed that consent must be given willingly and cannot be inferred from the absence of resistance. This landmark decision reinforced the legal definition of consent in cases of sexual assault, emphasizing the importance of clear, positive, and voluntary consent. The Canadian government's response to this issue is an example of its commitment to align domestic law more closely with the principles enshrined in the Convention on the Elimination of All Forms of Discrimination against Women.

⁽¹³⁸⁾ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, UN. <https://www.ohchr.org/ar/instruments-mechanisms/instruments/optional-protocol-convention-elimination-all-forms> See also:

https://www.equalityhumanrights.com/sites/default/files/a_lever_for_change.pdf

⁽¹³⁹⁾ *R. v. Iwanchuk*" in 1999, Supreme Court of Canada. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1684/index.do>

Over the years since 1989, China has also drafted legislative measures affirming the fundamental principle of gender equality. These legislative actions in particular included provisions on joint ownership of marital property and equal inheritance⁽¹⁴⁰⁾, representing significant progress in promoting women's rights within the country. These examples underscore the crucial role of the Optional Protocol in bringing about positive legal and programmatic changes at the national level, contributing to the broader issue of gender equality and eliminating discriminatory practices.

2.4.2 Optional Protocol Failures.

On the other hand, the investigative mechanism used in the Commission on the Status of Women has not proven to be an effective and effective tool for addressing substantive allegations of violations of women's rights at the national level. The petitioning process primarily serves to provide the CSW with the data needed for policy formulation, rather than focusing primarily on inadequate implementation of the Women's Convention at the state level or providing timely reparations to women facing violations of their rights⁽¹⁴¹⁾. Furthermore, the review of communications that fall within the competence of the Commission on the Status of Women is entrusted to government representatives, not impartial experts, sometimes resulting in the political interests of their governments being prioritized over the principles of international women's rights law⁽¹⁴²⁾. As a result, the CSW has proven inappropriate as a platform for unbiased investigations into widespread and systematic violations of women's rights.

⁽¹⁴⁰⁾ CEDAW and Background Information, FACAW.

<https://www.fawco.org/component/content/article?id=188&Itemid=0>

⁽¹⁴¹⁾ An Analysis of the Cedaw, PR. <https://www.lawteacher.net/free-law-essays/international-law/an-analysis-of-the-cedaw.php>

⁽¹⁴²⁾ Kwong-Leung Tang (2000) The leadership role of international law in enforcing women's rights: The Optional Protocol to the Women's Convention, *Gender & Development*, 8:3, 65-73, DOI: 10.1080/741923788

The enforcement mechanism of the Committee on the Elimination of Discrimination against Women, charged with administering the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, is often seen as ineffective due to its non-judicial nature and reliance on recommendations rather than legally binding sanctions or compliance enforcement authority⁽¹⁴³⁾. Despite the pivotal role its recommendations play in raising global awareness and catalysing positive shifts in women's rights.

The following examples show that the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, while important steps, leads to the reform of domestic legislation, does not always guarantee full gender equality in practice. Cultural, social and political factors hinder the effective enforcement of laws. Iran, Saudi Arabia, Egypt, Tunisia, and Pakistan have ratified the protocol and harmonized domestic legislation in line with the Convention on the Elimination of All Forms of Discrimination against Women⁽¹⁴⁴⁾, but practices in each country continue to breach the Convention. Tunisia, for example, still has significant challenges on issues related to violence against women and women's political representation⁽¹⁴⁵⁾. Pakistan also still contains serious issues such as gender-based violence, child marriage, and limited access to education and employment⁽¹⁴⁶⁾.

⁽¹⁴³⁾ All Answers Ltd, 'An Analysis of the Cedaw' (Lawteacher.net, October 2023)

<https://www.lawteacher.net/free-law-essays/international-law/an-analysis-of-the-cedaw.php?vref=1>
accessed 21 October 2023

⁽¹⁴⁴⁾ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women New York, 6 October 1999

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&clang=en

⁽¹⁴⁵⁾ Tunisia: Strengthen new constitution's human rights protection: Guarantee equality for all; affirm international law obligations <https://www.amnesty.org/en/documents/mde30/001/2014/en/>

⁽¹⁴⁶⁾ PAKISTAN 2022 <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/pakistan/report-pakistan/>

In the result, the Optional Protocol offers an approach dedicated to advancing women's rights, while it has the potential to facilitate positive change and promote women's rights globally, it is not a globally binding agreement, and its effectiveness depends on the willingness of States to engage and cooperate with its actions. This dual character of the Optional Protocol confirms its role as a flexible tool for States committed to advancing gender equality, while respecting the sovereignty of States that choose not to participate at the same time.

2.5 Challenges in Implementing and Achieving Discrimination in the Convention on the Elimination of All Forms of Discrimination Against Women:

2.5.1 Cultural Relativism:

2.5.1.1 Definition of Cultural Relativity:

It is the belief in the need to understand cultural norms and values in the context of their culture⁽¹⁴⁷⁾. Cultural relativism can pose significant challenges to the implementation of international conventions such as the Convention on the Elimination of All Forms of Discrimination against Women. At the beginning I would like to explain that there are thinkers who defend different cultures around the world as an expression of the identity of individuals.

There are some practices in various forms such as persecution, inequality and discrimination within countries that are held under the name of culture, customs and traditions.

2.5.1.2 The Legal Framework:

⁽¹⁴⁷⁾ Cultural relativism article Khan Academy. <https://www.khanacademy.org/test-prep/mcat/society-and-culture/culture/a/cultural-relativism-article>

The right to culture is mentioned in articles 18 and 27 of the International Covenant on Civil and Political Rights⁽¹⁴⁸⁾. And in article 15 of the International Covenant on Economic, Social and Cultural Rights⁽¹⁴⁹⁾. Article 5 of the Convention on the Elimination of All Forms of Discrimination against Women also calls for the modification of social and cultural patterns of behaviour to eliminate prejudices and customary practices that perpetuate discrimination against women. It states: “States Parties shall take all appropriate measures 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 based on the idea of the inferiority or superiority of either of the sexes or on stereotypical roles for men and women.”

This article reflects the recognition that addressing discriminatory cultural practices is essential to achieving gender equality. It emphasizes the need to challenge societal norms and behaviors that contribute to women’s subordination. While the Convention does not explicitly state these efforts as “cultural rights,” the recognition of the impact of social and cultural patterns on women’s rights underlines the importance of addressing cultural factors in the pursuit of gender equality.

⁽¹⁴⁸⁾ Look at the Article 18/1 : “ Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

And the Article 27: “ In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.” From the International Covenant on civil and Political Rights, United Nations library. https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf

⁽²⁾ Look at the Article 15/1: “The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life; (b) To enjoy the benefits of scientific progress and its applications; (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.” From the International Covenant on economic, social and cultural rights. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

It is necessary to know that international human rights law recognizes the possibility of restrictions on rights, a principle clear in Article 29(2) of the Universal Declaration of Human Rights. This article states that restrictions on rights and freedoms are permissible if they are established by law and are intended to ensure that the rights of others are recognized and respected, as well as to meet the just requirements of morality, public order, and public welfare in a democratic society⁽¹⁵⁰⁾.

Similar conditions accompany the rights contained in the International Covenant on Civil and Political Rights for the Protection of Human Rights and Fundamental Freedoms. These restrictions must pass the test of proportionality, ensuring a fair balance between the public interests of society and the protection of individual rights. While it may be conceivable to say that “gender equality” justifies the restriction of the “right to exercise culture,” this solution seems unlikely given the current status of this right in the human rights system⁽¹⁵¹⁾.

On the other hand, thinking of culture as a societal interest that justifies restricting women’s rights poses challenges, as women’s rights formulas typically lack restrictive conditions, and all restrictions must be legally defined. This is complicated by the fact that some cultural traditions fall under the “customary” category.

2.5.1.3 Cultural Relative Criticism of the Agreement:

The authors of this theory believe that the agreement is the product of Western ideas, framed in their language and reflects their needs and aspirations. And that universal

⁽¹⁵⁰⁾ Article 29/2: “In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.” From the document of the Universal Declaration of human rights. The United Nations website. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁽¹⁵¹⁾ Brems, E. (1997). "Enemies or Allies? Feminism and Cultural Relativism as Dissident Voices in Human Rights Discourse." *Human Rights Quarterly*, 19(1), 136-164. The Johns Hopkins University Press. <https://www.jstor.org/stable/762362.p161>.

human rights today remain alien to many Asian and Eastern cultures, minorities, and indigenous peoples.

Hence, cultural relatives derive their argument, which mainly claims to reject the inclusion of non-Western cultures in the international human rights system⁽¹⁵²⁾.

It is worth mentioning that there is a group of liberal intellectuals who are trying to provide protections for cultural rights, including minority rights and the rights of indigenous peoples, under current human rights provisions or improve human rights institutions in order to promote their claims and are called “liberal culturalists”⁽¹⁵³⁾.

There are many trends regarding cultural relativism, there are those who reject human rights as a whole, but for the most part, cultural relativists reject certain rights, specific content or a specific method of interpretation of those rights. For example, a particular culture may object to freedom of religion. Or, although they do not object to this right per se, they may object to its inclusion in the freedom to change one’s religion, either in its formulation (as permitted under Article 18 of the Universal Declaration of Human Rights⁽¹⁵⁴⁾) or through interpretation.

On a precise level, cultural relatives may recognize universal human rights along with its basic principles and broad interpretation, but may refrain from classifying a particular cultural practice as a violation of that right. For example, in a cultural context where female genital mutilation is customary, the absolute prohibition of torture and cruel, inhuman or degrading treatment (set out in Article 5 of the Universal Declaration

⁽¹⁵²⁾ Brems, E. (1997). PR. P:142.

⁽¹⁵³⁾ Kymlicka, W. (2001). "Liberal Culturalism: An Emerging Consensus?" In *The Global Resurgence of Democracy*, edited by Larry Diamond and Marc F. Plattner, 39–48. Published: January 2001. <https://doi.org/10.1093/0199240981.003.0003>.

⁽¹⁵⁴⁾ Article 18: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance." From the Universal Declaration of Human Rights.

of Human Rights⁽¹⁵⁵⁾ and article 7 of the International Covenant on Civil and Political Rights⁽¹⁵⁶⁾ can be fully supported, while the classification of genital mutilation as a cultural custom is disputed.

Cultural relativists' view includes criticism of human rights, as Western in nature, and emphasizes individualism, abstraction, and the overarching concept of rights. Unlike cultural relativists where they primarily define themselves not as independent individuals but as individuals with a "attributed status" within larger groups or communities, such as families, tribes, classes, nations, or other collective entities. They emphasize the importance of contextualizing issues within their cultural frameworks and analysing them at a concrete level. In return, they suggest paying greater attention to collective rights, and placing restrictions on individual rights in favor of collective interests⁽¹⁵⁷⁾. One way to build such constraints is to center them around concepts of obligations and responsibilities.

It would now be essential to distinguish between harmful practices under the name of culture, from cultural practice and custom free of harm or harm. There is a lot of interest in so-called "harmful cultural practices.

” These practices, specific to certain cultures, are seen by outsiders as harmful or harmful to women⁽¹⁵⁸⁾. However, participants in these cultures often do not view these practices as harmful or may justify them in the broader cultural context.

⁽¹⁵⁵⁾ Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." From the Universal Declaration of Human Rights.

⁽¹⁵⁶⁾ Article 7: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation." From the International Covenant on Civil and Political Rights.

⁽¹⁵⁷⁾ Igwenagu, Uchenna Rodney, The Concept Cultural Relativism of Human Rights (November 9, 2022). Available at SSRN: <https://ssrn.com/abstract=4272442>

⁽¹⁵⁸⁾ What is a harmful practice?, NATIONAL FGM CENTRE. <https://nationalfgmcentre.org.uk/harmful-practices/>

Examples of critical practices include widow burning in India (Sati), prenatal sex selection, female infanticide, child marriage, and forced marriage. Notably, female genital mutilation raises

great feminist concern, described as “torture and brutal mutilation” associated with perpetuating male ownership and defamation of women as inferior⁽¹⁵⁹⁾.

Another example in Afghanistan, established traditional gender roles have hindered women’s access to education, with cultural norms often emphasizing their roles within the family, limiting their formal education. This scenario is directly contrary to the principles contained in the Convention on the Elimination of All Forms of Discrimination against Women, which unequivocally calls for ensuring women’s equal access to education. Challenges remain in the form of significant barriers to education, exacerbated by security concerns. Thus, Afghanistan faces difficulties in achieving full compliance with the Convention on the Elimination of All Forms of Discrimination against Women⁽¹⁶⁰⁾, with the clash between cultural norms that limit women’s education and the principles of the Convention calling for equal educational opportunities for all.

Theorists see the importance of adopting a contextual understanding of individuals, considering that there is an unrealistic concept of the “untied self” within liberalism. For example, Michael Sandel, criticizes liberalism for ignoring the roles, obligations, and memberships of society in shaping one’s identity in addressing cultural conflicts and women’s rights. Sila Ben-Habib’s “interactive universality” theory is also gaining significant support. This concept seeks to move away from avoiding the alternative

⁽¹⁵⁹⁾ Enemies or Allies? Feminism and Cultural Relativism as Dissident Voices in Human Rights Discourse Eva Brems, *Human Rights Quarterly*, Vol. 19, No. 1 (Feb., 1997), pp. 136-164. Published By: The Johns Hopkins University Press. <https://www.jstor.org/stable/762362> .

⁽¹⁶⁰⁾ Women for women, Afghanistan. https://www.womenforwomen.org/where-we-work/afghanistan?src=GGEV235A&ms=cpc_google_awareness&utm_medium=cpc&utm_source=google&utm_campaign=awareness&utm_content=gg+ad&gad_source=1&gclid=CjwKCAiA6byqBhAWEiwAnGCA4DfsbWM8KhOuCmXyYsKf8PvNfvIH-JhYHP8cGRjXG2oF7zCp14J7-BoCpJoQAvD_BwE

mistake of raising the experiments of a particular group as a global standard while avoiding the relative paralysis of considering all pluralism and differences as morally and politically correct⁽¹⁶¹⁾. The theory criticizes the “generalized other” by prioritizing the view of the “concrete other” meaning an individual with a distinct history⁽¹⁶²⁾, identity, and emotional constitution.

The preference for “women” in the Convention on the Elimination of All Forms of Discrimination against Women also differs from the initial use of the word “gender” in the Universal Declaration of Human Rights. The transformation began in 1946 with the establishment of the Commission on the Status of Women (CSW) as a committee of the United Nations Economic and Social Council (Economic and Social Council). While the term “gender” was the dominant term in the Central Document on Human Rights, a focus on “women” emerged, serving the feminist goal of recognizing women as human rights subjects and giving wider legitimacy to the international feminist movement⁽¹⁶³⁾.

In addition, the terms “gender” and “gender” may ignore potential differences in gender structures across cultures. While in some areas, gender refers to a dual division between male and female, in others, it includes the liquidity of gender identities or the freedom to choose sex or marital partners regardless of gender considerations. Comparative analyses shed light on these cultural differences and illustrate their legal implications, emphasizing the need to recognize and understand the diverse interpretations and applications of gender in different societal contexts⁽¹⁶⁴⁾.

⁽¹⁶¹⁾ MARTHA MINOW, *Making All the Difference*. 1990. Published by: Cornell University Press
CHAPTER 6, *Rights Theories and Contemporary Legal Debates*, (pp. 146-172)
<https://www.jstor.org/stable/10.7591/j.ctt1tm7j8t.10>

⁽¹⁶²⁾ Concrete here means reality or real.

⁽¹⁶³⁾ Rosenblum, D. (2011). *Unsex CEDAW, or What's Wrong With Women's Rights*. Pace University DigitalCommons@Pace, Pace Law Faculty Publications, Elisabeth Haub School of Law at Pace University.

⁽¹⁶⁴⁾ Rosenblum, D. (2011). PR.

The tension between universality and cultural diversity within the Convention on the Elimination of All Forms of Discrimination against Women is closely linked to the deliberate choice of the term “women”. While this choice seeks to ensure women’s representation in international law and is in line with second-wave feminist goals, it simultaneously poses challenges in embracing cultural differences. Recognizing these complexities is critical to an accurate understanding of the impact of the Convention on the Elimination of All Forms of Discrimination against Women on global efforts to eliminate discrimination against women.

In conclusion, the complex interaction between cultural relativism and human rights, especially women’s rights, reveals a delicate landscape shaped by diverse perspectives. While cultural relatives advocate a contextual understanding of cultural norms and values, stressing the need to respect diverse identities, critics point to the potential challenges this poses to the implementation of international conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women. The legal framework, which includes articles 18, 27 and 15 of the International Covenants, recognizes the importance of cultural rights while calling for the modification of discriminatory cultural practices. Cultural relative criticisms often focus on the perceived Western-centered nature of human rights, emphasizing the importance of collective rights and obligations over individuality.

However, the distinction between harmful cultural practices and harm-free practices is critical, which requires careful consideration of specific practices in their cultural context. The adoption of a post-theory approach, which calls for interactive universality, encourages a balanced consideration of diverse experiences while upholding the fundamental principles of human rights. Ultimately, a meaningful universal inquiry into

the concept of human rights requires the recognition and treatment of the heterogeneity of cultures around the world.

2.5.2 Religious and Political Objections:

Religious freedom is one of the oldest human rights. They fall within the priority civil and political rights within the human rights system. They are regularly enforced by national and international bodies. Religious rights are generally intended to protect the uniqueness of a variety of religions.

Religious and political ideologies can conflict with the principles set out in the Convention on the Elimination of All Forms of Discrimination against Women.

Some states may see some aspects of the Convention as contrary to their religious beliefs or political systems, leading to non-compliance with the Convention. We will try to differentiate between the use of religion for political or collective benefits and in another part later we will see what religion actually contains and what is contrary to the Convention on the Elimination of All Forms of Discrimination for Women.

International law has protected the right to religion, the right to religion is mentioned in two articles of the International Covenant on Civil and Political Rights. Article 18/1 stated: “Every human being has the right to freedom of thought, conscience and religion. This includes his freedom to have a religion, his freedom to adopt any religion or belief of his choice, and his freedom to manifest his religion or belief in worship, ritual, practice and education, alone or in community, and in public or separately.”⁽¹⁶⁵⁾

Article 27 also states: “In States where there are ethnic, religious or linguistic minorities, persons belonging to said minorities shall not be denied the right to enjoy their own culture, to profess and practise their own religion or to use their own

⁽¹⁶⁵⁾ Look at the International Covenant on civil and Political Rights, United Nations library. https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf

language, in conjunction with other members of their group.” The right to freedom of religion in the articles is absolute, as it includes the right to adopt or not to adopt a religion, and cannot be subject to restrictions.

The freedom of the individual to manifest his religion, which is the external dimension of freedom of religion that allows the practice of religion⁽¹⁶⁶⁾.

The CEDAW Convention requires that such religious practices not be harmful or prohibited, while carefully preserving the right of women to claim equality within their religious traditions and society, either by the civil right to leave the religious community or by requesting the support of the state in demanding equality in the course of this⁽¹⁶⁷⁾.

This was emphasized in the interpretation of the International Covenant on Civil and Political Rights, where the Human Rights Committee determined that the inequality in the enjoyment by women of their rights worldwide is deeply rooted in traditions, history and culture, including religious attitudes. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women’s right to equality before the law and to the equal enjoyment of all rights enshrined in the Covenant⁽¹⁶⁸⁾.

But as we mentioned earlier, many countries have used religion to serve their political interests. Religious politicization refers to the process in which religious beliefs and institutions are intertwined with political agendas, and often affects public policies, laws and societal norms in the context of women's rights.

⁽¹⁶⁶⁾ the International Covenant on civil and Political Rights, PR.

⁽¹⁶⁷⁾ See Article 5 of the convention on the elimination of all forms of discrimination against women.

⁽¹⁶⁸⁾ RUTH HALPERIN-KADDARI and YAACOV YADGAR, *Between Universal Feminism and Particular Nationalism: politics, religion and gender (in)equality in Israel*, *Third World Quarterly*, Vol. 31, No. 6, *THE UNHAPPY MARRIAGE OF RELIGION AND POLITICS: PROBLEMS AND PITFALLS FOR GENDER EQUALITY* (2010), pp. 905-920 (16 pages).

An example of this was the strictness with which Saudi Arabia dealt with women under the pretext that the Islamic religion stipulated this, and the contradictory openness in the later to improve its international relations, achieve its interests with countries, and improve its international image. In an interview with Barbara Walters in 2005, Saudi King Abdullah made a famous statement: “I strongly believe in women’s rights... My mother is a woman, my sister is a woman, my daughter is a woman, my wife is a woman.” I think the day will come when women drive⁽¹⁶⁹⁾. However, six years later, little has been done on this front, and women were still being arrested and detained for driving⁽¹⁷⁰⁾.

In the era leading up to the changes in Saudi Arabia, women faced a strict male guardianship system, which required permission from a male relative to carry out various activities such as traveling outside the country.

Women were banned from driving, bound by public dress codes, and faced limited economic participation. Subsequent changes, including the lifting of the driving ban in 2018⁽¹⁷¹⁾, gradual amendments to the male guardianship system allowing for greater autonomy, and a relaxation of the general dress code resulted. Efforts to promote women’s economic opportunities have unfolded with increased workforce participation and the lifting of restrictions on specific occupations. Moreover, a cultural shift towards entertainment and sports for women has emerged, reopening cinemas and allowing women to attend sporting events in stadiums. While these changes have been met with a combination of enthusiasm and suspicion, both domestically and internationally, there

⁽¹⁶⁹⁾ Transcript: Saudi King Abdullah Talks to Barbara Walters, ABC News, October 2005. Transcript: Saudi King Abdullah Talks to Barbara Walters - ABC News (go.com)

⁽¹⁷⁰⁾ Saudi Arabia's ban on women driving officially ends, BBC News, June 2008. Saudi authorities re-arrest woman for driving | Saudi – Gulf News

⁽¹⁷¹⁾ Saudi Arabia: women are allowed to drive now but more reforms should follow, amnesty, 2018. <https://www.amnesty.org/ar/latest/news/2018/06/saudi-arabia-women-now-allowed-to-drive-but-more-reforms-must-follow/>

are still concerns about the pace and depth of change and broader human rights considerations in the country.

In conclusion, the intersection of religious beliefs, political ideologies and women's rights represents a complex scene, as evidenced by the case of Saudi Arabia. While religious freedom is a fundamental human right, political interests sometimes exploit religious doctrines to justify practices that run counter to the principles of gender equality.

Tensions between religious practices and women's rights are reflected in international agreements such as the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights⁽¹⁷²⁾. These agreements emphasize that cultural, historical and religious attitudes should not be used to justify violations of women's rights. As the global community seeks inclusiveness and equal rights, it remains essential to address the delicate interaction between religious and political dynamics to ensure that women's rights and advancement are protected around the world.

2.5.3 Reservations to the Convention on the Elimination of All Forms of Discrimination against Women

This aspect deals with reservations made by States to the Convention on the Elimination of All Forms of Discrimination against Women. While reservations are a tool allowed under international law, the extent and nature of reservations can affect the effectiveness of these treaties, particularly in the area of women's rights.

2.5.3.1 Reservations and International Law:

⁽¹⁷²⁾ How has the life of Saudi women" changed" in a week, BBC News, 29 September 2017. <https://www.bbc.com/arabic/middleeast-41446722>

States often make reservations when ratifying international treaties, allowing them to express specific objections to certain articles or clauses. Reservations are defined as: “a unilateral declaration, however formulated or named, made by a State upon signature, ratification, acceptance, approval or accession to a treaty, aiming to exclude or alter the legal effect of certain provisions of the treaty in their applicability to that State.”

Article 19 of the 1969 Vienna Convention on the Law of Treaties sets out the conditions under which reservations can be made, stressing that they should not conflict with the object and purpose of the treaty⁽¹⁷³⁾.

However, the practice of making reservations varies, and the impact on the enforceability of treaty obligations can be significant. Article 28/2 of the Women's Convention states that "No reservation shall be made contrary to the object and purpose of this Convention"⁽¹⁷⁴⁾.

We will provide a comprehensive clearance of the visions that have been clarified in advance on the purposes of the Women's Convention to facilitate the desired results. Thus, the agreement tries to reach 3 parts of equality, firstly the legal obligation to treat women and men at the same level politically, economically, socially and in the family. Second, achieving de facto equality between men and women is not only in legal systems by addressing the root causes of inequality and achieving de facto equality in outcomes. Third, transforming stereotypes and rules harmful to women to the comprehensive promotion of women's rights in all aspects. Another key point that the agreement is trying to address is non-discrimination. Where the purpose of the

⁽¹⁷³⁾ Article 19 of the 1969 Vienna Convention on the Law of Treaties states the following: "A State may, when signing, ratifying, accepting, approving, or acceding to a treaty, formulate a reservation unless: (a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty."

⁽¹⁷⁴⁾ See Article 28/2 of the convention on the elimination of all forms of discrimination against women.

Convention is not to use acts that discriminate between men on women, and exclude women while not affecting men

The Declaration and Beijing Platform for Action recommends that States undertake to “restrict the scope of any reservations they make to the Convention on the Elimination of All Forms of Discrimination against Women; formulate any such reservations as precisely and narrowly as possible and ensure that any of the reservations are not incompatible with the object and purpose of the Convention, or inconsistent with international treaty law, and regularly review them with a view to withdrawing and withdrawing reservations that are incompatible with the object and purpose of the Convention on the Elimination of All Forms of Discrimination against Women, or that are inconsistent with international treaty law.”⁽¹⁷⁵⁾ The Committee on the Elimination of Discrimination against Women has taken a similar approach. At its thirteenth session in 1993, the Committee agreed with the view of the World Conference on Human Rights, where the Beijing Declaration and Platform for Action (1993) was adopted⁽¹⁷⁶⁾.

Accordingly, States should consider limiting the scope of any reservations they make to human rights conventions, drafting any reservations as accurately as possible, narrowing their scope as much as possible, ensuring that none of them are incompatible with the object and purpose of the relevant convention, and regularly reviewing any existing reservation.

In adhering to these guidelines, the Committee has recognized that the Convention allows reservations to be made so that as many States as possible can become States

⁽¹⁷⁵⁾ Beijing Declaration and programme of action, fourth World Conference 1995, paragraph 230, (C) and (D).https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.177_20.pdf

⁽¹⁷⁶⁾ Committee on the elimination of all forms of discrimination against women: ways and means of exploiting the work of the committee, report of the secretariat, 1993, paragraphs 3-7. file:///C:/Users/N/Downloads/HRI_GEN_2_Rev.1_Add.2-AR.pdf

parties to the Convention..In light of this, the Committee on the Elimination of Discrimination against Women has revised its reporting guidelines by States parties with a view to ensuring that they are regularly informed of information on reservations, their underlying causes, and efforts to withdraw them.

The Committee specifically requests the elimination of discrimination against women:

“Any reservation to any article of the Convention should be interpreted, or declared, and justified for its continued preservation by the State party. Taking into account the Committee’s statement on reservations adopted at its nineteenth session, the impact of any reservation or declaration on national law and policy should be interpreted precisely. States parties that have entered general reservations that do not refer to a particular article, or are directed to articles 2 and/or 3 should report on the effect and interpretation of such reservations. States parties should provide the Committee with information regarding any reservations or declarations relating to similar obligations in other human rights treaties that they may have deposited⁽¹⁷⁷⁾.

Rebecca Cook’s research on reservations to the Convention on the Elimination of All Forms of Discrimination against Women highlights the distinct challenges to women’s rights. It is worth noting that comparing it with the number of substantive reservations to the Convention on the Elimination of All Forms of Discrimination against Women against other human rights conventions reveals a worrying trend. While the Human Rights Convention on the Elimination of Racial Discrimination faced only two reservations, the Committee on the Elimination of Discrimination against Women faced

⁽¹⁷⁷⁾ Set of guidelines on the form and content of reports to be submitted by states parties to international human rights treaty bodies, 2003.

<https://documentsddsny.un.org/doc/UNDOC/GEN/G03/417/49/PDF/G0341749.pdf?OpenElement>

80 substantial reservations from 21 countries, indicating a significant level of reluctance to fully adhere to gender equality measures⁽¹⁷⁸⁾.

It is worth mentioning that many Arab countries in the Middle East have used reservations to various provisions, including Articles 2, 9, 15, 16, 29, which have often been made citing conflicts with Islamic law or constitutional provisions. In particular, Saudi Arabia and Oman have made sweeping reservations, asserting that they are non-binding in cases where the Convention on the Elimination of All Forms of Discrimination against Women is contrary to Islamic law or constitutional provisions. No explanation was provided by the state as called for the Beijing Declaration of Action, and no reports were provided of how the impact would be on women's lives.

It is also a wide-ranging reservation that may affect transparency by the state to comply with the Convention for women to receive their rights. On the other hand, the Vienna Convention on the Law of Anti-States of 1969, in Article 27, prevented the justification of not implementing an international convention as it is contrary to its national constitution, and on the contrary, the state must harmonize its domestic legislation with the ratified international treaties⁽¹⁷⁹⁾.

2.5.3.2 Reservations to the CEDAW Convention and their Impact on Women's Rights:

Article 2, a core provision of the Convention that requires states to repeal or amend discriminatory laws, has been rejected by multiple countries, including Algeria, Bahrain, Egypt, Iraq, Libya, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and

⁽¹⁷⁸⁾ The Tension between Women's Rights and Religious Rights: Reservations to Cedaw by Egypt, Bangladesh and Tunisia <https://www-jstor-org.ezaccess.libraries.psu.edu/stable/1051612>

⁽¹⁷⁹⁾ Look at the 1969 Vienna Convention on the Law of Treaties.

Morocco. Article 16, which deals with gender discrimination in matters related to family and marriage, also faced rejection by the Gulf countries, Tunisia, Algeria, Morocco, Syria, Jordan, Egypt, Iraq and Lebanon, an affirmation of the continued suffering of women in these countries from domestic violence, family and marriage issues. This may allow practices that may not be in line with international standards for gender equality to continue.

Algeria, Jordan, the United Arab Emirates, Bahrain, Tunisia, Syria, Oman, Qatar and Morocco have made reservations to Article 15/4, which deals with mobility and accommodation options for women.

The Committee on the Elimination of Discrimination against Women has repeatedly stressed that States should take into account the aggregate effect of reservations, as well as the impact of each individual reservation on the credibility of the treaty, in order to determine whether a reservation is incompatible with the object and purpose of the Convention. Moreover, States should not enter into several reservations that are, in the end, they are subject to only a limited number of human rights obligations, and not to the treaty as such. In particular, States should not systematically reduce the obligations they undertake to exceed their existing obligations under their less demanding national law standards⁽¹⁸⁰⁾.

Therefore, States should report periodically on the impact of their reservations on women's lives, and on the exact interpretation of these reservations. The Committee on the Elimination of Discrimination against Women has specifically declared that articles 2 and 16 contain two core provisions of the Convention, and considers article 2 to be fundamental in relation to the object and purpose of the Convention. Traditional,

⁽¹⁸⁰⁾ Human rights committee, General Comment No. 24, paragraph 19.
<https://www.refworld.org/docid/453883fc11.html>

religious or cultural practices cannot justify a breach of the Convention and the Committee is equally convinced that reservations to Article 16, whether made for national, traditional, religious or cultural reasons, are inconsistent with the Convention, and are therefore not permitted and should be reviewed, amended or withdrawn⁽¹⁸¹⁾. Article 28 of the Women's Convention also states that reservations that are inconsistent with their purpose make them prohibited.

Given that the Women's Convention serves as an interstate agreement⁽¹⁸²⁾, States proposing reservations should consider the responses of other participating states. This position is echoed in the 1995 Beijing Declaration and Platform for Action, which stresses the importance of minimizing the use of reservations to protect women's human rights. The document emphasizes that unless women's rights, as defined in international conventions, are fully recognized and effectively protected through their incorporation into national laws and practices, these rights may remain unapplicable. And it will remain ink on paper⁽¹⁸³⁾.

Some countries, such as Spain, Denmark, Germany, Portugal, Sweden, Finland, France, the United Kingdom, Austria and Greece, have objected to these reservations, considering that they are incompatible with the content and purpose of the Convention. These objections highlight the concerns of the international community about reservations that undermine the effectiveness of the Convention.

⁽¹⁸¹⁾ General Recommendation No. 21 of the committee on the elimination of discrimination against women on equality in marriage and family relations, February 4, 1994, Paras.41 and 44. <http://hrlibrary.umn.edu/arabic/cedawr21.html>

⁽¹⁸²⁾ For the exact text of reactions to reservations, see multilateral treaties deposited with the secretary-general. Available on the following website: <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/bible.aspr>

⁽¹⁸³⁾ Beijing Declaration and programme of action, fourth World Conference 1995, paragraph 218. <https://www.un.org/esa/documents/ga/conf177/aconf177-20add1en.htm>

Comprehensive reservations based on vague references to legal systems, such as Sharia law, lack clarity and hinder other states' understanding of the reserving state's commitment to the convention. It is essential that States review these reservations, while ensuring that they are consistent with the spirit and purpose of the Convention. Addressing states' concerns about making reservations is also critical to achieving real and meaningful change in women's lives in the Middle East and North Africa, promoting gender equality, and upholding the principles of the Convention.

Examples include countries that have ratified with reservations Iran, where they have ratified the Convention on the Elimination of All Forms of Discrimination against Women. She made a reservation to Article 2 of the Convention dealing with the adoption of legislative and other appropriate measures to prohibit discrimination against women. But it continues to violate the agreement in many ways.

Iran amended the nationality law in 2019, allowing Iranian women married to non-Iranian men to grant citizenship to their children. This was seen as a positive step towards addressing gender-based discrimination in nationality rights. But despite these amendments, there are ongoing and systematic violations of women's rights in Iran, and Iranian women continue to face discriminatory practices in family law, including unequal rights in marriage, divorce and child custody. Women's strict dress code, enforced through legal and societal pressures, violates the principles of freedom of expression and personal choice. Women's participation in political processes is also restricted, with barriers to running for certain political positions. Reports of gender-based violence, including domestic violence, remain a concern. Legal protections and enforcement mechanisms may not be sufficient to adequately address these issues. These indicators show that despite amendments to some laws, Iran still faces significant

challenges and violations of women's rights that are contrary to the principles of the Convention on the Elimination of All Forms of Discrimination against Women⁽¹⁸⁴⁾.

In the late 1990s, Morocco conducted a wide-ranging review of its reservations to various human rights treaties with the aim of aligning Moroccan law with its obligations under international law. As a result, in 2006 it withdrew two reservations to the Convention on the Elimination of All Forms of Discrimination against Women and replaced two interpretative declarations with two other reservations. The changes were not directed at the treaty's political rights provisions but were part of a comprehensive family law reform that had the practical effect of opening up the social and political space for women's participation. Siddiqi and Naji (2006) point out the interactive effects of various factors in promoting change in Morocco, including strengthening local women's organizations through their participation in women's rights diplomacy, international conferences, and this change process included the separate legislation for a 30-seat quota for women in the national legislature, which could have been meaningless before the expansion of women's rights to participate in the public. Morocco's CIRI's political rights index rose from 1 to 2 during this period⁽¹⁸⁵⁾.

Another example is when Morocco has taken steps to improve women's rights, challenges remain in which concerns about compliance with the Convention on the Elimination of All Forms of Discrimination against Women remain. Some issues

⁽¹⁸⁴⁾ "The Seventh Day" newspaper. (2019, October 2). Iran approves a law allowing the children of its women to be granted Iranian citizenship. Retrieved from <https://www.youm7.com/story/2019/10/2/%D8%A5%D9%8A%D8%B1%D8%A7%D9%86%D8%AA%D9%88%D8%A7%D9%81%D9%82-%D8%B9%D9%84%D9%89-%D9%82%D8%A7%D9%86%D9%88%D9%86%D9%8A%D8%AA%D9%8A%D8%AD-%D9%85%D9%86%D8%AD-%D8%A3%D8%A8%D9%86%D8%A7%D8%A1%D9%86%D8%B3%D8%A7%D8%A6%D9%87%D8%A7%D8%A7%D9%84%D8%AC%D9%86%D8%B3%D9%8A%D8%A9%D8%A7%D9%84%D8%A5%D9%8A%D8%B1%D8%A7%D9%86%D9%8A%D8%A9/4441847>

⁽¹⁸⁵⁾ Neil A. Englehart and Melissa Miller, The CEDAW Effect: International Law's Impact on Women's Rights, March 2014, *Journal of Human Rights* 13(1), DOI: 10.1080/14754835.2013.824274

include inheritance law, Morocco's inheritance laws are still seen as unequal, with the Convention on the Elimination of All Forms of Discrimination against Women calling for the elimination of discrimination in this area. The blog reforms addressed some aspects, but challenges in implementing these changes and broader societal attitudes may affect the practical realization of equal inheritance rights. Gender-based violence, including domestic violence, remains a concern. The implementation and enforcement of laws and policies to combat violence against women may face challenges, while Morocco has raised the legal age for marriage, issues related to child marriage remain. The minimum age for marriage is 18, but exceptions are allowed with judicial consent. Although Morocco has seen an improvement in women's political representation, there are ongoing challenges in achieving full gender equality in decision-making positions⁽¹⁸⁶⁾.

