

Palestinian Women and Security: A Legal Collection



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the rule of law

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

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) promotes good governance and reform of the security sector. The Centre conducts research on good practices, encourages the development of appropriate norms at the national and international levels, makes policy recommendations and provides in-country advice and assistance programmes. DCAF's partners include governments, parliaments, civil society, international organisations and the main justice and security providers such as police, judiciary, intelligence agencies, border security services and the military.

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Palestinian Women and Security: A Legal Collection (2012)

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Introduction

On 8 March 2009, International Women's Day, the Palestinian President Mahmoud Abbas signed¹ the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW). For many civil society organisations, especially women's organisations, this act symbolised the current government's commitment to reforming the Palestinian legal system in line with international standards, particularly with regard to women's rights. As one representative from a women's organisation observed, in signing CEDAW, the President has committed the Palestinian National Authority to gender-sensitive legal reform.

In addition, in August 2009, Dr Salam Fayyad, Prime Minister of the Palestinian National Authority, announced the *Programme of the Thirteenth Government*. The programme aimed at building vital institutions for a Palestinian state until 2011. To this end, the programme stressed the need to encourage women's participation in policy and decision-making as well as to eradicate violence against women². In the more recent *National Development Plan 2011-2013: Establishing the State, Building Our Future*³, policy commitments to women's participation and empowerment include:

- A comprehensive review and amendment of all legislation to ensure that women's equal rights are codified in the law of Palestine.

- Ensuring that all public institutions abide by a policy of and implement plans based on zero tolerance for discrimination and violence perpetrated against women.
- Dedicating funding for ongoing, independent research to monitor society's progress towards achieving gender equality.

These initiatives are by no means the only ones that aim at providing better security to Palestinian women and girls. Palestinian institutions, such as the Ministry of Women's Affairs and the Palestinian police, are developing and implementing strategies for addressing violence against women⁴. These efforts complement the numerous initiatives undertaken by Palestinian civil society organisations and international development organisations.

In 2009 and 2010, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) conducted a series of focus groups and interviews with Palestinian women and girls, and working group sessions with Palestinian institutions tasked with providing services to women and girls. A number of interviews and sessions focused on perceptions of the legal and regulatory framework governing the status of Palestinian women. In these interviews and sessions, a majority of the participants said that they consider the current legal and regulatory framework to be an obstacle to ensuring the security and full participation of women in Palestinian society. In their view, it is important to reform the legal framework; otherwise many efforts aimed at improving the security of Palestinian women would be in vain.

¹ The Palestinian National Authority is not a recognized state and therefore is unable to officially ratify CEDAW. However, *Presidential Decree No. 19 of 2009 Concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* has adopted CEDAW, without reservations.

² Palestinian National Authority. (2009). *Ending the Occupation, Establishing the State - Program of the Thirteenth Government*, pp. 12 & 27.

³ Palestinian National Authority. (2011). *National Development Plan 2011-2013: Establishing the State, Building Our Future*, p. 39.

⁴ For example, see: Ministry of Women's Affairs. (2011). *Strategic Plan for Combating Violence against Women (VAW)*, 2011-2019.

Why is it important to integrate gender into legal reform?

'We should work toward resolving all issues of discrimination against women in the laws.'

Palestinian Legislative Council Member,
DCAF Workshop, May 2010

Integrating gender into the reform of legislation is an important component of any state's overall security and justice sector reform process. For the government, it offers the opportunity to create a legal system that:

- Is more responsive to the human security needs of all the people living under its authority
- Fosters broader representation and participation
- Improves accountability and reduces impunity for gender-based violence
- Ensures equal access to justice.

Together, this enhances a state's credibility and legitimacy in the eyes of its citizens. Integrating gender into legal reform also allows a state to ensure that it meets its responsibilities under international law. Thus, integrating gender into a state's legal reform processes often involves consultation of international standards and laws directed at improving the status of women. Some of these standards include the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW, 1979), the *Beijing Platform for Action* (1995), and *UN Security Council Resolution 1325* (2000). All of these standards promote gender equality within the law, the full participation of women in government and peace-building, and the eradication of all forms of gender-based violence.

Are there examples of gender legal reform in the Arab region?

The Palestinian Territories are not the first government in the Arab region to take on gender-sensitive legal reform. In recent decades, a number of states have addressed gender inequality in their legislation. This has primarily been the case within their personal status laws, where women's security is most greatly affected. In addition, the necessity for drafting domestic

violence legislation has also emerged as a key issue for increasing the security of women and girls.

As early as the 1950s, Tunisia reformed much of its personal status law. It banned polygamy, defined marriage as 'consensual and equitable', and declared divorce as a right of both the husband and wife. Furthermore, the legal age of marriage for males and females was raised to 18 years of age. Since 1993, husbands and wives are considered as equals in parenting, household and family responsibilities⁵. While recent events in Tunisia indicate progress toward greater democracy, it is still too early to see where future gender-sensitive legal developments are headed.

Egypt has also reformed its laws related to personal status and family matters. The *Law 1* of 2000 guarantees women the right to file for a no-fault divorce (*khul'*) and the right to file for divorce from an unregistered marriage. *Law 10* of 2004 created a family court system, and *Law 11* of 2004 established a Family Insurance Fund for alimony and child support⁶. Similar to Tunisia, the rights of women in the new Egyptian democracy shall be watched closely.

In Morocco, a new family law was passed in 2004. It supports women's equality and grants them new rights within marriage and divorce⁷. The *Moroccan Family Law*, or *Moudawana* considers husbands and wives as equals in marriage and in the family. Furthermore, the law raises the age of marriage to 18 years of age, grants women property rights, and limits polygamy⁸.

In the Gulf region, reform has taken place in incremental steps. Qatar enacted the country's first codified family law in 2006⁹. The United Arab

⁵ Social Institutions & Gender Index. (n.d.). *Gender Equality and Social Institutions in Tunisia*. <http://genderindex.org/country/tunisia>

⁶ Al-Sharmani, Mulki. (2007). *Egypt's Family Courts: Route to Empowerment?* Open Democracy. http://www.opendemocracy.net/article/egypt_and_family_law

⁷ Women's Learning Partnership. (2004). *Morocco Adopts Landmark Family Law Supporting Women's Equality*. <http://www.learningpartnership.org/advocacy/alerts/morocco0204>

⁸ Quast, Shelby. (2008). *Justice Reform and Gender. Gender and Security Sector Reform Toolkit*. Eds. Megan Bastick & Kristin Valasek. Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW, p. 9.

⁹ Breslin, Julia & Toby Jones. (2010). *Qatar. Women's Rights in the Middle East and North Africa: Progress amid Resistance*. Eds. Sanja Kelly & Julia Breslin. New York: Freedom House, p. 398.

