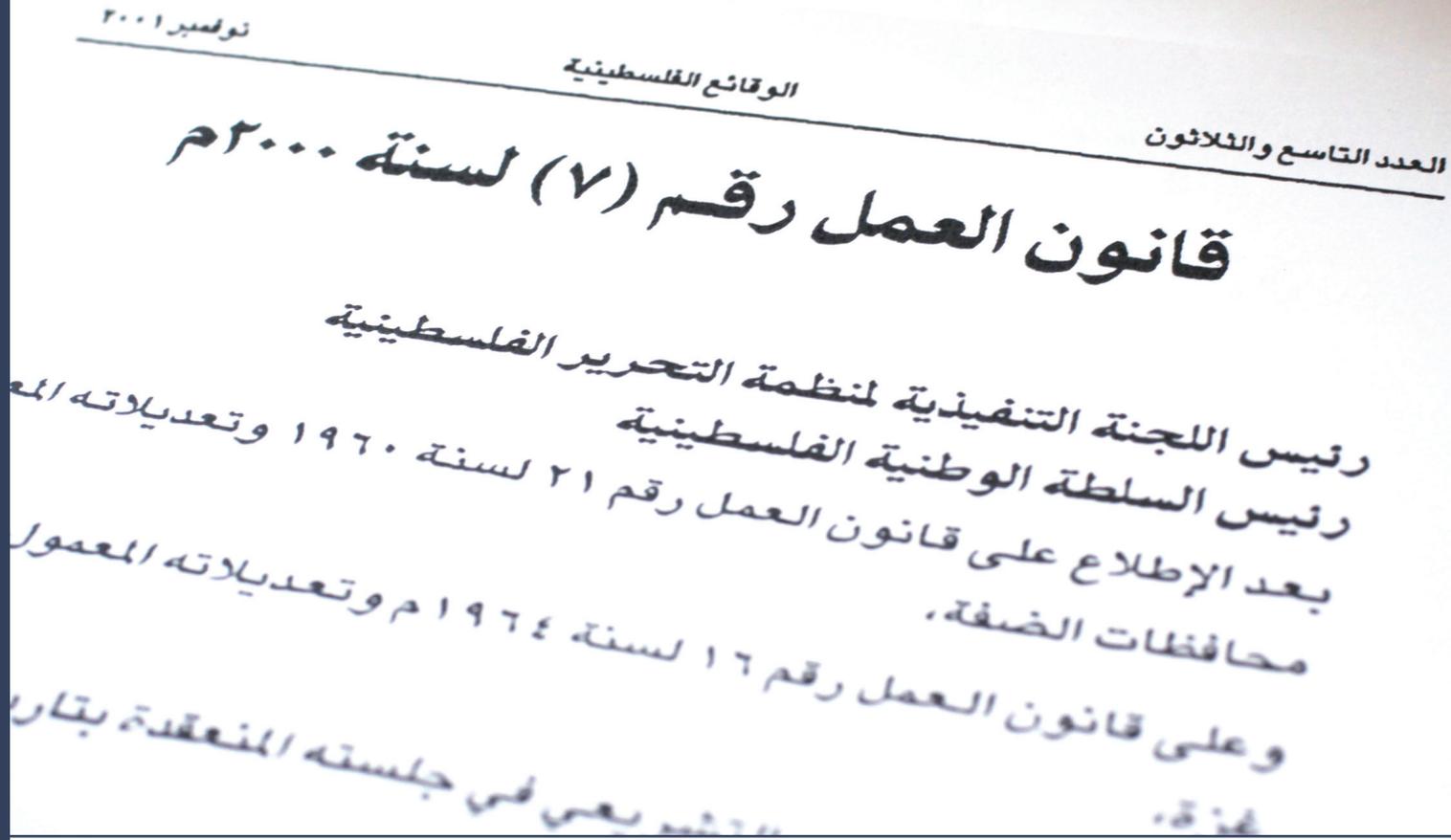


Palestinian Women and Economic Security

Policy Brief

Ramallah and Geneva, May 2012



Women's Centre for Legal Aid and Counselling (WCLAC)

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The Geneva Centre for the Democratic Control of Armed Forces (DCAF)

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Disclaimer

The views expressed in this paper are those of participants and do not necessarily reflect those of DCAF and WCLAC.

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Problem Statement

In addition to Israeli military orders, the current legal framework in the occupied Palestinian territory comprises a mixture of Ottoman, British Mandate, Jordanian and Egyptian laws. Many of the laws currently in force in the Palestinian territory have been inherited from the colonial period. The lack of a unified legal framework is the root of many inconsistencies and gaps in the current legislation. This is also the case for Palestinian women's economic security.

Many Palestinians believe that a number of laws applicable in the occupied Palestinian territory do not fairly treat women in terms of economic security. A number of laws do not fully support women's economic independence; and some specific articles even contradict women's equal rights.

Response

In May 2011, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Women's Centre for Legal Aid and Counselling (WCLAC) decided to gather a taskforce of experts to examine the current legislation affecting women's security and to submit recommendations to decision-makers in the Palestinian National Authority (PNA) and Palestinian Legislative Council (PLC). Taskforce meetings, which were held between May and October 2011, gathered legal experts from PNA Ministries, the PLC, the police, civil society and academia. The views and recommendations presented in this issue paper are those of the taskforce members, and do not necessarily reflect the views of DCAF and WCLAC. The role of both organisations was to facilitate the taskforce process, not to act as advisors.

This policy brief summarises the main recommendations made by participants in the eighth taskforce meeting, which took place on 6 October 2011¹.