2.5.3.3 Challenges to the Nature of the Reservation to the CEDAW.

The effectiveness of the Women's Convention is greatly hampered by the extensive use of reservations by States Parties to their obligations. This Convention is different from the United Nations human rights instruments known for its conservative nature, as it allows reservations under its Article 28. However, the lack of a mechanism to assess the compatibility of states' reservations with Article 28 is noteworthy.

The Committee on the Elimination of Discrimination against Women lacks the authority to evaluate or restrict reservations that violate article 28. In contrast to similar UN instruments such as the Convention on the Elimination of Racial Discrimination, there are no procedural restrictions on the formulation of reservations⁽¹⁸⁷⁾. The

⁽¹⁸⁶⁾ Neil A. Englehart and Melissa Miller, PR.

⁽¹⁸⁷⁾ An Analysis of the Cedaw, PR. <https://www.lawteacher.net/free-law-essays/international-law/an-analysis-of-the-cedaw.php>

widespread use of reservations by States Parties undermines the Convention's general strength and universal validity. Unlike the Convention on the Elimination of All Forms of Racial Discrimination, the Women's Convention lacks strict provisions to address incompatible or rejected reservations, which may limit their impact. Strengthening these provisions could have led to more impressive results for the Convention on the Elimination of All Forms of Discrimination against Women, in line with the success of other instruments⁽¹⁸⁸⁾.

In 1987, the Committee on the Elimination of All Forms of Discrimination against Women tried to correct this situation by requesting the United Nations and its specialized agencies, after taking into account the principle of diligence in Islam, to conduct a study on the status of women under Islamic law and Islamic customs, specifically in the field of family and marriage. But the request was rejected by Arab countries, considering it interference in their internal affairs⁽¹⁸⁹⁾.

Furthermore, a large number of States parties have not yet ratified the Optional Protocol, which hinders the Committee's ability to assist individual women and develop jurisprudence on discrimination⁽¹⁹⁰⁾. Article 29 of the Convention on the Elimination of All Forms of Discrimination against Women also provides mechanisms that enable States to settle disputes through arbitration or the International Court of Justice.

However, this ruling was rejected by all Middle Eastern countries except Libya and Jordan. This raises concerns about the willingness of countries in the region to participate in international mechanisms for the settlement of disputes related to women's rights.

⁽¹⁸⁸⁾ Darren Rosenblum, PR.

⁽¹⁸⁹⁾ Darren Rosenblum, PR.

⁽¹⁹⁰⁾ THE CONVENTION TO END ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) <https://www.womenalliance.org/the-convention-to-end-all-forms-of-discrimination-against-women-cedaw/>

Reservations to the Convention on the Elimination of All Forms of Discrimination against Women reveal a significant obstacle to their wide implementation, with many reservations, in particular those relating to articles 2 and 16, considered too broad and inaccurate. The Committee claims that these reservations are contrary to the fundamental provisions of the Convention, impede its fundamental objectives and are contrary to international law. This ambiguity, often rooted in legislation derived from religious texts, directly affects the protection of women from discrimination and violence, and hinders progress in the realization of their rights.

Despite criticism from the bodies of the Committee on the Elimination of Discrimination against Women, the States concerned have shown limited commitment to implement the recommended changes. Notably, Amnesty International calls for immediate action, urges States to fulfil reporting obligations, report immediately on steps taken to address the Committee's recommendations on the revocation of the reservation, and participate actively in removing barriers to women's rights.

2.5.4 Implementation and Enforcement of the Convention on the Elimination of All Forms of Discrimination against Women.

The Convention on the Elimination of All Forms of Discrimination against Women is a prominent international instrument, but its effectiveness is hampered by legal obstacles and weak enforcement mechanisms. We will reveal the legal framework for the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the shortcomings of monitoring and compliance.

2.5.4.1 Legal Framework and Lack of Enforcement Mechanisms:

Inadequate legal frameworks and enforcement mechanisms pose significant challenges to the effective implementation of the Convention on the Elimination of All Forms of

Discrimination against Women in different countries. The path to equality can be formulated through one or more actions, where the process of aligning the Convention on the Elimination of All Forms of Discrimination against Women with domestic legislation involves a multifaceted approach aimed at aligning national laws and policies with the principles and objectives set out in the Convention.

Although a signature is not legally binding, States are obliged upon signing to make good faith efforts not to violate the object and purpose of the treaty⁽¹⁹¹⁾. The assessment of actual compliance with the Women's Convention is carried out through the first procedure, which is the legislative change that may occur simply for compliance, but it is the achievement of actual compliance that represents the effective implementation of the Convention. However, achieving legislative or legal compliance is an important first step in achieving effective compliance as it represents a level of political commitment by the State party towards change and societal commitment to equality, diversity and non-discrimination.

The second action is to review existing laws and practices in light of the Convention's standards through the CEDAW reporting process, dialogue involving the Government and the CEDAW Committee, and follow-up actions taken by governments in response to the Convention on the Elimination of All Forms of Discrimination against Women⁽¹⁹²⁾. The establishment of monitoring mechanisms and the involvement of civil society and the regular reporting on progress to the Committee on the Elimination of Discrimination against Women contributes to an overall coordination process.

⁽¹⁹¹⁾ Byrnes, Andrew C. and Freeman, Marsha, *The Impact of the CEDAW Convention: Paths to Equality* (February 20, 2012). UNSW Law Research Paper No. 2012-7, Available at SSRN: <https://ssrn.com/abstract=2011655> or <http://dx.doi.org/10.2139/ssrn.2011655>

⁽¹⁹²⁾ Audrey L. Comstock, *Signing CEDAW and Women's Rights: Human Rights Treaty Signature and Legal Mobilization*, *Law & Social Inquiry* Volume 00, Issue 00, 1–34, 2023.

States' compliance with their responsibilities is often assessed (and evaluated) against two key factors. The first, upholding the rule of law, requires that a State party's legal system comply with the obligations under the Convention. Effective compliance, the second indicator, requires that the responsibilities arising from the agreement be documented in national laws and put into practice in order to achieve the desired results. Common law, constitutions, legislation and custom contribute to the formation of laws⁽¹⁹³⁾.

The legislative requirements of the Convention Articles 1, 2 and 4 of the Convention on the Elimination of All Forms of Discrimination against Women oblige States parties to ensure that domestic legislation incorporates the principles of equality and non-discrimination and that it allows the use of temporary special measures ('TSM') in areas where substantive inequalities are identified. This commitment consists of three central components⁽¹⁹⁴⁾.

A legislative or constitutional guarantee of substantive (real, "effective", "real" or "normative") equality between men and women provided for in Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women⁽¹⁹⁵⁾. Article 2 obliges States parties to "embody the principle of equality of men and women in their national constitutions or other appropriate legislation" and, most importantly, to ensure the practical realization of this principle. The Committee on the Elimination of All Forms of Discrimination against Women has made it clear that the meaning of

⁽¹⁹³⁾ Report of the fourth World Conference on women, Beijing, September 14-15, 1995, UN document. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N96/272/99/PDF/N9627299.pdf?OpenElement>

⁽¹⁹⁴⁾ Look at Articles 1, 2 and 4 of the convention on the elimination of all forms of discrimination against women.

⁽¹⁹⁵⁾ General Recommendation No. 25 on Paragraph 1 of Article 4 of the convention on the elimination of all forms of discrimination against women, on temporary special measures. [https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(Arabic\).pd](https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(Arabic).pd)

equality in Article 2 includes not only the formal form of equality (equality in the application of the law), but also substantive equality⁽¹⁹⁶⁾.

The second central element, contained in article 2 (b) of the Convention on the Elimination of All Forms of Discrimination against Women, obliges States parties to ensure that domestic legislation contains effective anti-discrimination provisions prohibiting all forms of discrimination against women. Effective anti-discrimination provisions contain a number of key sub-elements. The first is that in order to meet the comprehensive definition of discrimination in Article 1, anti-discrimination provisions must extend not only to direct discrimination but also to indirect discrimination⁽¹⁹⁷⁾.

Second, the Committee on the Elimination of All Forms of Discrimination against Women has clearly stated that protection against discrimination should extend beyond gender and marital status (expressly listed in Articles 1 and 2) to other forms of intersections such as HIV/AIDS, race, disability, and marginalized family forms, in line with a wide range of feminist academic literature and as recommended⁽¹⁹⁸⁾.

Third, Article 2(e) of the Convention on the Elimination of All Forms of Discrimination against Women requires States parties to prohibit discrimination not only by law. And governmental and public authorities, but also by any person, organization or institution.

The extension of protection against discrimination to the acts of public and private actors in accordance with Article 2 recognizes that in order to effectively combat discrimination in all areas of women's life, state and non-state actors must be organized throughout the public and private spheres of the State. A woman's life is required

Finally, appropriate sanctions and remedies should be provided for violations of anti-

⁽¹⁹⁶⁾ General Recommendation No. 28 on the basic obligations of states parties under Article 2 of the convention on the elimination of all forms of discrimination against women. <https://afakneswiah.org/wp-content/uploads/2020/04/G1047258.pdf>

⁽¹⁹⁷⁾ General Recommendation No. 28 on the basic obligations of states parties, PR.

⁽¹⁹⁸⁾ General Recommendation No. 28 on the basic obligations of states parties, PR.

discrimination provisions in accordance with article 2 (b) of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Elimination of All Forms of Discrimination against Women⁽¹⁹⁹⁾.

The Committee on the Elimination of All Forms of Discrimination against Women recommended that States parties “ensure that effective remedies are made available to women whose rights have been violated⁽²⁰⁰⁾.” Possible penalties include penalties such as fines, apologies, loss of government contracts, or imprisonment, and possible remedies include “restitution, rehabilitation and measures.” Satisfaction, such as public apologies, public memorials, and guarantees of non-repetition, the third element of creating a legislative basis for equality and non-discrimination requires the inclusion of provisions allowing the adoption and implementation of temporary measures⁽²⁰¹⁾.

Accelerating de facto equality between men and women through the use of special measures is determined by the Convention on the Elimination of All Forms of Discrimination against Women. In Article 4(1). In general recommendations 5, 8, 23 and 25.49, the Committee on Women encourages States parties to make greater use of special measures to promote the integration of women in education, economy and employment, to provide equal opportunities for the representation of their governments at the international level and to promote gender equality. Women's participation in all areas of public life. This mandate recognizes that: a purely formal or programmatic approach is not sufficient to achieve de facto equality between women and men, and

⁽¹⁹⁹⁾ General Recommendation No. 28 on the basic obligations of states parties, PR.

⁽²⁰⁰⁾ Committee on the elimination of all forms of discrimination against women, concluding comments of the committee on the elimination of discrimination against women: Maldives, UN document, (February 2, 2007) No: 36.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/243/84/PDF/N0724384.pdf?OpenElement>

⁽²⁰¹⁾ United Nations Human Rights Committee, General Comment No. 31: nature of the general legal obligation imposed on states parties to the covenant, as contained in the compilation of general comments and general recommendations adopted by human rights treaty bodies, UN document. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/422/33/PDF/G0842233.pdf?OpenElement>

that the application of temporary special measures is part of a necessary strategy towards accelerating the achievement of de facto equality between women and men in the relevant areas of the Convention.

2.5.4.2 **State Enforcement Mechanisms of the CEDAW Convention are Limited:**

It is necessary to recognize that cases of discrimination persist when states fail to enact the necessary legislative measures to ensure the full realization of women's rights and neglect the adoption of national policies that promote gender equality. This failure, manifested in countries such as Iran, highlights significant gaps in addressing women's rights comprehensively. In addition, some countries, including India, face obstacles to the full integration of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women into their domestic legal systems, leading to a separation between international obligations and national legislation.

For example, in India, despite the enactment of the Protection of Women from Domestic Violence Act in 2005, challenges remain. The law, designed to address domestic violence, faces criticism for potential gaps, such as a primary focus on physical violence and a lack of comprehensive national policies that address broader gender equality issues. This underscores the continued need for continued efforts to improve legal frameworks, strengthen enforcement mechanisms, and strengthen comprehensive gender equality policies in order to effectively combat domestic violence and discrimination against women⁽²⁰²⁾.

Even when countries adopt legislation in line with the Convention on the Elimination of All Forms of Discrimination against Women, laws may lack effectiveness, leading to

⁽²⁰²⁾ Saxena, Tulika. (2015). "Indian Protection of Women from Domestic Violence Act: Stumbling or Striving Ahead?" Doctoral thesis, The Australian National University. <https://openresearch-repository.anu.edu.au/bitstream/1885/104291/1/SaxenaThesis%202015.pdf>

gaps in addressing hidden forms of discrimination against women. Poor enforcement may result from inadequate legal remedies, or a lack of political will to prosecute violations.

Discriminatory practices within the legal system itself also further hinder women from seeking justice for rights violations. A comparative analysis of international law suggests that local judges primarily serve as local actors taking advantage of the Convention on the Elimination of All Forms of Discrimination against Women to advance local goals.

While legal theory assumes that international law serves as the overarching normative framework guiding national courts, the reality outlined in the provisions often differs from this concept. Based on the classification of Eyal Benfinisti, which was based on the notable use of the domestic CEDAW Convention, it becomes clear that these courts consider themselves local actors who strategically use international law⁽²⁰³⁾. However, there is little evidence to support the idea that they view themselves as agents or guardians of international law.

Unlike the concept of national courts acting as neutral implementers of international law, as described by Anthea Roberts, these judges do not seem to see themselves primarily devoted to the fortification of international law per se. Nor do they align with the concept of being agents of a community seeking to influence global legal approaches to align with their state's preferences—a role that Roberts describes as “partial makers of international law.” The prevailing strategy appears to be more consistent with achieving domestic objectives within the framework of international

⁽²⁰³⁾ McCrudden, Christopher. (2015). "Why Do National Court Judges Refer to Human Rights Treaties? A Comparative International Law Analysis of CEDAW." *The American Journal of International Law*, 109(3), 534-550. <https://www.jstor.org/stable/10.5305/amerjintlaw.109.3.0534>

legal norms rather than actively working to formulate or enforce these standards on a global scale⁽²⁰⁴⁾.

Recent research in the field of international law challenges traditional assumptions that have explained the difference in the treatment of the Convention and given it another curve. It points out that the interpretation of international law at the domestic level shows great variation between countries and regions, contrary to previous beliefs. This difference is similar to the discussions surrounding the interpretation of international law globally, where there are diverse views on the text itself⁽²⁰⁵⁾.

This variation in local interpretation is lit by Sally Miri's concept of "slang," demonstrating the reception of international legal standards at the local level. Meri argues that this reception takes place along a continuum, depending on how local cultural forms and practices integrate with imported institutions. In the field of international human rights law, this reception is characterized by cases of "rejection," "ignorance" or even "sabotage," where standards are received and transferred differently⁽²⁰⁶⁾.

This process is distinguished from the transnational concept, which operates outside the universal legal system, and raises questions about whether there are merely "copying." Some argue that the imported enterprise often remains largely unchanged from its transnational prototype, with any superficial modifications primarily. Instead, there is

⁽²⁰⁴⁾ Benvenisti, Eyal. (2008). "Reclaiming Democracy: The Strategic Uses of Foreign and International Law by National Courts." *American Journal of International Law*, 102. <https://deliverypdf.ssrn.com/delivery.php?ID=897001005069000117092010121122070077034027008029087048022106113028025078064104115120039058099039050028002124090112091124017077056010074000048105006105010115013098038041084091026021085104103072004069101091117012013019125007065116090121083119104122124&EXT=pdf&INDEX=TRUE>

⁽²⁰⁵⁾ McCrudden, Christopher. (2015). PR.

⁽²⁰⁶⁾ Koskenniemi, Martti. (2002). "Fragmentation of International Law? Postmodern Anxieties." *Leiden Journal of International Law*, 15(03), 553-579. DOI: 10.1017/S0922156502000262. https://www.researchgate.net/publication/232011713_Fragmentation_of_International_Law_Postmodern_Anxieties

the potential for “breeding,” demonstrating a process in which imported institutions and tokens merge with local items⁽²⁰⁷⁾.

It is the opposite of what is required by the Women’s Convention, which requires each State Party to have the ability to justify the appropriateness of the particular avenues it chooses, and to demonstrate that the desired effects and outcomes can be achieved. In the end, it will be up to the Committee to determine whether the State party has already taken all necessary measures aimed at achieving the full realization of the rights recognized in the Convention at the national level.

2.5.4.3 **The Committee's Monitoring Mechanism for the Implementation of the Convention By Vulnerable States:**

1. The monitoring mechanism under the Convention on the Elimination of All Forms of Discrimination against Women, particularly for countries that have not ratified the Optional Protocol, is remarkably weak⁽²⁰⁸⁾. Compliance largely depends on an ongoing constructive dialogue with the oversight body, and the effectiveness of the assessment is hampered by significant delays in reporting from member countries, an issue that Heinz and Villeguen’s study has been illuminated. This study highlights that, on average, reports that are critical to assessing a country’s adherence to the Convention, are submitted two to 2.5 years after the due date, without mechanisms in place to force countries to submit them in a timely manner⁽²⁰⁹⁾.

⁽²⁰⁷⁾ Koskenniemi, Martti. (2002). PR.

⁽²⁰⁸⁾ El-Masri, Samar. (2012). "Challenges facing CEDAW in the Middle East and North Africa." *The International Journal of Human Rights*, 16(7).

⁽²⁰⁹⁾ Heyns, Christof, & Viljoen, Frans. (2001). "The impact of the United Nations human rights treaties on the domestic level." *Human Rights Quarterly*, 23(3), 483–535. pp. 488. <https://muse-jhu-edu.ezaccess.libraries.psu.edu/article/13787>

2. Moreover, the lack of direct sanctions for non-compliance in the reporting process, as noted in countries such as Sudan, Somalia, Saudi Arabia, Iran and Qatar, where their reporting delays have raised many questions about the effectiveness of the treaty system⁽²¹⁰⁾. States that refrain from reporting largely avoid criticism, revealing a challenge in achieving concrete and positive changes through the treaty, particularly with regard to the principles set out in the Convention on the Elimination of All Forms of Discrimination against Women.
3. The Committee on the Elimination of Racial Discrimination has the advantage of enforcing the Convention on the Elimination of All Forms of Discrimination against Women, where it can review complaints from a State party accusing another State of violating the Convention. It emphasizes the restrictions imposed by the Convention on the Elimination of All Forms of Discrimination against Women, which are limited to the consideration of periodic reports, and therefore restricted in addressing substantive violations of treaties, so it needs to reform their enforcement mechanisms⁽²¹¹⁾.

Ultimately, the legal challenges to the implementation and enforcement of the Convention on the Elimination of All Forms of Discrimination against Women require careful consideration. Weaknesses in the legal framework, monitoring mechanisms and enforcement tools call for a reassessing the effectiveness of the Convention on the Elimination of All Forms of Discrimination against Women to ensure that its goals in promoting gender equality are achieved on a global scale.

⁽²¹⁰⁾ EveryCRSReport.com. (2015). "The U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Issues in the U.S. Ratification Debate." August 7, 2009 – July 23, 2015.

⁽²¹¹⁾ United Nations. (2015, March 30). "Convention on the Elimination of All Forms of Discrimination against Women" (Document No. CEDAW/C/OP.8/CAN/1). Retrieved from <file:///C:/Users/N/Downloads/N1509165.pdf>

2.5.5 Economic Constraints and Political Instability

Effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women is crucial to advancing gender equality worldwide. However, various challenges, including economic constraints and political instability, could significantly affect a country's ability to meet its obligations under the agreement. For example, there are multifaceted effects such as resource constraints and political unrest on the enforcement of the Convention on the Elimination of All Forms of Discrimination against Women, associated costs, and disparities in access to education and health care, such as the experience of Afghanistan⁽²¹²⁾.

2.5.5.1 Resource Constraints and Implications:

Economic challenges can hinder a state's ability to effectively enforce the Convention on the Elimination of All Forms of Discrimination against Women. Adequate funding is necessary to develop and implement policies that promote gender equality. Costs associated with addressing discrimination against women include services, loss of economic output, and the pain and suffering of victims. For example, the cost of violence against women in the EU is estimated at €226 billion a year, highlighting the financial burden on states and the public. Preventive measures are more economically feasible than dealing with the effects of violence⁽²¹³⁾.

Strong economies facilitate the allocation of resources to gender equality initiatives, while countries facing economic challenges may struggle to prioritize and fund these

⁽²¹²⁾ UN Women. (2015). "UN Women Afghanistan Development Results Narrative 2014-2017." Retrieved from <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Executive%20Board/2015/AS%2015/UN%20Women%20Afghanistan%20Programme-PDF.pdf>

⁽²¹³⁾ EAPN Gender and Poverty Working Group. (2019). "Gender-based Violence and Poverty in Europe," Briefing #2. Authors: Graciela Malgesini (ES), Letizia Cesarini Sforza (IT), Marija Babović (RS). EAPN. Retrieved from <https://www.eapn.eu/wp-content/uploads/2019/07/EAPN-Gender-violence-and-poverty-Final-web-3696.pdf>

initiatives. Economic constraints contribute to disparities in women's access to education and health care, hampering progress in these critical areas. Limited funds may also hamper the legal and institutional reforms needed to align national laws with the principles of the Convention on the Elimination of All Forms of Discrimination against Women.

Economic difficulties may also hamper efforts to build institutional capacity to enforce gender equality measures. Women's committees and legal institutions may suffer from insufficient resources. But international support and international partnerships play a vital role in helping countries with economic constraints advance women's rights. Cooperation on a global scale is crucial to address resource disparities and promote women's rights in a holistic manner⁽²¹⁴⁾.

2.5.5.2 Political Instability:

Political instability in a country is leading to adverse effects on the status of women and the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The erosion of rights, increased gender-based violence, limited access to education and health care, and restrictions on mobility are salient consequences.

Moreover, political instability hinders the implementation of the Committee on the Elimination of Discrimination against Women by contributing to legal and institutional challenges, a lack of accountability for discrimination, diversion of resources away from social programs, ethnic tensions, and international isolation. These issues underscore the

⁽²¹⁴⁾ United Nations. (2014). "Women's Rights are Human Rights" (Publication No. HR/PUB/14/2). United Nations Publication. Sales No. E.14.XIV.5. ISBN 978-92-1-154206-6. E-ISBN 978-92-1-056789-3. Retrieved from <https://www.ohchr.org/sites/default/files/Documents/Events/WHRD/WomenRightsAreHR.pdf>

importance of promoting stability, protecting human rights and advancing gender equality.

Huda Salim, president of the Arab Women Parliamentarians Network for Equality, believes that there is a direct relationship between the political stability in the country and the extent to which women have equality and non-discrimination, especially in political participation. War and political instability in Sudan have affected the presence of women in political life, she said. The number of female actresses is also decreasing in other Arab countries, most of which are also suffering from political instability, as women are discouraged from running for positions. The Equality Network conducted a study on women in Arab countries that concluded that 80 percent of respondents were subjected to violence, which discourages them from participating in political life. Violence has been present on social media and traditional media, and in political events and public gatherings. It finds that education is very important to address this situation in schools and universities, where mindsets can be changed by raising awareness of topics such as gender equality⁽²¹⁵⁾.

2.5.5.3 An Example of Economic Difficulties, Political Instability and its Impact on Women's Rights

Afghanistan has been immersed in poverty due to its international isolation and the political and economic turmoil caused by the Taliban's seizure of power in 2021.

According to the UN Office for the Coordination of Humanitarian Affairs, 97% of Afghans were living in poverty, up from 47% in 2020. The lack of social protection has led families to resort to measures including child marriage and the sale of organs. The

⁽²¹⁵⁾ United Nations Office at Geneva. (2023, June 30). "High Commissioner for Human Rights Calls on States and the Council to Pledge to Take Concrete and Transformative Action to Tackle Gender-based Violence against Women and Girls in Public and Political Life." Meeting Summary. Retrieved from <https://www.ungeneva.org/en/news-media/meeting-summary/2023/06/le-conseil-entame-sa-journee-annuelle-de-debat-consacree-aux>

level of humanitarian assistance does not meet the needs of the population. The economy continues to be seriously hampered by the freezing of Afghan foreign reserves and reducing development assistance, steps taken by the international community following the Taliban's seizure of power. The aid that Afghanistan received in 2022 was mostly humanitarian aid, aimed at preventing famine, but not contributing to other social needs. As a result, access to health care, employment and education continue to suffer. The displacement of doctors, engineers, lawyers, teachers and government officials has led to a severe shortage of resources in those sectors⁽²¹⁶⁾.

The interaction between the economic and political realities and the implementation of the Convention on the Elimination of All Forms of Discrimination against Women underscores the need to develop comprehensive strategies to reach political stability and international cooperation to address resource disparities and promote women's rights globally. While strong economies may find it easier to comply with the obligations of the Convention on the Elimination of All Forms of Discrimination against Women, countries facing economic difficulties need continued international support. It is therefore necessary to formulate effective policies and interventions that promote the principles of the agreement.

2.5.6 Lack of Accountability Mechanisms

Inadequate accountability mechanisms within the state can contribute to non-compliance. If there are no consequences for not meeting the obligations of the Convention on the Elimination of All Forms of Discrimination against Women, states

⁽²¹⁶⁾ AMNESTY INTERNATIONAL. (2022). "AFGHANISTAN 2022: AMNESTY INTERNATIONAL RUNS ON PEOPLE POWER." RETRIEVED FROM [HTTPS://WWW.AMNESTY.ORG/EN/LOCATION/ASIA-AND-THE-PACIFIC/SOUTH-ASIA/AFGHANISTAN/REPORT-AFGHANISTAN/](https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/afghanistan/report-afghanistan/)

may be less motivated to implement the necessary reforms. However, the Convention on the Elimination of All Forms of Discrimination against Women may not impose penalties for non-compliance with the Convention or engage in any form of arbitration between States Parties, or between an individual and a State Party, with respect to the interpretation or application of the Convention.

The State also still has to approve any visit from the Committee on the Elimination of All Forms of Discrimination against Women, which hinders the effectiveness of the Convention. In addition, even if it is allowed to investigate alleged violations, it cannot force states to comply. Moreover, less than half of the member states have ratified it. Ultimately, the Optional Protocol remains unable to achieve full implementation of the Convention⁽²¹⁷⁾.

Unlike other UN treaty bodies, the Convention on the Elimination of All Forms of Discrimination against Women has explicit restrictions on the number and duration of its annual meetings. This provision states that only one session may be held annually, and the said session may not exceed two weeks. Of course, the bulk of this time is absorbed into the evaluation of reports submitted by States Parties, reducing the amount of time available for other important activities or work outside the prescribed narrow scope. In response to this limitation, the States Parties adopted an amendment that would have allowed for an extension of the meeting time. However, this amendment never received the necessary two-thirds of the support of States Parties, many of which did not want to provide more time for the treaty body to question their actions or inactions. Alternatively, the UN General Assembly allowed the committee to meet for

⁽²¹⁷⁾ Darren Rosenblum, PR.

additional sessions, as well as to vote to extend the allowable duration for each section.

This is a practical solution to a problem that was intractable⁽²¹⁸⁾.

In conclusion, the multifaceted challenges to the accountability mechanism of the Women's Convention: inadequate accountability mechanisms, the absence of sanctions, and restrictive provisions for meetings, are a scenario in which states may not have sufficient motivation to address discrimination against women. While attempts have been made to address some of these challenges, the path to comprehensive implementation remains thorny, requiring sustained efforts and international cooperation.

⁽²¹⁸⁾ Shin, H. (2004, December 3). "CEDAW and Women's Human Rights: Achievements and Obstacles." Paper presented at The Castan Center for Human Rights Law's Annual Conference, Human Rights https://www.monash.edu/_data/assets/pdf_file/0010/138664/heisoo-shin-paper.pdf

Conclusion of the First Chapter

This chapter yielded a set of results, including:

1. Ideologies and feminist activities have shaped irrevocably the international agreements related to women's rights. This influence is evident in the recognition of women's rights as fundamental human rights, permeating foundational documents such as the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women. The latter condemns all forms of discrimination against women and is pivotal in the global battle against discrimination, embodying its core principles in feminist advocacy.
2. The committee, at its core, supports the principles of equality, non-discrimination, intersectionality, and active participation and representation of women. These principles, coupled with the universality of women's rights as integral human rights, form the foundation of the convention. The collective purpose is to advance gender equality, protect women's rights, ensure equal opportunities, and guarantee the due recognition of women in society.
3. The convention encompasses a range of core aspects, including the implementation of effective measures, the promotion of women's development, marital equality, prevention of human trafficking, enhancement of women's role in decision-making, protection of sexual rights, support for pregnancy and motherhood, support for the right to health, and protection of the rights of rural women. These rights are meticulously outlined in various articles of the convention, each aiming to eliminate gender-based discrimination.

4. The Optional Protocol provides a precise approach to advancing women's rights. While holding the potential for transformative global impact, it remains globally non-binding. Its effectiveness relies on the willingness of states to actively participate and cooperate. This dual nature makes the Optional Protocol a flexible instrument serving states committed to gender equality, respecting the sovereignty of those choosing not to participate.
5. Challenges in implementing the convention include:
 - i. Cultural Relativism: Advocates of cultural relativism emphasize understanding diverse cultural standards, but critics highlight potential obstacles to implementing international agreements.
 - ii. Religious and Political Objections: The convergence of religious beliefs, political ideologies, and women's rights, as represented by Saudi Arabia, creates a complex scenario. Balancing religious freedom and political interests sometimes justifies practices conflicting with gender equality principles.
 - iii. Reservations to the Convention: Reservations, especially those related to Articles 2 and 16, pose a significant hurdle. Overly broad, lacking precision, and contradicting the convention's fundamental provisions, reservations hinder its goals and challenge international law.
 - iv. Weaknesses in Implementation and Enforcement Mechanisms: Legal obstacles in implementing and enforcing the convention underscore the need for a precise assessment. Weaknesses in the legal framework, monitoring, and enforcement require reassessment to effectively enhance global gender equality.

- v. Resource Constraints: Economic and political realities impact convention implementation, necessitating comprehensive strategies. Disparities in resources highlight the need for political stability, international cooperation, and sustained support, especially for economies facing challenges.
- vi. Lack of Accountability: Inadequate state accountability mechanisms contribute to non-compliance. The absence of consequences for unfulfilled commitments under the convention may reduce states' motivation for necessary reforms, emphasizing the need for robust accountability structures.

Chapter Two: The Status of Palestinian Women After Accession to the CEDAW Convention

3.1 Features of the Emergence and Development of the Palestinian Women's Movement

The development of the Palestinian women's movement can be determined by the historical examination of its course and outstanding national participation across the pivotal stages of the national struggle. The nascent features of the movement began to take shape in the early 20th century, after the end of Ottoman rule over Palestine and the subsequent British Mandate period. During the years 1920-1948⁽²¹⁹⁾, which were characterized by concerted efforts to rid Palestine of the British Mandate and confront the aspirations of the Zionist movement for a Jewish homeland, broad Palestinian participation was inevitable and the early stages of the women's movement saw their emergence among women belonging to respectable Palestinian families or deeply involved in public initiatives, which are mainly concentrated in major cities such as Jerusalem and Jaffa. During this phase, women's participation was mostly oriented towards philanthropic and public policy activities, and lacked public indications on a feminist agenda.

The restriction of women's participation in public life during the mandate period is attributed to discriminatory laws prevailing in Palestine, as evidenced by the 1922 Constitution of Palestine and the Municipalities Act of 1934, which denied women the right to vote and run for legislative and municipal office.

⁽²¹⁹⁾ Jad, I . (2008). Women on the intersection of Palestinian feminist movements between patriotism, secularism, and Islamic identity. Mwataan, Palestinian Foundation for the Study of Democracy, Ramallah, Palestine. Retrieved from https://muwatin.birzeit.edu/sites/default/files/publications/attachments/Islah_Jad.pdf P 22-26.

The emergence of the Nakba in 1948, accompanied by the displacement of the Palestinian people and the expropriation of land, had a profound impact on the Palestinian people, especially women⁽²²⁰⁾. In the midst of severe political unrest, women have been pushed into the traditional roles of family and reproductive responsibilities along with broader participation in the collective struggle against the Israeli occupation. During this period, women's participation in resistance was mostly spontaneous and voluntary, and emerged in urban areas, villages and refugee camps. Notably, this participation did not appear in the form of organized women's organizations or movements but was influenced by gender, class, and traditional norms.

However, elite women have succeeded in creating women's organizations, primarily comprising members of wealthy and educated families. The Palestinian women's movement, deeply involved in national endeavors, has worked without an explicit focus on defending women's rights, overshadowed by the overall necessity of fighting for the homeland. Its character is of a clear national and political character, and is in line with the broader Palestinian political framework and its national goals⁽²²¹⁾.

3.1.1 General Union of Palestinian Women as a Key Station for the Participation of Palestinian Women

After the establishment of the Palestine Liberation Organization in 1964, a pivotal development in the crystallization of the Palestinian entity, the General Union of Palestinian Women was established in 1965 as an integral part of the PLO. The Union played a transformative role in shaping the status of Palestinian women, emerging as a

⁽²²⁰⁾ Gilgum, M. (2005). The Palestinian women's movement in the West Bank 1948-1993. An-Najah University. Retrieved from <https://repository.najah.edu/server/api/core/bitstreams/f0b7924e-1047-43ee-a7c3-8b9bd6cae18a/content> P 13-27.

⁽²²¹⁾ Gilgum, M. (2005). PR. P 56-63.

representative and democratic mass organization for Palestinian women at the local and diaspora levels⁽²²²⁾.

In line with the objectives of the Palestine Liberation Organization, the General Union of Palestinian Women has set specific goals, foremost of which is the mobilization of Palestinian women in various fields, with a focus on promoting social, health, economic and cultural conditions⁽²²³⁾.

The union served as a coherent framework for the organization of Palestinian women, promoting support for the national cause. Its membership consists of representatives of various organizations and factions associated with the revolutionary movement. Prior to 1967, feminist organizations and charities in the Palestinian territories were limited in scope, participating in a select number of women mainly through elite groupings or in the context of left-wing national political parties⁽²²⁴⁾.

Following the 1967 war, with the Israeli occupation taking control of additional Palestinian land, charitable activities saw they cast a shadow over women's initiatives in the West Bank and Gaza Strip. The associations have primarily directed efforts towards addressing the challenges faced by affected families and mitigating the economic repercussions of the war. Meanwhile, women's programs remained linked to national concerns, limiting their effectiveness. Despite these challenges, women actively participated in the national struggle, facing various forms of persecution by the occupation, including arrests, deportations and house arrests. Until 1970, the women's

⁽²²²⁾ Othman, Z. (2003). A critical reading on the participation of Palestinian women. Ramallah Center for Human Rights Studies. Retrieved from <https://koha.birzeit.edu/cgi-bin/koha/opac-detail.pl?biblionumber=153541>

⁽²²³⁾ Sorani, G. (2004, March 8). Palestinian women and their role in modern and contemporary history. *Journal of Urban Dialogue*, Issue 767. Retrieved from <https://www.ahewar.org/debat/show.art.asp?aid=9703>

⁽²²⁴⁾ Gilgum, M. (2005). PR. P 82-88.

political movement was mostly engaged in the field of public mass contributions or spontaneous individual initiatives⁽²²⁵⁾.