Emirates enacted *Personal Status Law No. 28* in 2005 that allowed for greater personal freedoms for women in marriage; no fault marriage was included (*khul'*) and allowances were made for women to place stipulations within their marriage contracts¹⁰.

In Kuwait, the parliament amended the election law in 2005 to allow women to vote and hold elected office for the first time¹¹. In Oman, *Law No. 63* of 2008 acknowledged the testimonies of women as equal to men's in the court system¹².

Jordan was the first Arab nation to enact domestic violence legislation, the Protection from Family Violence Law (2009). The Law makes provisions for the reporting of domestic violence, including sexual violence and harassment; protection orders may also be issued. Lebanon currently has a Draft Law on the Protection of Women from Family Violence (2008) that was approved by the Council of Ministers but is still being debated in parliament. The Draft Law criminalizes all forms of family violence and seeks to empower women within the family.

In neighbouring contexts like Turkey, reform has been ongoing. In 1998, Turkey adopted a law (*Law No. 4320*, further amended in 2007) allowing for domestic violence protection orders. Furthermore, in 2002, Turkey reformed the *Civil Code* to "embody principles of gender equality in accordance with global human rights norms"¹³. Finally, the Turkish *Penal Code* underwent substantial reform in 2004. It redefined sex-based crimes, criminalised marital rape, increased sentences for so-called 'honour killings', criminalised sexual harassment in the workplace, and penalised sexual assaults by security forces¹⁴.

What is the status of women under Palestinian law?

'The government focuses on reforming certain laws, but ignores the Personal Status Law and the Penal Law. They don't want to face society on personal issues. However, if the Palestinian Authority wants to survive, these laws need to be reformed.'

Shari'a Judge, DCAF Workshop, May 2010

The current legal system in the Palestinian Territories is neither unified nor inherently Palestinian¹⁵. It comprises, in addition to the legislation of the Palestinian National Authority, laws from the Ottoman and British Mandate, Egyptian, and Jordanian periods. Furthermore, tribal and customary laws are frequently applied for resolving disputes at the local level or within families¹⁶.

The ratification of the *Amended Basic Law of 2003* and the *Palestinian Declaration of Independence of 1988* have served as the foundation for current Palestinian legislation. Despite much revision and debate over the specificities of gender equality in the first drafts of the *Amended Basic Law*¹⁷, many human rights and women's rights activists are keen to cite the text as an entry point for gender equality within the Palestinian legislative framework. In specific, Article 9 of the *Amended Basic Law* states that:

"All Palestinians are equal under the law and judiciary, without discrimination because of race, sex, colour, religion, political views, or disability".

Furthermore, the Declaration of Independence confirms that:

"Governance will be based on principles of social justice, equality and non-discrimination in public rights of men or

¹⁰ Kirdar, Serra. (2010). United Arab Emirates. *Women's Rights in the Middle East and North Africa: Progress amid Resistance*. Eds. Sanja Kelly & Julia Breslin. New York: Freedom House, pp. 522-523.

¹¹ al-Mughni, Haya. (2010). Kuwait. *Women's Rights in the Middle East and North Africa: Progress amid Resistance*. Eds. Sanja Kelly & Julia Breslin. New York: Freedom House, p. 239.

¹² al-Talei, Rafiah. (2010). Oman. *Women's Rights in the Middle East and North Africa: Progress amid Resistance*. Eds. Sanja Kelly & Julia Breslin. New York: Freedom House, p. 341.

¹³ Women for Women's Human Rights (WWHR) – NEW WAYS. (2005). *Turkish Civil and Penal Code Reforms from a Gender Perspective: The Success of Two Nationwide Campaigns*. Istanbul: WWHR – NEW WAYS, p. 3.

¹⁴ *Ibid*, p. 9.

¹⁵ Welchman, Lynn. (2003). In the Interim: Civil Society, the *Shar'i* Judiciary and Palestinian Personal Status Law in the Transitional Period. *Islamic Law and Society*, Vol. 10, No. 1, pp. 34-69.

¹⁶ See: Welchman, Lynn. (2008). The Bedouin Judge, the Mufti, the Chief Islamic Justice: Competing Legal Regimes in the Occupied Palestinian Territories. *Journal of Palestine Studies*, Vol. XXXVIII, No. 1, pp. 6-23.

¹⁷ See: Johnson, Penny. (2004). Palestinian Interim Governance: State Legitimation, Legal Reform and the *Shari'a*. *Women's Rights & Islamic Family Law: Perspectives on Reform*. Ed. Lynn Welchman. London: Zed Books, pp. 112-124.

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women, on grounds of race, religion, colour or sex, under the aegis of a constitution which ensures the rule of law and an independent judiciary”.

The text also makes reference to international standards and laws when it clarifies that:

“The state of Palestine proclaims its commitment to the principles and purposes of the United Nations, and to the Universal Declaration of Human Rights”.

In recent years, legal working groups coordinated by women’s and human rights organisations have discussed the creation of a unified *Penal Law*, a *Consolidated Law of Personal Status*, and a *Law of the Protection of Families from Domestic Violence*. Representatives from these groups continue to argue that redrafting these laws will better reflect the Palestinian situation and social values, while laying the foundation for a future Palestinian state. Redrafting will also reduce gender-based discrimination in the legal system and encourage women’s participation as equal citizens.

The religious code, commonly referred to as the *Personal Status Law*, informs all issues related to the family¹⁸. It thus disproportionately affects women. The *Personal Status Law* in the Palestinian Territories is comprised of two different laws. In the Gaza Strip the *Egyptian Family Law of 1954* and in the West Bank the *Jordanian Personal Status Law of 1976* are applied. Many Palestinian women consider the personal status laws currently in use to be outdated, not context specific, and generally discriminatory. Interviews with Palestinian women and girls show that reform is not just desirable, but necessary¹⁹.

The current penal codes in the West Bank and Gaza Strip are not unified either; they reflect the earlier legal systems of the British Mandate (the *British Penal Code of 1936* applied in the Gaza Strip) and Jordan (the *Penal Code of 1960* applied in the West Bank). Both penal codes do not

explicitly recognise and address gender-based violence or violence within the family. Against this background, women’s and human rights organisations continue to lobby in favour of a *Law of the Protection of Families from Domestic Violence*.

What is the purpose of this reader?

In February 2010, DCAF published the report, “Palestinian Women and Security: Why Palestinian Women and Girls Do Not Feel Secure”. Palestinian women and girls interviewed for the report cited the current legal and regulatory frameworks in the Palestinian Territories as the greatest impediments to ensuring their security and promoting their full participation in society.

