



الهيئة المستقلة لحقوق الإنسان
"ديوان المظالم"

**The Report of the Independent Commission for Human Rights (ICHR)
On
The Initial Report of the State of Palestine
Presented to
The United Nations Committee on
The Elimination of All Forms of Discrimination against Women**

July 2018

Introductory Synopsis about the Independent Commission for Human Rights (ICHR)

The Independent Commission for Human Rights (ICHR) is the Palestinian national body that safeguards the rights of the Palestinian citizen. ICHR is a full member of the Global Alliance for National Human Rights Institutions (GANHRI). ICHR was established in 30/9/1993 upon a Presidential Decree issued by the late Palestinian President Yasser Arafat. This decision was subsequently published in the Official Gazette (the official gazette of the Palestinian National Authority) under issue number (59) for the year 1995.

In accordance with the Presidential Decree, the duties and responsibilities of ICHR are as follows: "to follow-up and ensure that different Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization meet the requirements for safeguarding human rights."

The decree entrusted ICHR with the drafting of its statutes in a manner that would ensure its independence and effectiveness. ICHR commenced its activities in early 1994; the first Commissioner General appointed was Dr. Hanan Ashrawi, who spearheaded ICHR's initial establishment.

Subsequently, Article (31) of the Basic Palestinian Law, voted on by the Palestinian Legislative Council (PLC) in 1997, was issued and published in the Palestinian Gazette in 2002. It provided that: "An Independent Commission for Human Rights shall be established by law, which shall specify its formation, duties and jurisdiction. The Commission shall submit its reports to the President of the National Authority and the Palestinian Legislative Council."

This law has not yet been passed and ratified by the PLC, but through its internal by-laws, mission statement and its activities, ICHR has strived to achieve its mandate, based on the abovementioned decree until the ICHR law is ratified.

ICHR, in its capacity as the national commission for human rights with a core-function as an Ombudsman, is entitled to follow-up and ensure that different Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the Palestine Liberation Organization meet the requirements for safeguarding human rights. ICHR's mandate includes management of cases concerning human rights violations, and complaints submitted by citizens related to human rights violations committed by the Executive Authority. ICHR is also responsible of disseminating legal awareness information, as well as to monitor national legislations and policies to ensure compliance with international human rights standards.

1. Implementation of the United Nations Human Rights Agreements, including CEDAW Convention, in the Gaza Strip and Area (C)

1.1 In Article (50) of the State's report, under the subtitle "Challenges", it was mentioned that "among the challenges Palestinian women face is the ongoing issuance of a series of illegal legislations by the " Hamas movement" that do not match the commitments mentioned in the convention and their implementation in Gaza Strip". Despite this brief presentation of the convention's status in Gaza Strip, the report did not elaborate on the possibility of the implementation of UN human rights conventions by the Palestinian government in the Gaza Strip as duty bearer for the conventions implementation after signing the international conventions".

1.2 The establishment of the Government of National Conciliation in August 2013, and the amendments that followed this step, did not lead the new government to spread its control and governance on Gaza Strip. This practically impeded the implementation of laws, decisions and international agreements, to which the Palestinian government is committed, in the Gaza Strip. The same applies to Area (C) in the West Bank, which is under the control of Israeli occupation. In addition to all of this, political developments in the first quarter 2018 indicate that reconciliation cannot be completed on the short run, thus it will not be possible for the government to take control over the Gaza Strip in the near future.

1.3 Palestinian government didn't make any declarations or take any procedures, since its accession to the Convention, that reveal its intentions to accede to the Optional Protocol to the Convention. In addition, the Palestinian government didn't publish the signed agreements in the Palestinian Gazette, including CEDAW Convention, despite ICHR continuous demands for that.