The General Union of Palestinian Women, founded just two years ago, has turned into covert operations within the homeland. Its leaders and members faced persecution, leading to arrests and deportations. After that, the union turned its activities abroad, with great achievements on the international stage. It is worth mentioning that the Union organized four conferences between 1965 and 1985 on the status of Palestinian women. Her representation at international conferences, sponsored by the United Nations in Mexico City (1975), Copenhagen (1980), Nairobi (1985), and Beijing (1995), has resulted in resolutions asserting that Zionism constitutes a form of racism that hinders the advancement of women⁽²²⁶⁾.

However, the pace of the union's activity outside the homeland has dwindled over time, reflecting the broader Palestinian situation. After the PLO's exit from Lebanon in 1982, including union leaders and cadres, the general union faced a period of confusion and dispersion. Its activities became sporadic, limited to seasonal events, and their impact diminished. On the home front, after 1967, Palestinian women actively participated in various aspects of the Palestinian struggle, including armed resistance, national and social initiatives, covert action, mass demonstrations and other national endeavours⁽²²⁷⁾.

3.1.2 The Crystallization of Feminist Frameworks in 1978

In the late 1970s, women's participation extended beyond the scope of the struggle to actively contribute to the creation of various frameworks, organizations, and women's associations of a general national character. In addition, some feminist organizations

⁽²²⁵⁾ Gilgum, M. (2005). PR.

⁽²²⁶⁾ Othman, Z. (2003). PR.

⁽²²⁷⁾ Othman, Z. (2003). PR.

have emerged, joined specific political factions, and thus expressed their affiliation with certain ideologies. These organizations have integrated national political and social issues related to Palestinian women into their programs⁽²²⁸⁾.

At the initiative of the political parties, there has been a shift in their platforms towards engaging in both public and sectoral mass actions. This shift has impacted their platform, moving away from the perspective of the elite vanguard. Four feminist frameworks have been created since 1978, representing major Palestinian organizations. Notable examples include the “Union of Palestinian Women’s Committees” formed by the Popular Front for the Liberation of Palestine, the “Union of Working Women’s Committees” established by the Palestinian Communist Party, and the Women’s Committees for Social Work formed by Fatah. These frameworks have served as platforms for organizing women in feminist contexts⁽²²⁹⁾.

The formation of feminist frameworks has greatly influenced women’s roles in society. By reaching out to women in cities, villages, and camps, these frameworks have expanded political participation beyond traditional elite classes, including new social groups. The activation of these frameworks across the political, national, social, health, and cultural spheres has contributed to the creation of a more diverse and inclusive political landscape⁽²³⁰⁾.

The creation of feminist frameworks has profound implications for women’s reality and participation. Many medium and popular cadres, characterized by enthusiasm, dynamism and initiative, have found leadership roles within these frameworks. This

⁽²²⁸⁾ Jad, I . (2008). PR. P 32.

⁽²²⁹⁾ Othman, Z. (2003). PR. P 54.

⁽²³⁰⁾ Nazzal, R. (2004). The reality of the political participation of Palestinian women. Bir Zeit University Library. Retrieved from https://koha.birzeit.edu/cgi-bin/koha/opacdetail.pl?biblionumber=271786&query_desc=%D9%86%D8%B2%D8%A7%D9%84%202004

vanguard played a crucial role in leading the struggle later during the uprising. The frameworks formed the basic infrastructure of the uprising, with a focus on providing services to meet the basic needs of al-Qaeda and the organization of communities with the aim of integrating them into the resistance.

This practical and strategic approach has effectively addressed the requirements of diverse groups, particularly those in urban and rural areas and camps⁽²³¹⁾.

3.1.3 The Reality of the Participation of the Women's Movement in the First Intifada 1987

With the beginning of the popular uprising in 1987, the role of Palestinian women witnessed a major shift in the framework of thriving popular mass participation. Women from diverse social strata spontaneously participated in rallies, demonstrations, and stone-throwing activities. Meanwhile, women's frameworks and organizations saw a remarkable development during the early years of the uprising. The spread of affiliates and the expansion of their operations has reached all Palestinian areas, and has resonated with the widest segments of the population. This increase in affiliation and participation played a pivotal role in popularizing the uprising, gained widespread local support, and captured international sympathy⁽²³²⁾.

However, the observed first participation of women in the first intifada, particularly during the first two years, saw a later decline. Multiple factors contributed to this decline, including the overtly masculine nature of political parties, the dominance of feminist frameworks that prioritize political action over social issues, and the creation of

⁽²³¹⁾ ad, I. (2008). PR.

⁽²³²⁾ Nasser, R., & others. (2008). The Palestinian feminist discourse. Palestinian Feminist Platform. Retrieved from <https://koha.birzeit.edu/cgi-bin/koha/opac-detail.pl?biblionumber=44208>

popular and neighborhood committees that have brought women's roles back to a status of dependency⁽²³³⁾.

Although women's participation decreased in the later stages of the intifada, experience gained during this period, increased awareness of women's issues and needs, and the influence of prominent figures from the Palestinian women's movement in 1990 fostered new perspectives on women's issues. The discourse surrounding women's rights has further developed the close interaction between the elite and the international community through participation in conferences addressing human rights and women's rights. In addition, foreign funding directed at developing countries, with a focus on issues related to improving the status of women, has facilitated the emergence of new forms of regulation for women. These entities operate independently of the national movement and derive their legitimacy from broader international frameworks. These centers began research, studies and analysis of the situation faced by Palestinian women, facilitated the training of women cadres, and promoted awareness of women's issues⁽²³⁴⁾.

3.1.4 The Oslo Phase and its Impact on the Palestinian Women's Movement

Following the Madrid Peace Conference in 1991 and the start of peace negotiations, there was a major development in the Palestinian national movement with the establishment of feminist NGOs. This represents a departure from traditional affiliations with national parties and factions. These organizations have embarked on programs and projects that reflect a thriving feminist orientation. Before the intifada, such initiatives were considered taboo within the broader national movement and its feminist

⁽²³³⁾ Gilgum, M. (2005). PR.

⁽²³⁴⁾ Jad, I. (2008). PR.

frameworks, often seen as attempts to emulate Western feminist thought that is contrary to the values held by Palestinian society.

Programs implemented by these newly formed institutions have begun to address critical issues, including discriminatory laws against women, cultural construction that devalues women, and perpetuates stereotypes. Moreover, they focused on combating violence against women. It is worth mentioning that feminist organizations have shifted from meeting primarily practical needs, such as health and education services, to meeting strategic needs aimed at changing the power dynamics between women and men and challenging the prevailing patriarchal system inherent in Palestinian society⁽²³⁵⁾.

The creation of the Palestinian National Authority and the subsequent transfer of power to political leaders led to a split within the Palestinian women's movement. One faction emerged to support the peace process, and formed a technical committee on women's issues known as the Women's Affairs Officers. These staff members played a pivotal role in supporting the Palestinian negotiating delegation in Madrid, advocating for increased representation of women and the inclusion of women's issues in the peace process. Subsequently, staff worked to expand women's participation in power structures, introduce constitutional amendments to ensure women's rights and promote gender equality in all spheres of life⁽²³⁶⁾.

The second front included critics and opponents of the peace agreements and the Palestinian National Authority, and initially refused to join the technical committee formed by supporters of the peace process (Women's Affairs Officers). In the end, a temporary settlement was reached between the two fronts to coordinate efforts in

⁽²³⁵⁾ Gilgum, M. (2005). PR. P 156-180.

⁽²³⁶⁾ Sorani, G. (2004, March 8).

advancing a feminist agenda. This collective effort culminated in the drafting of the “Women’s Rights Document,” which outlines women’s demands for the full enjoyment of economic, social and political rights⁽²³⁷⁾.

The Oslo phase saw a retreat from the mass uprising, which led to a delicate relationship between political parties and the women’s movement. The interaction of mass frameworks, including women’s groups, with political parties has shifted into a bureaucratic relationship. In addition, Salafi intellectual trends emerged during this period, rejecting women's participation in the national revolution and public life, calling for their return home, and promoting unity against perceived common opponents⁽²³⁸⁾.

3.1.5 Palestinian Feminist Movement within the Framework of the Palestinian National Authority.

In the post-Oslo era, women strategically reoriented their activities, recognizing the influential role of feminist participation within NGOs. This shift has prompted women to join smaller but more flexible organizations, representing a departure from larger political parties. The adoption of the trend that addressed the concept of gender has become a central focus, reflecting an evolving approach to feminist action⁽²³⁹⁾.

Feminism initially lacked a specific agenda dedicated to women’s rights issues. Navigating the coordination and cohesion of a strong feminist movement was a double war between women’s access to their rights and confronting the occupation was difficult, leading to a general division among Palestinian women into two camps. One of them emphasizes that the pursuit of the realization of the rights of Palestinian women should be postponed, at least until self-government and national independence are

⁽²³⁷⁾ Sorani, G. (2004, March 8).

⁽²³⁸⁾ Nasser, R., & others. (2008). PR.

⁽²³⁹⁾ Nasser, R., & others. (2008). PR.

obtained. In contrast, the second group calls for a parallel path of the two movements. This unit is inspired by the experience of Algerian women who have actively participated in the struggle for independence from French colonial rule, and emphasizes that the affirmation of women's rights becomes imperative when the national crisis is resolved⁽²⁴⁰⁾.

After the establishment of the Palestinian National Authority in 1994, the feminist movement faced a crisis in the field of political parties. Many feminist activists broke away from political party affiliations, choosing to work within civic organizations separate from the party's agendas. A thriving feminist agenda has emerged, focusing in particular on legal and legislative reforms in favor of women and an emphasis on women's access to decision-making positions⁽²⁴¹⁾.

However, this transformational period also saw a marked shift in the nature of feminist programs and projects. In seeking to conform to the state-building phase and meet the conditions set by the funding bodies, feminist organizations have begun to implement projects under specific titles that may not necessarily meet the immediate needs of Palestinian women. Thus, this development in programs and projects came at the expense of issues related to national liberation and distanced the movement from its mass base⁽²⁴²⁾.

The apparent collapse of the Palestinian Authority, after the Oslo Peace Accords, led to the escalation of Islamic fundamentalism and the escalation of Israeli occupation policies, which in turn left noticeable shifts within the Palestinian feminist movement. It

⁽²⁴⁰⁾ Darraj, S. M. (2004). Palestinian women: Fighting two battles. *Monthly Review*, 56(1), 25+. Gale Academic OneFile.

<https://go.gale.com/ps/i.do?id=GALE%7CA117041789&sid=googleScholar&v=2.1&it=r&linkaccess=abs&issn=00270520&p=AONE&sw=w&userGroupName=anon%7Ec43cef1a&aty=open-web-entry>

⁽²⁴¹⁾ Jad, I. (2008). PR. P 62.

⁽²⁴²⁾ Sorani, G. (2004, March 8).

is the emergence of a new feminist version, known as Islamic feminism. Sheryl Rubenberg, in her work “Palestinian Women: Patriarchy and Resistance in the West Bank,” explained this movement. In the framework of Islamic feminism, where Palestinian Muslim women seek inspiration from the Qur'an and the teachings of Muhammad, where they assume a strong Muslim femininity and challenge the prevailing conservative attitudes that portray women as weak structures, manipulated through interpretations from men of Islamic history and teachings⁽²⁴³⁾. Women’s institutions devoted significant efforts to encouraging women’s active participation in the 2006 legislative elections, and designed their initiatives as promoting women’s political participation and advancing electoral democracy.

Despite these endeavors, a majority of voters have entrusted their support for the fundamentalist Hamas movement. Notably, Hamas has traditionally opposed equal rights between men and women, citing its conflict with “the rules of Islamic law.” This had a remarkable dissonance in the messages of these institutions and their impact on social and political development⁽²⁴⁴⁾.

After the moment the State of Palestine signed the CEDAW agreement, the expected implementation of the agreement was not achieved, leaving Palestinian feminists with unfulfilled expectations. This is despite the alarming rise in violence against women, including femicide incidents, which emerged particularly in 2020.

Despite these challenges, feminist movements continue to adhere to the Convention and continue to advocate for its full implementation by the Palestinian government in response to the prevailing violence against women in the Palestinian territories, as well

⁽²⁴³⁾ Darraj, S. M. (2004).

⁽²⁴⁴⁾ Zaqout, J. (2023, September 5). The implications of Oslo for feminism: Challenges and opportunities. Together News Agency. <https://www.maannews.net/articles/2100204.html>

as the persistence of gender disparities in employment opportunities and persistent discriminatory practices faced by women in various fields, feminist groups have mobilized movements urging formal ratification of the Convention on the Elimination of All Forms of Discrimination against Women. Their efforts underscore the urgent need for concrete action to address these issues and support the principles of gender equality⁽²⁴⁵⁾.

Despite the emergence of the current legal system under the influence of the various forces that previously ruled Palestine, the Palestinian leadership refrained from taking a final position on issues related to women's rights. There was a marked absence of a clear commitment to initiate legal reforms or address gender-based disparities, leaving the course of these reforms uncertain.

With all the struggle experienced by the Palestinian woman that characterizes her as a woman and as a Palestinian, it can be expressed by a quote from Samira Azzam in the story "The Bread of Redemption" where she says "The homeland is not only oranges and the land, the homeland is Souad's eyes that rebelled against the family and remained with the resistance."⁽²⁴⁶⁾ What can be understood in summary is that the struggle fought by Palestinian women in the fight for the homeland was not separate from their resistance to the stereotype set for them. And the roles that she was created with it, and the behavior described for it in the faces of society. Which was and still is in constant resistance to him.

⁽²⁴⁵⁾ Al-Adam, M. (2021, March 22). Sidaw: A raging battle in Palestine. Mediterranean Feminist Media Network.

<https://medfeminiswiya.net/2021/03/22/%D8%B3%D9%8A%D8%AF%D8%A7%D9%88%D9%85%D8%B9%D8%B1%D9%83%D8%A9%D9%85%D8%AD%D8%AA%D8%AF%D9%85%D8%A9%D9%81%D9%8A%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86/?lang=ar>

⁽²⁴⁶⁾ Azzam, S. (2021, August 8). The story of the bread of redemption. Paces for Consult. <https://paces4consult.com/ar/detailsBlog/774>

3.2 palestine palestine's accession to the women's convention

The independence document formed the legal basis for the rights of Palestinian women in the event of the establishment of the independent State of Palestine, in which it stressed: "The State of Palestine is for Palestinians wherever they are to develop their national and cultural identity, and enjoy full equality of rights, in which their religious and political beliefs and their human dignity are safeguarded, under a parliamentary democratic system based on freedom of opinion, freedom of party formation and the sponsorship of minority rights, respect for the minority, majority decisions, and on social justice, equality and non-discrimination in public rights on the basis of race, religion or color or between women and men, under a constitution that secures the rule of law and independent judiciary and on the basis of full fulfillment of Palestine's spiritual heritage. And the civilization in tolerance and tolerant coexistence between religions through the centuries."⁽²⁴⁷⁾"

The Basic Law of the Palestinian National Authority was also issued in 2003, and a new amendment was made on July 27, 2005, and the amendment to some of its articles was adopted by the Palestinian Legislative Council on August 13 of the same year, without prejudice to its introduction, which confirmed the close link between the Palestinian people, the land and history.

The Basic Law stipulated in its articles on human freedom, dignity and the right to express opinion and work to generalize the principle of equality without any

⁽²⁴⁷⁾ Interactive Encyclopedia of the Palestinian Issue. (n.d.). Declaration of independence of Palestine 1988.

<https://www.palquest.org/ar/highlight/277/%D8%A5%D8%B9%D9%84%D8%A7%D9%86%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D9%82%D9%84%D8%A7%D9%84%D8%A7%D9%84%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D8%8C-1988>

discrimination by sex or others⁽²⁴⁸⁾. Palestinians before the law and the judiciary, whether there is no discrimination between women and men on the basis of race or sex, in public rights and freedoms, respect for freedom, guaranteeing personality and not prejudice In it⁽²⁴⁹⁾.

Palestine's decision to accede to the Convention on the Elimination of All Forms of Discrimination against Women demonstrates a positive step towards promoting gender equality and protecting women's rights. However, the journey does not end with accession; Palestine must now focus on fulfilling its international obligations by harmonizing its domestic laws with the provisions of the Convention. The next steps involve a comprehensive process that includes ratification, effective implementation and harmonization of domestic laws with the Convention on the Elimination of All Forms of Discrimination against Women, a crucial initiative to ensure de facto equality and non-discrimination for women in the Palestinian legal framework. Subsequent sections will clarify aspects of the validation, implementation and harmonization process.

Palestine's Ratification of the Convention:

The President of the State of Palestine signed the Convention on the Elimination of All Forms of Discrimination against Women on March 8, 2009, with a unilateral declaration by Presidential Decree No. 19/2009, in line with the amended Organic Law of 2003. Palestine ratified the CEDAW Convention on April 1, 2014, without reservations⁽²⁵⁰⁾.

⁽²⁴⁸⁾ Encyclopedia of Palestinian Laws and Court Rulings. (n.d.). Amended Palestinian Basic Law, 2003, Article 9. <https://maqam.najah.edu/legislation/11/>

⁽²⁴⁹⁾ Encyclopedia of Palestinian Laws and Court Rulings. (n.d.). Amended Palestinian Basic Law, 2003, Article 11. <https://maqam.najah.edu/legislation/11/>

⁽²⁵⁰⁾ Ratification is a substantive procedure that precedes the preliminary signing of the convention until the state fulfills the constitutional requirements". Accession: "a contract whereby a country becomes a team in an agreement to which it is not a signatory. Independent Commission for Human Rights. (2013). Report on the Analysis of the National Situation Women's Human Rights and Gender Equality: Occupied Palestinian Territories. Ombudsman's Office, p. 20.

According to the Vienna Convention, an act by which a state is bound by the provisions of a treaty is a crucial international action. This obligation, whether through ratification or accession, denotes a state's consent to be bound by the treaty's obligations. If Palestine ratifies the Convention on the Elimination of All Forms of Discrimination against Women, it bears the legal responsibilities set out in the treaty. However, ratification alone does not give the power to enforce the provisions of the treaty domestically; instead, the state must incorporate these provisions into its domestic legislation. Treaty law emphasizes the duty of governments to diligently implement agreements, with each human rights treaty imposing enforceable responsibilities. This includes positive commitments, which require proactive steps towards equality, and negative obligations, which dictate the avoidance of discriminatory actions. Article 26 of the Vienna Convention emphasizes implementation in good faith, while article 27 prohibits the use of domestic law as a justification for non-compliance with the treaty.

Internal Legislation to Adopt the Convention:

There are many constitutions, when they harmonize international treaties, automatically incorporate them into their legal system when they are ratified and published, but there are other states that have to enact domestic legislation to fully adopt and recognize the rights and obligations specified in the treaty. Failure to take such a procedural step means that there is no internal obligation, and treating the treaty as a mere international rule that is not directly related to the internal system of the state. This approach is widespread, and requires specific measures for the State to formally adopt the content of the treaty after ratification⁽²⁵¹⁾.

⁽²⁵¹⁾ Sarhan, Mohammed Abdul Aziz. (1980). The Relationship Between International Human Rights Conventions and Domestic Laws. Journal of Rights, Kuwait, No. 03, p. 119.

The amended 2003 Palestinian Basic Law raises concerns because it lacks clarity on the mechanisms for incorporating international law into domestic regulations and its interaction with customary international law or international treaties. Critical elements such as the treaty authority, enforcement mechanisms in bylaws, and legal status remain undefined.

Despite paragraph 2 of Article 10 of the amended Palestinian Basic Law, it refers to accession to international agreements. While the Palestinian judiciary may have the decisive authority in addressing these issues, the absence of domestic legal measures poses a challenge to fulfilling international obligations⁽²⁵²⁾.

3.2.1 Entry Into Force and Implementation of the Convention in Domestic Law

A distinction should be made between the entry into force of the treaty in national law and its implementation, as the entry into force of the treaty into national law, while implementation means the application of the treaty in national law by the legislative, executive and judicial organs where appropriate:

3.2.1.1 Entry Into Force of the Agreement:

The treaty shall be effective in international law by signing, ratifying, acceding, approving or accepting with the exchange of memorandums in bilateral treaties and depositing them with the depositary in multilateral treaties, where the final provisions of these two types of treaties determine the date of entry into force of these treaties from the date of exchange of notes or from the date of deposit or after the expiration of a specified period thereafter. Effectiveness in international law means that it is the final obligation of the treaty based on the rule of the contract, pacta pacts and the fulfilment of its provisions in good faith as an expression of the will of its parties at its conclusion.

⁽²⁵²⁾ Al-Batma, R. (2014). Palestinian Center for the independence of the bar and judiciary, Musawah. International treaties and national law. P 46-54.

Thus, the treaty becomes part of the international legal system, as states Article 26 of the Vienna Convention To the Treaty Act of 1969⁽²⁵³⁾.

The entry into force of the treaty in national law means the obligation of the Contracting State to fulfill its provisions on its territory with respect to persons and funds on it, which is an obligation to achieve a result and not an obligation to exercise care because the entry into force of the treaty in international law is a prelude to its implementation in national law. Otherwise, there is no point in concluding the treaty in the first place. Indeed, the effectiveness of the treaty in national law exists in addition to its effectiveness in international law on the basis of reciprocity, as expressed in the expression of Article 55 of the French Constitution of 1958 as a condition for the implementation of the treaty in national law⁽²⁵⁴⁾.

The PLO was granted observer status at the United Nations by General Assembly resolution 3237 of 22 November 1974⁽²⁵⁵⁾. Subsequently, in Resolution 19/67 on November 29, 2012, the United Nations General Assembly recognized Palestine as a non-member state, and elevated its status to an observer state. This recognition has given Palestine the ability to participate in UN sessions and conferences, giving it access to international conventions related to humanitarian and human rights laws. As a result, Palestine has undertaken various international obligations towards UN

⁽²⁵³⁾ Article 26 of the Vienna Convention on the law of Treaties of 1969.

⁽²⁵⁴⁾ Expression of Article 55 of the French constitution of 1958. https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/constiution_anglais_oct2009.pdf

⁽²⁵⁵⁾ General Assembly resolution 3237 of November 22, 1974. <https://www.palquest.org/ar/historictext/9645/%D9%82%D8%B1%D8%A7%D8%B1-%D8%B1%D9%82%D9%85-3237xxix%D8%B5%D9%81%D8%A9%D9%85%D8%B1%D8%A7%D9%82%D8%A8%D9%84%D9%85%D9%86%D8%B8%D9%85%D8%A9%D8%A7%D9%84%D8%AA%D8%AD%D8%B1%D9%8A%D8%B1%D8%A7%D9%84%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D8%A9>

institutions, reflecting the incorporation of domestic law into the broader international legal system.

Paragraph 1 of Article 10 of the Amended Organic Law of 2003 affirms the binding nature of human rights and fundamental freedoms⁽²⁵⁶⁾, and affirms the commitment of the Palestinian National Authority to immediately accede to regional and international declarations that protect human rights.

However, the Basic Law affirms that the principles of Islamic law are an important source of legislation⁽²⁵⁷⁾, ensuring that the provisions of the treaty that do not conflict with Islamic law remain unchanged. But this assertion is subject to many different interpretations, as confirmed by Dr. Ammar Dwek, director general of the Independent Commission for Civil Rights, on the role of Islamic law as a primary source of legislation, not the main and the only one.

3.2.1.2 Treaty Implementation:

Since domestic law and international law are legal systems, there is an independent and distinct link between them. While international law is the law of coordination and cooperation between equal sovereign states, domestic law is the law of submission that expresses the intention of the dominant power in a state to impose it within its borders. The internal application of the texts of treaties includes the two basic theories that guide the analysis of this relationship are dualism and the unity of law. While dualism emphasizes independence and the distinction between international and domestic law, the theory of the unity of law considers them to be interrelated branches within a single

⁽²⁵⁶⁾ Paragraph 1 of Article 10 of the amended Basic Law of 2003.

⁽²⁵⁷⁾ Article No. 4, paragraph 2 of the amended Palestinian Basic Law of 2003.

legal system⁽²⁵⁸⁾. It is worth mentioning that in April 2014, President Mahmoud Abbas signed a presidential statement, culminating in the formation of a national team in 2018 tasked with studying the initial report of Palestine on compliance with the Convention on the Elimination of All Forms of Discrimination against Women⁽²⁵⁹⁾. These steps underscore Palestine's tendency towards aligning its legal framework with international human rights standards.

3.2.1.3 Relationship of International Law in Domestic Law:

The theory of the unity of law, rooted in contemporary positivism, assumes that domestic and international laws constitute a coherent and indivisible entity. This theory is presented in two ways: main base theory and social theory. The main-base theory proposes a hierarchical structure of laws, with the supreme rule, often considered the "contractual law," at the top, which serves as the foundation of the international legal system. On the other hand, social theory emphasizes the importance of social norms for the organization and functioning of the group. In the context of international law, he argues that rules evolve as a result of perceived determinism and the need for the international community⁽²⁶⁰⁾.

While the position of the international judiciary on the relationship between treaties and domestic law may not have a clear direction, there is recognition of the responsibility of States when violating international rules. The principle of the supremacy of international law over domestic law is emphasized in cases where the terms of the treaty

⁽²⁵⁸⁾ Amer, S. E.-D. (2007). An Introduction to the Study of Public International Law. Cairo University Press, Dar Al-Nahda Al-Arabiya.

⁽²⁵⁹⁾ Inter-Parliamentary Union & United Nations. (2023). Convention on the elimination of all forms of discrimination against women and its Additional Protocol: Handbook of parliamentarians No. 36. Retrieved from <https://www.ohchr.org/sites/default/files/documents/publications/OHCHR-IPU-CEDAW-Handbook-revised-edition-AR.pdf>

⁽²⁶⁰⁾ Amer, S. E.-D. (2007). An Introduction to the Study of Public International Law. Cairo University Press, Dar Al-Nahda Al-Arabiya. P 163.

conflict with domestic legislation. This principle, contained in Article 27 of the Vienna Convention on the Law of Treaties, states that no party to a treaty may use domestic legislation as an excuse for non-compliance⁽²⁶¹⁾.

In an example to confirm this, the case concerning the Greek-Bulgarian groups was decided in the advisory opinion of the Permanent Court of International Justice in 1930, and from what was presented, it is also clear that the international judiciary has adopted the preponderant standard of the treaty, although it contains provisions that conflict with the legislation, because if the nation is a party to an international treaty and its constitution provides otherwise, this is not accepted as a protest by the nation, indicating that the parties to the treaty are a group of states in which the treaty has greater authority than the constitution⁽²⁶²⁾.

3.2.1.4 Internal Implementation of Treaty Texts:

Some domestic systems require treaty legislation to convert their provisions from international rules to domestic legal rules. It is not enough just a country to ratify or accede to a treaty to become part of its domestic law. International treaties cannot be directly applied, because the rule in the law of treaties is the relative effect of a treaty and its effects do not extend to non-parties to it from states, international organizations or private individuals, so individuals do not bear the effects resulting from international treaties. This trend justifies its position that the automatic enforcement system is not adopted on the basis of respect for the principle of separation of powers, because the executive branch is always competent to conclude treaties, while the issuance of legislation falls within the competence of the legislative branch, and therefore the

⁽²⁶¹⁾ Vienna Convention on the law of Treaties of 1969.

⁽²⁶²⁾ Ahmed Abdel Karim Shaker: International Treaties before the Criminal Court, Dar Al-Kutub Al-Qanuni, Cairo, 2010. p. 130.

executive power cannot be allowed to exercise the task of issuing legislation by exploiting its jurisdiction⁽²⁶³⁾.

The internal judiciary does not apply the conditions of the international treaty because it is the texts that govern it; it does so because it is the texts of its internal law, issued by the body with the ability to enact legislation in its country. The positive legal rule cannot be applied and respected until it is recorded in an official text available for inspection and knowledge by individuals and authorities, regardless of whether it was created by an internal legislator or incorporated into an international treaty. It is to issue the treaty domestically after it has been ratified, and as a result, it becomes a legally binding document for the people and internal authorities. In addition, it is a situation where the state allows it, allowing the judiciary to ignore the treaty and individuals are not bound by it; the state is responsible for breaching its international obligations⁽²⁶⁴⁾.

Finally, Parliament must pass domestic legislation providing for the incorporation of treaties into the rules of procedure. It is not enough to simply refer to or suggest this in another law; regardless of whether the treaty is internationally binding, this does not bind the domestic authorities that apply it.

3.2.2 The Legal Value of the Publication of Ratified International Conventions

The publication of the treaty is regulated by law, and Article 24 of the 1969 Vienna Convention left the implementation of the treaty, as its first paragraph requires the treaty to enter into force on the date and in the manner specified in accordance with the

⁽²⁶³⁾ International Law Commission. (2011). Report of the International Law Commission, sixty-third session. August. <https://legal.un.org/ilc/reports/2011/arabic/addendum.pdf>

⁽²⁶⁴⁾ Abu Hani, A. (Year not specified). The problem of the effectiveness of international treaties in domestic laws. Faculty of Law, Medea University. [file:///C:/Users/N/Downloads/%D9%85%D8%B4%D9%83%D9%84%D8%A9-%D9%86%D9%81%D8%A7%D8%B0%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D9%87%D8%AF%D8%A7%D8%AA%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A9%D9%81%D9%8A%D8%A7%D9%84%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86%D8%A7%D9%84%D8%AF%D8%A7%D8%AE%D9%84%D9%8A%D8%A9%20\(1\).pdf](file:///C:/Users/N/Downloads/%D9%85%D8%B4%D9%83%D9%84%D8%A9-%D9%86%D9%81%D8%A7%D8%B0%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D9%87%D8%AF%D8%A7%D8%AA%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A9%D9%81%D9%8A%D8%A7%D9%84%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86%D8%A7%D9%84%D8%AF%D8%A7%D8%AE%D9%84%D9%8A%D8%A9%20(1).pdf)

agreement of the negotiating States and left the States how to implement the treaty by including it in the legal system of the States parties to it.

The registration and publication of international treaties are vital preventive measures that constitute the final formal conditions for their recognition⁽²⁶⁵⁾. This process ensures transparency, and aims to foster an international relationship based on the principles of justice. Notably, the dissemination of treaties to the public through official channels, such as the Official Gazette, is crucial for their integration into domestic legal systems. This publication serves as a means of informing individuals of the legislation, in line with the fundamental principle of not exempting anyone from ignorance of the law⁽²⁶⁶⁾.

For an international treaty to gain the force of law in the domestic legal system, the mere exchange of ratification is not enough; publication in the Official Gazette is imperative. While domestic laws take effect when they are made, the enforceability of treaties depends on their publication. In addition to the problem of demanding its application before the judiciary, because the judge only applies published texts, and the delay in the publication of ratified treaties leads to saying that there is a kind of duplication⁽²⁶⁷⁾. The judge, when applying the treaty, must be published, and this shows the need for consistency of legal texts, and in the case of the State of Palestine, which has not taken comprehensive legislative action. It did not publish the agreement and harmonize it with existing legislation, the agreement cannot be considered an integral part of the Palestinian legislative framework⁽²⁶⁸⁾.

⁽²⁶⁵⁾ Salama, M. H. (1994). Public international law. Alexandria: Universities Publishing House, P 78.

⁽²⁶⁶⁾ Abdel Karim, M. (2011). The authority of international treaties before the criminal judge: A comparative study. (1st ed.). Egypt: House of Thought and Law, P 123-122.

⁽²⁶⁷⁾ Isaad, M. (1980). Droit international privé: Les règles de conflits. Alger: O.P.U, P 83.

⁽²⁶⁸⁾ President Mahmoud Abbas issued a decree by law (21) for the year 2019 amending the legislation governing the provision in its article of personal status on determining the age of marriage in the state of Palestine, which stated in its Article (2): "the eligibility for marriage requires that the parties to the

3.2.3 Aligning the Palestinian Legal System with the CEDAW

The incorporation of international treaties into domestic law and their legal status often depends on what is provided for in domestic law, which later determines their value and status in state legislation. Unfortunately, the Palestinian Basic Law of 2003 and its version as amended in 2005 lack provisions defining the integration mechanism of international treaties, revealing a significant gap in the legal framework. To address this shortfall, it is necessary for the Palestinian legislator to introduce mechanisms to smoothly integrate agreements into the domestic legal system in future revisions to the Basic Law. Current judicial practice shows cases where the implementation of treaty provisions depends on court decisions, underscoring the need for a more structured approach in accordance with constitutional conditions determined by the state⁽²⁶⁹⁾.

The implementation of the treaty within the national system includes legislative, administrative or judicial measures to fulfil its provisions. This includes actions such as allocating funds to financial obligations, amending national legislation, or amending regulations as required by the treaty. The implementation of the treaty is the responsibility of the relevant legislative, executive and judicial governmental bodies⁽²⁷⁰⁾.

With the scope in terms of place, time and individuals involved. Challenges arise in the implementation of treaties under the unstable legal environment in occupied Palestine, leading to inconsistent application throughout the territory of the State⁽²⁷¹⁾.

The judiciary plays a crucial role, in the implementation of the treaty when requested by individuals or the executive. This responsibility is rooted in the judiciary's duty to apply

marriage contract be sane, and that each of them is eighteen solar years of age." <http://muqtafi.birzeit.edu/pg/getleg.asp?id=17237>

⁽²⁶⁹⁾ JJuma, H. (1980). Public International Law. Ain Shams University. P. 140.

⁽²⁷⁰⁾ Ben Daoud, I. (2008). Revision of International Treaties and Their Termination. PhD thesis, University of Algiers, Faculty of Law, Ben Aknoun. P. 82.

⁽²⁷¹⁾ Al-Hadithi, A. I. (2010). Public International Law. Dar Al-Nahda Al-Arabiya. P 74.

treaties in accordance with the State's obligation to implement them. In addition, the national judge ensures that constitutional procedures comply with the ultimate compliance with the treaty⁽²⁷²⁾.

In the case of Palestine, political challenges, such as the suspension of the Legislative Council, have led to a lack of comprehensive legal measures to address women's rights. The alternative was the issuance of several presidential decrees, often unrelated to women's issues, reflecting a broader neglect of women's rights within the Palestinian state's priorities and obligations. Populism has also hindered the passage and unification of laws critical to women's issues, including those related to personal status and sanctions⁽²⁷³⁾.

President Mahmoud Abbas declared a state of emergency on March 5, 2020, through a presidential decree to address the threat posed by Covid-19 and prevent its spread⁽²⁷⁴⁾. However, the continuation of the state of emergency in Palestine is contrary to the amended Basic Law (Constitution), specifically Article 110, which allows the declaration of a state of emergency for a maximum of 30 days, and which requires the approval of a two-thirds majority of members of Parliament for the extension⁽²⁷⁵⁾. Despite continued calls from Palestinian civil society organizations to stop the unconstitutional state of emergency and move forward with elections, it remains in

⁽²⁷²⁾ Tibi Anani, A. (2003). Introduction to the International Mechanisms for the Promotion and Protection of Human Rights. Casbah Publishing House, Algeria. P. 31.

⁽²⁷³⁾ Al-Ghunaimi, Z. (2018). Fact Sheet on the Mechanisms of the Rule of Law and Justice for Women: Legislation and Laws Enacted in the Gaza Strip and the West Bank Since the Division in 2007 and Amendments to the Paper.

⁽²⁷⁴⁾ Prime Minister. (2020, April 3). Prime Minister's statement on the measures to extend the state of emergency to confront the outbreak of coronavirus in Palestine. Retrieved from <http://www.palestinecabinet.gov.ps/portal/news/details/50299>

⁽²⁷⁵⁾ cle No. 110 of the amended Basic Law of 2003. <https://maqam.najah.edu/legislation/11/item/1270/>

effect. Notably, the government has not presented a comprehensive plan to address the multifaceted consequences of the coronavirus and the protracted emergency⁽²⁷⁶⁾.

This lack of strategic response includes health, economic, social and psychological aspects, leading to escalating indicators of poverty and unemployment and increased community violence during the pandemic.

Of notable concern is the absence of Palestinian women from the emergency committees established in response to the coronavirus pandemic. In addition, the government has not put in place any plans or programs aimed at ensuring the protection and active participation of women, including women with disabilities, in managing the effects of the pandemic. There is a lack of indicators and disaggregated statistical data regarding the situation of women and girls during the coronavirus pandemic⁽²⁷⁷⁾, which runs counter to the expectations set out in Security Council resolution 1325 (2000)⁽²⁷⁸⁾.