Subsequently, DCAF held a number of working group sessions with service providers, including representatives from women’s and human rights organisations, the Palestinian Legislative Council, the ministries, the judiciary, the media, and other core security and justice providers. During these working group sessions, Palestinian service providers said that Palestinian women were often not aware of their rights. They recommended a publication that contains all relevant Palestinian legislation.

Following the publication of the present legal collection in Arabic, DCAF and the Women’s Centre for Legal Aid and Counselling (WCLAC) started a joint project to assist the Palestinian authorities in their efforts towards legal reform. To that end, WCLAC and DCAF gathered a taskforce of legal experts from key PNA institutions and civil society to analyse the laws related to women’s security and propose recommendations for their reform. The findings and recommendations from the taskforce have been published in a working paper and three policy briefs²⁰. As a companion to the present

¹⁸ Separate personal status laws govern Muslims and Christians in the Palestinian Territories. Reform of the Personal Status Laws in the Palestinian Territories has primarily focused on the Muslim Personal Status Law, much of which is discussed in detail in this reader.

¹⁹ See: Chaban, Stephanie, Reema Daraghme, & Garance Stettler. (2010). *Palestinian Women and Security: Why Palestinian Women and Girls Do Not Feel Secure*. Geneva: DCAF (available at: <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security>).

²⁰ See: WCLAC-DCAF working paper (2012). *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>. Also see WCLAC-DCAF policy briefs (2012). *Palestinian Women and Penal Law* (available at: <http://www.dcaf.ch/Publications/Palestinian-Women-and-Penal-Law-Policy-Brief-Ramallah-and-Geneva-May-2012>), *Palestinian Women and Economic Security* (available at: <http://www.dcaf.ch/Publications/Palestinian-Women-and-Economic-Security-Policy-Brief-Ramallah-and-Geneva>).

legal collection, DCAF has also published a legal analysis of some problematic laws with respect to women's rights²¹.

This compilation is the first comprehensive collection of current and draft legislation related to the status of Palestinian women. It has been prepared to serve a double purpose: First, as an information tool, it seeks to give women an overview of legislation and draft legislation already in place. The collection thus may be used as a quick reference manual. Second, it is also meant as a tool for stimulating and facilitating the debate among Palestinian practitioners involved in reforming Palestinian legislation.

How is this reader structured?

The first chapter presents relevant legislation concerning women's labour and applicable executive decisions. The second chapter covers the current penal codes and criminal procedures related to women and the third section includes the personal status framework. Chapters four and five contain the legislative framework governing women's political rights, as well as women's social and economic rights. The final chapters include current draft legislation undergoing review specifically related to the penal code, the personal status laws, and family violence. The annexes contain a selection of documents that are legally non-binding but can provide important guidance when reforming legislation. They include the *Declaration of Independence* and the *Women's Bill of Rights*.

May-2012), and *Palestinian Women and Personal Status Law* (available at: <http://www.dcaf.ch/Publications/Palestinian-Women-and-Personal-Status-Law-Policy-Brief-Ramallah-and-Geneva-May-2012>)

²¹ Jallad, Zeina (2012). *Palestinian Women and Security: A Legal Analysis*. Geneva: DCAF, available at: <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security-A-Legal-Analysis>

Chapter I: The Legislative Framework Regulating Women's Labour

Labour Laws

Civil Service Law No. 4 of 1998 (Promulgating the Civil Service Law)

Article 87: Unpaid Leave

1. A functionary may be granted unpaid leave on request for not less than six (6) months in order to accompany his/her spouse abroad for work or study, provided that the leave does not exceed the period in which the spouse will be spending abroad.
2. A government department may grant one of its functionaries unpaid leave for the reasons stated in his request, those reasons having been assessed by the departmental authorities.
3. A functionary who has been granted unpaid leave shall not be entitled to an increment or promotion throughout his leave period, and the leave period shall not be counted towards seniority in his grade in respect of promotions and increments but without prejudice to the provisions governing insurance and pensions.
4. The department of a functionary allowed unpaid leave for at least one (1) year, may fill his post by appointment or promotion under the provisions of the Law.

Article 88: Maternity Leave

1. A pregnant functionary shall be granted leave on full pay for a period of ten (10) successive weeks before and after the birth.
2. A female functionary who is breastfeeding her infant may leave her daily work an hour early for one (1) year from the date of birth of the infant, and shall be entitled to unpaid leave for one (1) year to look after the infant.

The Labour Law No. 7 of 2000

Title VII

Regulation of the Work of Women

Article 100

In pursuance of the provisions of this Law and the regulations issued forth in accordance with it, discrimination between men and women shall be prohibited.

Article 101

The employment of women shall be prohibited in:

1. Dangerous or strenuous work as defined by the Minister.
2. Extra working hours during pregnancy and the six (6) months following delivery.
3. Night hours with the exception of the work defined by the Council of Ministers.

Article 102

The employer must make available accommodations pertaining to working women.

Article 103

1. The working woman who has worked for a period of one hundred and eighty (180) days prior to each delivery shall have the right to a paid maternity leave for a period of ten (10) weeks, including at least six (6) weeks after the delivery.
2. The working woman may not be dismissed due to the leave mentioned in Paragraph (1) above unless it is demonstrated that she was

employed in another occupation during this time.

Article 104

1. The lactating mother shall be entitled to a period or periods for breastfeeding during work, the total of which shall not be less than one (1) hour a day for a period of one (1) year from the date of delivery.
2. The hour allotted for breastfeeding, mentioned in Paragraph (1) above, shall be counted from the daily working hours.

Article 105

In conformity with the interest of the employer, the working woman may obtain an unpaid leave to foster her child or accompany her husband.

Article 106

The employer must post in the workplace the provisions pertaining to the employment of women.

Law of Insurance and Pension of the Palestinian Security Forces No. 16 of 2004

Article 35

If the primary beneficiary or any other beneficiary dies, the entitled person(s) on the service member's behalf shall have the right to receive a pension pursuant to the provisions of this law. The pension shall be paid from the beginning of the month during which the death occurs, unless the beneficiary had received it in advance and died prior to the beginning of the month. In such a case, the pension shall be paid to the person(s) entitled on the service member's behalf as of the beginning of the month following the date of death.

Article 36

The person(s) entitled to a pension pursuant to the provisions of this law shall be:

1. The service member's widow or widows of the primary beneficiary or another entitled person.
2. The service member's children and those whom he supports from among his brothers and who are younger than twenty-one (21) years of age at the time of his death.
3. The service member's children and those whom he supports from among his brothers, who are older than twenty-one (21) years of age at the time of his death and who are enrolled in a university or institution of higher education, until they reach twenty-six years (26) of age or their education is completed, whichever occurs first. In such case, payments shall continue until the end of the month of October of the year during which the studies end. Pension payments shall continue to students who reach twenty-six (26) years of age within the academic year until the end of the month of June of that year. Upon

the end of the entitlement of students, the pension shall be assessed again regarding the remaining entitled persons who were present at the time of death of the primary beneficiary.