2. Adaptation of Legislations with the Convention

2.1 In its response to the list of issues introduced by your esteemed committee about the initial report of the State of Palestine, the latter pointed out to a series of procedures that are being undertaken to abolish the legislations that are discriminative against women. The most important procedure is the work of the adaptation committee, which reviews the penalties' legislations and a draft law on the protection of families against violence. Moreover, the legislation commission is taking steps towards gender equality; it also features a legislation adaptation plan for 2018, created especially for the adaptation with CEDAW Convention. This plan includes codes of criminal procedures, sanctions, personal status and election law. The expected result is that subsequent legislations for the accession of the State of Palestine to international conventions are in compliance with international conventions. However, the reality is that several subsequent legislations for the accession of the State of Palestine to international conventions are considered an impediment to women's rights, which is against the CEDAW Convention and other human rights conventions. One of these important legislations:

a Law by Decree number (16) in 2017 regarding electronic crimes. This law comprises several provisions that can restrain women's freedom of expression through media outlets and social media. The mentioned Law by Decree includes several statements that are an infringement on the right to privacy of citizens without sufficient protection guarantees, such as inspection of electronic devices and IT tools without permission from the competent court.

2.2 A Law by Decree was issued regarding the High Criminal Court. Its provisions imply withdrawal of guarantees of a just trial which are provided by valid Criminal Procedures Code. These guarantees comprise of the following: raising the detention period to four days instead of 48 hours and the competence of the court of appeals to allow a trial to carry an examination instead of a hearing, which constitutes an infringement of the right to a fair trial and the right to freedom and personal security for male and female citizens and women's access to justice.

3. Right to Assume Public Office

3.1 The basic law ensures that all citizens have the right to assume public office based on their competence and without any gender-based discrimination. This right is reinforced by valid laws. However, the latest governmental decisions related to referrals for early retirement included several women, some of whom were women with disabilities. This act contradicts all declared efforts regarding the empowerment of women in the assumption of roles in public office. These governmental decisions related to referrals to early retirement included (11) women, among them a woman who is 36 years old and who was referred to early retirement because of her handicap. However, her work was suitable for her health condition from a medical perspective since she worked as a teacher in a directorate of the Ministry of Education since 2006.

4. Rights of Women with Disabilities

4.1 The initial report of the State of Palestine did not incorporate the policies and measures undertaken to ensure that women with disabilities benefit from the equality principle as mentioned in the Convention on the Elimination of All Forms of Discrimination against Women. According to the Disabled Individuals Survey undertaken by the Palestinian Central Bureau of Statistics in 2011, 36% of women with disabilities in Palestine face difficulty in interacting with people due to social attitudes. Around 69.3% of women with disabilities aged 18 years and above, face difficulties because of the lack of an adapted infrastructure in the streets as well as public buildings, and 35.8% of the same category face difficulty interacting with their parents.

4.2 According to the national investigation carried out by ICHR in 2014 on the right of people with disabilities to appropriate work, the rate of women with disabilities' participation in the labor market reached 17%. This rate is lower in Gaza Strip than in the West Bank. The rate of women who do not work at all among the women who participated in the survey is 73%. The study showed that women with disabilities also suffer from gender-based obstacles due to the competition with men with disabilities, and from difficulties emerging from the economic crisis in general.

4.3 Despite the attempts of the Ministry of Education to integrate persons with disabilities in public schools, the reports issued by the Ministry indicate that the integration rate does not exceed 1% from the students' total. Statistical data issued by the Ministry of Education for the academic year 2016-2017, show that the number of students with disabilities enrolled in public schools reached (8074) male and female students, (5350) of them are in the West Bank and (2724) student in Gaza Strip distributed as: 2759 female, 2591 male student in the west bank, and 1408 males, and 1316 female student in Gaza Strip. Moreover, (results showed that there are no students with disabilities participating in vocational studies¹.