The disruption of the PLC's operations since June 2007, marked by an internal split between Fatah and Hamas, and the subsequent unconstitutional resolution by the Palestinian Supreme Court in December 2018, led to a clear decline in the political system. This is primarily due to the unified executive's control over both legislative and enforcement processes, resulting in a lack of parliamentary oversight and accountability for its actions⁽²⁷⁹⁾.

The stalled state of the political system, coupled with the deterioration of the Palestinian judiciary, especially since 2019, has been an important factor in the issuance of "law-

⁽²⁷⁶⁾ Independent Commission for Human Rights. (2020). The actions of the state of emergency during the corona Pandemic. P 40-42. Retrieved from https://cdn1.ichr.ps/cached_uploads/view/ichr-files/files/000000920.pdf

⁽²⁷⁷⁾ Independent Commission for Human Rights. (2020). PR.

⁽²⁷⁸⁾ Security Council Resolution 1325.

https://www.dcaf.ch/sites/default/files/publications/documents/2_Guidelines_UNSCR_WEB.pdf

⁽²⁷⁹⁾ Coalition for Integrity and Accountability (Aman). (2023). The effectiveness of the control of official supervisory institutions over the work of the executive branch. Retrieved from <https://www.aman-palestine.org/EX02023.pdf>

based decisions” by President Mahmoud Abbas in response to the internal divide. The United Nations Committee against Torture highlighted this situation in its concluding observations on the initial report of the State of Palestine during its 1932 and 1933 sessions held on July 26-27, 2022⁽²⁸⁰⁾.

Although some legislation was withdrawn in the wake of protests led by the Palestinian Bar Association⁽²⁸¹⁾, amendments affecting the judiciary under Law No. 1 of 2000 remain in place⁽²⁸²⁾. These amendments have led to the dominance of the executive branch over the judiciary and judges.

Enforcing the benefits of the agreement was not a priority for Palestinian official bodies, either at the legislative or non-legislative level. The absence of the Legislative Council and the deterioration of the judiciary have eroded the principle of separation of powers. This has led to a lack of accountability, transparency and fairness. The weak role of the Palestinian judiciary has also weakened its ability to protect public rights and freedoms, especially in upholding principles such as equality, non-discrimination, freedom of expression, the right to peaceful assembly, and other rights guaranteed in the Basic Law and international conventions aimed at realizing the rights of both women and men⁽²⁸³⁾.

In Section III of the Palestinian Basic Law, the executive responsibilities of the President of the Palestinian National Authority are clearly defined. Among these duties

⁽²⁸⁰⁾ Committee Against Torture. (2022, August 23). Concluding observations on the initial report of the State of Palestine. Retrieved from <file:///C:/Users/N/Downloads/G2246761.pdf>

⁽²⁸¹⁾ Abu Maala, S. (2022, July 5). A legal movement waged by the Palestinian Bar Association paralyzes the courts in protest against the torrent of "decisions with laws." Al-Quds Al-Arabi. Retrieved from <https://www.alquds.co.uk/%D8%AD%D8%B1%D8%A7%D9%83%D9%82%D8%A7%D9%86%D9%88%D9%86%D9%8A%D8%AA%D8%AE%D9%88%D8%B6%D9%87%D9%86%D9%82%D8%A7%D8%A8%D8%A9%D8%A7%D9%84%D9%85%D8%AD%D8%A7%D9%85%D9%8A%D9%86-%D8%A7%D9%84%D9%81%D9%84/>

⁽²⁸²⁾ Palestinian Legislative Council. (2000). Law No. 1 of 2000 on charities and non-governmental organizations. Retrieved from <http://muqtafi.birzeit.edu/pg/getleg.asp?id=13431>

⁽²⁸³⁾ Al-Haq Foundation. (2020). Observations on the decisions of the law of 2020 on the amendment of the law on the judiciary, administrative courts and the formation of courts. Retrieved from <https://www.alhaq.org/ar/advocacy/17892.html>

is to issue laws after they are approved by the Palestinian Legislative Council. According to Article 43⁽²⁸⁴⁾, the law allows the President of the State of Palestine to make decisions by force of law in cases of extreme necessity. In such cases, these decisions must be presented immediately to the Legislative Council during its first session after their issuance. Failure to do so renders these decisions without the force of law.

According to the monitoring of the Independent Human Rights Commission, the issuance of decisions by force of the law since 2007 has increased significantly. Notably, such decisions are on a significant increase especially in 2018, particularly after the dissolution of the Constitutional Court of the Legislative Council on December 12. During that year, The total number of decisions with the force of law was 29⁽²⁸⁵⁾. Although it is difficult to monitor the full number until 2023, in 2020, 40 decisions in 2020 are a violation of the rule of law⁽²⁸⁶⁾. It is worth mentioning, despite the large number of these decisions, but the decisions that have been issued to enshrine women's rights and gender equality since the dissolution of the Legislative Council do not exceed not many.

The State of Palestine has taken commendable steps in fulfilling its contractual obligations under the agreement. The decision by the force of Law No. 22 of 2019 gave mothers the right to open bank accounts for their minor children, reflecting the rights of parents⁽²⁸⁷⁾. While important in promoting equal parental responsibilities, the decision

⁽²⁸⁴⁾ Article No. 43 of the amended Basic Law of 2003.

⁽²⁸⁵⁾ Abdul Hadi, F. (2022, March 1). The decision on the law and extreme necessity. Al-Ayyam newspaper. Retrieved from https://www.al-ayyam.ps/ar_page.php?id=152599e6y354785766Y152599e6

⁽²⁸⁶⁾ Law No. 40 of 2020 on the amendment of the judicial authority Law No. 1 of 2002. https://magam.najah.edu/media/uploads/2021/01/legislations/%D8%A7%D9%84%D8%B3%D9%84%D8%B7%D8%A9_%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A6%D9%8A%D8%A9.pdf

⁽²⁸⁷⁾ Decree Law No. 22 of 2019 on the right of mothers to open bank accounts for their minor children. <http://muqtafi.birzeit.edu/pg/getleg.asp?id=17238>

requires ongoing government monitoring to ensure banks' compliance. The lack of an enforcement mechanism defined by the Monetary Authority contributes to this challenge.

Although the State of Palestine signed the Optional Protocol on 10 April 2019⁽²⁸⁸⁾, raising hopes for progress, concerns arise due to the lack of implementation of the general recommendations of the Women's Committee on the initial report of the State of Palestine.

These recommendations stressed the importance of the application and harmonization of laws, which is critical to translating procedural changes into substantive changes. The additional signing of the Protocol, the consolidation of rights through the State party's actions, raises the concerns of society about its political symbolic character, which may differ from practical manifestations. This refers to verbal and theoretical support for human rights discourse, while persistent old practices perpetuate gaps, contradictions, and collisions.

In conclusion, the current legal landscape in Palestine reveals significant challenges in incorporating international treaties into domestic law. The absence of clear provisions in the Palestinian Basic Law regarding the mechanism for the integration of international treaties highlights the existence of a critical gap in the legal framework.

⁽¹⁾ Ministry of Foreign Affairs. (2020, September). List of international agreements to which the state of Palestine has acceded. Retrieved from

<http://www.mofa.pna.ps/arjo/%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86/%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%81%D9%8A%D8%A7%D9%84%D9%85%D9%86%D8%B8%D9%88%D9%85%D8%A9%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A9/%D9%82%D8%A7%D9%8A%D9%85%D8%A9%D8%A8%D8%A7%D9%84%D8%A7%D8%A%D9%81%D8%A7%D9%82%D9%8A%D8%A7%D8%AA%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A9%D8%A7%D9%84%D8%AA%D9%8A%D8%A7%D9%86%D8%B6%D9%85%D8%AA%D8%A7%D9%84%D9%8A%D9%87%D8%A7%D8%AF%D9%88%D9%84%D8%A9%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D8%AD%D8%AA%D9%89%D8%A7%D9%8A%D9%88%D9%84%D9%88%D8%B3%D8%A8%D8%AA%D9%85%D8%A8%D8%B1-2020>

The implementation of treaties within the framework of the national system faces obstacles, especially in the context of the unstable legal environment under the existing occupation of Palestine. The suspension of the legislature and political challenges have led to a lack of comprehensive legal measures, especially in addressing women's rights. And the prolonged state of emergency, contrary to constitutional provisions, further exacerbates the situation.

The faltering political system, the deterioration of the judiciary, and the force of decisions by the executive also raise concerns about the separation of powers and the rule of law. The increasing use of such decisions, especially after the dissolution of the legislature, underscores the need for constitutional commitment and parliamentary oversight.

3.3 The Reality of Palestinian Women

This study seeks to provide a comprehensive picture of the Palestinian reality, and to study the legislative, political, economic, social and cultural dimensions that shape women's experiences within society. With the aim of highlighting the challenges faced by women in Palestine in their quest to live a life of equality and free from discrimination in various aspects.

3.3.1 The Legislative Reality of Palestinian Women:

- It was stated in item No. (4) of the response of the State of Palestine to the list of issues submitted by the Committee on the measures taken to repeal legislation that discriminates against women that this issue is being carried out by "it was stated that the Committee for the Harmonization of Legislation with International Conventions supervises this issue. The committee was formed in 2017 by a decision of the Council of Ministers, and is composed primarily of government agencies. Her focus

was initially on reviewing the draft penal code, which remains incomplete. The commission also addressed the cybercrime law, which led to significant disagreements among its members. In particular, tensions have arisen between representatives of official bodies and civil society organizations, the latter of which lack voting rights. Despite objections, the Committee voted in favor of several provisions that clearly contradict freedom of expression and media freedoms enshrined in the International Covenant on Civil and Political Rights, an agreement to which the State of Palestine has acceded without reservations⁽²⁸⁹⁾.

- The Supreme Constitutional Court was formed by a decision of the Palestinian President issued on 26/4/2016. It consists of the President and his deputy of the court and at least seven judges.

The Constitutional Court has met with wide objections from the Al-Haq Foundation and many Palestinian human rights institutions and coalitions, due to the fact that a number of the court's judges have a noticeable political bias that violates its independence, and because the formation of the Constitutional Court is contrary to the Basic Law and the Law of the Constitutional Court, and because of the absence of women's representation in its formation⁽²⁹⁰⁾.

- The amended text of the age of marriage stipulated that the suitor and engaged should be 18 years old, but it allowed for exceptions to conclude marriage contracts,

⁽²⁸⁹⁾ The first official report of the state of Palestine on the convention on the elimination of all forms of discrimination against women. March 2017. <https://cedaw.ps/uploads/1577368461343506242.pdf>

⁽²⁹⁰⁾ Published in the Palestinian media on 23/6/2018, audio and video by an investigative investigation (Watan news agency, during which he publicly stated that " Islamic Sharia is above international agreements, and that he will not accept, and will not apply, any amendments that contradict Islamic Sharia, and will not be accepted by the Palestinian President, the Legislative Council, and the Palestinian people. For more details, see the following link posted on : Al-Haq Foundation. (2018). Report submitted to the Committee on the Elimination of Discrimination Against Women on the first official report of the state of Palestine. Session 70, prepared by Dr. Essam Abdin, June 2018. https://www.alhaq.org/cached_uploads/download/2024/01/20/al-haq-submission-to-the-cedaw-committee-70th-session-june-2018-ar-1705734184.pdf

according to the parallel report of the initial report submitted by the State of Palestine to the Committee on Economic, Social and Cultural Rights, August 2021. Practice over the past two years has shown that 32% of marriages concluded during the first year after this legislative amendment were exceptional marriages, raising concerns that the exception will become the rule. Recently, repeated attempts have been made to circumvent the law and its amendments by concluding customary marriage contracts that are not officially registered with the legitimate courts with jurisdiction or in government departments and impose a *fait accompli* later in the event of pregnancy or the birth of children resulting from these marriages⁽²⁹¹⁾.

- Although the Fatwa and Legislation Bureau has justified the amendment to the text of Article (5) of the Personal Status Law as a step towards harmonizing the Personal Status Law with the CEDAW Convention, the pressures exerted by the Court of the Judge of the Sharia Courts and the Palestinian Fatwa House have led to the emptying of this legislative amendment from its content.

For example, the Palestinian Fatwa House Office argued that it is not permissible to rely only on international agreements in the drafting of the Personal Status Law, but must rely heavily on Islamic law. Dar Al-Ifta indicated the need to achieve interests and avoid evils in the event of a legislative amendment to the Personal Status Law⁽²⁹²⁾.

⁽²⁹¹⁾ Parallel report to the initial report submitted by the state of Palestine to the committee on economic, social and cultural rights, August 2021. <https://www.wclac.org/files/library/21/08/lsansud4g41hhn5btoydbp.pdf>

⁽²⁹²⁾ Women's Center for Legal and Social Counseling. (2021). Parallel report to the initial report submitted by the state of Palestine to the committee on economic, social and cultural rights, August 2021. https://www.wclac.org/Library/213/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1_%D8%A7%D9%84%D9%85%D9%88%D8%A7%D8%B2%D9%8A_%D9%84%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1_%D8%A7%D9%84%D8%A3%D9%88%D9%84%D9%8A_%D8%A7%D9%84%D9%85%D9%82%D8%AF%D9%85_%D9%85%D9%86_%D8%AF%D9%88%D9%84%D8%A9_%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86_%D9%84%D9%84%D8%AC%D9%86%D8%A9_%D8%A7%D9%84%D9%85%D8%B9%D9%86%D9%8A%D8%A9_%D8%A8%D8

3.3.2 The Political Reality of Palestinian Women:

The Right to Freedom of Expression

- The recent events on June 26 and 27, 2021 indicate the violation of the right of women's expression, as women journalists and activists were attacked during the peaceful demonstrations that took place in the West Bank, where some security services practiced repression and abuses against protesters and protesters over the assassination of activist and political activist Nizar Girls. The frequency of targeting journalists who were doing their duty to cover the events increased by assaulting them with beatings and physical and verbal harassment, as well as assaulting their personal property, especially phones and cameras, as well as publishing and circulating their personal information and violating their right to privacy and other violations that violate all Palestinian legislation in light of the withdrawal of the Palestinian police from its responsibilities in Protecting protesters and female protesters Such acts not only call for violence, but also pose a threat to societal peace.

Moreover, the abuse of law enforcement authorities to exclude women from public spaces reinforces patriarchal norms and negative cultural perceptions about women's active participation in public life⁽²⁹³⁾.

- Women's rights defenders have faced harassment from social movements, religious groups and political parties. These entities accused defenders of violating religion, aligning with Western goals, and undermining Arab values. Such accusations,

[%A7%D9%84%D8%AD%D9%82%D9%88%D9%82 %D8%A7%D9%84%D8%A7%D9%82%D8%A%D8%B5%D8%A7%D8%AF%D9%8A%D8%A9 %D9%88%D8%A7%D9%84%D8%A7%D8%AC %D8%AA%D9%85%D8%A7%D8%B9%D9%8A%D8%A9 %D9%88%D8%A7%D9%84%D8%AB%D9%82%D8%A7%D9%81%D9%8A%D8%A9](#)

⁽²⁹³⁾ Women's Center for Legal and Social Counseling. (2021). *Parallel report to the initial report submitted by the state of Palestine to the committee on economic. PR.*

sometimes accompanied by threats of death, abuse or sexual harassment. In this regard, the campaign of smear and incitement against the feminist movement continued, because of their demand that the Palestinian Authority pass the law to protect the family from violence, and the publication of the Convention on the Elimination of All Forms of Discrimination against Women in the Official Gazette, where they were accused by social movements and political and religious parties of spreading vice and subordination to the West and that they seek to fund and have been subjected to insults, defamation and incitement. The Independent Commission for Human Rights monitored the Director of the Center for Feminist Studies, Mrs. Sama Awaida, to defamation and incitement against her against her on the background of her positions on the CEDAW Convention, and she was accused of being the chief of vandals and seeking to break the Palestinian society and encourage debauchery and adultery) by the page "The Mass Movement to Drop CEDAW on social media sites⁽²⁹⁴⁾.

- In April 2018, prominent Palestinian women journalists were subjected to criminal prosecution by the Palestinian Attorney General on the basis of their journalistic work: In a public opinion case known as the "Al-Najah University Media Center case, they are journalist Naila Khalil, director of the office of Al-Arabi newspaper Al-Jadeed newspaper in Ramallah, journalist Rola Sarhan, founder and editor-in-chief of Al-Hadath Palestinian newspaper, journalist Ayat Abdullah, who was arbitrarily dismissed from Al-Najah University Media Center, and journalist Mada Shalabak, who resigned from Al-Najah University Media Center, and the files of some of them were referred to the

⁽²⁹⁴⁾ Independent Commission for Human Rights. (2022). Twenty-Eighth Annual Report: The Human Rights Situation in Palestine. PR.

judiciary for trial, and they are still being tried before the judiciary for their journalistic activity⁽²⁹⁵⁾.

- The union report highlights the profound impact of patriarchal culture on women's participation in elections. This well-established cultural framework not only tends to exclude women from active participation but also exploits their participation, diverting it from its true goal. This was evident in previous legislative elections in 2006, local council elections in 2012, and planning for new state and local elections scheduled for October 2016, which were held on May 13, 2017, in the West Bank (excluding Jerusalem) and Gaza⁽²⁹⁶⁾.

The report asserts that clan culture not only influences political parties in determining candidates, but also manipulates the feminist quota, transforming it to serve the interests of clans rather than truly promoting women's representation. This complex interaction between cultural norms and political processes highlights the ongoing challenges women face in achieving meaningful participation in electoral processes⁽²⁹⁷⁾.

- The Union noted the continued and deepening marginalization of women during both general and local elections. There have been cases in which the names or photos of women were deliberately hidden from the electoral lists of candidates. Moreover, there have been cases of non-compliance with the quota system in place in the electoral process. Political parties failed to abide by the memorandum of understanding with feminist institutions aiming to achieve 30% women's

⁽²⁹⁵⁾ Al-Haq Foundation. (2018). Report Submitted to the Committee on the Elimination of Discrimination Against Women on the First Official Report of the State of Palestine. PR.

⁽²⁹⁶⁾ General Union of Palestinian Women and Civil Feminist Coalition. (2018). Report on the Status of Women and Girls in the State of Palestine. Submitted to the Committee against All Forms of Discrimination Against Women, Geneva, May 2018. <https://cedaw.ps/uploads/1577787817779681561.pdf>

⁽²⁹⁷⁾ General Union of Palestinian Women and Civil Feminist Coalition. (2018). PR. P 14.

representation in political parties. Despite these practices that perpetuate marginalization and gender-based discrimination, the state has not fulfilled its obligations to address these violations and hold perpetrators accountable⁽²⁹⁸⁾.

3.3.3 The Economic Reality of Palestinian Women:

3.3.3.1 The Reality of Work in General:

- Statistical data issued by the Palestinian Central Bureau of Statistics for the first quarter of 2022 revealed that the male participation rate in the labor force is about 71%, while the female participation rate is about 19%. Of the workforce, 75% are paid, and 21% are self-employed. Notably, 64% of salaried employees work without an employment contract, and 32% receive an end-of-service bonus. In the private sector, 43% of paid employees are paid less than the NIS 1,880 minimum wage. In addition, there is a persistent wage gap of 20% between male and female Palestinian workers, particularly in the private sector where legal oversight is limited⁽²⁹⁹⁾.
- The latest 2022 Labor Force Survey statistics show a slight increase in male labor force participation from 70% in the fourth quarter of 2021 to 71% in the first quarter of 2022. Female participation also saw a marginal rise from 18% to 19% over the same period. While more than 45% of civil public sector employees, a total of about 85,000 individuals, are female, their representation is decreasing at senior job levels, falling to less than 15%. In the civil public sector, about 69% of employees are concentrated in the health and education sectors, two occupations traditionally dominated by females. In contrast, in the Palestinian.

⁽²⁹⁸⁾ General Union of Palestinian Women and Civil Feminist Coalition. (2018). PR.

⁽²⁹⁹⁾ The Palestinian Central Bureau of statistics for the first quarter of 2022.

security sector with more than 30,000 members, female representation remains limited, accounting for only 6%⁽³⁰⁰⁾.

- In the context of women-led businesses in Palestine, a policy paper on the official registration of these businesses confirmed that the majority is still unregistered, making it invisible, unevaluated and unprotected. Unregistered companies face restrictions in accessing markets, financial resources, training and capacity building. Only 13.4 per cent of women with projects are registered with official bodies, while a large proportion of women work without official registration at 86.6 per cent. The actual percentage of women legally registered in the Ministry of Economy and Chambers of Commerce is much lower⁽³⁰¹⁾.

3.3.3.2 Forced Retirement:

Documented cases with Al-Haq of Palestinian women referred to early forced retirement in the West Bank:

- Teacher Sanaa Saeed Nasser, a resident of Atil, Tulkarm district, West Bank, 50 years old, suffering from visual disability, singles, and she is the only supporter of her mother, who is 82 years old. Miss Nasser, a teacher in the Palestinian Ministry of Education, worked on the system of temporary contracts since 2/9/1995 and then she was confirmed by a permanent contract in the Ministry of Education. Her annual performance evaluation reports over the course of her work years ranged from excellent and very good. She has not received any administrative penalty throughout her years of work. She was referred to early forced retirement as of 6/3/2018. She filed a written complaint against the decision to refer her to forced retirement.

⁽³⁰⁰⁾ The Palestinian Central Bureau of statistics for the first quarter of 2022. PR.

⁽³⁰¹⁾ Abdulkarim, N., & Marr, A. (2020). Directory of Women and Workers in Economic Empowerment in Palestine: Facts and Prospects of Cooperative Work. Retrieved from <https://pwwsd.org/uploads/15844479811254934489.pdf>

Early to the Minister of Education and Higher Education Dr. Sabri Saidam according to the law, but she did not receive any written response from the Minister of Education to her written grievance contrary to the Civil Service Law and she was not informed because of this forced referral to early retirement, and she is still at home with her mother without work, and her referral to early forced retirement caused significant psychological damage to her documented statement No. S 24/2018)⁽³⁰²⁾.

- Dr. Asma Naim Yaghi, a resident of the city of Jericho in the West Bank, she is 43 years old, holds a doctorate in management in 2009, she served as the Director of the Department of Education and Training in the Directorate of Mental Health upon her retirement and has worked in the Ministry of Health since 1997. She was referred to early forced retirement on 20/2/2018. Her annual performance evaluation reports over her years of work were excellent and did not receive any administrative penalty throughout her years of work at all. She submitted a written grievance to the Minister of Health Dr. Jawad Awad on the decision to refer her for early forced retirement and did not receive a written response from the Minister of Health at the time of writing this report contrary to the law, and no reason has been provided by the government or from the Ministry of Health showing the reason for her referral for early forced retirement documented statement No. S (36/2018)⁽³⁰³⁾.

3.3.3.3 Women with Disabilities:

- Despite the Rights of Persons with Disabilities Act (No. 4 of 1999) which requires governmental and non-governmental institutions to house at least 5 per cent of

⁽³⁰²⁾ Al-Haq Foundation. (2018). Report Submitted to the Committee on the Elimination of Discrimination Against Women on the First Official Report of the State of Palestine. PR.

⁽³⁰³⁾ Al-Haq Foundation. (2018). Report Submitted to the Committee on the Elimination of Discrimination Against Women on the First Official Report of the State of Palestine. PR.

employees as persons with disabilities and make them available to workplaces⁽³⁰⁴⁾, the actual representation of persons with disabilities in the civil public sector is significantly lower, at only 1.22 per cent. Furthermore, there is a lack of indicators and statistics available regarding the proportion of females with disabilities in the public and private sectors⁽³⁰⁵⁾.

- Legislation, including Article 13 of the Labour Code of 2000, Section 10 of the Disability Rights Act of 1999, and Article 34 of the Executive Regulations of the Civil Service Act 2005, emphasizes the need to employ at least 5% of persons with disabilities in the public and private sectors. However, in practice, the proportion of people with disabilities in the public sector remains at 1.22%. There is a marked absence of statistical indicators on the percentage of women with disabilities in the public and private sectors. This gap raises concerns about measures taken by the State of Palestine to address “compound discrimination” against women with disabilities in the labour market⁽³⁰⁶⁾.
- Available statistical data indicate that the participation rate of women with disabilities over 15 years of age does not exceed 2% of the total number of women with disabilities. In contrast, men with disabilities have a higher engagement rate of up to 23%. This contradiction underscores the need for focused efforts to address the specific challenges faced by women with disabilities in the labour market⁽³⁰⁷⁾.

3.3.3.4 Unemployment

⁽³⁰⁴⁾ The law on the rights of persons with disabilities (No. 4 of 1999).

<http://muqtafi.birzeit.edu/pg/getleg.asp?id=13211>

⁽³⁰⁵⁾ Al-Haq Foundation. (2018). Report Submitted to the Committee on the Elimination of Discrimination Against Women on the First Official Report of the State of Palestine. PR.

⁽³⁰⁶⁾ Al-Haq Foundation. (2018). Report Submitted to the Committee on the Elimination of Discrimination Against Women on the First Official Report of the State of Palestine. PR.

⁽³⁰⁷⁾ The Palestinian Central Bureau of statistics for the first quarter of 2022. PR.

- Since the beginning of 2022, the unemployment rate within the workforce was around 25% in the first quarter of the year. There is still a significant disparity in unemployment rates between the West Bank and the Gaza Strip, with the rate rising to 47% in Gaza, compared to 14% in the West Bank. At the gender level, the male unemployment rate is 21 percent, while the female unemployment rate remains 41 percent higher⁽³⁰⁸⁾.
- The results of the 2021 Labor Force Survey also revealed that 11% of households are headed by females, 12% in the West Bank and 10% in Gaza. Despite these difficult circumstances, the parallel report in the initial report submitted by the State of Palestine to the Committee on Economic, Social and Cultural Rights in August 2021 confirms the lack of strong initiatives by the government to address unemployment. Moreover, there is no enforcement of the minimum wage law in private enterprises, and there is a dearth of monitoring mechanisms, despite agreements between the government and trade unions⁽³⁰⁹⁾.

3.3.3.5 Costs of Empowering Women

- The additional annual cost of the Ministry of Social Development is estimated at 4 million shekels. This assessment takes into account that existing authorities such as the police, prosecutors and courts are currently assuming their responsibilities for protection from violence without fully allocating specialized departments. However, if these authorities allocate specialized departments exclusively for protection against violence, the total cost would rise to around 16.2 million shekels. Despite this potential increase, it accounts for a small portion, about 0.1%, of total expenses.

⁽³⁰⁸⁾ The Palestinian Central Bureau of statistics for the first quarter of 2022. PR.

⁽³⁰⁹⁾ Women's Center for Legal and Social Counseling. (2021). Parallel report to the initial report submitted by the state of Palestine to the committee on economic. PR.

In 2022, total overhead was about NIS 16.2 billion. Therefore, the financial burden on the general budget and any obstacles to the adoption of the bill are minimal. It is important to note that while calculating some of the costs associated with violence against women is essential, there are high additional costs, especially social costs, which have a broader impact on society. Calculating the cost of violence is a complex process, compounded by the lack of national statistics and comprehensive calculations to measure broader societal impacts on the state budget⁽³¹⁰⁾.

3.3.3.6 Protection of Working Mothers

- There are differences in maternity leave provisions between the public and private sectors, governed by current Civil Service and Labor Laws. While women in the public sector are entitled to three months of paid maternity leave, including the breastfeeding hour until the child is one year old. Unlike the ILO Maternity Protection Convention, which provides for at least fourteen weeks of maternity leave, Article 1/88 of the Civil Service Law provides for ten continuous weeks before and after childbirth for female civil servants⁽³¹¹⁾.
- Data from the Palestinian Central Bureau of Statistics reveals that nearly 40% of working women do not take paid maternity leave. This raises concerns about the role of the Ministry of Labor in monitoring the implementation of labour laws by employers and private sector institutions, the Independent Commission for Human

⁽³¹⁰⁾ The Palestinian Initiative to Deepen Global Dialogue and Democracy. (2020). Financial indicators of the draft law on the protection of the family from violence. Retrieved from http://www.miftah.org/arabic/docs/reports/2023/miftah/Factsheet_Financial_Implications_for_the_Implementation_of_the_Family_Protection_Bill.pdf

⁽³¹¹⁾ Article 1/88 of the Civil Service Code states. <https://maqam.najah.edu/legislation/69/item/4175/>

Rights noted. In addition, 46 percent of paid female employees in the private sector take paid maternity leave⁽³¹²⁾.

3.3.3.7 The Rural Woman

- The results of a study conducted by the Palestinian Working Women Association for Development revealed that the majority of Palestinian families surveyed in rural areas own pieces of land for residential purposes, where only 44.4% own agricultural land and 6.1% own land for investment. Notably, the study found that men fully own 76.3% of declared farmland, while 7.3% of this land is jointly owned by women and their husbands⁽³¹³⁾.
- The agricultural sector in the State of Palestine receives a small allocation of 1.5% of the state budget, indicating its low priority. This has led to a move away from the agricultural sector and increased costs for women farmers in Palestine, as explained in the parallel report submitted to the Committee on Economic, Social and Cultural Rights in August 2021⁽³¹⁴⁾.
- Another important indicator from the study on women's land ownership comes from the Palestinian Land and Water Authority, suggesting that women account for 32% of the total landowners benefiting from settlement since 2016. It is important to note that this indicator considers women "queens" within a group of heirs, which

⁽³¹²⁾ Palestinian Central Bureau of Statistics. (2022, July 11). Population situation in Palestine on the occasion of World Population Day. Retrieved from <https://pcbs.gov.ps/postar.aspx?lang=ar&ItemID=4280>

⁽³¹³⁾ Palestinian Central Bureau of Statistics. (2022, July 11). PR.

⁽³¹⁴⁾ Women's Center for Legal and Social Counseling. (2021). Parallel report to the initial report submitted by the state of Palestine to the committee on economic. PR.

indicates that inheritance quotas for women have not yet been officially registered in the Land Registry Department. The study made several important recommendations, which served as a potential starting point to address issues related to rural women and women's economic empowerment. Key recommendations include strengthening agricultural inputs and extension services to better meet women's needs, supporting awareness campaigns, and establishing a national working group on land, productive resources and gender equality⁽³¹⁵⁾.

- Cooperative societies play a crucial role in women's economic empowerment, particularly in rural areas. Updated statistics indicate that there are 755 cooperatives, 45% of which work in the agricultural sector, 29% in housing, and 18% in services. The gender distribution among cooperatives reveals that 65 percent is mixed, 10.8 percent for females only, and 24 percent for males⁽³¹⁶⁾.

3.3.3.8 Social Security

- The spread of informal work has led to a situation where many workers find themselves vulnerable to employer blackmail or job loss under different circumstances. For example, an agreement was reached in March between the government, represented by the Ministry of Labor, and representatives of the private sector along with trade unions. This agreement provided for the payment of wages for March and April to workers in the sector at 50%, with a minimum of 1,000 shekels. The sectors that were not significantly affected were the continued payment of full wages. However, this agreement raises concerns about fairness to wage workers because it contradicts labor laws that guarantee workers the right to full pay

⁽³¹⁵⁾ Women's Center for Legal and Social Counseling. (2021). Parallel report to the initial report submitted by the state of Palestine to the committee on economic. PR.

⁽³¹⁶⁾ Women's Center for Legal and Social Counseling. (2021). Parallel report to the initial report submitted by the state of Palestine to the committee on economic. PR.

for their full work. Moreover, the minimum wage set by the emergency plan, which is NIS 1,000, is lower than the official minimum wage of 1,450 shekels (which is also below the recognized poverty line of nearly 2,000 shekels)⁽³¹⁷⁾.

3.3.4 The Social Reality of Palestinian Women

3.3.4.1 Gender-based Violence

- The widespread consequences of the COVID-19 pandemic, which include the health, economic, social and psychological dimensions, along with high indicators of poverty, unemployment and closure, have contributed to the escalation of violence within Palestinian society. However, despite these challenges, the Palestinian Central Bureau of Statistics did not conduct a dedicated survey on gender-based violence experienced by women and girls, including those with disabilities, during the pandemic. This lack of specialized data poses a challenge in formulating effective interventions to address the escalating issue of violence against women and girls. Available statistics indicate that the number of reported killings of women in 2019 was 21 in the West Bank and Gaza Strip. However, in 2020, that number rose to 37, representing an unprecedented increase in these murders over the past two decades. This increase took place amid the dire consequences of the COVID-19 pandemic, repeated closures, and the various challenges faced by Palestinian society⁽³¹⁸⁾.

⁽³¹⁷⁾ Women's Center for Legal and Social Counseling. (2021). Parallel report to the initial report submitted by the state of Palestine to the committee on economic. PR.

⁽³¹⁸⁾ Dwikat, N. (2021, November). Killing women in the time of Corona - An analytical report on the cases of killing women monitored and documented by the center during the years 2019-2020. Women's Center for Legal and Social Guidance.

https://www.wclac.org/Library/214/%D9%82%D8%AA%D9%84_%D8%A7%D9%84%D9%86%D8%B3%D8%A7%D8%A1_%D9%81%D9%8A_%D8%B2%D9%85%D9%86_%D8%A7%D9%84%D9%83%D9%88%D8%B1%D9%88%D9%86%D8%A7

- Although the State of Palestine amended the provisions of Article (98) in Law by Decree No. (10) of 2014, which provides for the cessation of the use of mitigating excuses in murders against the background of "honor", and despite its amendment of the provisions of Article (99) in Law Resolution No. (5) of 2018, which provides for the cessation of the use of discretionary mitigating reasons in the same crimes, the judicial application of these two amendments is weak, which led to a steady increase in cases of killing of women in recent times. In this regard, the Women's Center for Legal and Social Counseling documented (37) cases of killings of women during 2020, and the Women's Center documented (24) cases of murders during 2019. An example is the tragedy that took place in a small Palestinian village on the outskirts of Ramallah on November 22, where 30-year-old Sabrin Yasser Khuwaira, a mother of four, was stabbed by her husband Amer Rabie. The incident also included an assault on 75-year-old Umm Amer, who was seriously injured and was immediately taken to the nearest hospital in Ramallah. Fortunately, she is now in a stable state⁽³¹⁹⁾.
- According to the results of the Violence in the Palestinian Society Survey 2019 conducted by the Palestinian Central Bureau of Statistics, 50% of women with disabilities who are married or previously married reported experiencing psychological violence from their husbands at least once⁽³²⁰⁾. Despite the large

⁽³¹⁹⁾ Al Tahhan, Z. (2021, November 29). Palestine: Femicide highlights need for domestic violence law. Al Jazeera Media Network. <https://www.aljazeera.com/features/2021/11/29/palestinefemicide>

⁽³²⁰⁾ Voice | "Stars of Hope" and "Care." (2021, March 29). They hold a session to analyze the laws related to the employment of women with disabilities. Women F. <https://www.radionisaa.ps/article/18380/%D8%B5%D9%88%D8%AA%D9%86%D8%AC%D9%88%D9%85%D8%A7%D9%84%D8%A3%D9%85%D9%84%D9%88%D9%83%D9%8A%D8%B1%D9%8A%D8%B9%D9%82%D8%AF%D8%A7%D9%86%D8%AC%D9%84%D8%B3%D8%A9%D9%84%D8%AA%D8%AD%D9%84%D9%8A%D9%84%D8%A7%D9%84%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86%D8%A7%D9%84%D9%85%D8%AA%D8%B9%D9%84%D9%82%D8%A9%D8%A8%D8%AA%D9%88%D8%B8%D9%8A%D9%81%D8%B0%D9%88%D8%A7%D8%AA%D8%A7%D9%84%D8%A5%D8%B9%D8%A7%D9%82%D8%A9>

percentage of women's exposure to violence by the husband, a large percentage of them, about 60.3% of them preferred to remain silent to abuse from their husbands and did not inform anyone about it, and a small percentage of women resort to official methods to seek help; 2.9% went to a lawyer to file a case against the husband, 1.3% went to the police office or the family protection unit, and 1.4% went to a psychological⁽³²¹⁾, social and legal assistance center. Data from the Ministry of Social Development also showed that violence against women has prompted about 60% of them to flee the home, and 18% of them attempted suicide⁽³²²⁾.