Main Findings

Taskforce members highlighted that the Palestinian legislature seeks to promote equality between men and women by means of laws related to economic security. For instance, the Palestinian Labour Law No. 7 of 2000 is considered a clear example of this. Accordingly, Article 100 of this law prohibits discrimination between men and women in the workplace. On the other hand, the same law contains articles that do not encourage women's access to the labour market. Moreover, other laws exist in the field of economic security that contain discriminatory provisions against women and grant men more rights than women.

Civil Service Law

However, many taskforce members argued that more efforts would be needed to provide substantial economic security to women. Indeed, many applicable laws leave gaps that adversely affect women's economic security when they do not directly contradict equality between men and women. For example, Article 53 of the Civil Service Law No. 4 of 1998 stipulates that if both spouses are government employees, social allowances will be paid to the husband only².

1 The present policy brief is part of a series of three policy briefs and a working paper published by WCLAC and DCAF to present the findings and recommendations of the taskforce. The other two policy briefs focus on women and penal law, and women and personal status law, respectively. For more details about the process and a full list of taskforce members, please see the WCLAC-DCAF working paper, *Palestinian Women and Security: Promoting the Rights of Palestinian Women and Girls through Legislation*, available at: <http://www.dcaf.ch/Publications/Working-Paper-Palestinian-Women-and-Security-Promoting-the-Rights-of-Palestinian-Women-and-Girls-through-Legislation>

2 However, it should be noted that if the wife is the only spouse working as a government employee, she is granted social allowances.

Labour Law

Taskforce members emphasised that promoting Palestinian women's economic security requires a coherent legal framework, which would encourage women to participate in the labour market, and protect working women against the challenges they might encounter. Although the current legal framework treats men and women as equal in many respects, it overlooks some economic issues that women are facing.

Many taskforce members believe that the Palestinian Labour Law No. 7 of 2000 generally gives due consideration to gender issues. However, they noted that the law does not always fully take into account the specific needs of women, and contains loopholes that adversely affect women. For instance, Article 101 of this law prohibits the employment of women in hazardous or strenuous work and also bans night work for women. However, this article does not define hazardous and strenuous work, and creates a loophole by allowing the executive authorities to define these concepts and to create exceptions to the ban on night work for women³. This loophole could be used to deprive women of legal protection against their employer.

The taskforce also noted a gap in the Labour law with respect to maternity leave. Indeed, Article 103 of the Labour Law provides for a ten-week paid maternity leave, but restricts this right to women who have already worked for at least 180 days. Taskforce members noted that the practical implication of this law is that many women who recently entered the labour market have to take an unpaid leave or are forced to resign in order to take care of their newborn.

The taskforce also highlighted the lack of legal protection for domestic workers. Indeed, Article 3 of the 2000 Labour Law specifies that the law does not apply to domestic workers. Since no other law provides for the rights of domestic workers, they are effectively deprived any of legal protection, which makes them particularly vulnerable to abuse by their employers. Since a majority of these workers are women, they are predominantly affected by this legal gap.

Social insurance

Finally, taskforce members noted that, in the absence of a social insurance law covering private sector employees, men and women's right to equal pay is not guaranteed in the private sector.

Recommendations from the Taskforce

Based on the gaps they identified in the field of women's economic security, taskforce members recommend the following to PNA and PLC decision makers:

- To amend Article 101 of the 2000 Labour Law to include a definition of hazardous and strenuous work, as well as possible exceptions to the ban on night work for women;
- To amend Article 103 of the Labour Law to guarantee that all working women have the right to maternity leave;
- To add an article guaranteeing pregnant women the right to a sick leave in the event of medical complications⁴;
- To draft and enact a law on social insurance to ensure men and women's right to equal pay;
- To ensure that the rights of domestic workers are protected by law; and
- To amend Article 53 of the Law of Civil Service No. 4 of 1998 so as to guarantee the right to social allowances to both spouses working in the public sector.

Recommendations from WCLAC and DCAF

Based on the review of existing legislation as well as recommendations of the Taskforce, WCLAC and DCAF recommend to PNA and PLC decision makers as well as human rights organisations to promote gender-sensitive legal reform. This should include the following elements:

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- ³ This provision is not in line with international standards, according to which the definition of hazardous work should be mentioned in the law. Moreover, according to these standards, limitations to night work should be set by law, not by the executive authority.
 - ⁴ Currently, all employees are granted a general sick leave of 14 days per year during which they receive their full salary, and 14 additional days during which they receive half of their salary.

- Support the establishment of a working group of PLC members and civil servants working in parliamentary committees as well as representatives of the Council of Ministers to examine the laws affecting women's security and propose amendments to guarantee that women's specific needs are taken into account;
- Raise Palestinian citizens' awareness of gender-sensitive legal reforms; and
- Encourage donor support to the PNA and PLC in enacting gender-sensitive legal reform.

Legislation examined by the taskforce with respect to Palestinian women and economic security

1. Laws

- Law of Public Retirement No. 7 of 2005
- Labour Law No. 7 of 2000
- Civil Service Law No. 4 of 1998
- Law of Insurance and Pensions of the Palestinian Security Forces No. 16 of 2004
- Law of Service in the Palestinian Security Forces No. 8 of 2005

2. Executive decisions

- Council of Ministers Resolution No. 14 of 2003 Regarding Women's Working Hours
- Minister of Labour's Resolution No. 2 of 2004 Prohibiting the Employment of Women in Hazardous or Arduous Work
- Council of Ministers Resolution No. 45 of 2005 Regarding the Executive Regulations of the Civil Service Law No. 4 of 1998, as Amended by Law No. 4 of 2005

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