4.4 ICHR, civil society organizations recommended government necessary amendments on Palestinian draft laws, including (draft penal code, personal status draft law, draft law on family protection from violence). These amendments should aim to incorporate the rights of girls and women with disabilities in order to achieve equality and to implement the adaptation of public and work spaces on a large scale. However, until the date of writing this report, governmental efforts were limited to the provision of partial solutions and lacked a holistic approach when tackling the issue of disabled women's right to work. According to their respond to the list of issues

5. Budgets Allocated for Women

5.1 ICHR noticed that there is no increase in the budget allocated for women empowerment and protection programs which are targeted by the Ministry of Women's Affairs. The rate of the budget of the Ministry of Women's Affairs reached (0.04%) of the total current expenditure. This reflects the decrease of government's spending on woman programs compared to other programs approved by the general budget, despite the increasing gaps observed by indicators related to women's situations in Palestine. We ask your committee to inquire the government about the budget spending on women's rights

5.2 Through its We ask your committee to inquire from the government about the amount of government spending on women's rights budget of 2017, ICHR pointed out to the weakness of developmental expenditure. This expenditure contributes to the development of the quality of services in the woman sector and upgrading the quality of programs according to the changing needs. The developmental expenditure reached (16.98%) of the total actual expenditure of the budget allocated for the Ministry of Women's Affairs.

5.3 ICHR noticed a deficiency in the programs approved by the Ministry of Women's Affairs' budget, and the approval is limited to one program. The Commission also noticed that the Ministry does not have a special budget for woman's economic empowerment. It also does not adopt developmental projects that aim to change the prevailing social and cultural stereotypes, and eliminate bias in traditional practices. In addition, all development programs that are part of the Women's Affairs' budget for the year 2017 were fully funded by international donors

¹ Ministry of Education, State of Palestine, evaluation & follow-up system of the third strategic plan 2014-2019, evaluation & follow-up report 2016.

and funders. Moreover, the Ministry did not list any development projects during 2017 from the public budget.

8. Violence Committed by Law Enforcement Officers

6.1 The initial report of the State of Palestine did not provide a diagnosis of the influence of political division on women and girls. IHCR did in fact receive several complaints regarding women's physical safety during the years that followed the political division. These threatening acts to women's physical safety were actually committed by law enforcement officers. In 2017, the Commission received (45) complaints submitted by females which included allegations of violating the right to physical safety. Of these complaints, 13 came from the West Bank and 32 from Gaza Strip.

6.2 The patterns of violations committed by law enforcement officers varied between physical or moral assault outside detention centers, as there were 15 cases. There were 21 cases of threats and torture during detention and 16 cases of brutal, inhuman and humiliating treatment.

6.3 The Commission made efforts to provide information related to measures of accountability for those violating the law by the authorities, and measures undertaken to bring justice to the victims and repair damage. However, the Commission noticed that the initial report of the State lacked information regarding the number of complaints received by various official institutions about violence against women and what measures have been taken in regards to these complaints, such as investigation and accountability².

7. Participation in Public Life

7.1 Women's participation in public life is still considered sub-standard. According to the statistics published by the Palestinian Central Bureau of Statistics in 2017, 21.2% of the members of local committees in the West Bank are female, while 78.8% are male. Male judges constitute 82.7% of judges while female judges constitute 17.3%. Male practicing lawyers constitute 66.6% of the total number of lawyers, while females constitute 33.4%. While 82.0% of the members of the Public Prosecution are male, 18.0% of them are female during 2016. Female Palestinian ambassadors' rate did not exceed 5.8% compared to 94.2% of male ambassadors. A rate of 32.3% of engineers registered in the engineers' syndicate are female, compared to 67.7% male engineers. Around 12.4% of student council's members in West Bank universities are female, compared to 87.6% male members. The rate of female employees in the civil public sector is 42.7% compared to 57.3% male employees. Females (in the civil sector) constitute 11.3% in the position of general director and above of the total of general directors, compared to 88.7% male employees in the same position.

7.2 The procedures mentioned in the State's report and in the list of issues are not sufficient to ensure the enhancement of women's participation in political life. To ensure a wider participation of women in public life, the State must provide full equality between man and woman in practicing political and economic authority. Women must fully and equally

² Such violations are considered recurrent, continuous and routinely. In 2016, IHCR received (56) complaints submitted by females that included allegations of violating the right to physical safety, (15) complaints came from the West Bank and (41) from the Gaza Strip. In 2015, the Commission received a total of 37 complaints.

participate in decision making on all levels, including the national and international levels. This is the only way to ensure that women are able to participate in meeting the goals of equality, development and peace.