- According to a report published by Al-Quds newspaper on 2021/12/16, based on interviews with representatives of the Ministry of Social Development and the Kreish Association (Sisters of Charity): The report indicated that most of those who are subjected to sexual assault do not go to help and do not reveal the order of the assault unless a pregnancy occurs, or the assault repeated over the years due to the direct and serious threat to their lives by the aggressors and the fear of losing the family⁽³²³⁾.
- The tragic situation of the 15-year-old is an example of the ongoing cycle of violence perpetuated by entrenched societal norms, exacerbated by legal and institutional shortcomings in addressing such issues faced by women. In 2021, his father took his daughter, because of her communication with her divorced mother, an act forbidden by him. Although the girl tried to seek help several times, after she

⁽³²¹⁾ Palestinian Central Bureau of Statistics. (2019). Survey of Violence in the Palestinian Society. Retrieved from <https://www.pcbs.gov.ps/Downloads/book2611.pdf>

⁽³²²⁾ Palestinian Initiative to Deepen the Global and Democratic Dialogue. (2023, May 16). Financial Indicators of the Draft Law on the Protection of the Family from Violence. Retrieved from <http://www.miftah.org/arabic/Display.cfm?DocId=15650&CategoryId=19>

⁽³²³⁾ Al-Quds newspaper, report issued on 16/12/2021.

reported the assault to police three times, the lack of a preventive culture and the criminal justice system's insensitivity to domestic violence left her without adequate safeguards.

- After the tragic death of the girl, official responses condemned the crime, confirming societal rejection of such acts. However, these responses have failed to address the underlying patriarchal societal culture, focusing only on condemning the crime without delving into the complex relationship between this culture and the official responses, which inadvertently contribute to the perpetuation and escalation of these crimes. The novel lacks a serious examination of societal standards that fuel these incidents, their persistence, and the urgent need for protective legislation to protect potential victims. There is a marked lack of recognition of the state's responsibility to intervene when the danger is apparent, underscoring the urgent need to implement basic measures to prevent such tragedies from occurring in the future⁽³²⁴⁾.

3.3.4.2 Right to Health

- In concluding observation No. 39, the Committee recommended that the State party legalize abortion in cases of rape, incest, risk to the physical or mental health of pregnant women and severe fetal abnormalities. Furthermore, the Committee urged that abortion be decriminalized in all other cases, ensuring the availability of safe and affordable modern medical methods of abortion. The Committee stressed the need to indicate the number of women and girls detained and punished for abortion, and stressed the importance of raising awareness and promoting and improving

⁽³²⁴⁾ Women FM radio, 2021, father's murder of his 15-year-old daughter.

sexual and reproductive health services⁽³²⁵⁾. However, the draft national strategy to combat violence against women in Palestine for the period 2022-2030 noted that sexual and reproductive health services are still limited to married women and exclude premarital individuals and adolescents⁽³²⁶⁾.

- The Palestinian government approved the government health insurance system for persons with disabilities (No. 2 of 2021), which includes comprehensive and free preventive, diagnostic, therapeutic and rehabilitation health services for persons with disabilities and their families. Although it has been more than a year and a half since it was published in the Official Gazette, this system has not been applied to people with disabilities, including women and girls⁽³²⁷⁾.
- According to the Independent Commission for Human Rights' 2022 report, 52 complaints were received regarding violations by official authorities of the availability of health services in the West Bank and Gaza Strip. These complaints were mostly related to the transfer of treatment outside official treatment institutions and the lack of certain medicines. Complaints have also been reported regarding access to and quality of health services, highlighting challenges in patient requests to cover bills, provision of health insurance, and treatment reports. Although health insurance reform has been included in official health plans over the past five years, the state health insurance system in force since 2004 has not changed⁽³²⁸⁾.

⁽³²⁵⁾ Concluding observations No. 39 of the committee on the elimination of all forms of discrimination against women. UN website. <file:///C:/Users/N/Downloads/N2266262.pdf>

⁽³²⁶⁾ Al-Haq Foundation. (2022). Report Submitted to the Committee on the Elimination of Discrimination Against Women on the List of Issues Necessary to Enable the Committee to Monitor the Implementation of the CEDAW Convention in the Report of the State of Palestine. PR.

⁽³²⁷⁾ Al-Haq Foundation. (2022). Report Submitted to the Committee on the Elimination of Discrimination Against Women on the List of Issues Necessary to Enable the Committee to Monitor the Implementation of the CEDAW Convention in the Report of the State of Palestine. PR.

⁽³²⁸⁾ Report of the Independent Human Rights Commission for 2022. PR.

- Women, who make up less than 18 percent of the workforce and often work in the informal sector, receive limited health care services related to pregnancy, family planning and postpartum. A high percentage of women are denied compulsory health insurance or reduced coverage. The poverty rate among individuals in female-headed households is about 30.6 percent, and these women are classified as beneficiaries of health insurance through the Ministry of Development as a grant rather than a right⁽³²⁹⁾.
- Based on spending reports, the Health Department's actual spending in the first half of 2020 accounted for 34% of earmarked expenditures, with particular challenges in the category of goods and services, including the purchase of medicines. The budget allocated to this category has not been fully utilized, resulting in a lack of available medicines, especially for chronically ill individuals. This situation puts great pressure on the ministry and deprives marginalized groups of the right to access quality health services⁽³³⁰⁾.

3.3.4.3 The Right to education

- According to the statistical manual issued by the Central Bureau of Statistics for 2019, the proportion of females in Palestinian universities was 61%, exceeding the representation of males of 39%. However, the ratio of university education for both sexes in universities outside Palestine, which is easily accessible to male students due to conservative societal norms, contradicts the presence of some girls from open families studying abroad⁽³³¹⁾.

⁽³²⁹⁾ The parallel report to the initial report submitted by the state of Palestine to the committee on economic, social and cultural rights in August 2021. PR.

⁽³³⁰⁾ The parallel report to the initial report submitted by the state of Palestine to the committee on economic, social and cultural rights in August 2021. PR.

⁽³³¹⁾ Central Bureau of statistics for 2019. PR.

- The parallel report submitted by the State of Palestine to the Committee on Economic, Social and Cultural Rights in August 2021 contradicts paragraph 209 of the State's report on the official curriculum. Feminist organizations have criticized the curriculum for perpetuating discrimination in language and content in favor of males. Although it was agreed to form a joint committee to review the curriculum, the Ministry of Education changed it without including the proposed changes, resulting in the continuation of gender-sensitive issues.
- The prevailing cultural and social context in Palestine has not prompted the state to take promotional measures to ensure that girls and women have access to the right to education. This often results in many girls and women, especially women with disabilities, being denied their right to education. Girls and women with disabilities face complex challenges due to social, cultural and disability-related difficulties, exacerbated by negative perceptions. Unfortunately, accurate statistics showing dropout rates are not available for girls and women, especially those with disabilities, who have not attended the educational process, or in remote areas.
- Despite the restructuring and activation of gender units in ministries and government institutions since 2008, their role remains mostly official. These units usually report directly to the Undersecretary's Office without clearly defined powers. Despite the decision of the Council of Ministers of 2009 (No. 13/05/1/M. F/c-q) Requires that the budgets of government departments take into account gender differences and involve gender units in their preparation⁽³³²⁾, the Gender Affairs Unit of the Ministry of Education lacks the authority to review curricula,

⁽³³²⁾ Cabinet Resolution No. 1 of 2009 on the system of employees of local bodies, <http://muqtafi.birzeit.edu/pg/getleg.asp?id=16048>

make gender-sensitive observations on appointments, or provide input on school buildings based on different gender needs.

- An analysis of the Education Sector Strategic Plan (2017-2022)⁽³³³⁾ and the Sectoral Strategy for Education (2021-2023)⁽³³⁴⁾ within the National Development Plan reveals that the programs of the Ministry of Education need significant financial resources for implementation. However, the review of the 2022 annual budget allocated to the Ministry of Education indicates that the funds allocated for the development of the Ministry's six programs do not achieve the desired goals. The financial allocations to the Special Responsibility Centers of the Ministry of Education still do not meet the Ministry's needs for high-quality education. This situation poses challenges in the development of educational infrastructure, as the percentages allocated to major programs, such as the kindergarten program (2.57%) and the vocational education program (1.94%), do not fully meet the budget requirements of the ministry, as highlighted by the Independent Commission for Human Rights in 2022.

3.3.5 The Cultural Reality of Palestinian Women

- The Independent Commission for Human Rights for 2022 monitored many violations that affected the right to culture, as an art show of the Khalil Sakakini Center was stopped, and a group of individuals were assaulted with beatings and

⁽³³³⁾ Strategic plan for the education sector (2017-2022)

<https://www.mohe.pna.ps/Portals/0/MOHEResources/%D8%A7%D9%84%D8%AE%D8%B7%D8%A9%20%D8%A7%D9%84%D8%A5%D8%B3%D8%AA%D8%B1%D8%A7%D8%AA%D9%8A%D8%AC%D9%8A%D8%A9%2020172022%20%D9%85%D9%84%D8%AE%D8%B5.pdf?ver=2017-12-19-023235-640>

⁽³³⁴⁾ Sectoral strategy of Education (2021-2023)

<https://www.palgov.ps/article/3880/%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D8%B1%D8%A7%D8%AA%D9%8A%D8%AC%D9%8A%D8%A9%D8%A7%D9%84%D9%82%D8%B7%D8%A7%D8%B9%D9%8A%D8%A9%D9%84%D9%84%D8%AA%D8%B9%D9%84%D9%8A%D9%85-2021-2023>

verbal abuse of participants in the sixth Ishtar International Theater Festival "Hiba Fan", including women, and a music concert that was scheduled in the city of Ramallah organized by the "Cultural Repository" center was canceled⁽³³⁵⁾.

- According to the information available to the authority, and despite the existence of legal grounds for accountability, no one has been held accountable for those who threatened or assaulted cultural institutions or participants in their activities. The competent government agencies did not provide the necessary protection for these cultural centers. Therefore, there is a need for the police apparatus to provide the necessary and adequate protection for cultural centers and their activities, the need for the Public Prosecution to carry out its duty to investigate any attacks or threats against cultural centers, and the need to adopt the law on freedom of access to information, and a law on intellectual property rights⁽³³⁶⁾.
- Existing legal and cultural frameworks, rooted in customary and cultural traditions, clearly allocate roles between men and women on the basis of the perceived economic value of men's work. Men are traditionally seen as the primary breadwinners, engaging in work outside the home of financial value. This understanding results in the assignment of specific obligations such as dowry, alimony, and divorce responsibilities for men in exchange for certain privileges, including freedom to choose a wife, guardianship of children, and the ability to initiate a divorce at will. A crucial aspect of these obligations is the idea that a man

⁽³³⁵⁾ Report of the Independent Human Rights Commission for 2022. PR.

⁽³³⁶⁾ Report of the Independent Human Rights Commission for 2022. PR.

is the “head of the family,” with the corresponding duty of obedience from all members of the family⁽³³⁷⁾.

- In contrast, a woman’s work mostly falls inside the home, with any engagement outside the home considered exceptional. If a woman works outside the home, she is often seen as complementary support rather than as the basis for financial support for the family. Cases in which a woman works outside the home are usually seen as exceptions, driven by emergency needs or due to the absence or inability of the male head of household to fully meet family needs. Thus, the general perception remains that a woman’s work outside the home is not primarily directed towards financial support for the family. In cases where it serves this purpose, it is usually considered an assistance, contributing to the financing of the family in addition to the basic income of the male⁽³³⁸⁾.
- Girls in the job market still face challenges when it comes to accessing certain types of jobs or occupations. There are restrictions on the roles and positions available to women in these professions. Despite the neutrality of the texts in the field of vocational and technical training, the actual implementation faces significant obstacles in the inclusion of girls. This is primarily due to the prevailing societal culture, which restricts girls’ access to employment opportunities with limited capacity and within limited roles. It is necessary to explore and discuss nomination mechanisms and cultural initiatives that create space and encourage increased employment opportunities for women⁽³³⁹⁾.

⁽³³⁷⁾ Palestinian Center for Independence Law Firm. Musawah (2022). Evaluation of the Legislation in Force During the Division from the Perspective of Gender and Legislative Vision. <https://musawa.ps/uploads/ec4d0d37f7babdd702eb0e1b7652c68e.pdf>

⁽³³⁸⁾ Palestinian Center for Independence Law Firm. Musawah (2022). Evaluation of the Legislation in Force During the Division from the Perspective of Gender and Legislative Vision. PR.

⁽³³⁹⁾ Palestinian Center for Independence Law Firm. Musawah (2022). PR.

- The prevailing culture, shared by judicial and law enforcement institutions, is not actively working to transform the culture of violence. Rather than promoting the positive aspects of cultural practices that support equality and human dignity in all areas, these institutions tend to promote a harmful community culture. Instead of holding accountable those who violate core values, there is a tendency to endorse a culture that prioritizes terms such as cultural and religious identity, and patriotism, and often replaces the law itself. This is done by restricting equality, a supreme constitutional value, and sometimes raising the culture above the constitution to restrict its provisions. Despite official claims of seeking cultural change, there is a simultaneous commitment to these cultural norms to resist shifts in power dynamics.
- The dual discourse of the authority on community culture suggests that making fundamental changes to address violence against women and children is a challenge, given the cultural consensus that exists between state officials and traditional community actors. Current initiatives often fall short of providing relief to victims or imposing tougher sanctions without addressing the root causes, the role of official bodies, or proposing comprehensive structural adjustments and socio-economic initiatives. As a result, discussions tend to stay within the areas of numbers, statistics, plans, and committees without having a significant impact on the actual mitigation or curbing discriminatory phenomena in the prevailing culture⁽³⁴⁰⁾.
- A family that allows female abuse by a male child, extends to community instructions and echoes in educational settings, religious teachings, and media portrayals, contributes to the normalization of this behavior. Repeated exposure to a child leads to the understanding of these cultural norms, and to perceive them almost

⁽³⁴⁰⁾ Palestinian Center for Independence Law Firm. Musawah (2022). PR.

as divine laws. This conviction becomes deeply ingrained, making it difficult for an individual to reflect on alternative perspectives. A person may view any call for reconsideration as an attempt to undermine the foundations of society and religion that he believes to protect by accepting such practices. These behaviors turn into fixed beliefs, indistinguishable from their religious beliefs, creating a strict mindset resistant to change.

- Prevailing societal attitudes towards women involved in legal proceedings, whether as plaintiffs or defendants, also contribute to creating a harmful environment that limits the avenues for women seeking justice. This situation often forces women to rely on community mechanisms, such as family or clan structures, where justice may be affected by cultural prejudices. Instead, women can deal with the formal justice system, which unfortunately lacks the sensitivity to address and understand the unique challenges and issues women face. This limited spectrum of options greatly restricts women in their pursuit of justice⁽³⁴¹⁾.

3.3.5 The Reality of Palestinian Women under Israeli Occupation:

- 172 women were arrested during 2022, 129 of them from the Jerusalem Governorate, and the occupation forces are still arresting 29 prisoners in their prisons until the end of 2022, including two minors and two prisoners in administrative detention, while 18 women were martyred during 2022, and one woman since the beginning of 2023 to date⁽³⁴²⁾.
- In 2022, Israel was responsible for the killing of nine Palestinian women, the Palestinian Center for Human Rights reported on International Women's Day,

⁽³⁴¹⁾ Palestinian Center for Independence Law Firm. Musawah (2022). PR.

⁽³⁴²⁾ Dr. Awad. (2023). Reviewing the situation of Palestinian women on the eve of International Women's day. PR.

March 8. While no specific details were provided on the number of Palestinian women detained in 2022, the statement noted that Israel has arrested 59 Palestinian women since the beginning of the year. The center highlighted that Palestinian women faced direct Israeli violations throughout 2022, killing nine people—three in the Gaza Strip and six in the West Bank. In addition, 45 women were injured by the shooting, and 12 cases were reported in the West Bank and 33 in Gaza⁽³⁴³⁾.

- 2022 in the Gaza Strip saw a five-day military aggression, which resulted in direct targeting of civilians including women, children, residential areas and critical infrastructure. This act of aggression resulted in 49 casualties, including 19 children and 4 women. The humanitarian crisis has worsened, causing widespread destruction of facilities, homes, roads, water supply, electricity and treatment centers. The Gaza Strip has suffered a 16-year blockade, hampering the entry of medical supplies and essential medicines and depriving patients of their right to receive treatment. The occupation authorities also hindered the travel of 5,001 patients seeking medical treatment outside the Gaza Strip⁽³⁴⁴⁾.
- The occupation authorities issued military orders to confiscate more than 29,000 dunums for settlement expansion, along with 11 eviction orders, mostly affecting agricultural land. In addition, 158 settlement plans for construction and expansion have been issued, with 78 orders confiscating at least 1,337 dunums under various pretexts. Palestinian cities and towns were subjected to 6,464 raids, 3,319 sudden checkpoints, 4,455 shooting incidents, and 775 cases of assault and destruction of

⁽³⁴³⁾ Palestinian Center for Independence Law Firm. Musawah (2022). PR.

⁽³⁴⁴⁾ Report of the Independent Human Rights Commission for 2022. PR.

property⁽³⁴⁵⁾. All of the above directly affects the stability of women and girls, and the social, economic, health and psychological status of this group.

- Journalists faced targeted attacks that resulted in the killing of journalist Shirin Abu Aqila during her journalistic work in Jenin, followed by the targeting of journalists that led to the martyrdom of the journalist Ghufran and Rasna. The Ministry of Information documented 573 violations against Palestinian journalists and media institutions, affecting 58 journalists. Moreover, more than 105 media pages and social media accounts of journalists were blocked at direct incitement from the occupation⁽³⁴⁶⁾.
- Deliberate medical neglect against prisoners and detainees continued, with Nasser Abu Hamed martyred after years of suffering from illness and medical neglect. Administrative detention warrants totalled 2,409, affecting both new and renewed orders, with 40 wounded detainees, including children, and 600 Jerusalem citizens facing house arrest orders. There are currently about 4,700 Palestinian prisoners in the occupation's prisons, including about 150 children⁽³⁴⁷⁾.
- Since the beginning of 2023, Israel has continued its incursions into the West Bank, including East Jerusalem, resulting in the arrest of nearly 59 Palestinian women. Currently, 29 women in Israeli prisons still face harsh conditions and are under physical and psychological stress. The center stressed the displacement of Palestinian women due to home demolition policies, noting the demolition of 54 houses in 2022, affecting 52 families, including 315 individuals, including 64

⁽³⁴⁵⁾ Report of the Independent Human Rights Commission for 2022. PR.

⁽³⁴⁶⁾ Report of the Independent Human Rights Commission for 2022. PR.

⁽³⁴⁷⁾ Independent Commission. (2023, September 6). The Independent Commission issues its twenty-eighth annual report for the year 2022 on the human rights situation in Palestine. <https://www.ichr.ps/category-1/7703.html>

women and 142 children. The statement noted that Palestinian women are exposed to various forms of gender-based violence⁽³⁴⁸⁾.

3.3.6 The Position of the Palestinian Society on the CEDAW

- Traditional religious discourse: This discourse is manifested through the Palestinian Sharia Courts and supported by the President of the Palestinian National Authority, to the reform of the Personal Status Law, taking into account the challenges faced by women under the existing legal frameworks in the West Bank and Gaza Strip. This initiative aims to address key issues, derive ideas from cases before the Sharia courts, and propose specific amendments rooted in the principles of Islamic law and the authentic teachings of Islam. However, from our point of view, this approach may, at best, lead to similar results to current personal status laws in neighboring Arab and Islamic countries, especially Jordan⁽³⁴⁹⁾.
- Hizb ut-Tahrir's position: The statement issued by Hizb ut-Tahrir: "It is true that the CEDAW Convention is not as it promotes as an international convention, the countries of the world did not participate in its status, but it is a convention that expresses the Western vision of women and seeks to apply it to the women of the world. Muslims in particular did not participate as such in the development of any of its provisions, but its provisions emerged from the core of capitalism and the Western theory of women. This CEDAW Convention clashes with many legal provisions, but its promoters seek to show that it is intended to end what they call "all forms of discrimination against women," and they overlook or cover things that are explicitly decreasing with Islam, such as the freedom to marry a Muslim from

⁽³⁴⁸⁾ Human Rights Center. (2023, March 9). Israel killed 9 Palestinian women during 2022. Anatolia Agency. <https://www.aa.com.tr/ar>

⁽³⁴⁹⁾ Maha Abu Diya, Sama Aweida, Taghreed Ibrahim Daibes, & Rima Nawal. (2021). The Palestinian Mock Parliament. Women's Centre for Legal Aid & Counseling. <https://www.wclac.org/files/library/21/12/ueoc6xsvrw49mjdvcymnpp.pdf>

the infidel, the freedom to travel on nights and long days without prohibition, and many more. This is the “crime” agreement set by the West out of its corrupt vision of women and that it wants to generalize with deception, misinformation and buying receivables to the world⁽³⁵⁰⁾.

- Supreme Fatwa Council: Sheikh Ibrahim Awadallah, Deputy Grand Mufti-General of Jerusalem and Palestinian Homes, said that the Council explicitly declared that it does not accept what is contrary to Islamic law in the CEDAW Convention and others, and stressed the need to respect constructive dialogue between the various spectrums of our people, and to focus efforts in the difficult circumstances we live on how to confront the dangers that threaten our existence, our land and our sanctities, instead of dealing with unrest and seditions, stressing that women in Islam have rights and duties such as men, and we are against the injustice of women in inheritance and others, and against the attack on women's right to life under unjust names; such as murder against the background of honor, and we want dignity and justice For the woman the legitimate right to do so⁽³⁵¹⁾.
- The Palestinian National Authority’s position on feminist institutions in the work of the CEDAW: It has taken a “middle” position regarding the feminist and social proposals advocated by women within the Palestinian women’s movement. Her approach was supportive, albeit cautiously and shamefully, avoiding any influence on her interpretation of the political landscape and power dynamics within the Palestinian arena. Given the circumstances, it has shown reluctance to adopt a

⁽³⁵⁰⁾ AL-Tahrir PARTY. (2013, October 10). [CEDAW Convention]. AL-Tahrir PARTY Official Website. <https://pal-tahrir.info/women-perversion/6386-%D8%A7%D8%AA%D9%81%D8%A7%D9%82%D9%8A%D8%A9-%D8%B3%D9%8A%D8%AF%D8%A7%D9%88.html>

⁽³⁵¹⁾ Maan News. (2020, January 24). Seminar "women's rights between CEDAW and Islamic law." Retrieved April 3, 2020, from <https://www.maannews.net/news/1006050.html>

feminist discourse that unequivocally supports women and their demands. This happened despite the urgent need at the time to mobilize support for the Palestinian official institution and its demands⁽³⁵²⁾.

The researcher's analysis of this position: Amid increasing political opposition to the impact of the authority's signing of the Oslo Convention and the damage caused by this signing, the authority showed a willingness to give priority to the "national consensus" on the subject of women.

This included diverting attention from the issue of women to appease the political opposition, especially from Islamic political forces, in order to keep their focus away from social issues and prevent them from challenging the emerging national authority and its emerging political system. Like other social and political forces, she was willing to make concessions to the cause of women, seen as the "weaker link," in favor of her broader political interests.

- Statement by the Minister of Justice, Mr. Mohammed Shaladh: The Minister of Justice came out to respond to Hizb ut-Tahrir's position on the agreement, explaining what is in agreement and what differs between the terms of the agreement and Sharia, considering that the agreement is in accordance with Sharia by 80% and conflicts with it by 20%, of which the President signed 100%. Thus, the Minister of Justice signed in a dramatic contradiction with previous statements issued by him and his pledge to implement the entire agreement with the recommendations of its committee on the follow-up of the application, which

⁽³⁵²⁾ Maha Abu Diya, Sama Aweida, Taghreed Ibrahim Daibes, Rima Nawal. (2021). PR.

emerged in the wake of the discussion of the national state report in Geneva in the summer of 2018⁽³⁵³⁾.

- Member of the Executive Committee of the Palestine Liberation Organization, and a member of the Political Bureau of the Democratic Front for the Liberation of Palestine, Mr. Tayseer Khaled: Mr. Tayseer Khalid expressed his surprise at the artificial crisis surrounding the Convention on the Elimination of All Forms of Discrimination against Women, which raised questions about its timing, especially as it emerged five years after the signing of the Convention by the State of Palestine. He also added that it is surprising that a statement was issued by the self-proclaimed Hebron clans, which recently met at Diwan Al-Tamimi. Not only did they strongly reject the implementation of the Convention in Palestine, but they completely disavowed it, and called in a reprehensible position for the closure of all women's institutions.

She went further by warning judges against enforcing the age of marriage and warning journalists against covering the activities of women's institutions. These acts are considered serious legal violations and incitement to violence and murder, which cannot be tolerated. He added that incitement against the Convention on the Elimination of All Forms of Discrimination against Women is "harmful and unprecedented," and goes beyond the Convention itself. It has created a platform that allows attacks on law and public order, as well as fundamental principles and values of human rights⁽³⁵⁴⁾.

⁽³⁵³⁾ Katana, R. (2019, December 29). Criticism of "sidao" and the response to it. Al Ayam Newspaper. https://www.al-ayyam.ps/ar_page.php?id=139639f8y328612344Y139639f8

⁽³⁵⁴⁾ Tayseer Khaled. (2019, December 25). The Incitement Campaign Against "Sidao" is Biased. Palestine Liberation Organization website. <https://cedaw.ps/single-news/14/ar>

- Enlightenment Religious Discourse: Promoting enlightened religious discourse involves recognizing the need to rely on Islamic law as a primary source of personal status issues. This approach calls for a new and enlightened interpretation of Islamic law, rooted in a return to the original texts of the Qur'an and Sunnah, while embracing the positive aspects of the four jurisprudential doctrines. Women's affairs officials and various women's institutions in the West Bank and Gaza Strip adopted this speech, stressing that the original sacred texts support full gender equality, support human dignity, and guarantee equal rights for both women and men. They argue that differences and distinction have arisen from the jurisprudential and human interpretations of these sacred texts. This speech was supported by the Al-Hawa Center in Nablus, northern West Bank, and the Mashreq Foundation, established by Palestinian feminist leaders who participated in the preparatory committees for the Syrian Parliament's initiative. These leaders, who have been familiar with their vision of Palestinian reality, view enlightening religious discourse as a practical and applicable approach, and firmly believe in the challenge of separating religion from society and calling for an accurate and informed interpretation of Islamic law. This perspective is in line with the republican school of thought that originated in Sudan and the writings of Arab thinkers associated with the human rights movement, such as Abdullah Al-Naim from Sudan, Fatima Al-Mernissi, and Farida Bennani from Morocco⁽³⁵⁵⁾. The researcher believes in this discourse that seeks to realize women's rights without diminishing them using religious arguments. It seeks to achieve a healthy society that punishes the offender

⁽³⁵⁵⁾ Maha Abu Diya, Sama Aweida, Taghreed Ibrahim Daibes, Rima Nawal. (2021). The Palestinian Mock Parliament. Women's Centre for Legal Aid & Counseling. <https://www.wclac.org/files/library/21/12/ueoc6xsvrw49mjdvcymnpp.pdf>

and provides protection and stability for all categories of society and not by distinguishing one group from the other.

- Position of the director of the Palestinian Working Women Association for Development Amal Khraisheh: Khraish believes that the PA “has not taken any action to harmonize local laws with the Convention.” “The Palestinian Authority has joined the (CEDAW) agreement out of public relations,” she said, adding that “there is no political will to implement it.” Khreisha explained that the personal status law in Palestine is “obsolete as it has been applied in the West Bank since 1976.”

Over the past three years, “more than a hundred women have been killed for honour,” according to Khreisha, who accused the authority of not taking serious steps to protect the time from violence. She added that the authority “is allied with tribal forces and conservative elements in light of the weakness of Palestinian parties.” Kherisha complained about “the absence of laws protecting women, the lack of a definition of violence in Palestinian laws, and a lack of respect for half of society.”

And that "the absence of the legislative institution and the separation of powers are paid for by women more than others," noting that "the enactment and enforcement of laws revolves in the absolute masculinity that is rampant in Palestinian society, and among decision-makers." She expressed fear of the wave of incitement to the CEDAW agreement, saying, “a fundamentalist religious party that has been agitated for years, without the Palestinian authorities moving still.”⁽³⁵⁶⁾

⁽³⁵⁶⁾ Musa, K. (2022, November 28). The "CEDAW" agreement has its place in Palestine. Independent Arabia.

<https://www.independentarabia.com/node/396826/%D8%B3%D9%8A%D8%A7%D8%B3%D8%A9/%D8%AA%D9%82%D8%A7%D8%B1%D9%8A%D8%B1/%D8%A7%D8%AA%D9%81%D8%A7%D9%82%D9%8A%D8%A9%D8%B3%D9%8A%D8%AF%D8%A7%D9%88%D8%AA%D8%B1%D8%A>

- Ms. Sona Nassar, representing the Ministry of Women's Affairs: She referred to the multiplicity of national and international references governing human rights in Palestine, such as the Declaration of Independence Document and the Basic Law of 2003 and its amendments, which affirms equality between men and women, which affirms discrimination before the law and the judiciary and guarantees public and personal rights and freedoms for all alike, noting the Constitutional Court's decision No. (2) for the judicial year No. (3), which considered the document of independence as part of the constitutional system and the highest, followed by the Basic Law, and that international agreements and treaties have a degree of primacy over ordinary legislation and laws and must gain strength by passing through the formal stages that must be available by issuing a certain internal law to enforce it, The integration of these various international human rights treaties and conventions into the ordinary legislation within the State of Palestine does not contradict the religious and cultural identity of the Palestinian people, and on the basis of respect for the principle of the constitutionality of these legislations⁽³⁵⁷⁾.

3.3.6.1 The Position of Some Palestinian Youth:

1. With Khaled Humaidan:

Khalid Hamidan, an employee of a bank, believes that he is not familiar with the details of the agreement but takes a position against it based on warnings he heard from the Mufti and clanmen, and what he read on social media platforms about the agreement. He added that the agreement is based on the creation of sedition and threatens the stability of society by allowing practices that are contrary to religion and the values of

[7%D9%88%D8%AD%D9%85%D9%83%D8%A7%D9%86%D9%87%D8%A7-%D9%81%D9%8A-%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%C2%A0](#)

⁽³⁵⁷⁾ Maan News. (2020, January 24). PR.

society. He explained that what is required is not the application of strange conventions as much as it is required to take into account the true teachings of Islam that have justified women.

He pointed out that society today invokes customs and traditions by dealing with women, so we see violence and denial of their rights by inheritance⁽³⁵⁸⁾.

2. Interview With Kholoud Masleh:

The young Kholoud Musleh also takes a position against the agreement, citing this to her conflict with the values and faith of society. It believes that the agreement will not do it and will carry it more energy and effort than its ability, but in its view, it is required to establish a punishment for the abuser and the aggressor of women's rights that would create a deterrent for everyone who tries to violate women's rights. She demanded that there be specialized courts for women's cases to achieve justice for women in cases of inheritance, alimony and custody⁽³⁵⁹⁾.

3. Interview With Ahmed Daraghma:

Community activist Ahmed Darragama believes that Palestinian society is progressive and should not be subject to extortion by tribes and Hizb ut-Tahrir, as opponents of the agreement did not read it and did not understand its purpose, and their rejection of personal and political interests rather than religious. And he continued... The government is required to redress and protect women through the implementation of the Convention and the adoption of the law to protect the family from violence, and to grant women more privileges to achieve renaissance and community development⁽³⁶⁰⁾.

4. Interview With the Journalist Rania, Hamd Alla:

⁽³⁵⁸⁾ Radio NASA FM. (2020, September 16). "Sidao": A raging battle in Palestine. Retrieved from <https://www.radionisaa.ps/article/16463/>

⁽³⁵⁹⁾ Radio NASA FM. (2020, September 16). PR.

⁽³⁶⁰⁾ Radio NASA FM. (2020, September 16). PR.

The media and activist Rania Al-Hamdallah believes that the real mistake we face in Palestine, especially by some parties and in some regions, towards CEDAW is that the agreement violates custom. But the question according to her point of view, what is the definition of custom and how much it serves women and their issues now, is the progress of their role in society in all its aspects? And has the custom guaranteed a woman a decent life and guaranteed her life in the first place to hold on to? “CEDAW is the only straw that will do justice to the Palestinian woman after a long time and frightening evidence of the deaths of many,” she added. And I continued... It is required to implement the agreement without paying attention to the voices calling for the abolition of the convention and the rights of women, so that the killing and discrimination do not expand and narrow the societal, economic and political gap between females and males⁽³⁶¹⁾.

3.4 The Palestinian Legal System: Differences Between Domestic Legislation and the CEDAW Convention

This part initiates a comprehensive study of the disparities inherent in Palestinian legal frameworks, particularly those that conflict with the conditions set out in the CEDAW Convention. The scrutiny begins with the intricacies of personal status law, a central element encompassed by civil rights. Then, the focus expands to the field of political rights, such as election procedures and eligibility for candidacy. The exploration extends to criminal rights, which examines the Palestinian penal code. Ultimately, it is moving towards economic rights, with a particular focus on labor law, civil service law, and laws governing service within the security forces.

⁽³⁶¹⁾ Radio NASA FM. (2020, September 16). PR.

This analytical journey aims to expose the contradictions that exist between Palestinian domestic laws and the principles enshrined in CEDAW.

By highlighting these contradictions, the research seeks to contribute to an accurate understanding of the challenges to aligning Palestinian legal frameworks with the agreement. This multifaceted exploration prepares to shed light on areas that require reform and provide critical insights to promote compliance, ultimately seeking a legal landscape that supports universal principles of equality and non-discrimination.

First of all, it should be noted that the old penal and personal status laws in force in the West Bank and Gaza Strip, and Palestinian legislation in general, devoid of the definition of “discrimination against women as contained in Article I of CEDAW. Although the draft Penal Code of 2011 generally defined discrimination in Article (546) as: "Any distinction between natural persons on the basis of national origin, social origin, color, sex, family status, health status, disability, political opinion, union affiliation, or because of belonging, or real or supposed non-belonging to a race, nation, race, race, religion, or particular religion. It is also discriminatory, any distinction between legal persons because of the origin of their members, some of its members, their sex, family status, state of health, disability, political opinions, trade union activities, or because of their belonging, or their real or supposed lack of belonging to a race, nation, descent, or a particular religion. The amended Palestinian Basic Law prohibits discrimination in Article IX of Palestinians before the law and the judiciary, whether there is no discrimination between them on the basis of race, sex, color, religion, political opinion or disability.⁽³⁶²⁾" But the project has not yet been approved.

⁽³⁶²⁾ The draft Penal Code of 2011 defined discrimination in general in Article (546).

With regard to the subject of Islamic law, it was stated in item (17) of the response of the State of Palestine to the list of issues submitted to the Committee that according to the Basic Law (Article (4), "Islamic law is a major source of legislation, but the Basic Law literally states in Article (4) that the principles of Islamic law are a major source of legislation and there is a significant difference between the broad term Islamic law and the term "principles of Islamic law, it means. general principles of Islamic law⁽³⁶³⁾.

As the principles of Islamic Sharia, which are based on the principle of justice, the principle of no harm and no harmful, the principle of preservation of self and money, and the principle of non-coercion in religion cannot conflict with the Convention⁽³⁶⁴⁾.

3.4.1 Civil Rights

3.4.1.1 Jordanian Personal Status Law in Force in the West Bank:

This part illustrates the conflict between the Personal Status Law⁽³⁶⁵⁾ and the CEDAW Convention, as it mentions the legal texts in the Personal Status Law that are contrary to the Convention. It shows the violations contained regarding the age of marriage, jurisdiction in marriage, and also deals with polygamy, and alimony during marriage, and moves to talk about divorce and its provisions, then custody and alimony after divorce, and finally it describes the inheritance provisions contained in the Personal Status Law.

3.4.1.1.1 The Age of Marriage is Between the CEDAW and the Personal Status Law

⁽³⁶³⁾ Article 4 of the amended Palestinian Basic Law of 2003.

⁽³⁶⁴⁾ Report of the al-Haq Foundation submitted to the committee on the elimination of discrimination against women on the first official report of the state of Palestine, June 2018. PR.