4. The service member's children and those whom he supports from among his brothers, who are older than twenty-one (21) years of age at the time of his death and who are suffering from a physical disability that prevents them from earning a living. At the time of the claim, the degree of the disability shall be confirmed by a decision of the Military Medical Committee.
5. The widowed, divorced and unmarried from among the service member's daughters and sisters. The service member's brothers and sisters at the time of the death may not have a private income that equals or exceeds the amount of their pension claim. If the private income of each of the service member's brothers and sisters is less than what each is entitled to, a pension shall be allocated and paid to each such brother or sister. Alimony shall not be deemed an income.
6. The service member's parents. For the entitlement of the mother to be valid, she shall not be married to a man other than the father of the deceased.

Article 37

The pension of the widow shall end upon her remarriage.

1. Her pension claim shall be reinstated if she is divorced or widowed within a period of ten (10) years from the date of her remarriage.
2. The widow may not receive both the pension of her first husband and the pension of her

last husband. In such case, the higher pension shall be granted to her.

Article 38

If a husband was prevented from working by a physical disability at the time of his wife's death, he shall be entitled to the legally defined amount upon his wife's death. The degree of the disability shall be confirmed by a decision of the Military Medical Committee. The husband's private income at the time of his wife's death may not exceed or equal the amount of his pension claim. If the private income is less than his pension claim, a pension in the amount of the difference shall be granted to him. In such case, the remainder of the wife's pension claim shall be distributed to the contingent beneficiaries in accordance with the amounts to which they would be entitled if the marriage had not existed.

Article 39

Pension payments to persons entitled on behalf of the primary beneficiary or another entitled person shall end once such persons become employed in any work and/or their income equals or exceeds the pension. If the income is less than their due pension, the difference shall be paid to them. Their claim to the payment of the pension shall be reinstated fully or partly to the extent that such income fully or partly discontinues.

Chapter X

Grants and Additional Reimbursements

Article 53

1. In the event of the primary beneficiary's death, the payment of the net monthly salary to which he is entitled on the assumption that he is not dead shall continue without deduction of his due instalments for the month of death, as well as the two (2) following months, on the scheduled dates. The payment shall be made to the widow, if present. If there is more than one widow, the payment shall be divided amongst them equally.
2. In the event of the presence of minor sons or unmarried daughters from a woman

other than the widow, they shall be entitled to what their mother was entitled to if she had not died or been divorced, pursuant to the provisions of this law. The claim shall be paid to the legal guardian, if available. If not available, it shall be paid to the trustee.

3. In all cases, the payment may not exceed the salary of three (3) months. If the primary beneficiary has paid in advance the salary of the month during which the death took place, only the salary of the following two (2) months shall be paid. The Central Financial Department and not the Fund shall continue grants, which are paid under the provisions of this Article.

Law of Public Retirement No. 7 of 2005

Article 32

The entitled successor(s) shall be the following:

1. The widow or widows of the subscriber.
2. Children and siblings younger than twenty-one (21) years of age supported by the subscriber prior to his death.
3. Children and siblings younger than twenty-one (21) years of age or younger than twenty-six (26) years of age, if pursuing their higher education, supported by the subscriber prior to his death.
4. Children and siblings supported by the subscriber prior to his death and who are unable to earn a living by virtue of physical reasons. A medical committee appointed by the Commission shall determine whether their health condition impedes them from working.
5. Unmarried, divorced, or widowed female daughters and siblings.
6. The parents of the subscriber.
7. The husband of the female subscriber, if he was at the time of her death unable to earn a living in physical terms or unable to support himself in accordance with the report of a medical committee appointed by the Commission.

Article 33

Additional conditions to benefit from the successor(s)' retirement pension:

1. The payment of the retirement pension to the widow shall cease upon her remarriage. Her entitlement to the retirement pension

shall be recovered if she is thereafter divorced or widowed for the first time within ten (10) years from the date of her remarriage. If the share of the widow was paid to the children of the pensioner or the parents, only the remaining part of her retirement pension shall be returned to her without redemption.

2. The widow may not combine the retirement pension from her first husband and the retirement pension from her last husband. In such case, the higher retirement pension shall be paid to her.
3. Upon the death of the subscriber, there shall be no income of the partner's brothers, daughters and sisters or their income shall be less than the amount of their entitlement. For such purpose, the maintenance that is paid for the daughters and sisters shall not be deemed an income. The beneficiary must prove that he does not receive an income or that his income is less than the amount of his entitlements by means of a testimony from the concerned party, which supports his declaration. If a private income is available, the amount of that income shall be deducted from the retirement entitlement. The retirement entitlement shall be assessed again on an annual basis in light of changes taking place regarding the income, whether increasing or decreasing.
4. In order to obtain the successor(s)' retirement pension, the entitlement of the mother shall be conditional upon her not being married to any person other than the father of the deceased.
5. The pension of the daughters and sisters shall be halted upon their marriage. The daughter or sister shall be granted the retirement pension to which she was entitled if she is

divorced or widowed within a period not to exceed ten (10) years from the date of marriage or from the date of the death of the beneficiary or pensioner, whichever first occurs, without prejudice to the rights of the remaining entitled persons.

6. The husband, upon the death of his wife, shall be entitled to the share that is determined in the table in Article 34, if he was at the time of her death suffering from a physical disability prohibiting him from earning a living. The state of his disability shall be proven by a

decision of a medical committee appointed by the Commission. At the time of death, he shall not have a private income, which is equal to or exceeds the amount of his entitlement to the retirement pension. If the income is less than the amount to which he is entitled, a retirement pension shall be paid to him in the amount of the difference. In such case, the remainder of the retirement pension due to the wife shall be distributed to the beneficiaries within the limits set forth in the following table in Article 34 without the presence of the husband.