8. The State's Role in Modifying Social and Cultural Stereotypes to Eliminate Discrimination and Traditional Practices

8.1 ICHR does not have enough information about the State's measures to approve educational and media programs that contribute to the elimination of the forms of prejudice and current practices that hinder the full implementation of social equality for women. In its response to the list of issues, the State did not mention the adoption of any policies or measures that lead to changing traditional positions, modifying the social and cultural behavior patterns for men and women, eliminating bias and traditional practices and all other practices that are based on the superiority or inferiority of any of the sexes or on the fixed stereotypes regarding the roles of men and women. For instance, the Ministry of Awkaf and Religious Affairs, which enjoys a tremendous religious and popular influence, does not evoke women's rights in awareness platforms. There has been some recent reforms to the academic curriculum, yet there is still a need to change the typical image towards women, especially disabled women, and instead present images and examples based on the rights of gender equality.

9. Promoting the Convention on the Elimination of All Forms of Discrimination against Women

9.1 ICHR does not have any information about the government organizing conferences and seminars to promote the Convention on the Elimination of All Forms of Discriminations against Women (CEDAW). The Commission has no information either about the government inviting national feminist organizations to cooperate in the promotion and implementation of the Convention; in addition to encouraging non-governmental organizations on the national, regional and international levels to promote the Convention, and adopt measures to ensure its full implementation.

10. Women Employment

10.1 ICHR remarked that the government's efforts in reducing the unemployment rate in general, and especially among women, were not part of a holistic plan to address this issue. These efforts rather came within partial solutions that will not enhance women's involvement in the labor market. The fact is women's participation in labor market continues to drop and unemployment rate rises. Women's participation in labor forces reached 19.0% among the total of females at working age in 2017, while the rate of male participation reached 71.2% in the same year. Female unemployment rate among women involved in the labor force reached 47.4% and 22.3% for men. A percentage of 65.8% of young women (age group 15-29) are unemployed. Moreover, unemployment rates among women who attained 13 years and more of education reached 53.8% of the total of this women group. On the eve of International Women's Day, 7/3/2018, Ms. Ola Awad, the director of the Palestinian Central Bureau of Statistics, confirmed that there is a gap in the average daily pay between male and female employees, while the average daily pay for females was NIS 84.6, it was NIS 119.6 for males during 2017.

10.2 The Palestinian government did not issue a legislation that ensures equal pay for equal work value between both men and women, and The Palestinian labor code number (7) for the year 2000 also lacked for this principle. Moreover, no studies were carried out to assess labour conditions that should be based on gender equality, and that can facilitate the comparison between the value of various employments where both women and men currently prevail. Then, the results of such studies should be listed in the reports presented to the committee concerned with the elimination of discrimination against women.

10.3 The report and government's response to the list of issues did not include the measures and procedures undertaken by the government to ensure that women working in unorganized employment enjoy their rights according to the law and receive minimum wages and social welfare.

10.4 The report lacks information about the legal and social status of women who work without pay in projects usually owned by a male member of the family. In such cases, women work without social welfare and without any social benefits. The Commission believes unpaid work is an exploitation of women, which is incompatible with the Convention. The rate of unpaid workers working as family members reached 4.6%, 5.3% in the West Bank and 3.0% in Gaza Strip. The Commission notes that there is no statistical data available in official organizations about this group of women.

11. Equality in Marriage and Rights of the Family

11.1 The Supreme Constitutional Court awarded the decision number (4/2017) stating that international agreements are Superior to local legislations, provided that these agreements are in compliance with the national, religious and cultural identity of the Palestinian people. This reservation by the court on the international agreements raises apprehension that the concept of "national, religious and cultural identity" might lead to restrictions on the principle of equality when it comes to legislations related to personal status issues such as issues related to marriage and rights of the family. In particular, we are concerned that this decision could allow the continuation of child marriage, the issue of trusteeship and guardianship, polygyny, discrimination against women in inheritance, family responsibilities and all legal texts that reinforce women's dependency on men.