⁽³⁶⁵⁾ While Jordanian law was in effect in the West Bank prior to the Six-Day War in 1967, Israel occupied the West Bank during that conflict. As a result, changes have occurred in the legal framework. The Palestinians established their own legal system and institutions in the West Bank, but the Jordanian family law system remained. With the renewal of some laws by the Palestinian Authority. Sharnoff, M. (2020, September 16). Does Jordan want the West Bank. Arab Markets Magazine. <https://www.asswak-alarab.com/archives/20881>

Referring to the Palestinian Child Law No. (7) of 2004, Article (1) states the following: "The child is every human being who has not reached the age of eighteen." It is worth mentioning that the Palestinian law changed the age of marriage. In March 2019, Law No. 21 was issued to set the minimum age of marriage at 18 solar years for both sexes, and includes Muslims, Christians and all citizens of Palestine⁽³⁶⁶⁾. This is in line with the CEDAW agreement.

However, an exception that allows judges or heads of other denominations to consent to marriage under the age of 18 is a concern, as it provides room for the continuation of child marriage. In 2019, child marriage accounted for about 20% of total marriage contracts⁽³⁶⁷⁾. Unfortunately, the impact of the amendment is restricted in the Gaza Strip due to non-compliance with executive decisions issued by the Presidency or the Council of Ministers. The ongoing political and geographical division prevents the application of the laws and decisions issued by the presidency in Gaza. The independence of Hamas' parliamentary bloc in Gaza, by adopting various laws, further exacerbates the separation between decisions taken in the West Bank and their application in Gaza.

3.4.1.1.2 Jurisdiction in Marriage Between the CEDAW and Personal Status Law

The Convention gave a woman the right to make a marriage on their own, it is enough that her age corresponds to the minimum age for marriage of 18. As for the Personal Status Law, it stipulated the guardianship in marriage and its systems, Article 9 of the Personal Status Law stipulates that "the guardian in marriage is the league himself in the order stipulated in the preponder of the doctrine of Abu Hanifa."

⁽³⁶⁶⁾ Birzeit University. (2019). Decree-Law No. 21 of 2019 amending the legislation governing personal status on determining the age of marriage. <http://muqtafi.birzeit.edu/pg/getleg.asp?id=17237>

⁽³⁶⁷⁾ Palestinian Central Bureau of Statistics. (2021, April 5). Dr. Awad reviews the situation of Palestinian children on the occasion of Palestinian Children's Day. Retrieved from <https://www.pcbs.gov.ps/postar.aspx?lang=ar&ItemID=3963>

The attributes due in the guardian were clear and specific, the guardian must be sane, adult and Muslim if the beathed is Muslim⁽³⁶⁸⁾, and this is another confirmation that the character of guardianship is firm for males in a definitive way, and between the law in the case of multiple guardians and equal to the extent, the hypothesis of one of the guardians with the suitor drops the objection of others if they are equal in degree and the satisfaction of the furthest guardian in the absence of the nearest guardian The right to object to the absent guardian and the satisfaction of the guardian is a sign of his explicit satisfaction⁽³⁶⁹⁾.

He also explained the mechanism of transferring the mandate to the judge in the absence of the guardian in the interest of the girl. If the nearest guardian is absent and he is waiting for him to miss in the interest of the betanged, the right of the state is transferred to the next one, if it is not possible to take the opinion of the next one immediately or there is not the right of the state, it will be transferred to the judge⁽³⁷⁰⁾.

The law gave the peculiarity to the woman who is over the age of 18 that she can complete her marriage without the need for Lolly⁽³⁷¹⁾, and the garment is the woman who has already married before other than the firstborn who marries for the first time, she is a rational woman who knows about marriage matters and it is not right to be forced by a man⁽³⁷²⁾.

As for the case of the woman's denial of the presence of her guardian and how to act if the guardian appears after marriage, if a woman reaches 18 years of age and wants to

⁽³⁶⁸⁾ Article (10) of the Personal Status Law.

⁽³⁶⁹⁾ Article (11) of the Personal Status Law.

⁽³⁷⁰⁾ Article (12) of the Personal Status Law.

⁽³⁷¹⁾ Article (13) of the Personal Status Law.

⁽³⁷²⁾ Sartawi, M. (2010). Explanation of the Personal Status Law (Vol. 3). Dar Al-Fikr: Amman, Jordan. p.48.

marry, whether she is a first-in or a garment, and denies the presence of her guardian, her marriage is true.

If a guardian appears to her after marriage, he is not entitled to claim the termination of the contract if she married herself is competent, the marriage contract is valid even and there is no lesson for the value of the dowry, but if she married herself is incompetent, the guardian may ask the judge to terminate the contract, provided that the wife is not pregnant⁽³⁷³⁾, but after pregnancy, the marriage contract is not dissolved⁽³⁷⁴⁾.

Returning to the doctrine of Abu Hanifa, where he said: Ayim is entitled to herself and her money, that is, it has the freedom to act without the mandate of anyone. Any permissibility of an adult, rational marriage without a guardian, and he based his doctrine on the Almighty's saying: "There is no wrong with you in what they did to themselves with good."⁽³⁷⁵⁾

We note that the legal text of Article 10 reinforces the prevailing social patterns without adhering to the doctrine of Abu Hanifa as the law itself stipulated in Article 9 and here we note duplication of laws.

3.4.1.1.3 Polygamy Between the CEDAW and the Personal Status Law

The Personal Status Law allowed polygamy, which follows the doctrine of Abu Hanifa, but the law has associated it with a number of conditions such as justice between wives, and that they do not live in one house except with their consent⁽³⁷⁶⁾. The law also prohibited a man from marrying more than four wives at a time, it is not true if his four wives are still on his own, unless one of them divorces or her number expires⁽³⁷⁷⁾.

⁽³⁷³⁾ Article (14) of the Personal Status Law.

⁽³⁷⁴⁾ Article (23) of the Personal Status Law.

⁽³⁷⁵⁾ Verse 234 of Surah Al-Baqarah.

⁽³⁷⁶⁾ Article (40) of the Personal Status Law.

⁽³⁷⁷⁾ Article (28) of the Personal Status Law.

The comment of the CEDAW Committee was clear, it considered that polygamy in it is a clear violation of the standards of equality stipulated in the Convention, and reasoned this, considering that polygamy is a waste of the dignity of women and an injustice against men, and the matter also has negative effects on the psychological state of women and their dependents, and causes emotional and financial problems, so the Committee expressed its serious concern about the countries whose constitutions and laws allow polygamy, and considered it a violation of the text of Article (16) of the Convention⁽³⁷⁸⁾.

3.4.1.1.4 Wife's Alimony Between the CEDAW Convention and the Personal Status Law

Although the CEDAW Convention equalized both men and women in alimony⁽³⁷⁹⁾. The Personal Status Law confirmed that the wife's alimony is obligatory on the husband⁽³⁸⁰⁾, and the law dealt with the case of the wife who works without her husband's consent⁽³⁸¹⁾, so he dropped her alimony so she does not have to alimony⁽³⁸²⁾, as well as there is no alimony for the woman who harms the husband and harms him with her bad ten. This is considered a form of discrimination towards women and contrary to the CEDAW Convention.

3.4.1.1.5 Divorce and its Provisions Between the CEDAW Convention and the Personal Status Law

The agreement gave both parties the husband and wife the right to request a divorce and terminate the marriage contract, so it equated between them and canceled any

⁽³⁷⁸⁾ United Nations Fund for Women (UNIGEM). (2011). Convention on the Elimination of Forms of Discrimination Against Women: Handbook of the Regional Bureau for Arab States (Jordan). p. 35.

⁽³⁷⁹⁾ Article (1/16 / C) of the CEDAW convention.

⁽³⁸⁰⁾ Article (66) of the Personal Status Law.

⁽³⁸¹⁾ Article (68) of the Personal Status Law.

⁽³⁸²⁾ Article (68) of the Personal Status Law.

discrimination of one of them with regard to the initiation of divorce proceedings as it is one of the rights and responsibilities when the dissolution of the marriage contract⁽³⁸³⁾.

The Personal Status Law dealt with everything related to the provisions of divorce, and it is clear from the wording of the texts of the law that divorce is usually carried out by the husband, according to the text of Article 84 of the Personal Status Law, the husband can divorce his wife in absentia without her consent and without her knowledge, knowing that the marriage contract is one of the consensual contracts, and if it is dissolved, it must be done with the consent of both parties. In addition, it is stated in the same article that the husband can return his wife to him during the number in word or deed and without her consent⁽³⁸⁴⁾.

And we will see here specific cases in which a woman can request a divorce, which are as follows:

- A. Consensual law: Articles (102) - (112) The wife's request for divorce by giving up her financial rights that result from her upon termination of the marriage contract, but the marriage is not done except with the consent of the husband⁽³⁸⁵⁾.
- B. Judicial dislocation, which is the termination of the marriage contract before entering the wife, where the wife pays all expenses to the husband, and the consent of the husband is not required in it, such as the consensual marriage, but is by a decision of the judge⁽³⁸⁶⁾.

⁽³⁸³⁾ Article (1/16 / C) of the CEDAW convention.

⁽³⁸⁴⁾ Human Rights Watch. (2006, November 5). Interview with lawyer Halima Abu Salab, former director of the Jerusalem office of the Women's Center for Legal and Social Guidance. <https://www.hrw.org/ar/report/2006/11/05/255390>

⁽³⁸⁵⁾ Salhab, F. A. S. (2017, July 13). Palestinian women's rights between the CEDAW Convention and Palestinian legislation (p. 151). An-Najah National University.

⁽³⁸⁶⁾ Circular No. 2012/59 Office of the judge of judges - Ramallah.

- C. Termination of marriage due to conflict and rift: If a dispute and discord arises between the spouses, each of them may request separation, if the other claims to harm him in word or deed, so that with this harm, marital life cannot continue, and this case has been recognized the right of both spouses to request divorce, and this is done by a decision of the judge⁽³⁸⁷⁾.
- D. The request for separation from the wife for certain reasons. The law has defined these reasons as follows: Request for separation due to sexual dysfunction in the husband⁽³⁸⁸⁾. She asked for a distinction because of insanity⁽³⁸⁹⁾. She asked for a separation due to the husband's absence or abandonment for more than a year without a reason⁽³⁹⁰⁾. She was asked to separate because of the husband's reluctance to pay the wife's dowry⁽³⁹¹⁾. She asked for a distinction because of the refusal to pay alimony⁽³⁹²⁾. She asked for a distinction if the husband was imprisoned for more than 3 years after a year of imprisonment⁽³⁹³⁾. Thus, the Personal Status Law gave the greatest privilege and authority in the right to request a divorce to the husband, without conditions or restrictions, while a woman can request a divorce, but there is a stipulated reason to justify that divorce.

3.4.1.1.6 Custody and Expense After Divorce Between the CEDAW and the Personal Status Law

The CEDAW Convention provided for parents to be given the same rights and responsibilities as parents regardless of their marital status in matters relating to their

⁽³⁸⁷⁾ Article (132) of the Personal Status Law.

⁽³⁸⁸⁾ Article (113-115) of the Personal Status Law.

⁽³⁸⁹⁾ Article (120) of the Personal Status Law.

⁽³⁹⁰⁾ Article (123-125) of the Personal Status Law.

⁽³⁹¹⁾ Article (126) of the Personal Status Law.

⁽³⁹²⁾ Article (127) of the Personal Status Law.

⁽³⁹³⁾ Article (130) of the Personal Status Law.

children and in all cases the interests of the children shall be a primary consideration⁽³⁹⁴⁾.

The Personal Status Law addressed the provisions of custody, so it established the right of custody for the mother after divorce⁽³⁹⁵⁾, provided that the mother is eligible for custody, so it is required that the mother is a reasonable and honest adult. The child is not lost at her because of her preoccupation with his upbringing⁽³⁹⁶⁾. The condition that concerns us from the conditions due in the incubator is the marriage contract of the incubator without a relative forbidden from the child, her custody, if the marriage of the mother who is not prohibited to the child drops her custody⁽³⁹⁷⁾, and makes the custody transfer to others according to the order adopted by the law and we have previously decided in the issue of custody during marriage. The judge has the right to choose the best child in the event of the multiplicity of custody who are in one degree⁽³⁹⁸⁾, but the law restored the right of the mother if The reason for his fall is removed⁽³⁹⁹⁾, in the event of the divorce of the mother from the non-mahram who married and dropped her custody from her child, as the right of custody returns to her again to the demise of the reason that prevented her from her, as for the maintenance, the nursery fee is on the child's expense and is estimated at a wage such as a foster woman⁽⁴⁰⁰⁾, and the mother is not entitled to the wage for the custody of her child in the period of several divorce⁽⁴⁰¹⁾, due to the fact that she performs her duty towards her child and that she is still obliged to spend her from the husband.

⁽³⁹⁴⁾ Article (1/16 / C) of the CEDAW convention.

⁽³⁹⁵⁾ Article (154) of the Personal Status Law.

⁽³⁹⁶⁾ Article (155) of the Personal Status Law.

⁽³⁹⁷⁾ Article (156) of the Personal Status Law.

⁽³⁹⁸⁾ Article (157) of the Personal Status Law.

⁽³⁹⁹⁾ Article (158) of the Personal Status Law.

⁽⁴⁰⁰⁾ Article (159) of the Personal Status Law.

⁽⁴⁰¹⁾ Article (160) of the Personal Status Law.

As for the Palestinian Child Law, it was clearer in the text of Article 5 of it⁽⁴⁰²⁾, as it stipulated:

1. His parents bear the child or those who care for him common responsibilities for his upbringing to ensure his growth, development, guidance and provision of his needs in line with his evolving capabilities.
2. The importance of preventive work within the family must be taken into account in all measures taken regarding the child in order to preserve its primary role and to emphasize the responsibility borne by parents or those who care for, raise and educate the child and provide him with the necessary care in order to ensure his full growth and natural development.

Comparing the two laws, we see that the Personal Status Law has set unfair conditions for women, as a woman's right to custody is lost in the event of her marriage again without a forbidden relative⁽⁴⁰³⁾, and the judge has the right to choose the best in the event of multiple holders of custody who are in one degree⁽⁴⁰⁴⁾. The custody of the mother who looked after her children in the upbringing and custody of her children extends to their puberty⁽⁴⁰⁵⁾. While the Palestinian Child Law guaranteed the best for the child without distinction between women and men.

3.4.1.1.7 Women's Inheritance Between the CEDAW and the Personal Status Law

Cases of inheritance in which a female inherits less than a male in the Personal Status Law are classified according to the following:

1. The male is the same as the luck of the females, as the male here inherits twice the share of the female in the inheritance in the following cases: In every degree of

⁽⁴⁰²⁾ Article 5 of the Palestinian children's Law No. 7 of 2004.

⁽⁴⁰³⁾ Article 156 of the Jordanian Personal Status Law of 1976.

⁽⁴⁰⁴⁾ Article 157 of the Jordanian Personal Status Law of 1976.

⁽⁴⁰⁵⁾ Article 162 of the Jordanian Personal Status Law of 1976.

grades, no matter how lowever it is, provided that the man's connection to the one who will inherit came through a female, such as sons with daughters, and the sons of the son with the daughters of the son, if his connection with her is from a female daughter, do not inherit with her. Based on the interpretation of the doctrine of Abu Hanifa, the Almighty said: "God recommends you in your children to the male like the luck of the females,"

2. In the first degree of it only and it is not in their children, such as a sister and more with a brother, and a sister to a father with a brother for a single or multiple father, such as a sister's nephew or a father with a brother's nephew or a father, because they are of the wombs.
3. In the degree of fatherhood, like the father with the mother, provided that they are alone in inheritance, and they are free of the male and feminine inheritance branches, so the father in this case is like the same as the female, that is, for the mother is, the third and the father has the remaining two thirds, in credibility of the saying of the Almighty: "If he does not have a son and his parents inherit him, his mother is the hill.
4. And a classification is in marriage, the husband takes from the estate of the deceased wife before him like me what he takes from his left if he dies before her, if the wife dies and does not have an inheritance branch, he takes half of her inheritance, and if she has an inheritance branch, he takes a quarter, and the wife has half of that, and if he dies and does not have an inheritance branch, she takes a quarter, which is half, and if he has an inheritance branch, it takes the price, which is half a quarter⁽⁴⁰⁶⁾.

⁽⁴⁰⁶⁾ State of Palestine, Law of 1954. Regarding the Personal Status Law on the doctrine of Imam Abu Hanifa al-Nu'man. (n.d.). Laws of the East. Retrieved from <http://site.eastlaws.com/GeneralSearch/Home/ArticlesTDetails?MasterID=153380>

Conclusion: The interpretation of the Abu Hanifa doctrine of the Holy Quran contradicts the CEDAW Convention for the equality of women's rights with men in inheritance, and inferring from all of the above, the personal status law derived from the doctrine of Abu Hanifa, which dates back to the time period (80 AH-150 AH / 699-767 AD)⁽⁴⁰⁷⁾ is not commensurate with the requirements of the current era, especially at the level of legislation on women, so we have to look at the legislation and understand it away from the prevailing male spirit that governed the understanding of it by interpreters and jurists. And we have to show the divine intent of these legislations as it is in the wise download, not as it came in the heritage because this is one thing, and that is something else.

3.4.1.2 Family Protection Law:

- The draft law on the protection of the family helps to address domestic violence and punish its perpetrators, but the draft has not yet been approved, knowing that the Palestinian National Authority was considering the adoption of this law even before Palestine acceded to the CEDAW Convention. Serious concerns have been raised about the “secrecy of the law. It is surprising and disturbing that the draft resolution on the law has not yet been officially made public. Remarkably, no official announcement was made by any figure in the Palestinian Authority, and available versions of the bill only appeared through leaks facilitated by lawyers and civil society activists. It is important to note that we are not dealing with a document containing confidential

⁽⁴⁰⁷⁾ Imam Abu Hanifa was influenced by the political aspect and the ranks of his sources of legislation. (2017, March 19). Salah al-Din Mosque. Retrieved from <https://www.masjidsalahudin.com/1906/>

articles but rather a bill that will become legally binding on all individuals when it is passed⁽⁴⁰⁸⁾.

- The same bodies that must work to enforce the law demand the continuation of the approach of deviation from it, and one example is the departure of the Chief Justice to explicitly reject the draft law to protect the family from violence. According to public statements that he said, "Islamic law is above international agreements, and that he will not accept, and will not apply any amendments that are contrary to Islamic law, and the Palestinian president will not accept it, will not be accepted by the Legislative Council, and the Palestinian people will not accept it." Although the same government, of which the Chief Justice is a part and speaks in this capacity, adopts this law and seeks to approve it, as you claim of course⁽⁴⁰⁹⁾.

3.4.2 Women's Rights in the Palestinian Penal Code

This part deals with the conflict between the penal code in force in the Palestinian territories and the CEDAW Convention, which included freedom of expression, the right to non-discrimination, and the rape of wives, and focused on the punishment of consensual abortion within the West Bank and Gaza Strip, because of its serious repercussions, and its multiple causes. Then he went to talk about the importance of passing a law on sexual harassment to protect women and children within Palestinian

⁽⁴⁰⁸⁾ Imran, H. (2020, July 4). The crisis of the Family Protection Bill in Palestine: A read into the factors of acceptance and rejection, and what's next. The Jerusalem News Network. <https://qudsn.co/post/176956/%D8%A3%D8%B2%D9%85%D8%A9-%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D9%82%D8%A7%D9%86%D9%88%D9%86%D8%AD%D9%85%D8%A7%D9%8A%D8%A9%D8%A7%D9%84%D8%A3%D8%B3%D8%B1%D8%A9%D9%81%D9%8A%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%82%D8%B1%D8%A7%D8%A1%D8%A9%D9%81%D9%8A%D8%B9%D9%88%D8%A7%D9%85%D9%84%D8%A7%D9%84%D9%82%D8%A8%D9%88%D9%84-%D9%88%D8%A7%D9%84%D8%B1%D9%81%D8%B6-%D9%88%D9%85>

⁽⁴⁰⁹⁾ Al-Haq Foundation. (2018, July 07). Report submitted to the committee on the elimination of discrimination against women on the initial official report of the State of Palestine. Retrieved from <https://www.alhaq.org/ar/publications/7923.html>

society, then dealt with the punishment of acts contrary to modesty, and finally he talked about the punishment of adultery, which discriminates between men and women.

- Freedom of expression: The Committee is concerned about some provisions, which criminalize freedom of expression in the State party. In particular under Articles 144 insulting a public official, 051 inciting sectarian strife, 191 insulting a public official, and 591 insulting a higher authority. These laws have been misused to intimidate, abuse, arbitrarily arrest and detain journalists and human rights defenders, including women's rights defenders, whistleblowers, and government critics. The Committee emphasizes the need for the State party to prevent public officials from interfering with the legitimate practices of women journalists and human rights defenders, and to guarantee their freedom of expression.
- The right to non-discrimination: There is no valid provision in all Palestinian legislation that criminalizes any form of discrimination against women. The draft Penal Code states in Article (546) that discrimination is punishable by imprisonment for a period not exceeding two years, and a fine not exceeding one thousand dinars, or one of these two penalties. The draft has not yet entered into force, and the penalty imposed in the draft is not commensurate with the size of the crime of discrimination, especially against women and girls; because the minimum penalty of imprisonment and/or a fine according to Article (76) contained in the general provisions of the draft penal code is "24 hours' imprisonment and / or a fine of five dinars.
- Spouse rape: There is a notable gap in the penal codes for wife rape. Specifically, Article (292) Paragraph (1) of the prevailing Penal Code of 1960 in the jurisdiction of Arab Bank provides that the coercion of the female, with the exception of the

wife, shall be punished by temporary hard labor for a period of not less than five years. Interestingly, this legal provision does not extend its protections to wives who are victims of rape by their husbands.

This pattern still persists in the 1936 Penal Code applicable in the Gaza Strip. Article (152), paragraph (1/1) of this law specifies the penalties for committing an illegal act without the consent of the woman, provided that force is used, death threat, serious bodily harm or disability. Shockingly, this legal provision exempts wives from its protection, implying that non-consensual acts under a marriage contract are not legally classified as rape.

Moreover, the study of the 2011 draft penal code reveals a similar vacuum, as Article (459) does not explicitly criminalize marital rape. The article sets out penalties for crimes against women, with the exception of wives, committed without their consent, and includes various coercive methods. This legal position emphasizes a marked absence of legal safeguards that address the issue of marital rape in the Palestinian legal framework.

- Consensual abortion: Penal laws in the Palestinian territories also include regulations on consensual abortion. According to Article (321) of the 1960 Penal Code in force in the West Bank, a woman who causes abortion by subjective means or consents to others using such means is subject to imprisonment for a term of between six months and three years.

The penalties are further defined in Article (322) of the law: 1. Individuals who, with the woman's consent, perform an abortion using any means, are liable to one to three years in prison. 2. If the abortion or the means used lead to the death of the woman, the offender faces temporary hard labor for at least five years.

- Article (324) introduces a mitigating circumstance, stating that a woman who aborts herself to preserve her honor benefits from a mitigating excuse. Similarly, a person who commits the offences set forth in Articles (322) and (323) to preserve the honor of one of his branches or relatives up to the third degree also benefits from the same mitigating excuse. It is worth mentioning that Article (322) deals with the penalty of a woman's abortion with her consent, while Article (323) relates to the penalty of a woman's abortion without her consent. Thus, if a man, within the degrees of the specific relationship, assists a woman in illegal abortion without her consent, he is entitled to the legal excuse set out in Article (97). This sentence reduces the sentence, reduces the severity of the sentence to hard labor for up to ten years, and the conversion of the crime from a felony to a misdemeanor of imprisonment for a maximum of six months to two years. This amendment takes into account the mitigating legal excuse in such cases.
- The 1936 Penal Code, applicable in the Gaza Strip, includes various articles imposing penalties for consensual abortion. In Article (176), stating that every woman, whether pregnant or not, illegally consumes a poison or other harmful substance, uses force by any means, or allows others to give these substances or use force with the intention of abortion, is considered to have committed a felony. The penalty for this crime is seven years in prison.
- Sexual harassment: Current Palestinian penal laws do not include provisions specifically addressing sexual harassment, either in a public context or within the workplace. With regard to the 2011 draft Penal Code, sexual harassment is defined in Article (463) as any ongoing act involving repeated acts, words or gestures aimed at compromising the dignity of an individual or endangering his or her safety in

response to the wishes of the individual or the sexual desires of others. Instead, it involves exerting pressure that weakens an individual's will to resist such developments.

The penalty provided for in the crime of sexual harassment is imprisonment for at least six months and a fine not exceeding three hundred dinars. If the act occurs in a family or official context (relatives or those with functional or actual authority over the victim), the penalty is increased to imprisonment for at least two years. In addition, the bill provides for a doubled penalty when the crime is committed against a child or individuals with a disability. Notably, the text states that criminal cases cannot be initiated in such cases solely on the basis of a complaint from the person concerned.

- Acts of indecent: Article (320) of the Penal Code of 1960 stipulates that anyone who performs an improper work or performs an inappropriate work in a public place or public society or in a visible manner to any person in a public place shall be punished by imprisonment for up to six months or a fine not exceeding fifty dinars. This provision is broad and provides various security services, other than only the police, with considerable power to interfere with personal freedoms. Cases have been reported in which girls have been detained for 24 hours or asked to appear in security service centers for acts perceived to be inappropriate, such as sitting in a car with colleagues in certain situations. The security services considered that these measures fall within the scope of the said criminal provision.
- Adultery: Section 282 of the 1960 Penal Code deals with the crime of adultery, and sets out the penalties for the individuals involved. If a woman consents to adultery, she faces six months to two years in prison. The same penalty applies to the

adulterer's partner if he is married; otherwise, imprisonment ranges from three months to three years. Admissible evidence against the partner includes arrest during the act, confession to the investigating judge or in court, or the presence of written documents. This ruling shows clear gender discrimination against women.

In paragraph 2 of the same article, if the adulterer is married, both the adulterer and the adulterer face imprisonment from six months to two years. However, if the adulterer is unmarried, the penalty is reduced by half, ranging from three months to one year. This provision does not cover the same discrimination as unmarried adulterers, which exposes her to the full penalty set out in paragraph 1, i.e. imprisonment from six months to two years. The use of male language in the legal text, highlighting women in the context of adultery while neglecting terms similar to men, reflects societal norms that influence legislation and reveals a gender-biased perspective.

3.4.3 Political Rights

The conflict between Palestinian political laws and the CEDAW is surprising because the Palestinian Basic Law provides for equality between men and women in all political axes, from nomination and election, freedom to form parties, and the right to access senior positions. The Convention attempts to empower women in all respects to be able to eliminate discrimination on their own and have a voice and position on all issues.

As we mentioned earlier while the right to vote in Palestine is recognized, there is some contradiction in the legal articles. Election laws emphasize the principle of equality in both nomination and voting, yet the introduction of quotas complicates this principle. The term “kota” historically associated with “positive discrimination” was first applied in the United States in 1960 to address the disadvantaged black minority. The quota system was talked about at the Fourth World Congress in Beijing in 1995, which

endorsed quotas as a means of ensuring women's participation of at least 30 percent in public life by 2005. Thus, the quota system came to open the door to achieving equality for women and not to continue it on the basis that it is the right principle.

At its meeting on July 7, 2004, the Security, Interior and Local Governance Committee, part of the Palestinian Legislative Council, expressed concern about a quota system that runs counter to the basic principles of the elections. She argued that candidacy for local authority councils should be an equal right for all individuals, regardless of gender. The Commission's report highlighted that a quota for women may be seen as favouritism, and departs from the concept of equal opportunities. Moreover, she warned that relying on quotas could result in women gaining quota-based seats, which could undermine their abilities and discourage self-development and free competition.

3.4.4 Economic Rights

This part shows the conflict between economic rights and the CEDAW Convention, where it examines labor law and civil service law. It focuses on showing discriminatory behaviors urged by law that are contrary to the Convention's work of women's rights at work.

3.4.4.1 Labor Law:

The Civil Service Law and the Labor Code are pivotal systems governing the public and private sectors, contributing to the development of both. But some of the provisions in these laws need to be harmonized with the Convention on the Elimination of All Forms of Discrimination against Women. It is worth mentioning that Article (101) of the Labor Law, which stipulated the following: "It is prohibited to employ women in: hazardous

or arduous work determined by the minister, at night hours except for work specified by the Council of Ministers." It lacks specificity in the definition of "dangerous and arduous."⁽⁴¹⁰⁾ This lack of clarity restricts women's freedom to choose their profession and working hours, in violation of the principles of the Convention on the Elimination of All Forms of Discrimination against Women.

Furthermore, the Social Security Law, which was addressed in Resolution No. 11 and subsequently amended by Laws No. 33 of 2018 and No. 40 of 2018, faced public opposition, which led to its suspension under Resolution No. 4 of 2019 by the President of the State of Palestine⁽⁴¹¹⁾. The commentary aims to facilitate dialogue between the competent authorities to reach a national agreement on the provisions of the law and initiate its implementation. The step was taken in response to the community's concerns that the legislation is not in line with the aspirations and needs of the community. The competent authorities did not take any step to find solutions in developing a social security law after that, which hinders access to justice and the realization of rights.

3.4.4.2 Civil Service Law:

Article (3/53) of the Civil Service Law states that if the spouses are civil servants, the social allowance is paid only to the husband⁽⁴¹²⁾. Similarly, Article (2/72/c) of the Law on Service in the Palestinian Security Forces states that "the social allowance shall continue to be paid to any of the children mentioned in the previous paragraph in the following cases: ... (W) If the officer's spouse is a civil or military employee, the social

⁽⁴¹⁰⁾ Article (101) of the labor code.

⁽⁴¹¹⁾ No. 4 of 2019 by the president of the state of Palestine.

⁽⁴¹²⁾ Article (3/53) of the civil service law.

allowance shall be paid to the officer's children only.⁽⁴¹³⁾ These provisions are discriminatory towards the employee, and amendments are required to make them comply with the standards of the CEDAW Convention urging equality between men and women at work.

As for maternity leave, it is necessary to make amendments to the articles in both the Civil Service Law and the Law on Service in the Security Forces, especially in the sections related to the mother's hospitalization and child care, the law must take into account the following scenarios of the birth of a deceased child in the last months of pregnancy or the death of the child after childbirth during maternity leave. Furthermore, twin births should be considered, recognizing increased care requirements and an extension of the recovery period necessary for the mother⁽⁴¹⁴⁾.

In line with the international conventions adopted by the State of Palestine, it is proposed to extend the period of maternity leave from ten weeks to at least fourteen weeks. In addition, we suggest giving the mother an additional three months of paid childcare leave during the first five years. Furthermore, it is proposed to grant the father paid leave during the first days after the birth of the child, recognizing the special care required by both mother and child during this period.

3.5 Obstacles to the Implementation of the CEDAW Convention in Palestine

There were many obstacles that contributed to hindering the work of the CEDAW in the Palestinian legal system, which were represented by political obstacles, legal obstacles, economic obstacles, and social obstacles, which we will explain as follows:

⁽⁴¹³⁾ Article (2/72 / s) of the law of service in the Palestinian security forces.

⁽⁴¹⁴⁾ Please see the Civil Service Law and the law on service in the security forces.

3.5.1 Political Obstacles

Political obstacles are divided into external obstacles represented by the existence of the Israeli occupation, and internal obstacles represented by the absence of political will, political division and the lack of separation of powers.

3.5.1.1 The Israeli Occupation

The Oslo Accords, coupled with the permanent reality of the occupation, imposed restrictions on the State of Palestine, rendering it unable to exercise full sovereignty over its territory. The restrictions are further exacerbated by the occupation authorities' control over geographical communication channels between various Palestinian areas, which hinders the population's access to state institutions in some cases⁽⁴¹⁵⁾.

Over the years of occupation, Palestinian women have been subjected to killing, abuse, arrest and deportation from their country by the Israeli occupation forces, so that it is difficult to separate the development of the feminist movement from the Palestinian national movement at all stages of its existence⁽⁴¹⁶⁾.

The continuation of Israel's military occupation regime has led to the disregard of obligations, including agreements with the PLO, and the violation of international humanitarian law by infringing on human rights and freedoms. The imposition of a policy of collective punishment, the construction of the separation wall, and the continuation of settler attacks on Palestinian civilians, especially women, under the protection and immunity of the Israeli occupation army, pose a major challenge to the parties implementing the Convention on the Elimination of All Forms of Discrimination against Women. This policy hinders the movement and performance of religious rites,

⁽⁴¹⁵⁾ Alawneh, M. T. M. S. (2014). The impact of the Palestinian political division on the principle of the rule of law in the Gaza Strip. Institute of Law - Bir Zeit University, Palestine, 265-270.

⁽⁴¹⁶⁾ Al-Aila, R. (2007). The reality of Palestinian women in political and public participation: the Gaza Strip as a model. An-Najah University Journal for Research-Humanities, 21(1), P 316.

impeding the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

The occupation approach also hinders formal and informal institutions with political and legislative powers from performing the tasks assigned to them, which contributes to the inability of international institutions in Palestine to fulfill their obligations. This policy deprives women of their rights to mobility, travel, health, education, citizenship and family reunification, contrary to recommendation 30 of the Committee on the Elimination of Discrimination against Women. Thus, women's issues fall in terms of priorities to more important things such as trying to coexist under occupation, which prompted the Committee on the Elimination of Discrimination against Women to demand international protection for Palestinian women until the implementation of resolutions of international legitimacy related to the Palestinian issue, leading to the cessation of the Israeli occupation and the establishment of an independent Palestinian state⁽⁴¹⁷⁾.

In light of the political conditions of occupation and weak Palestinian institutional performance, this directly causes a negative impact on vulnerable and marginalized groups, and women emerge as one of these groups. It reflects the negative impact of the occupation, the multiple manifestations of resistance, siege, economic difficulties and health challenges, in addition to the presence of martyrs, wounded and detainees, on women in particular. In the face of this difficult reality, there is no recognition from society of the rights imposed by women. In addition to placing it within a stereotyped frame that restricts the holar on it. This neglect and disregard for women's role has increased the scale and nature of suffering in women.

⁽⁴¹⁷⁾ El Khalili, M. (2018, July 31). Women and obstacles to the implementation of the convention "CEDAW". Ma'an News Website. Retrieved from <https://www.maannews.net/articles/956821.html>.

Despite the richness of the heroism, power and role of Palestinian women, the difference remains clear between theories, and the reality that witnesses unjustified discrimination in the effective participation of women in political life and decision-making. This contradiction intensifies pressures on women and undermines their active role in building society⁽⁴¹⁸⁾. Therefore, we will now address the Palestinian side to see the reasons for this marginalization.

3.5.1.2 The Palestinian Side

3.5.1.2.1 Absence of Political Will:

According to international law, all countries must commit to women's rights at a high level of political will to provide rights to individuals, while constantly seeking to meet the challenges they face. The lack of this will can lead to concessions in the implementation of the CEDAW Convention, with negative impacts on women's rights.

He knew Dr. Hashem Al-Majali political will is: "The will or desire to achieve something and resolve it to correct a situation or cancel a decision after it has discovered the extent of its harm and negative repercussions. The will is linked to the action of man (responsible) and his position with determinism and coercion, as the will reflects the essence of man's personality, whatever his status, which pushes him to act more than the mind does."⁽⁴¹⁹⁾ The writer also added that the political will is linked to political awareness, and to the humanity of the person without any internal alienation of the people in domination and control of their abilities and financial capabilities.

⁽⁴¹⁸⁾ Jabr, F. (2005). "The difficulties facing Palestinian women working in the public sector in the governorates of the northern West Bank." Master's Thesis, An-Najah National University, p. 34.

⁽⁴¹⁹⁾ Al-Majali, H. N. (Year). "Political Will." Al-Dostour. Retrieved from: Article link. <https://www.addustour.com/articles/1015475-%D8%A7%D9%84%D8%A5%D8%B1%D8%A7%D8%AF%D8%A9-%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A%D8%A9>

According to the previous definition, we can confirm that there is no Palestinian political will to implement the CEDAW agreement, as evidenced by the failure to publish the agreement in the Official Gazette so far, which is the first step that may open the way for the agreement to become part of the internal legislation of Palestine. In addition, the exceptions mentioned in the law decisions that came after the signing of CEDAW as part of the application, an example of the exception granted to the elders in the decision of the marriage age that was raised to the age of 18.