Article 34

The retirement pension shall be distributed to the successors in accordance with the following table:

Case Number	Entitled Persons	Widows	Children	Parents	Siblings
1	Entitled widow or widower or spouse and more than one son	Half	Half	–	–
2	Entitled widow or widows or spouse and one son and parents	Half	One-third	One-sixth for each of them	–
3	Entitled widow or widows or spouse and one son	Half	One-third	–	–
4	Entitled widow or widows or spouse or more than one child and parents	One-third	Half	One-sixth for each of them	–
5	Widow or widows or entitled spouse and parents without presence of children	Half	–	One-sixth for each of them	–
6	More than one child and parents without presence of an entitled widow or spouse	–	Three-quarters	One-sixth for each of them	–
7	One child and parents without presence of an entitled widow or spouse	–	Half	One-third for each of them	–
8	Parents without presence of an entitled widow or spouse	–	–	One-third for each of them	–
9	A brother or sister without presence of an entitled widow or spouse with no children or parents	–	–	–	One-sixth for each of them
10	More than one brother or sister without presence of an entitled widow or spouse with no children or parents	–	–	–	One-third in equal proportions

Article 35

1. In the event of marriage or death of a widow upon her entitlement to a retirement pension, her share shall default to the children of the pensioner who receive retirement pensions at the time of her marriage or death. Her share shall be distributed among them in an equal manner, provided that the total of their entitlements does not exceed the rates detailed in Case No. 6 or Case No. 7 in the table above. This provision shall apply to the entitled husband in case of his death.
2. If the amount granted to the parents in Case No. 4 in the table above is lower than one-sixth (1/6) as a result of income, the remainder shall be returned to the widow.
3. Upon the death of one of the parents in Case No. 4 in the table above, his share shall default to the widow. If she is deceased or married, such share shall default to the children, provided that the total of their entitlements does not exceed the rates detailed in Case No. 6 or Case No. 7 in the table above.
4. The entitlement of the brothers and sisters to a retirement pension shall be proven by the support of the testator during his lifetime

Law of Service in the Palestinian Security Forces No. 8 of 2005

Chapter VI

Officer Leave

Article 82

A female officer shall be granted a full-pay maternity leave for a period of ten (10) weeks.

Chapter VII

Non-Commissioned Officers and Personnel Leave

Article 163

A female non-commissioned officer or member of personnel shall be granted a full-pay maternity leave for a period of ten (10) weeks.

Executive Decisions

Council of Ministers Resolution No. 14 Regarding Women's Night Working Hours of 2003

The Council of Ministers,

Having reviewed Labour Law No. 7 of 2000, in particular Article 101, paragraph (3) thereof,

And based on the presentation of the Minister of Labour,

And based upon what the Council of Ministers approved during its session convened on 22 December 2003,

Has hereby decided the following:

Article 1: Conditions Relating to Women's Work at Night

Women shall be allowed to work during the period between 8:00 p.m. and 6:00 a.m. in the places, the circumstances, and events set out below:

1. Hostels, restaurants, theatres, coffee shops, cinemas and music halls;
2. Airports, airline companies and tourism agencies;
3. Hospitals, medical centres, clinics and pharmacies;
4. Mass media;
5. Elderly residential care homes, children's nurseries, orphanages, and care centres for persons with disabilities;
6. Commercial stores, during the holiday seasons;
7. Preparation of the annual inventory, the balance sheets or the liquidation;
8. If the work is carried out in order to avoid an imminent loss to the enterprise, or is

performed in the context of an urgent situation, a notification, mentioning the urgent situation and the period required for the completion of the work, must be sent for the approval of the Ministry of Labour. In the event the approval is made orally, it must be authenticated in writing.

Article 2: Guarantees

The business owner must provide all the necessary guarantees for the protection and the transportation of women who are allowed to work in the places, circumstances, and events set out in Article 1 of this Decision.

Article 3: Repeal

All provisions that may contradict the provisions of this Decision are hereby repealed.

Article 4: Enforcement and Entry into Force

All competent authorities, each within their respective competence, shall enforce the provisions of this Decision, which shall be effective as of the date of its publication in the *Official Gazette*.

Issued in the city of Ramallah on 22 December 2003 (A.D.)

Corresponding to 28 Shawwal 1424 (Hijri)

Ahmed Qurei

Prime Minister

Minister of Labour Resolution No. 2 Prohibiting the Employment of Women in Hazardous or Arduous Work of 2004

The Minister of Labour,

Having reviewed Labour Law No. 7 of 2000, in particular Article 101, paragraph (1) thereof,

And, in the interest of the general welfare,

Has hereby decided the following:

Article 1: Forbidden Work

Women are not allowed to work in the fields set out below:

1. Mines, stone quarries, and all digging activities performed underground;
2. The manufacturing of fireworks, explosives and related activities;
3. The manufacturing and processing of asphalt;
4. The production of alcohol and all spirits;
5. The manufacturing and the use of insecticides;
6. All smelting works emitting harmful radiation and gases;
7. Work in which chemical solvents are used for the cleaning of machines and clothes; and/or
8. Work in forests, in the woodcutting industry, and in natural reserves.

Article 2: Exception

The provisions of Article 1 shall not apply to women performing administrative or clerical work in the abovementioned fields.

Article 3: Pregnant and Post-partum Women

Pregnant and post-partum women are not allowed to carry out the work set below:

1. Industrial work in which mercury is used (e.g. plating of mirrors);
2. Work in metal and glass melting furnaces;
3. Work involving the use of lead, or metallic combinations containing more than ten (10) percent of lead;
4. Work involving an exposure to vapour or smoke emissions by oil derivatives;
5. Any work involving an exposure to ionizing radiations;
6. Work involving the use of the Duco painting method;
7. Manufacturing of rubber;
8. Manufacturing of fertilizers of any kind; and/or
9. Manufacturing and fixing of electric batteries.

Article 4: Repeal

All provisions that contradict the provisions of this Decision are hereby repealed.

Article 5: Enforcement and Entry into Force

All competent authorities, each within its respective competence, shall enforce the provisions of this Decision, which shall be effective as of the date of its publication in the *Official Gazette*.

Issued in the city of Ramallah on 6 May 2004 (A.D.)

Corresponding to 16 Rabee Awwal 1425 (Hijri)

Ghassan Al-Khateeb

Minister of Labour

Council of Ministers Resolution No. 45 Regarding the Executive Regulations of the Civil Service Law No. 4 of 1998, as Amended by Law No. 4 of 2005

Article 112: Leave without Pay

1. A leave without pay shall be granted to a husband or a wife in the event one of them is authorized to travel abroad for a period of no less than six (6) months. The request for an unpaid leave must be approved by the relevant governmental agency in accordance with the ordinary procedures, and notification of the Bureau, which shall in turn notify the Ministry of Finance of the said request.
2. The employee must submit proof of the travel permit and the period of stay of the spouse abroad.

Article 114: Maternity Leave

1. A pregnant employee shall notify her direct supervisor of her pregnancy during the fifth month, and immediately upon delivery. A medical report issued by a hospital or a public physician shall be submitted to the supervisor, and a notification shall be sent to the Bureau.
2. An employee cannot be required to work in the fifth month of her pregnancy during weekends or outside official working hours.
3. The maternity leave shall commence on the day on which the employee is absent for matters pertaining to the delivery, as evidenced by a medical report filled in accordance with the appropriate form.
4. Leave days of a pregnant employee, for reasons other than delivery and based on an approved medical report, shall be deducted from her sick leave balance. Leave days related to the delivery shall be deducted from the maternity leave.

Article 115: Childcare Leave

A post-partum employee may apply for a one (1) year unpaid childcare leave. Such a request must be approved by the relevant governmental agency. The forms and procedures of an ordinary leave shall be used for that purpose, and notification of the leave shall be sent to the Bureau, which shall in turn notify the Ministry of Finance of that matter.

**Chapter II:
The Legislative Framework
Regulating the Penal Code
and Criminal Procedures
Related to Palestinian Women**

Laws

British Penal Code No. 74 of 1936²¹

Article 20: Compulsion by the Husband 22

A married woman is not free from criminal responsibility for doing or omitting to do an act merely because the act or omission takes place in the presence of her husband.

Chapter XVII

Offences against Morality

Article 151: Interpretation of a Brothel

For the purpose of this chapter any house, room or set of rooms that is occupied or frequented by two or more females for the purpose of prostitution shall be deemed to be a brothel.

Article 152: Rape, Sexual Assault, and Unnatural Offences

1. Any person who:
 - a. Has unlawful sexual intercourse with a female against her will by the use of force or threat of death or severe bodily harm or when she is in a state of unconsciousness or otherwise incapable of resisting, or
 - b. Commits an act of sodomy with any person against his will by the use of force or threats of death or severe bodily harm or when he is in a state of unconsciousness or otherwise incapable of resisting, or
 - c. Has unlawful sexual intercourse or commits an act of sodomy with a child under sixteen (16) years of age.

is guilty of a felony and is liable for imprisonment for fourteen (14) years. If such felony is committed under paragraph (a) hereof it is termed rape:

Provided that it shall be a sufficient defence to any charge of having unlawful sexual intercourse with a female under paragraph (c) of this subsection if it shall be made to appear to the court before which the charge shall be brought that the person so charged had reasonable cause to believe that the female was above sixteen (16) years of age.

2. Any person who:
 - a. Has carnal knowledge of any person against the order of nature, or
 - b. Has carnal knowledge of an animal, or
 - c. Permits a male person to have carnal knowledge of him or her against the order of nature.

is guilty of a felony, and is liable for imprisonment for ten (10) years.

Article 153: Rape by Deception

Any person who has unlawful sexual intercourse with a female whom he knows to be insane or an imbecile, or with a female whose consent has been obtained by threats or deception as to the nature of the act or as to the person committing it, is guilty of a felony, and is liable for imprisonment for ten (10) years.

Article 154: Attempt to Commit Rape

Any person attempting to commit an offence under either of the two preceding sections is guilty of a felony and is liable for imprisonment for seven (7) years.

²² Applied in the Gaza Strip

Article 155: Illicit Relations with an Unmarried Girl

Any person who has unlawful sexual intercourse or aids or abets another to have such intercourse with an unmarried girl who is above sixteen (16) years of age and under twenty-one (21) years of age and is his descendant from his wife, or is his ward, or has been entrusted to him for the purpose of education or supervision, is guilty of a felony and is liable for imprisonment for five (5) years.

Article 156: Marital Intercourse with a Girl under Fifteen (15) Years of Age

1. Any person who, being married to a girl under fifteen (15) years of age:
 - a. Has sexual intercourse with her; or
 - b. Endeavours to facilitate such intercourse by any instrument or other physical means

is guilty of a misdemeanour and is liable for imprisonment for two (2) years.

2. It shall be a good defence to a charge brought under paragraph (a) of sub-section (1) hereof that notwithstanding the fact that the female is under fifteen (15) years of age,
 - a. She has reached puberty, and
 - b. Prior to such intercourse, a certificate (that shall be deemed to be a certificate within the meaning of section 12 of the medical practitioners ordinance, 1928) had been obtained from a medical practitioner licensed to practice medicine under the medical practitioners ordinance, 1928, stating that no physical ill effects within the girl would likely follow the consummation of the marriage.

Article 157: Indecent Acts through Force

Any person who commits or attempts to commit an indecent act upon the person of another against his will by the use of force or threat, or when he is in a state of unconsciousness or otherwise incapable of resisting, or by use of force or threats compels a person to commit or to submit to any indecent act, is guilty of a felony and is liable for imprisonment for five (5) years.

Article 158: Indecent Acts without Force

Any person who commits or attempts to commit an indecent act upon the person of another without his consent, but without force or threats, or where consent is obtained by deception as to the nature of the act or as to the person by whom it is committed, or induces or attempts to induce any person whom he knows to be insane or an imbecile to commit or to submit to any indecent act, is guilty of a misdemeanour and is liable for imprisonment for two (2) years or to a fine of one hundred (100) pounds.

Article 159: Indecent Acts Committed against a Child

Any person who commits an indecent act upon a person less than sixteen (16) years of age is guilty of a misdemeanour and is liable for imprisonment for three (3) years.

Article 160: Public Indecency

Any person who performs an indecent act or gesture in a public place or public gathering or in such a way that it may be seen by a person in a public place, is guilty of a misdemeanour and is liable for imprisonment for six (6) months or for a fine of fifty (50) pounds, or both.

Article 161: Procuring for Immoral Purposes

Any person who:

- a. Procures or attempts to procure any female under twenty (20) years of age, who is not a common prostitute or is known to have an immoral character, to have unlawful sexual intercourse either within or outside of Palestine, with any other person; or
- b. Procures or attempts to procure any female to become a common prostitute either within or outside of Palestine;
- c. Procures or attempts to procure any female to leave Palestine, with the intent that she may become an inhabitant of or frequent a brothel elsewhere, or
- d. Procures or attempts to procure any person under sixteen (16) years of age to commit sodomy, or

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- e. Procures or attempts to procure any female to leave her usual place of residence in Palestine, such place not being a brothel, with the intent that she may, for the purpose of prostitution, become an inhabitant of or frequent a brothel within or outside of Palestine,

is guilty of a misdemeanour.

Article 162: Procuring for the Defilement of Females by Threats, Fraud or the Administering Drugs

Any person who:

- a. By threats or intimidation, procures or attempts to procure any female for unlawful sexual intercourse within or outside of Palestine, or
- b. By false presence or false representation, procures any female who is not a common prostitute or is not known to have an immoral character, to have any unlawful sexual intercourse either within or outside Palestine, or
- c. Applies, administers to, or causes any female to take any drug, matter or thing with the intent to stupefy or overpower, so as to enable any person to have unlawful sexual intercourse with such female,

is guilty of a misdemeanour.

Article 163: Keeping a Brothel

Any person who:

- a. Keeps or manages, or acts or assists, in the management of a brothel; or
- b. Brings the tenant or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purpose of habitual prostitution; or
- c. Being the landlord of any premises or the agent of such landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are being or will be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel;

is guilty of a misdemeanour and is liable for imprisonment for three (3) months or for a fine of one hundred (100) pounds, or both, and on a second or subsequent conviction to imprisonment for six (6) months or to a fine of two hundred and fifty (250) pounds, or both.