In an interview with the Director of the Center for Feminist Studies, Sama Aweida, about the obstacles to the implementation of the CEDAW Convention in Palestine? She says: "I think there are two reasons that are closely related. First, the lack of awareness among people at the top of the pyramid ladder, which in turn leads to a lack of real political will to implement. For example, the center is now doing a study on the exceptions contained in the laws, for example, the exception of the marriage law developed by the "Habash", the center began to search for exceptional cases that allow the elders to accept a marriage under the age of 18, but the midwives that were all commended that this information is not authorized for the sheikhs to talk about. This is clear evidence of collusion and a lack of genuine political will⁽⁴²⁰⁾.

In addition to the above, Van Dr. Hashim Al-Majali stressed that the political will is linked to the awareness of people at the top of the pyramid due to the absence of separation of powers, the absence of the legislative council that represents the will of the people, and the lack of monitoring and accountability of the responsible bodies. This is indicated according to the statements issued by the Court of Judges.

⁽⁴²⁰⁾ Interview with Ms. Sama Aweida, director of the Center for Feminist Studies, the text of the interview is available in the appendix.

According to the opinion of Judge Abdullah Harb, head of the Judicial Inspectorate in the Court of the Chief Justice, Palestine is not obliged to implement the provisions of the CEDAW agreement that are contrary to Islamic law. Harb wrote in a post on his Facebook page saying: "Palestine signed the CEDAW agreement in 2014 without reservations and it was a political signature after the recognition of the State of Palestine as an observer member, but President Abbas stressed that everything that violates Islamic law cannot be accepted even if we sign it without reservation."⁽⁴²¹⁾

Ms. Amani Al-Junaidi, Director of the National Heritage Registry at the Ministry of Culture, explained in an interview conducted by the researcher on the reasons for the implementation of the CEDAW Convention in Palestine so far, she said: "I believe that the real reason is the lack of political will, there are many Palestinian issues that had many obstacles, but because of the existence of a political will that has been resolved."

To overcome these challenges, institutional policymakers need a long cycle of time that includes several aspects, including ongoing education of women's issues and effective media campaigns. In addition to conducting a comprehensive review of civil service regulations and regulations in society, and starting to rebuild legislation and laws so that they are enforceable.

To ensure the success of these efforts, changes in the social structure should be made that promote women's equity and enhance their role in society. This requires motivating and providing support to women leaders. Women administrative leaders must also be given more space and regulatory and financial powers, enabling them to enjoy more

⁽⁴²¹⁾ Quds News Network. (2019, December 18). "CEDAW Convention: Controversy over Women's Rights and Religious Legislation." PR.

autonomy in developing and implementing policies and programs aimed at promoting women's participation and enhancing their position in society⁽⁴²²⁾.

Within the framework of the importance of the State of Palestine's signing of international agreements, as an observer member, to seek full membership in light of the diplomatic war waged by the state to achieve this goal. The state's signing of the CEDAW is binding on the government, exposing it to accountability⁽⁴²³⁾.

The researcher also believes that it is necessary to work on pressure and advocacy campaigns so that the official authorities move towards commitment in the implementation of the CEDAW agreement, which cannot take place in the absence of this political will. It is worth mentioning that the researcher tried to communicate from the official authorities to discuss the issue of political will, and the answer was that no party can hold an interview in this case because it is the responsibility of the presidency, and it was not accepted on their part.

3.5.1.2.2 The Palestinian Division:

The Palestinian arena has witnessed a political divide. After Hamas won the 2006 legislative elections, winning a majority of seats in the Legislative Council by 76 out of 132 seats, Fatah and other Palestinian factions followed the refusal to participate in the

⁽⁴²²⁾ General Union of Palestinian Economists. (2018, June). "Challenges Facing Women in Leadership Positions." Retrieved from

<https://www.gupe.plo.ps/article/80/%D8%A7%D9%84%D8%AA%D8%AD%D8%AF%D9%8A%D8%A7%D8%AA-%D8%A7%D9%84%D8%AA%D9%8A%D8%AA%D9%88%D8%A7%D8%AC%D9%87%D8%A7%D9%84%D9%86%D8%B3%D8%A7%D8%A1%D9%81%D9%8A%D8%A7%D9%84%D9%85%D9%88%D8%A7%D9%82%D8%B9%D8%A7%D9%84%D9%82%D9%8A%D8%A7%D8%AF%D9%8A%D8%A9>

⁽⁴²³⁾ <https://www.najah.edu/ar/community/community-news/2018/03/28/wrsh-b-nwn-tfqy-sydw-m-by-nltwqy-wlttbyq/>

Hamas-led government, due to the absence of a common political consensus between them. Differences between the two factions continued until they escalated into armed clashes, during which Hamas later took control of the Gaza Strip on June 14, 2007⁽⁴²⁴⁾.

As a result, the Legislative Council has not convened for more than 14 years, whose functions and powers take on an oversight and legislative role, whose subcommittees, including the Women's Committee, remain unable to fully perform their functions. Accordingly, the failure of the Legislative Council to convene is an obstacle to supporting and endorsing the recommendations and the texts of the articles included in the CEDAW Convention.

Political division is a major obstacle to achieving the principle of separation of powers in the Palestinian legislative system. The Hamas de facto authority took control of the Gaza Strip. It was opened on the West Bank. The imbalance in the distribution of powers between the three

authorities, and the ineffectiveness of mutual control, have created a work environment in the public sector that allowed ruling parties to use public positions for party interests in the absence of effective accountability mechanisms and transparent procedures⁽⁴²⁵⁾.

According to the Palestinian Basic Law, the existence of three powers appears to be legislative, judicial and executive, and the division disrupts the work of the Legislative Council and postpones the holding of new legislative elections, stopping the activity of one of the three authorities in the state. This causes the executive authority to be unique

⁽⁴²⁴⁾ Abu Aisha, N. (2022, June 14). Palestine: 15 years of division and blockade of Gaza. Anadolu News Agency. Retrieved from <https://www.aa.com.tr/ar/%D8%A7%D9%84%D8%AA%D9%82%D8%A7%D8%B1%D9%8A%D8%B1/%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%8615%D8%B9%D8%A7%D9%85%D8%A7%D9%85%D9%86%D8%A7%D9%84%D8%A7%D9%86%D9%82%D8%B3%D8%A7%D9%85-%D9%88%D8%A7%D9%84%D8%AD%D8%B5%D8%A7%D8%B1-%D8%B9%D9%84%D9%89-%D8%BA%D8%B2%D8%A9-%D8%A5%D8%B7%D8%A7%D8%B1/2613142>

⁽⁴²⁵⁾ Coalition for integrity "Aman" , the principle of separation of powers.

in the exercise of the work of all authorities, as the executive authority, represented by the President of the Palestinian National Authority, has issued many decisions and laws in the absence of the Legislative Council. Within the framework of the powers granted to the executive authority, it was assoued to Article 43, paragraph 1, of the amended Palestinian Basic Law of 2003.

Article No. (2) of the amended Palestinian Basic Law of 2003 states that "the people are the source of powers and exercise them through the legislative, executive and judicial authorities on the basis of the principle of separation of powers as set out in this law."⁽⁴²⁶⁾

These contexts drew criticism from human rights institutions, as this uniqueness of the executive power was considered an exploitation of the absence of elections, which endangers the principle of separation of powers and the loss of its role of the legislative and judicial branches. This situation runs counter to the objectives of the Palestinian legislator and the provisions of international law, which makes it necessary to reconsider this shift without prejudice to legal frameworks⁽⁴²⁷⁾.

In particular, the Palestinian Legislative Council forms permanent committees that are responsible for monitoring and researching legal drafts, proposals and issues referred to it by the Legislative Council or its Chairman. These committees include the (Al-Quds Committee), the (Land and Settlement Resistance Committee), the (Refugee Affairs Committee), the Political Committee, the Legal Committee, the Budget and Finance Committee, the Economic Committee, the Interior Committee, the Education and Social

⁽⁴²⁶⁾ Article (2) of the amended Palestinian Basic Law of 2003.

⁽⁴²⁷⁾ Mizan Center for Human Rights. (2021, January 16). Joint press release: Civil society organizations call for the cancellation of all decisions on the law and decrees related to judicial affairs and the end of their effects. <https://mezan.org/post/print/31303>

Issues Committee, the Natural Resources and Energy Committee, and the Oversight Committee for Human Rights and Public Freedoms⁽⁴²⁸⁾.

From the previous context, it appears that the absence of legislative power has marginalized the role of the people as a source of power, which contributed to undermining the civil state. This reality resulted in the weakening of the rights and freedoms of the individual, as it was transferred to an angle outside the scope of constitutional and legal protection. The division has created a deep chasm between the people and the political system, leading to an unconstitutional situation in the Palestinian reality. The longer period of division and the absence of a democratic system are one of the pillars. It led to the phenomenon of legal, social and political chaos, which made it a reality that its disastrous effects are difficult to get rid of⁽⁴²⁹⁾.

In this context, it is necessary at the Palestinian political level to accelerate the process of holding legislative elections. The existence of the Legislative Council and the implementation of its legislative and supervisory functions is an important guarantee for the achievement of the principle of separation of powers and for the protection of rights and freedoms in the state.

3.5.1.2.3 Lack of Separation of Powers

The amended Palestinian Basic Law of 2003 defines the Palestine system as a parliamentary democratic system based on political and partisan pluralism. The system states that the president of the Palestinian National Authority is elected by the people, and the government assumes its responsibilities before the president and the Palestinian Legislative Council, and reports on its actions to these two authorities. The law

⁽⁴²⁸⁾ Rule 48 of the rules of procedure of the Legislative Council.

⁽⁴²⁹⁾ Al-Tawil, J. (2023, January 24). The absence of the legislative institution: The people are the source of authorities. Vatan News Agency. <https://www.wattan.net/ar/news/393909.html>

explicitly affirms the importance of the principle of separation of powers, stating that the people are the source of powers, and that citizens have the right to exercise their powers through the three powers of the state: the legislative, judicial and executive. The law emphasizes the importance of implementing the principle of separation of powers as evidenced through its texts⁽⁴³⁰⁾.

The Council of Ministers Law set the limits of the practices of the executive authority as the executive and administrative tool, and the President of the Palestinian National Authority has specific tasks in the amended Basic Law of 2003⁽⁴³¹⁾. The same law also regulated in Title IV the provisions governing the work of the legislative authority, specifying the Legislative Council as an elected authority that exercises the work of the legislative authority⁽⁴³²⁾.

The Speaker of the Legislative Council retains a consistent presence in the sessions of the "Palestinian Leadership," a pivotal body that oversees Palestinian affairs. This Assembly includes key figures from the executive and legislative branches, including the President of the Executive, the Speaker of the National Council, the Chairman of the Legislative Council, ministers, members of the PLO Executive Committee, negotiators, and leaders of the security services. Sometimes, the president's advisers may also participate in these gatherings, and although the Palestinian situation needs such an expanded leadership, the participation of the

Speaker of the Legislative Council is a flaw in the principle of separation of powers.

This imbalance is especially evident when the Speaker of the Legislative Council

⁽⁴³⁰⁾ Article 2 of the amended Palestinian Basic Law of 2003 stipulates that "the people are the source of powers and exercise them through the legislative, executive and judicial authorities on the basis of the principle of separation of powers as set out in this basic law" .

⁽⁴³¹⁾ Article 63 of the amended Palestinian Basic Law of 2003.

⁽⁴³²⁾ Article 47 of the Palestinian Basic Law of 2003.

engages in negotiations with the Israeli side and even assumes the leading role in the Palestinian delegation to final solution negotiations⁽⁴³³⁾.

Overlap also arises when some members of the Legislative Council take high-level executive positions directly under the enforcement authority, particularly under the supervision of the head of the authority or the office of the presidency. This contradicts the basic text of the law in Article (37) and the internal regulations in Article (98), as explained earlier. The relationship is also overlapping when a number of council members hold the positions of advisers to the president, and others as members of the negotiating delegation, which falls within the competence of the executive branch⁽⁴³⁴⁾.

The links between the PLO and its various political institutions are reflected in the overall context of the relationship between the public authorities of the Palestinian Authority. The national authority has executive and legislative powers integrated into its structures, which are the Council of Ministers and the Legislative Council. Similarly, the PLO has executive and legislative powers embodied in the Executive Committee and the National Council.

Large overlaps between these powers appear in the organic context, resulting in a negative impact on the principle of separation of powers. Under the Election Law No. (15) of 1995, members of the Legislative Council automatically became members of the Palestinian National Council. Some members of the Legislative Council also hold

⁽⁴³³⁾ Kaid, A. "A Report on the Problematic Relationship Between the Legislative and Executive Authorities in the Palestinian National Authority." Independent Commission for Human Rights, Legal Reports Series No. 20. P 27. Retrieved from https://www.ichr.ps/cached_uploads/download/ichr-files/files/000000372.pdf

⁽⁴³⁴⁾ Kaid, A. "A Report on the Problematic Relationship Between the Legislative and Executive Authorities in the Palestinian National Authority." PR. P 28.

positions in the PLO Executive Committee, as well as some being members of the Palestinian Central Council⁽⁴³⁵⁾.

In a letter dated June 23, 1998, the head of the executive branch sent a clarification to the legislature on the relationship between the two authorities. He explained that the rules of procedure of the Legislative Council are not binding on the executive branch. He also pointed out that the relationship between the two authorities depends on parliamentary foundations that we build. However, by tracking aspects of the actual relationship between the two authorities, it appears that there are no specific grounds or documented rules for this relationship. In this context, a number of members of the Legislative Council, in many separate cases, were physically assaulted by some members of the security services⁽⁴³⁶⁾.

In August 1998, the Ministry of Parliamentary Affairs was formed within the last ministerial formation as part of efforts to de-escalate tensions between the two authorities. The move was the creation of the Ministry of Parliamentary Affairs as a means of strengthening ties between the council and the government. The Minister of Parliamentary Affairs has regularly represented the government at council meetings.

At the Council session on November 10, 1998, the minister announced the functions of the ministry. Although these tasks were not formally discussed or approved by the council, they included the establishment of regular mechanisms to regulate relations between the legislative and executive authorities. These tasks also included following up on the Council's decisions with the government, and submitting periodic reports to

⁽⁴³⁵⁾ Independent Palestinian Authority. (1998). "Third Annual Report." Ramallah, February 1998, p. 101.

⁽⁴³⁶⁾ Palestinian Independent Commission for Civil Rights. (1999). "Fourth Annual Report." February 1999, P 67.

the Council on the deliberations and decisions of the executive branch and other related matters⁽⁴³⁷⁾.

As for the decision-by-law, the relevant law stipulates the right of each ministry or official authority of the authority to submit its own draft law, which it must refer to the Fatwa and Legislation Bureau of the Ministry of Justice. The Bureau drafts the project and makes the necessary amendments, and after completion it is sent to all ministries for comment on it after coordination with the proposed entity for the project.

The law explicitly states the importance of having a binding role for the Court of Fatwa and Legislation in this process. According to the law, the government must subject any bill to approval by the court before it is submitted to the president for promulgation. Since this law can only be amended or repealed by another law, which has not yet been passed, this law remains in place, and therefore legislative challenges remain regarding it. Although this law has not yet been implemented since the election of the Legislative Council, it continues within the legislative powers of the executive⁽⁴³⁸⁾.

3.5.2 Fallacy Between Inherited Religious Jurisprudence and the Principles of Islamic Law

Women in the Arab world continue to face ongoing challenges rooted in societal underdevelopment, often perpetuated by women themselves. The oppressor adopts the mentality of the oppressor and continues and defends slavery. However, it is important to emphasize that Islam cannot be held responsible for this type of slavery. Islam is meant as a universal message, culminating with the Prophet Muhammad (may Allah's peace and blessings be upon him), and on the occasion of the transformative leap that

⁽⁴³⁷⁾ Intervention of the minister of Parliamentary Affairs before the Legislative Council on 1998/11/10.

⁽⁴³⁸⁾ Legislative preparation Law No. 4 of 1995, article 6.

concluded the era of patriarchy and heralded in the era of equality between men and women⁽⁴³⁹⁾.

According to Islamic teachings, a woman is not considered royal and is not considered incomplete in reason or religion. They have distinct responsibilities as independent human beings, free from any authority exercised by guardians. Islam, in essence, calls for equality and autonomy for women, transcending societal misconceptions and emphasizing the principles of justice and equity.

Rita Faraj, an expert in Islamic studies, believes that the portrayal of women in Islam is strongly influenced by mainstream male-centered religious discourse, which restricts women as a non-Muslim being, not by itself. She asserts that despite the efforts of reformists such as Mohammed al-Ghazali and Muhammad Hussein Fadlallah, contemporary religious discourse has struggled to overcome the barriers set by traditional jurists in various Islamic sects. The enduring influence of foundational jurisprudence, in particular the influence of traditional Islam rooted in the views of former religious scholars, continues to shape the worldview of Muslims and has a significant impact on the making of their ideas⁽⁴⁴⁰⁾.

Abu Zeid in his book *Circles of Fear* urges the need to re-evaluate the religious discourse related to women, and to call for an examination of these texts in their historical context. This approach highlights the consideration of evolving social dynamics at every turn. In defining the components of religious discourse, it becomes clear that religious interpretations, used by interpreters and hardsting, have historically confined women to a restrictive social role, to encapsulate what Abu Zeid calls “circles

⁽⁴³⁹⁾ Chahrour, Mohamed. (Mars 2019), International Women's day.

https://www.facebook.com/Dr.Mohammad.Shahrour/posts/2163860537064068/?locale=ar_AR

⁽⁴⁴⁰⁾ Faraj, Rita. (2015). *The Woman of the Jurists and the Woman of Modernity*. Tunisia: Dar Tanweer for Printing and Publishing. (First edition). p. 95.

of social fear.” At the same time, there is a consensus that the interpretive dimension of religious discourse should be scrutinized in the light of the circumstances of its historical formation, while acknowledging its complex connection to the specific historical circumstances that led to it⁽⁴⁴¹⁾.

In the context of talking about religious discourse, Farida Bennani believes that inherited Islamic jurisprudence is the source of family law, that is, the regulator of family issues and relations. This jurisprudence was realistic when the jurists worked hard in the incident at the time and place, so he worked hard and renewed so that he was setting new rules whenever the reality of the first descending changed according to the new events.

She adds that Islamic jurisprudence adopted as the reference of family law in the Arab countries was realistic jurisprudence, but it did not strive for the time of Arab-Islamic societies at the present time, nor for their local and international reality, and therefore did not strive and did not set the rules for the reality of the sexes in the twenty-first century. Adhering to this jurisprudence as a reference to family law is a transcendent text from reality and also incapable of understanding change and transformation. This made the rules he established for the reality of the sexes incapable of absorbing the rapid transformations that are taking place in the structure of these societies. Thus, reiterate the need to reconsider the inherited interpretative text regardless of whether it conforms to modern international laws or not⁽⁴⁴²⁾. It is worth mentioning that the Palestinian family law, represented by the Personal Status Law in force in the West

⁽⁴⁴¹⁾ Abu Zeid, Nasr Hamed. (2004). *Circles of Fear: A Reading in the Speech of Women*. Arab Cultural Center. <https://www.goodreads.com/ar/book/show/8808749>

⁽⁴⁴²⁾ Bennani, Farida. (1992). *The Division of Labor Between Spouses in the Light of Moroccan Law and Islamic Jurisprudence: Gender as a Criterion*. Publications series of the Faculty of Legal, Economic and Social Sciences; Marrakech. P 46.

Bank, which is taken from Jordanian law, is based on interpretations of the doctrine of Abi Hanifa Al-Numan and has not been renewed since 1967⁽⁴⁴³⁾.

Traditional jurisprudence has historically given a masculine status to Islamic jurisprudence, leading to bias towards men at the expense of women, particularly with regard to issues related to wills, inheritance, polygamy, and women's clothing. Mohamed Shahrour challenges this perspective in the interpretation, arguing that the perceived inferiority imposed on women, such as the idea of lack of reason or religion, is a distorted vision imposed by the prevailing male societal norms.

Shahrour confirms that a closer examination of the Qur'an reveals that there are no inherent differences between males and females, and emphasizes equality in many verses and across different fields. It is worth mentioning that the Qur'anic verses that coupon believers with Muslim women and Muslim women confirm clear and explicit equality between the sexes⁽⁴⁴⁴⁾.

Let's start our talk about the possibility of gender-based discrimination within the prevailing legal frameworks in Arab and Islamic societies. This exploration begins with the premise that laws, mostly derived from Islamic law and often expressed as personal status laws or under various designations, serve as reflections of the state's interpretation of the role of Islam in society. In essence, these laws show the state's perception of societal norms governing, particularly in relation to the lives of both men and women. Thus, any discriminatory views identified in these laws can be attributed to the interpretation of Islam by the state and its legislators, rather than necessarily reflecting the views of prevailing jurisprudence, in particular reformist views, towards the roles and relationships of women and men.

⁽⁴⁴³⁾ The Personal Status Act of 1967. <https://maqam.najah.edu/legislation/137/>

⁽⁴⁴⁴⁾ Shahrour, Muhammad. (2000). *Towards New Origins of Islamic Jurisprudence*. Damascus.

Researcher Amira Sonbal believes that it is well established in mind that personal status laws in Islamic countries are based on Islamic law, the Qur'an and the Sunnah, and therefore any efforts to change personal status laws are an attack or infringement on the basic principles of Islam⁽⁴⁴⁵⁾.

3.5.2.1 A Glimpse of Shahrour's Interpretations of Women's Jurisprudence in the Following Issues: (Wardhood, Marital Abuse, Inheritance, Homosexuality)

This section of the research is based on the studies presented by Dr. Mohammed Shahrour in his written works, where he presented a new perspective on the jurisprudence of women in Islamic law. Before delving into the complexities of women's jurisprudence, Shahrour explicitly declares his non-compliance with the jurisprudential or interpretive position of any previous interpreter: "I do this from my understanding today of the verses of the wise down in the light of the cognitive ground, and in the light of the accumulated knowledge and human sciences until the end of the twentieth century, in line with all this with the objective reality prevailing today, not committed to jurisprudence or interpretation developed by its owner twelve centuries ago, and if it is in line with its reality, it does not necessarily be consistent with today's reality."⁽⁴⁴⁶⁾ It relied primarily on the different linguistic understanding of the text of the verse.

3.5.2.1.1 Guardianship:

Guardianship according to a common bird between men and women. In clarifying the meaning of the word "some of them in the Almighty's saying "by what God has favored each other over each other", " if "some of them" meant only men, a section of men, not

⁽⁴⁴⁵⁾ Senbel, Amira. (2011). The Genesis of Family Law: The Impact of Sharia, Custom, and Colonial Laws on the Development of Personal Status Laws. In Equality and Justice in the Muslim Family (pp. 159). Giza.

⁽⁴⁴⁶⁾ Shahrour, Muhammad. (2000). Towards New Origins of Islamic Jurisprudence. Damascus. P 319.

all of them would have entered into it, and he had to continue and say (some of them) to enter a section of women, not all of them. What results in him is that God preferred a part of men to a part of women, so what about the remaining sections? And is it equal in credit? Hence, it is likely that (each other) includes all men and women, to become the meaning: by what God has preferred some men and women over other men and women⁽⁴⁴⁷⁾. Thus, Shahroor explains that there is no innate preference in creation for a male over a female, or for a man over a woman, and he believes that the preference remains: good management, wisdom, degree of culture and awareness, which varies. Among people, it is men who is better than women and vice versa. As for the second part of the verse: And from what they spent from their money, Shahroor sees that the owner of the money has the guardianship regardless of his efficiency, degree of consciousness and culture⁽⁴⁴⁸⁾.

3.5.2.1.2 Marital Pluralism:

The wise download confirmed that the open number of wives is an ancient historical year in the saying of the Almighty: "What God made for the Prophet is embarrassing in what the Sunnah of God imposed on him on those who were left before, and God's command was a destiny." Surat Al-Ahzab. Which Sunnah of God in those who were left before, the number was open, and the Prophet was treated on this basis, and in this is not our example, because this is from the place of the prophecy "what God made for the Prophet," but the example is from the place of the message "You had a good example in the Messenger of God." Multi-maritalism was a very natural and socially acceptable thing in the era of the companions, but when he was satisfied with four, this is

⁽⁴⁴⁷⁾ Shahrour, Muhammad. (2000). Towards New Origins of Islamic Jurisprudence. Damascus. P 220.

⁽⁴⁴⁸⁾ Shahrour, Muhammad. (2000). Towards New Origins of Islamic Jurisprudence. Damascus. P 220.

considered a historical progress, and we do not forget that the number of right-wing (neight) king was open in addition to wives⁽⁴⁴⁹⁾.

That is, humanity, with its historical development, is moving from marital pluralism to maritalism, and from here we understand that verse (3) of Surat Al-Nisa, which is the verse of marital pluralism, has not been applied to this day because the time has not come to apply it. This verse is not applied when marital pluralism becomes socially unacceptable and its abolition becomes a social requirement.

3.5.2.1.3 Inheritance:

One of the main obstacles to achieving full equality between men and women is the traditional understanding of verse 11 of Surat Al-Nisa. This verse refers to challenges in its traditional understanding, which may be an obstacle to achieving gender balance "God recommends you in your children to the male like the luck of the female...".

Shahrour mentioned that the disciplined meaning of the verse is that the share of the male is equal to the share of the female, and that the jurists who agreed that the male inherits the weakness of the female, was not true because that meaning is not straight unless the text of the verse is "for the male, for example, the luck of the female," which was not mentioned at all in the holy text.

Shahrour went on to the fact that the verse mentioned, speaks about a specific case, which is the one in which females are twice the number of males, then the male inherits twice the share of the female. As for other cases, the matter is different. If the number of females is equal to the number of males, everyone inherits the same destiny, but in cases where the number of females is more than twice the number of males, Shahrour is based on the rest of the noble verse, "If they are women over two, they have two thirds of

⁽⁴⁴⁹⁾ Chahrour, Mohamed. (February 2010). Rose al-Yousef Magazine. Article retrieved from the official website of Mohamed Chahrour: <https://shahrour.org/?p=1367>.

what is left...", and if we impose the death of a man and leave him to four children (one male and three female), the male's share in that case would be 33.33% of the estate and the share of the three females is 66.66%, which is what It means that each female inherits 22.22% of the estate⁽⁴⁵⁰⁾.

3.5.2.1.4 Homosexuality:

The wise download considered homosexuality obscene, and expressed it in the term "Akhdan" where "the cheek" is the companion of the same sex (the cheeks in the face are the same), the Almighty said "not takers" and "not takers of two cheeks", but the application of the punishment in both cases (females or males) is only when the matter happens in public in front of the people and it is proven that there are witnesses to the incident, but otherwise there is no punishment for homosexuality⁽⁴⁵¹⁾.

In the civil state, the definition of the individual takes on a legal social dimension, taking on the meaning of a citizen. Therefore, the concept of citizenship is closely linked to the existence of laws that evolve to meet the dynamic needs of people, adapting to the changing demands of society as it progresses. Shahrour emphasizes the importance of values such as equality and citizenship, which are underpinned by his belief in the effectiveness of "liberal democracy" as the optimal system of government for society⁽⁴⁵²⁾.

⁽⁴⁵⁰⁾ Yusri, M. (2020, January 16). Equality in Inheritance: Reconsidering Contemporary Answers to the Problems of Heritage. Rasif. Retrieved from

<https://raseef22.net/article/1076769%D8%A7%D9%84%D9%85%D8%B3%D8%A7%D9%88%D8%A9%D9%81%D9%8A%D8%A7%D9%84%D9%85%D9%8A%D8%B1%D8%A7%D8%AB%D9%86%D8%B9%D9%8A%D8%AF%D8%A7%D9%84%D9%86%D8%B8%D8%B1%D9%81%D9%8A%D8%A3%D8%AC%D9%88%D8%A8%D8%A9%D9%85%D8%B9%D8%A7%D8%B5%D8%B1%D8%A9-%D9%84%D8%A5%D8%B4%D9%83%D8%A7%D9%84%D9%8A%D8%A7%D8%AA-%D8%A7%D9%84%D8%AA%D8%B1%D8%A7%D8%AB>

⁽⁴⁵¹⁾ Shahrour, Mohammad. (January 2000). A Guide to Contemporary Reading for Download Al-Hakim: Methodology and Terminology. Dar Al-Saki Publishing and Distribution.

⁽⁴⁵²⁾ Shahrour, M. (2018). The State and Society. Dar El-Saki. p. 200. Retrieved from https://www.google.ps/books/edition/%D8%A7%D9%84%D8%AF%D9%88%D9%84%D8%A9_%D9%88%D8%A7%D9%84%D9%85%D8%AC%D8%AA%D9%85%D8%B9/NKpqDwAAQBAJ?hl=ar&gbp

The family institution plays a pivotal role in shaping cultural norms, legal principles and their outcomes. They serve as a critical incubator that can either promote positive values or, on the contrary, contribute to societal challenges. This perspective stems from the understanding that the family acts as the main institution responsible for caring for individuals, regardless of gender. It has a great responsibility to promote and inculcate the concepts of gender equality or its opposite. Essentially, the family stands as the cornerstone of community construction, the primary building block where individuals appear, and their identities are formed⁽⁴⁵³⁾.

In the end, Shahroor provided contemporary interpretations of his understanding of the verses of the wise download in the light of the cognitive ground, and in light of the accumulated knowledge until the end of the twentieth century, in proportion to the objective reality prevailing today. What boils down to Shahroor's vision is the need to re-evaluate and examine religious discourse in its evolving historical and social context, and that there is a need to update and renew the religious understanding of the subject of women and their rights. And what was said by Shahroor is that the woman is equal in the interpretations of the wise download with the man, and there is no trudy for him on her.

He also showed that the societal need is important during interpretation, as it was taken into account that some verses are not applied when they are socially unacceptable and their abolition becomes a social requirement if they are not obligatory. What he concluded on the subject of inheritance is the equal share of men and women, and he interpreted the term "taking" in circulation today in the name of homosexuality and

[v=1&dq=%D8%A7%D9%84%D8%AF%D9%88%D9%84%D8%A9+%D9%88%D8%A7%D9%84%D9%85%D8%AC%D8%AA%D9%85%D8%B9+%D9%85%D8%AD%D9%85%D8%AF+%D8%B4%D8%AD%D8%B1%D9%88%D8%B1+%D8%A7%D9%8A+%D8%B3%D9%86%D8%A9+%D8%B5%D8%AF%D8%B1+%D8%A7%D9%84%D9%83%D8%AA%D8%A7%D8%A8&printsec=frontcover](#)

⁽⁴⁵³⁾ Shahroor, M. (2018). The State and Society. PR.

explained that it is one of the obscene in the wise download and that the punishment falls only in the case of the practice of obscenity in public. He also stressed the role of the family as it contributes to the formation of legal principles.

3.5.3 Legal Obstacles

There are many legal obstacles that hinder the implementation of the CEDAW Convention, including the lack of a legal text talking about the implementation of the Convention, the lack of independence of the judiciary and judges.

3.5.3.1 Constitutional Court Decision

To date, there is no explicit constitutional or legal text clarifying the legal value of international agreements in the State of Palestine, and the decision issued by the Palestinian Supreme Constitutional Court in November 2017, decision No. 4, which confirms that international treaties take precedence over domestic law if they are in line with the national, religious and cultural identity of the Palestinian Arab people. This decision was motivated by a conflict between the Palestinian Basic Law and an agreement granting UNRWA immunity from the Palestinian judiciary⁽⁴⁵⁴⁾.

The reasoning decisions can be appealed based on the provisions of the Convention in light of the decision of the Constitutional Court, which indicated that the Convention does not acquire binding legal force within the framework of national law unless it passes the formal stages that must be available to issue a certain domestic law, which means that the Palestinian courts cannot apply the provisions of the Convention in light of the fact that the Convention is not published in the Official Gazette, and that any

⁽⁴⁵⁴⁾ Birzeit University Constitutional Law Unit. (2017, December 23). Position Paper on Constitutional Court Judgment Concerning the Status of International Conventions in the Palestinian Legal System. Birzeit's Working Papers Series in Legal Studies No. 12/2017. Retrieved from <https://ssrn.com/abstract=3092514> or <http://dx.doi.org/10.2139/ssrn.3092514>

ruling issued on the basis of the Convention at the present time can be appealed under unconstitutionality.

Concerns also arise about the broad interpretation of the court, as it goes beyond its jurisdiction and interferes with legislative powers. The resolution lacks clarity on the assessment of the Convention on the Elimination of All Forms of Discrimination against Women and overlooks the distinction between national and international obligations. In addition, the reasoning of the court regarding the waiver of sovereignty is challenged upon ratification of the agreement. It is important that the court comply with Article 10 of the Basic Law and avoid legitimizing actions that are contrary to human rights. In its decision, the court affirmed the "duality of the legal rule" without a constitutional or legal basis, ruling that "international treaties or agreements are not in themselves a law to be applied in Palestine, but must acquire force if they pass through the formal stages that must be provided to issue a certain internal law to enforce it."⁽⁴⁵⁵⁾

In response to the Constitutional Court's decision, Al-Haq submitted a report highlighting violations of the Convention on the Elimination of All Forms of Discrimination against Women and the Basic Law. The report questions the jurisdiction of the court and confirms the absence of a legal framework for incorporating international agreements into national law⁽⁴⁵⁶⁾.

In August 2021, the Independent Commission for Human Rights submitted a report to the UN Committee on Economic, Social and Cultural Rights on the initial report of the State of Palestine⁽⁴⁵⁷⁾. The report stated the following: "This decision came in the

⁽⁴⁵⁵⁾ Birzeit University Constitutional Law Unit. (2017, December 23). PR.

⁽⁴⁵⁶⁾ Al-Haq Foundation. (2018, July 07). PR.

⁽⁴⁵⁷⁾ The Independent Human Rights Commission. (2021). Parallel report on socio-economic and cultural rights submitted to the Committee on Economic, Social and Cultural Rights. Retrieved from https://cdn1.ichr.ps/cached_uploads/view/2021/10/21/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D9%85%D9%88%D8%A7%D8%B2%D9%8A-

absence of a constitutional text or a law that declares the legal value of international agreements in Palestine, and this leads to raising the Commission's concerns about the possibilities of invoking the non-application of the provisions of the conventions or the practical reservation to some of them, as a result of the allegation of violation of the provisions of international treaties of the national, religious and cultural identity of the Palestinian people, by referring to the blurriness of this term, which leads to the emptying of its content and derogation of its obligations; at the level of commitment to harmonize legislation and correct policies, and the inability of invoking it before the judicial authorities."

3.5.3.2 Lack of Independence of the Judiciary and Judges

The independence of the judiciary is one of the important guarantees for the protection of rights and freedoms. The texts of the Palestinian Basic Law amended for the year 2003, which is considered as the constitution, affirming the independence of the judicial authority and assigning its tasks to the courts⁽⁴⁵⁸⁾, where it exercises the work of the judicial authority of various types and degrees. He also stressed the independence of judges and the inadmissibility of interference in the judiciary and justice affairs by any party.

In addition, no party may influence or interfere with their work⁽⁴⁵⁹⁾. The importance of independence comes in that it is an important criterion to achieve equality in the state. The Palestinian legislator confirms that the Palestinians before the law and the judiciary,

[%D9%84%D9%84%D8%B9%D9%87%D8%AF-D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A7%D9%84%D8%AE%D8%A7%D8%B5%D8%A8%D8%A7%D9%84%D8%AD%D9%82%D9%88%D9%82%D8%A7%D9%84%D8%A7%D9%82%D8%AA%D8%B5%D8%A7%D8%AF%D9%8A%D8%A9%D9%88%D8%A7%D9%84%D8%A7%D8%AC%D8%AA%D9%85%D8%A7%D8%B9%D9%8A%D8%A9-1634815026.pdf](#)

⁽⁴⁵⁸⁾ Article 97 of the amended Palestinian Basic Law of 2003.

⁽⁴⁵⁹⁾ Article 98 of the amended Palestinian Basic Law of 2003.

whether there is no discrimination between them on the basis of sex, race, religion, disability or Political opinion⁽⁴⁶⁰⁾.