Article 164: Determination of Tenancy on Premises with a Conviction for Permitting Use as a Brothel

1. Upon the conviction of the tenant of any premises for knowingly permitting the premises, or any part thereof, to be used as a brothel, notification of the conviction shall be entitled forthwith to determine the lease or other contract, but without prejudice to the rights or remedied of any party to such lease or contract accrued before the date of such determination. If the landlord so determines the lease or other contract of tenancy, the court, which has convicted the tenant, shall have power to make a summary order for delivery of possession to the landlord.
2. If the landlord after, such conviction, has been brought to his notice fails to exercise his rights under the forgoing provisions of this section, and subsequently, during the subsistence of the lease or contract, any such offence is again committed in respect of the premises, the landlord shall be deemed to be a party to the continued use of the premises as a brothel.
3. Where a landlord determines a lease or other contract under the power conferred by this section, and subsequently grants another lease or enters into another contract of tenancy to, with, or for the benefit of the same person, without causing to be inserted therein all reasonable provisions for the prevention of recurrence of any such offence, he shall be deemed to have failed to exercise his rights under the foregoing provisions of this section and any such offence committed during the subsistence of the subsequent lease or contract shall be deemed for the purpose of this section to have been committed during the subsistence of the previous lease or contract.

Article 165: Permitting Children to Reside in a Brothel

Any person having the custody or care of a child between the ages of two (2) and sixteen (16) years who allows the child to reside in or frequent a brothel, is guilty of a misdemeanour and is liable for imprisonment for six (6) months or a fine of twenty–five (25) pounds.

Article 166: Living Off the Earnings of a Prostitute

Any male person who lives wholly or in part on the earnings of a female prostitute is guilty of a misdemeanour.

Article 167: Solicitation

1. Any person who, by word or gesture, solicits for immoral purpose any person who is in a public place, is guilty of a misdemeanour and is liable for imprisonment for one (1) month or a fine of five (5) pounds.
2. The parents or guardian of a child, whether male or female, under sixteen (16) years of age, or any other person entrusted with the charge or care of such child, who aids or abets such child to commit the offence mentioned in this section is guilty of a misdemeanour and is liable for imprisonment for six (6) month or a fine of fifty (50) pounds.

Article 168: Indecent Suggestion

Any person who makes an indecent suggestion to any person less than sixteen (16) years of age or to any female is guilty of a misdemeanour and is liable for imprisonment for one (1) month.

Article 169: Entrance into Places Reserved for Women

Any male person who, in female dress, enters a place reserved for women is guilty of a misdemeanour and is liable for imprisonment for one (1) year.

Article 170: Detention in a Brothel

Any person who detains any woman against her will:

- a. In or upon any premises with the intent that she may have unlawful

sexual intercourse with any man; or

- b. In any brothel;

is guilty of a misdemeanour and is liable for imprisonment for two (2) years.

Article 171: Detention by withholding Clothes

1. When a woman is in or upon any premises for the purpose of having unlawful sexual intercourse or is in any brothel, a person shall be deemed to detain such a woman in or upon such premises or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, he withholds from such woman any clothing or other property belonging to her, or where clothing has been lent or otherwise supplied to such woman by the directions of such person, he threatens such a woman with legal proceedings if she takes with her the clothing so lent or supplied.

Article 172: Search Warrants

1. A magistrate may issue a search warrant authorizing a search in any house or premises if he has reason to believe that:
 - a. Such premises are being used for any purpose contrary to the provisions of this chapter, or
 - b. Any person is detained, concealed or present therein with regard to any offence under this chapter is believed to have been committed or to be in contemplation.
2. If during such search any person is found upon the premises with regard to whom an offence under this chapter is believed to have been committed or to be contemplated, such person may be detained by the police in a place of safety pending enquiries, or may by order of the magistrate be delivered up to his or her parents or guardians or otherwise dealt with circumstances may permit or require.
3. The provisions of sections 18 to 22 inclusive of the arrest of offenders and searches ordinance 1924, shall apply to warrants issued under this section, but the provisions of section 17 thereof shall not apply.

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4. For the purpose of this section the term “premises” shall be deemed to include any ship, boat, railway train, carriage or other vehicle.
5. A women shall be deemed to be unlawfully detained for immoral purpose if she is detained for the purpose of having unlawful sexual intercourse with any man, and:
 - a. Either is under sixteen (16) years of age, or
 - b. If she is over sixteen (16) years of age and under eighteen (18) years of age, and is detained against her will or against the will of her father or mother or of any person having the lawful care or charge of her, or
 - c. If she is over eighteen (18) years of age and is detained against her will.

Article 173: A Woman Aiding for Gain in the Prostitution of Another Woman

Every woman who has proven, for the purpose of gain, to exercise control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any other person or generally, is guilty of a misdemeanour.

Article 174: Conspiracy to Defile

Any person who conspires with another to procure any female, by means of any false pretence or other fraudulent means, to permit any person to have unlawful sexual intercourse with her, is guilty of a misdemeanour.

Article 175: Attempts to Procure an Abortion

Any person who, with intent to procure a miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses force of any kind, or uses any other means whatsoever, is guilty of a felony, and is liable for imprisonment for fourteen (14) years.

Article 176: Self-induced Abortion

Any person who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or

other noxious thing, or uses any force of any kind or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a felony, and is liable to imprisonment for seven (7) years.

Article 177: Supplying Drugs or Instruments to Procure an Abortion

Any person, knowing that drugs or instruments are to be used unlawfully, who then unlawfully supplies or procures for any person to induce a miscarriage for a woman, whether she is or is not with child, is guilty of a misdemeanour.

Article 178: Knowledge of Age of a Female Is Immaterial

Except as otherwise expressly stated, it is immaterial in the case of any of the offences committed with respect to a women or girl under a specified age, that the accused person did not know that the women or girl was under a certain age, or believed that she was not under that age.

Article 179: Obscene Publications

Any person who:

- a. Sells or has in his possession for sale, hire or distribution or prints or reproduces in any other manner for sale, hire, or distribution any obscene picture(s), photograph(s), drawing(s) or model(s), or any other object tending to corrupt morals, or
- b. Exposes to view or distributes for exhibition in a public place any obscene picture(s), photograph(s), drawing(s) or model(s), or any other object tending to corrupt morals, or
- c. Carries on or takes part in any business for the sale or publication or exhibition of any obscene printed or written matter, or picture photograph(s), drawing(s) or model(s), or other object tending to corrupt morals, or
- d. Advertises or makes known by any means whatsoever that a person is engaged in the sale, printing, reproduction, exhibition, or distribution of any such obscene matter or thing that such obscene matter or thing can be procured either directly or indirectly from any person,

is guilty of a misdemeanour and is liable for imprisonment for three (3) months or to a fine of one hundred (100) pounds, or both.