The original is that the judicial authority remains independent in the exercise of its work and competencies, where the appointment and dismissal is carried out through a decision issued by the Judicial Council and the approval of the President, and the appointment and removal of judges must not be a means of pressuring the executive authority on the judiciary, here its independence is not achieved⁽⁴⁶¹⁾.

To achieve this independence, the Palestinian legislator guaranteed the protection of judges by linking the appointment and assignment of judges, promotion, and disciplinary and criminal accountability under the Judicial Authority Law to provide them with immunity in the performance of their work and not to affect their rulings and decisions issued by any party⁽⁴⁶²⁾. The Basic Law also clarified the mechanisms for dismissing judges and specified them in the cases contained in the Judicial Authority Law⁽⁴⁶³⁾.

We find that the distribution of powers contained in Title V, entitled the Judicial Authority, of the Powers of the President of the Palestinian National Authority, the Council of Ministers and the Head of Government is an important factor in the application of the principle of separation of powers. The achievement of legal accountability by the legislative authority represented by the Legislative Council contributes to the purpose of the existence of the principle of separation of powers that no person is protected from legal accountability and that there is mutual control from all powers over the other.

⁽⁴⁶⁰⁾ Article 9 of the amended Palestinian Basic Law of 2003.

⁽⁴⁶¹⁾ Kudat, A. (2011). *The Compatibility of the Relationship Between the Executive and Judicial Authorities with the Principle of Separation of Powers*: Amman.

⁽⁴⁶²⁾ Article 99, paragraph 1 of the amended Palestinian Basic Law of 2003.

⁽⁴⁶³⁾ Article 99, paragraph 2 of the amended Palestinian Basic Law of 2003.

It should also be noted that among the violations by the executive authority on the judiciary is to influence the progress of the lawsuit, and that the public administration intervenes through its employees by threatening the judges with referral to the disciplinary council, which results in decisions of impeachment, retirement, assignment, transfer or other means of pressure and coercion, against the opponent in order to force him to waive the filing of the lawsuit and accept an unfair settlement that affects his rights⁽⁴⁶⁴⁾.

We find that the amended Judicial Authority Law gave the broad powers to the President of the State of Palestine to appoint and accept the resignation by the President of the Supreme Court (Court of Cassation), after the Council assigned a number of those who meet the legal conditions, so that his mandate is for a period not more than five years⁽⁴⁶⁵⁾, and the legal conditions for those who assume the position of president or his deputy are to have worked in the regular judiciary or law for a period of at least twenty years⁽⁴⁶⁶⁾.

In addition, the amendment to the same law explained that: "A judge may be temporarily assigned to carry out judicial work other than his work and / or in addition to it or to perform legal work, in the event that there is a national interest to carry out this work, and this assignment shall be by a decision of the Supreme Judicial Council, and at the initiative or at the request of the Minister of Justice."⁽⁴⁶⁷⁾

⁽⁴⁶⁴⁾ Haha, A. (2008). Applications of the principle of separation of powers under the 1996 Constitution. *Journal of Judicial Jurisprudence*, 4(268), Mohammed Khidr University in Sakra.

⁽⁴⁶⁵⁾ Article (8) paragraph 1 amends Article (20) of the decision by Law No. 40 of 2020 on the amendment of the judicial authority Law No. 1 of 2002.

⁽⁴⁶⁶⁾ Article (8) paragraph 2 amends Article (20) of the decision by Law No. 40 of 2020 on the amendment of the judicial authority Law No. 1 of 2002.

⁽⁴⁶⁷⁾ Article 9 of the decision by Law No. 40 of 2020 on the amendment of the judicial authority Law No. 1 of 2002.

The researcher believes that the decision to appoint judges to this position is a kind of sanctions that can be imposed on judges, especially given that the Minister of Justice is part of the Council of Ministers system, which falls under the executive authority. Therefore, it is important to amend this text by setting criteria and conditions for the appointment of judges, in order to avoid the text of this article being an obstacle to the impartiality of the judiciary and negatively affecting its independence.

The report prepared by Al-Haq, in its comment on the decision-law on administrative courts, referred to violations of the principle of separation of powers through the existence of the full dominance of the executive authority in this decision by law on the administrative courts through the powers granted to the President of the State of Palestine in appointing the President of the Supreme Administrative Court and accepting the resignation submitted by him without any criteria except those contained in Article 10 of the Decree-Law on Administrative Courts, which is represented in his sitting in the administrative judiciary for 5 years or his work in the law or administrative judiciary for 20 years, which would affect rights, freedoms and the principle of the rule of law⁽⁴⁶⁸⁾.

The same report considered that the powers granted to the head of state allow him broad powers to appoint judges of the supreme administrative courts and administrative courts in consultation, while the original is that the President of the Supreme Judicial Council and the Minister of Justice assign to the President of the President of State, which the report interprets as a guarantee

⁽⁴⁶⁸⁾ Al-Haq Foundation. (2020). Comments on the decisions of the Law of 2020 amending the laws on the judiciary, administrative courts, and the formation of courts. Retrieved April 20, 2022, from <https://www.alhaq.org>

of the control of the executive authority over the administrative judiciary, indicating that appointments to judicial functions are made in accordance with political standards and considerations, while the original in assuming government functions in general and judicial functions in particular must be based on considerations related to competence, integrity and neutrality, given the specificity of the administrative judiciary and its importance in any country in achieving justice and ensuring the protection of rights and freedoms. These abuses of appointment by the executive branch violate all the basic principles on the independence of the judiciary, in addition to international standards related to judicial conduct⁽⁴⁶⁹⁾.

The researcher believes that the rights contained in the CEDAW Convention and national legislation cannot be applied and protected in the presence of a non-independent judiciary affected by external influences. There is no point in having legal provisions in international conventions and conventions that are not actually applied by the judiciary in a fair and independent manner.

3.5.4 Economic Obstacles:

The obstacles that affect the application of the CEDAW Convention are not limited to the political and legal obstacles, but extend to the economic obstacles, and its importance comes in light of the fact that the economy is considered the nerve of any country and its source of power. The Palestinian Basic Law also stipulated that the economic system of the state is based on a free economy, and the law guarantees freedom of economic activity, and the regulation of the rules of supervision and their limits is principles that are regulated by a law⁽⁴⁷⁰⁾, and the economic obstacles are

⁽⁴⁶⁹⁾ Al-Haq Foundation. (2020). Comments on the decisions of the Law of 2020 amending the laws on the judiciary. PR.

⁽⁴⁷⁰⁾ Article 21 of the amended Palestinian Basic Law of 2003.

represented in a financial crisis facing the Palestinian economy, and the lack of international financial support for the State of Palestine.

3.5.4.1 The Financial Crisis Facing the Palestinian Economy

Israel's policy as an occupying state seeks to hinder the Palestinian democratic transformation, and has no interest in creating a Palestinian democratic political system, and permanently seeks to dedicate the State of Palestine to be a dependent and customer of the occupation state⁽⁴⁷¹⁾, as the economic power of the Palestinian state and its performance of its obligations may expose it to political risks aimed at independence, which the occupying state seeks to avoid.

The economic situation was an impediment to the state's performance of the obligations imposed on it, as the State of Palestine suffers from a real financial crisis in light of the Israeli deductions of clearing funds, where the rate of deductions reached 605 million shekels annually since 2020. This comes despite the increase in the total public debt, which reached until the end of 2022, amounted to about 12.5 billion shekels compared to 12 billion shekels reached by the end of 2021, which prompted the Palestinian government to deduct from the salaries paid to public employees on a monthly basis and consider them as dues until financial coverage is available, and resort to borrowing from banks to perform part of their financial obligations⁽⁴⁷²⁾, where funds are constituted

⁽⁴⁷¹⁾ Ayoub, H. (2006). Prospects for democratic transition in the Palestinian political system: The problematic relationship between the PLO and the Palestinian National Authority (1993-2003) as a pivotal factor (Master's thesis). An-Najah National University. P 8.

⁽⁴⁷²⁾ Analysis | Is the Palestinian Authority's financial crisis real!. (2023, July 2). The Miners. <https://theminers.ps/post/1768/%D9%88%D9%81%D8%AF%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A-%D9%8A%D8%B4%D8%A7%D8%B1%D9%83%D9%81%D9%8A%D9%85%D9%84%D8%AA%D9%82%D9%89->

Clearing that Israel collects (taxes) from the authority in exchange for 3% under the Paris Economic Protocol, especially as these funds constitute 60% of the total monthly revenues of the authority⁽⁴⁷³⁾.

We find that the Convention on the Elimination of All Forms of Discrimination against Women stressed the need for the organizing state to take many measures to eliminate all forms of discrimination against women in the field of work, for example, taking into account equality between men and women, by taking the same rights to work and the right to social security, especially in cases of retirement, unemployment, sickness, old age and disability, in addition to paid leave, the right to health protection for women and the need for safety of working conditions⁽⁴⁷⁴⁾.

Taking these measures and other measures stipulated in the Convention on the Elimination of Discrimination against Women requires the need for the state to have a budget through which it can perform the obligations imposed on it. Providing employment opportunities for women, for example, requires that there be a budget by the state and appointments and the ability to pay wages. It is not reasonable for the state to offer jobs whose wages cannot be covered and are not commensurate with the schedule of job formations prescribed by the state, which is based on the need by public institutions. Therefore, the availability of financial support enables the state to perform the role entrusted to it and abide by the provisions of the agreement it signed.

The Convention also refers to the need for the state to take measures to eliminate discrimination against women, especially in rural areas, which have guaranteed them

<https://www.aljazeera.net/ebusiness>

⁽⁴⁷³⁾ Musa, R. (2024, February 7). A suffocating financial crisis: The Palestinian Authority is on the verge of collapse, and Israel is blackmailing it with taxes. Al Jazeera. <https://www.aljazeera.net/ebusiness>

⁽⁴⁷⁴⁾ Article 11 paragraph 1 of the convention on the elimination of all forms of discrimination against women.

many rights, including participation in the development and implementation of development planning at all levels, access to appropriate health care facilities, including information, advice and services related to family planning, direct access to social security programs, and access to all types of training and education, formal and informal, including related to functional literacy, as well as the enjoyment, in particular, of all community and extension services, in order to increase their technical efficiency, and organize self-help groups and cooperatives in order to obtain economic opportunities.

Equal to men's opportunities through employment or self-employment, participation in all community activities, access to agricultural credit and loans, marketing facilities, appropriate technology, equal treatment in land reform and agrarian reform projects as well as in rural settlement projects, and the enjoyment of adequate living conditions, especially with regard to housing, sanitation, electricity and water supply, transportation, and transportation⁽⁴⁷⁵⁾.

These measures, which are also taken, especially in rural areas, include the need to obtain formal and informal training and education, access to agricultural loans, enjoy adequate living conditions and other measures require a financial balance, and it is not reasonable for the poor country to leave the main obligations imposed on it and preoccupied with implementing the terms of an agreement whose terms can be considered secondary clauses.

3.5.4.2 Lack of International Financial Support for the State of Palestine.

Note that the Palestinian National Authority at the state level obeyed to the requests submitted by the financiers, which are represented in improving the conditions of

⁽⁴⁷⁵⁾ Article 14 paragraph 2 of the convention on the elimination of forms of discrimination against women.

women, in order to preserve the sources of external funding. The authority applied the idea of women's quota in the election laws, and established a special ministry for women's affairs in 2003, and the authority worked to change its priorities to base on the role of women in building the state, then the strategic plan changed to focus on vocational and technical education and training for young women and economic and political empowerment⁽⁴⁷⁶⁾.

Statistics of international support for the Palestinian Authority indicate a decrease in the percentage of annual support for the Palestinian general budget, where the ratio reached \$1.1 billion until 2013, while the support constituted a decline until the average support in 2019 amounted to about \$500 million⁽⁴⁷⁷⁾.

The researcher believes that the cessation and reduction of financial support for the Palestinian budget by donors prevents its ability to perform its obligations and the roles entrusted to it towards Palestinian women. The commitment of the State of Palestine to implement the agreements entrusted to it, including the measures of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), requires financial resources and financial support that enables it to fully implement the provisions of the Convention without detracting in any of its provisions.

⁽⁴⁷⁶⁾ Salah Gad,(2022). the Palestinian feminist movement after Oslo, a bitter harvest in self-empowerment and in the liberation of the homeland. Hakama Magazine, 5(3), P 61.

⁽⁴⁷⁷⁾ Khubaysa, M. (2020, October 21). Donors are gradually withdrawing from supporting the budget of Palestine. Anatolian Websites Network.

<https://www.aa.com.tr/ar/%D8%A7%D9%84%D8%AF%D9%88%D9%84%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9/%D8%A7%D9%84%D9%85%D8%A7%D9%86%D8AD%D9%88%D9%86%D9%8A%D9%86%D8%B3%D8AD%D8%A8%D9%88%D9%86%D8AA%D8AF%D8%B1%D9%8A%D8AC%D9%8A%D8%A7%D9%85%D9%86%D8AF%D8B9%D9%85D9%85%D9%88%D8%A7%D8B2%D9%86%D8%A9%D9%81%D9%84%D8%B3%D8B7%D9%8A%D9%86-%D8%A5%D8B7%D8A7%D8B1/2013475>

3.5.5 Social Obstacles:

Social obstacles are one of the most prominent factors that hinder the implementation of the provisions of the CEDAW in the Palestinian legal system, and this challenge is linked to the historical heritage, customs and traditions of Palestinian society. This challenge is based on a system based on the patriarchal style and the consideration of the man responsible for difficult tasks, while the woman is considered his successor without equal rights. This approach leads to negative effects that include domestic violence, lack of equality, and the distortion of women's rights in society, which is contrary to the amended Palestinian Basic Law of 2003.

These obstacles are related to the culture, beliefs, and perception of women, and their impact on their upbringing and willingness to assume responsibilities. It relates to the view of society and the institutions of socialization of women's work and their assumption of leadership positions, which hinders their exercise of leadership behavior and the achievement of their position in society⁽⁴⁷⁸⁾, inherited discriminatory customs, customs and traditions, in addition to the weakness of self-awareness in society, which have constituted obstacles to women's progress. She has contributed to focusing her role only on secondary roles, despite her successes and abilities in various fields and her ability to assume all roles. Inherited discriminatory customs and traditions, as well as the weakness of self-awareness in society, have been obstacles to the advancement of women. She has contributed to focusing her role only on secondary roles, despite her successes and abilities in various fields and her ability to assume all roles⁽⁴⁷⁹⁾.

⁽⁴⁷⁸⁾ Harzallah, A., Nusseibeh, D. M., & Choucair, N. (Year). "Obstacles Facing Women to Assume Senior Administrative Positions in Palestinian Universities and Their Relationship to Career Development." *Al-Quds Journal for Academic Research*, p. 76.

⁽⁴⁷⁹⁾ Masarat Center for Philosophical and Humanities Studies. (2019). "Palestinian Women in the Face of National Tasks and Societal Challenges." *Masarat Magazine*, p. 18, p. 178.

The continued refusal to implement the terms of the CEDAW Convention exposes more women to violations of their rights and freedoms. This rejection is also due to a misunderstanding of the provisions of the Convention, where some believe that it calls for dissolution and deviation, which is a misconception, as the Convention aims to prevent discrimination against women and guarantee their rights in all areas without leading to the idea of dissolution. It highlights the need to increase awareness in society of the purposes of the Convention, and the Palestinian National Authority should publish its texts in the Official Gazette to promote a correct understanding of it and contribute to changing the prevailing misconception⁽⁴⁸⁰⁾.

As Palestinian history has given Palestinian women their own advantages as a result of the long occupation that made her a strong and steadfast woman, rejecting injustice and standing by the man in the face of occupation. She asserts that Palestinian women's acceptance of restrictions does not necessarily mean bending over them, but is considered acceptable and this is shown in the proportion of educated women in Palestine. Hence, she does not believe that Palestinian society rejects the CEDAW because it is contrary to its culture⁽⁴⁸¹⁾.

Community opinion is affected in several things, most notably: the Palestinian media, the opposition of political parties to the CEDAW agreement, and the weakness and fragility of civil society institutions.

3.5.5.1 The Role of the Media

Despite the texts of the CEDAW call for gender equality in rights and the strengthening of the role of women in government. The media plays an important role in shaping the

⁽⁴⁸⁰⁾ Interview with Amani Al-Junaidi, Ministry of culture, the text of the interview is available in the appendix.

⁽⁴⁸¹⁾ Interview with Amani Al-Junaidi, Ministry of culture, the text of the interview is available in the appendix.

culture of society and directing social behaviors, playing the role of the fourth authority after family and school. The media contributes to the dissemination of social values and behaviors and the rejection of those that run counter to societal traditions and values⁽⁴⁸²⁾.

In a recent study of the Palestinian media, it was found that in some cases Palestinian radios exceeded the image of women in a way that went beyond the gender framework. They often drift into issues that are inappropriate for the role radio should play in supporting women's causes. Where efforts were spent in some programs by talking about themselves without focusing on issues related to women, and entered into aspects that do not adequately address the subject for the role of radio in the service of women's issues⁽⁴⁸³⁾.

The presentation style also appeared in media terms rather modest, as the questions were not sufficiently interconnected from one station to another, as we find them moving without the presence of interfaces or common links between the topics. That is, the question pattern is not related to the gender aspect, which is supposed to be the goal of the program. Such methods in radio programs related to women are wasting time, the researcher believes. Alternatively, programs can be improved by focusing on aspects more relevant to women's issues, which enhances greater understanding and interaction with these issues⁽⁴⁸⁴⁾.

3.5.5.2 Opposition of Islamic Parties to the CEDAW Agreement

The position of the community was affected by the vigil organized by the Palestinian Liberation Party in the city of Hebron in rejection of the CEDAW Agreement, with the

⁽⁴⁸²⁾ Saleh, W. (2021). "The Image of Women in the Palestinian Broadcast Media: Voice of Palestine, Generations, Women FM Models." Master's Thesis, An-Najah National University, Nablus, pp. 61-63.

⁽⁴⁸³⁾ Saleh Othman, W. (2021). "The Image of Women in the Palestinian Broadcast Media: Voice of Palestine, Ajyal, Women FM Nawan as a Model." An-Najah National University. P 104. Retrieved from <file:///C:/Users/N/Downloads/9808-010-001-4473-4.pdf>

⁽⁴⁸⁴⁾ Saleh Othman, W. (2021). "The Image of Women in the Palestinian Broadcast Media: Voice of Palestine, Ajyal, Women FM Nawan as a Model. PR. P 105.

participation of clan dignitaries. Musab Abu Argoub, a member of the party's media office, explained that the residents of Palestine and its clans will continue these stops until the CEDAW agreement and the family protection law, which the Palestinian Authority intends to approve under pressure from women's associations, are dropped⁽⁴⁸⁵⁾.

The National Coordination Body in Hebron Governorate issued a statement rejecting the approval of the State of Palestine to the CEDAW Convention, noting that the PLO forces were supporting the approval of the State of Palestine to the agreement, stressing the liberation of the land and man from occupation in line with the Palestinian cultural heritage and religious beliefs of the Palestinian people. Statements issued by some people claiming to represent Hebron clans were also criticized, considering that they only represent themselves and seek political purposes, noting that any attack on women's issues is incitement against them⁽⁴⁸⁶⁾.

3.5.5.3 Weakness and Fragility of Civil Society Institutions

Civil society organizations are all bodies and frameworks that work in economic, social and cultural aspects, independently of the official authority, with the aim of strengthening the protection of the rights of Palestinian women through their activities, programs and events. They are founded on the basis of voluntary⁽⁴⁸⁷⁾, these institutions

⁽⁴⁸⁵⁾ "A Rally in Hebron Against the CEDAW Agreement." (2022, March 23). Palestinian Media Center. Retrieved from <https://palinfo.com/news/2022/03/23/119149/>

⁽⁴⁸⁶⁾ Khalil, R. (2019, December 24). "Clans of the Hebron Region in Palestine Boycott Women Because of the CEDAW Agreement." Link. Retrieved from <https://halketwassl.com/2019/12/24/%D8%B9%D8%B4%D8%A7%D8%A6%D8%B1%D9%85%D9%86%D8%B7%D9%82%D8%A9%D8%A7%D9%84%D8%AE%D9%84%D9%8A%D9%84%D9%81%D9%8A%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D8%AA%D9%82%D8%A7%D8%B7%D8%B9%D8%A7%D9%84%D9%86/>

⁽⁴⁸⁷⁾ Al-Kafarna, S., & Abu Khossa, A. R. (2019). "Civil Society Organizations and Their Role in Protecting the Rights of Palestinian Women: A Case Study of the AL-Dameer Foundation for Human Rights in the Governorates of the Gaza Strip." *Journal of the University of Israel for Scientific Conferences*, 3, 334.

seek to empower women and empower them to be able to carry out their tasks and perform their duties efficiently and effectively.

By assessing the role of CSOs in achieving community development, there is an urgent need for a comprehensive review of the overall performance and effectiveness of those organizations. Despite some minor successes, such as providing medical care to victims of Israeli operations inside the Palestinian territories, these results have been limited and specific.

A study shows that the ineffectiveness of these organizations is due to the fact that the systems and structures that determine the distribution of power and resources within these organizations have not changed. Perhaps one of the most important factors leading to this situation is the failure of these organizations to establish links between their work at the grassroots level, and the broader systems and structures that are part of them⁽⁴⁸⁸⁾.

These organizations focus mainly on providing social and health services without a radical impact on the political structure. To achieve effective popular participation, these organizations should be motivated to better interact with formal structures and systems, and enhance their role in modernizing formal structures rather than replicating existing projects.

The serious dysfunction that has hindered social organizations is still rooted in their structure, where the supremacy of partisan and factional concepts and practices is remarkable in all aspects of their lives and in their internal composition and structure. Many of these organizations are activated around social groups with a limited scope, either with a close association with the party or faction in question, or with direct

⁽⁴⁸⁸⁾ Nasser Mahmoud Sheikh Ali. (2008). The Role of Civil Society Organizations in Promoting Political Participation in Palestine. An-Najah National University. P 75. <https://repository.najah.edu/server/api/core/bitstreams/1b9704b2-5504-435a-bf26-a48a6c05194c/content>

targeting by it. These contexts were clearly demonstrated, especially in rural Palestinian areas suffering from poverty and neglect, during election periods for the Palestinian Council or the presidency. The days when free medical activities or consecutive workshops were organized were prominent models of sudden and abnormal interest by these organizations and the political forces behind them⁽⁴⁸⁹⁾.

Civil society organizations rely heavily on external funding to support youth-oriented programs, negatively affecting the sustainability of these programs and increasing their relevance to the funders' agenda. According to 2018 data, only 0.9% of young people work in senior management professions, with 1.0% in the West Bank and 0.4% in the Gaza Strip.

It is also noticeable that only 0.9% of young people occupy senior management positions, and this percentage is distributed between 1.0% in the West Bank and 0.4% in the Gaza Strip. This growing reliance on external financing shows the need for sustainability in this area⁽⁴⁹⁰⁾.

It is important to note that community institutions, despite the important role they should play in the field of youth rights, sometimes show a greater link to the slogans of democracy than their work on the ground, especially with regard to opening the way for young people to assume senior positions in these institutions. Which keeps institutions the same vision without evolution.

⁽⁴⁸⁹⁾ Nasser Mahmoud Sheikh Ali. (2008). The Role of Civil Society Organizations in Promoting Political Participation in Palestine. PR. P 78.

⁽⁴⁹⁰⁾ Sukar, A. (2020). "Fact sheet: Civil Society Organizations and Palestinian Youth - Role Challenges." The Reign of Gerdar. Masarat Center in partnership with ActionAid-Palestine. Retrieved from: Fact sheet link.

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Conclusion

Results

1. The obligations arising from Palestine's ratification of the CEDAW without reservations involve publishing the agreement in the official gazette, aligning Palestinian legislation with CEDAW provisions, and addressing the rights of Palestinian women in political, economic, social, health, and family aspects. Achieving non-discrimination and equality is a key focus.
2. The Palestinian National Authority has not shown commitment to implementing these obligations. Legislative alignment progress remains modest, as the CEDAW has not been published in the official gazette, potentially rendering post-ratification laws subject to challenge.
3. Obstacles to legislative alignment include the suspension of the Legislative Council, internal political division, and the dominance of Hamas in Gaza and Fatah in the West Bank, leading to legal pluralism. The lack of political will within the Palestinian National Authority hinders gender equality and anti-discrimination efforts.
4. Palestinian women face challenges in legislation, with ineffective enforcement, weak representation in legal and judicial institutions, political violations of women's rights, economic participation obstacles, cultural barriers, and societal challenges affecting health and education.
5. Obstacles to CEDAW implementation within Palestine include political challenges like Israeli occupation, internal issues such as authority absence and Palestinian division, religious constraints, legal hindrances, economic crises, and

societal factors like negative media influence, Islamic party opposition to the agreement, and fragility of civil society institutions.

6. Despite government reports citing achievements, many referenced documents, such as drafts of family protection, penal, and social security laws, remain unfinished and unpublished.
7. The Palestinian State has not made significant progress in aligning personal status laws with CEDAW, and a clear vision for future personal status laws has not been articulated.
8. Palestinian constitutional ambiguity, absence of legal texts on CEDAW enforcement, and Constitutional Court Decision No. 4 highlight challenges due to the conflict between international agreements and Palestinian cultural and religious heritage.
9. While Palestine joined the Optional Protocol in 2019, a lack of official steps to integrate CEDAW into national laws, insufficient awareness campaigns, and limited knowledge among women regarding their ability to file individual complaints diminish the significance of this move.
10. Official reports emphasize the role of Sharia courts in addressing discrimination cases, but practical observations reveal limited effectiveness in addressing discrimination issues.
11. Despite ongoing civil society calls to end unconstitutional emergency measures and proceed with elections, these measures persist.
12. Amendments affecting the judiciary under Law No. 1 of 2000 remain, concentrating power in the executive branch.

13. Existing penal and personal status laws, as well as overall Palestinian legislation, lack definitions of discrimination against women as outlined in CEDAW. Effective legal provisions criminalizing discrimination are absent.
14. Marginalizing the Palestinian people's role, with the National Authority holding all executive, legislative, and judicial powers, results in a paternalistic system contrary to the democratic principles in the Palestinian Basic Law.
15. Palestinian society holds diverse views on CEDAW, with supporters understanding its texts, while opponents often rely on propaganda without understanding the agreement's content.
16. Religion is not a barrier to CEDAW within Palestine; instead, interpretations derived from ancient jurisprudence require updating to align with contemporary society and needs.
17. The financial crisis in the Palestinian economy hampers government empowerment of women and the implementation of justice and protection projects, requiring substantial budgets.
18. Palestinian media's negative role internally, avoiding discussions on women and gender issues, and failing to clarify CEDAW goals for societal awareness contribute to challenges.
19. Civil society fragility and dependence on specific political factions and external funding hinder women's equality efforts, with institutions rooted in particular affiliations and lacking independence.

Recommendations

1. To ensure the implementation of equality and non-discrimination, it is essential to define discrimination against women and incorporate it into all legislation issued in the State of Palestine, safeguarding the rights of marginalized groups, with a focus on women, including those with disabilities. This principle should be adopted as a constitutional principle underlying Palestinian Basic Law.
2. Removing barriers for women requires improving legislation to protect their rights and achieve equality in economic, social, and political aspects.
3. Raising awareness of women's rights plays a crucial role, and awareness campaigns and educational programs can be conducted to change cultural perceptions regarding the role of women in society.
4. Enhancing effective participation of women in political and governmental work contributes to strengthening their role in decision-making and ensuring their representation in government institutions.
5. Providing equal educational opportunities and promoting training and professional development opportunities contribute to improving women's status in the labor market. Empowering women in entrepreneurship also enhances their economic empowerment.
6. Strengthening legal protection against sexual violence and providing support for victims help improve the social and psychological conditions of women.
7. Integrating a gender perspective into all policies and programs, collaborating with the international community and organizations to exchange experiences and promote women's rights, is essential.

8. Publishing the text of the Women's Convention in the official gazette gives the convention legal legitimacy within the framework of Palestinian national law.
9. In light of the Constitutional Court decision mentioned in paragraph (12) of the concluding remarks, Palestine should adhere to its content.
10. Immediately lifting exceptions on raising the legal age of marriage is crucial due to the serious harm caused, including an increase in child marriages. Establishing a national committee to monitor the legal age of marriage is imperative.
11. Expedite the review of draft laws and their approval in line with CEDAW provisions as the general law for protecting women, ensuring equality, and preventing discrimination.
12. Issuing a personal status law in line with Article 16 of CEDAW and intensifying efforts to develop a vision for future texts of personal status law.
13. The Palestinian National Authority should clarify constitutional orientations regarding the implementation of international agreements and provide precise guidance on dealing with international legislation within Palestine.
14. Emphasizing the urgency of unifying laws between the West Bank and Gaza, delaying the alignment of laws applied in each region with CEDAW provisions.
15. Feminist institutions and Palestinian intellectuals are recommended to enhance awareness that there is no contradiction between religion and implementing CEDAW. Encouraging the renewal of religious interpretations to align with contemporary social situations is also crucial.
16. President Mahmoud Abbas should end the unconstitutional state of emergency and move forward with elections as a step toward achieving political stability.

17. The Palestinian National Authority should review laws that have affected the judiciary's authority, replacing them with laws that apply the principle of separation of powers to ensure independence and effectiveness.
18. The government should develop strategic plans that align with reality and find solutions to economic crises, rather than attempting to ignore them with idealistic plans that are not implemented on the ground.

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Appendices

Appendix 1

Ms. Sama Awaida, Center for Feminist Studies

First speaker: Can you first provide a brief overview of yourself and the center Center for Feminist Studies?

Second speaker: Sama Awaida, Director of the Center for Feminist Studies. The center aims to promote gender equality and strengthen women's rights as human rights. It also contributes to meeting part of the need of the Palestinian feminist movement in particular and social movements in general in providing field studies on the reality and needs of Palestinian women with the aim of developing programs aimed at enabling women to access and benefit from various resources to advance the reality of Palestinian women and respond to their needs and enable them to live in freedom, dignity and equality.

First speaker: What contributions has the Center made to a real and effective implementation of the CEDAW agreement?

The second speaker: The center trained many groups, including school students, university students, and employees. The aim of these exercises was to raise awareness and clarify the content of the CEDAW Convention. The center has also carried out several lobbying campaigns with ministries to publish the agreement as a first step for implementation. But the ministries' response was: "We cannot clash with the Palestinian parties, especially since Hizb ut-Tahrir completely rejects the agreement."

Knowing that the authority is fully aware that the CEDAW agreement does not conflict with Islamic law.

First speaker: In your opinion, what are the obstacles that prevent the implementation of the CEDAW agreement in Palestine?

Second speaker: In my opinion, there are two reasons associated with some closely related. First, the lack of awareness among people at the top of the pyramid ladder, which in turn leads to a lack of real political will to implement. For example, the center is now conducting a study on the exceptions contained in the laws, for example, the exception of the marriage law established by the "Habash", the center began to search for what are the exceptional cases that allow the elders to accept a marriage under the age of 18, but the midwives all commended that this information is not authorized for the sheikhs to talk about. This is clear evidence of collusion and a lack of genuine political will.

Appendix 2

Mrs. Amani Al-Juneidi, Ministry of Culture

First speaker: Can you first provide a brief overview of yourself?

Second speaker: Amani Al-Junaidi, a Palestinian writer, a member of the General Secretariat of the Writers Union, and Director of the National Heritage Registry at the Ministry of Culture.

First speaker: In your opinion, why is there a societal rejection of the CEDAW agreement?

The second speaker: There is a wrong understanding that has been spread within the Palestinian society regarding the CEDAW Convention, for example, there was a fear in some of calling for dissolution and deviation, and this is wrong. The freedom advocated by the Convention is to ensure that women are not discriminated against in other words to avoid harming a woman in all respects. This has nothing to do with the idea of dissolution.

We conclude from this that a large segment of society has no awareness of the agreement and its purpose, and the Palestinian National Authority has contributed significantly to the formation of this lack of awareness for not publishing the texts of the agreement in the Official Gazette.

First speaker: Does Palestinian culture and customs reject equality and non-discrimination for women from your point of view?

The second speaker: Palestinian history has given Palestinian women their own advantages because they were subjected to a long-term occupation, which made her a strong and steadfast woman, who refuses to submit to injustice, and it is worth mentioning that women stood side by side with men in the struggle against the

occupation. So the subject of women's acceptance of restrictions, but it is acceptable, and the proof of this will not be the percentage of educated women in Palestine, so I do not think that the Palestinian society rejects the agreement because it refutes its culture.

First speaker: In your opinion, what are the obstacles to the implementation of the agreement inside Palestine?

I believe that the real reason is the lack of political will, there are many Palestinian issues that have many obstacles, but because of the existence of a political will that has been resolved.

The dangerous in the current situation is that the faith of the Palestinian people in particular, and the faith of the entire world in the system of international law and the United Nations system has become non-existent due to the genocide on Gaza and the complicity of the United Nations system in this genocide. Unfortunately, people have come to believe in the existence of special interests of the United Nations, which came above the laws and freedoms that called for and emphasized their alignment in domestic legislation.

الملخص

يهدف هذا البحث إلى إجراء تحليل شامل لحقوق المرأة، جنباً إلى جنب مع المعايير الدولية التي وضعتها اتفاقية القضاء على جميع أشكال التمييز ضد المرأة (سيداو) مع الحقائق التشريعية والسياسية والاقتصادية والاجتماعية والثقافية التي تواجهها المرأة الفلسطينية. جاءت الدراسة بتساؤل رئيسي وهو ما هي المعوقات التي تحول أمام تنفيذ اتفاقية سيداو في فلسطين؟

تتمحور الدراسة في فصلين رئيسيين. يتناول الفصل الأول السياق التاريخي لاتفاقية المرأة، ويستكشف موجات النسوية، وتأثير الأيديولوجية النسوية على الصكوك القانونية الدولية، ودور الأمم المتحدة في تنظيم حقوق المرأة. ثم تفحص مبادئ اتفاقية القضاء على جميع أشكال التمييز ضد المرأة، والحقوق الأساسية، والتحديات في تنفيذها.

يتناول الفصل الثاني الوضع الفلسطيني بعد انضمامه إلى اتفاقية القضاء على جميع أشكال التمييز ضد المرأة. يقدم لمحة عامة عن النسوية في فلسطين، والتطور التاريخي، وتأثير المراحل السياسية على الحركة النسائية، والانضمام اللاحق إلى الاتفاقية. يتم تشريح الحقائق التشريعية والسياسية والاقتصادية والاجتماعية والثقافية للمرأة الفلسطينية، مع التركيز على الفوارق بين التشريعات المحلية واتفاقية القضاء على جميع أشكال التمييز ضد المرأة.

يستخدم البحث المنهج الوصفي التحليلي القانوني، من خلال مراجعة الأدبيات القانونية ودراسات الحالة. بالتدقيق في المشهد التشريعي الفلسطيني من خلال عدسة المعايير الدولية لحقوق المرأة، يساهم هذا البحث في فهم التحديات التي تواجهها المرأة الفلسطينية التي تحول دون تحقيق المساواة وعدم التمييز.

خلصت الدراسة إلى أن الوضع الحالي الذي تعيشه المرأة الفلسطينية لا يرقى إلى مستوى تحقيق معايير المساواة وعدم التمييز المبينة في الاتفاقية. حيث أن الإصلاحات القانونية بحاجة إلى ارادة سياسية حقيقية للوصول إلى الهدف المرجو، كما أن النصوص القانونية التي تعكس ثقافة المجتمع بحاجة إلى تواصل مع الرؤية الشبابية الجديدة المنفصلة عن العادات والتقاليد البالية والتي تركز الأنماط الاجتماعية التمييزية. بالإضافة إلى أن المشرع الفلسطيني بحاجة لتقديم تفسير لنصوص الشريعة الإسلامية بطريقة جديدة منفصلة عن التاريخ الإسلامي غير المعاصر للواقع الحالي. ويمكن لهذه النتائج أن تعود بالفائدة في الإصلاحات القانونية أو مبادرات

المناصرة ومؤسسات المجتمع المدني ومساعدة صناع القرار في تعزيز حقوق المرأة في السياق الفلسطيني.

الكلمات المفتاحية: اتفاقية المرأة, المساواة, عدم التمييز, النسوية, تمكين المرأة.