Article 180: Fraudulent Pretence of Marriage

Any person who wilfully and by fraud causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to co-habit or have sexual intercourse with him is guilty of a felony and is liable for imprisonment for ten (10) years.

Article 181: Bigamy

Any person who, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, is guilty of a felony and is liable for imprisonment for five (5) years. Such felony is termed bigamy.

Provided that it is a good defence for a charge brought under this section to prove:

- a. That the former marriage has been declared void by a court of competent jurisdiction or by a competent ecclesiastical authority, or
- b. The continuous absence of the former husband or wife as the case may be, at the time of the subsequent marriage, for the space of seven (7) years then past without knowledge or information that such former husband or wife was alive within that period, or
- c. That the law governing the personal status of the husband both at the date of the first and at the date of the subsequent marriage allowed him to have more than one wife.

Article 182: Punishable Celebration of Certain Marriages

Any person who:

- a. Knowingly celebrates or is a party to the celebration of a marriage otherwise than in accordance with the law applicable to the parties to such marriage, or
- b. Marries, celebrates, or in any capacity assists with or in connection with the celebration of a marriage of a female who is under fifteen (15) years of age, or

- c. Marries, celebrates or in any capacity assists with or in connection with the celebration of a marriage of a female who is under eighteen (18) years of age without having first ascertained that the parent or guardians of such female have consented thereto,

is guilty of a misdemeanour and is liable for imprisonment for six (6) months.

Article 183: Defence in Certain Cases

It shall be a good defence to a charge brought under paragraph (b) of section 182 of this code to prove:

- a. That the marriage took place with the consent of any living parent(s) or guardian(s) of the female, and
- b. That at the time of the marriage the female had reached puberty, and
- c. That at the time of the marriage a certificate (that shall be deemed to be a certificate within the meaning of section 12 of the medical practitioners ordinance, 1928) that no physical ill effects would be likely to follow the consummation of the marriage by the female.

Article 215: Punishment for Murder

Any person convicted of murder shall be sentenced to death:

Provided that where a woman is convicted of murder and is found upon evidence to the satisfaction of the court to be pregnant, she shall be sentenced to imprisonment for life.

Amended Penal Law No. 1 of 1947²²

Providing for the Amendment of the Penal Law of 1936,

The High Commissioner of Palestine, following consultation with the Advisory Council, hereby enacts the following:

Article 1: Title

This Law shall be entitled the (Amended) Penal Law of 1947. It shall be read and construed with the Penal Law of 1936, hereinafter referred to as the Original Law, as a single Law.

Article 2: Amendment of Article 181 (Polygamy)

Article 181 under the Original Law shall be repealed and substituted with the following Article:

Article 181: Each person, either male or female, who marries while his or her spouse is alive (regardless of whether the next marriage is invalid or dissolvable or not) shall be deemed to have committed the crime of polygamy and shall be punished by confinement for a period of five (5) years:

It shall be a condition precedent that the defence of the accused person in the charge that applies to this Article shall be deemed admissible if he or she proves:

- a. That a competent court or a competent ecclesiastical authority have declared the dissolution of the previous marriage; or
- b. That the former husband or former wife, as the case may be, had been absent without interruption for a period of seven (7) years prior to the conclusion of the next marriage contract without having known or received

any news reported about him or her confirming that he or she was alive during that period, unless the marriage law that applies to the wife or husband, as the case may be, was the Mosaic Law at the time of contracting the subsequent marriage; or

- c. That the marriage law that applies to the husband on the date of the previous marriage and the date of the subsequent marriage is different than the Mosaic Law and allows him to be married to more than one wife; or
- d. That the marriage law that applies to the husband on the date of the previous marriage and the date of the subsequent marriage is the Mosaic Law and that he obtained a decision from the Rabbinical Court of the Jewish Community which is endorsed by the Chief Rabbis in Palestine and allows conclusion of the next marriage before concluding the subsequent marriage.

March 14th, 1947

High Commissioner

A. G. Cunningham

²³ Applicable in the Gaza Strip.

Jordanian Penal Code No. 16 of 1960

Title VI

Chapter II

Offences against the Family

Article 279: Offences Relating to Marriage

A prison sentence for a period of one (1) to six (6) months shall be imposed upon any person who:

1. Knowingly performed, or assisted in performing, a marriage ceremony in contradiction with the provisions of the Family Rights Law, or any other law that applies to the spouses; or,
2. Marries a girl or, performed, or assisted in performing in any manner whatsoever, the marriage ceremony of a girl under fifteen (15) years of age; or,
3. Marries a girl, performed, or assisted in performing in any manner whatsoever, the marriage ceremony of a girl under eighteen (18) years of age, without having previously acknowledged that the guardian of the girl gave his consent to such a marriage.

Article 280: Bigamy

1. A prison sentence for a period of six (6) months to three (3) years shall be imposed upon any person, male or female, who gets married to another person during the lifetime of his/her spouse –independently of whether the later marriage is void or not, or can be annulled or not – unless it is proven that:
 - a. The previous marriage was annulled by a competent court or a religious authority;

or,

- b. The marriage legislation applicable to the husband on the date of his previous or later marriage allows him to marry more than one wife.
2. The same penalty shall be imposed upon any person who knowingly performs the marriage ceremonies mentioned above.

Article 281: Registration of Divorce

A prison sentence for a period up to one (1) month, or a fine not exceeding fifteen (15) Dinars, shall be imposed upon any person who does not refer to a judge, or his deputy, within fifteen (15) days of the date of divorce, an application to register the divorce in accordance with the Family Rights Law.

Article 282: The Adulterous Woman and Her Partner

1. A prison sentence for a period of six (6) months to two (2) years shall be imposed upon a woman who voluntarily commits adultery.
2. The same penalty shall be imposed upon the partner if he is married; otherwise, he shall be imprisoned for a period of three (3) months to one (1) year.
3. The following elements constitute admissible evidence against the partner: catching the partner in the act with the adulterous woman; a confession made by the partner before the inquiry judge or in court; or, letters and other relevant written documentation.

²⁴ Applicable in the West Bank.

Article 283: The Adulterous Husband

A prison sentence for a period of one (1) month to one (1) year shall be imposed upon a husband that commits adultery in the marital house, or if he has publicly taken a mistress in any place.

Article 284: Prosecution for Adultery

1. Prosecution for adultery can only be launched by a complaint filed by the husband as long as the spouses are united by marriage, and for a period up to four (4) months after the date of a divorce, or by her guardian if the woman does not have a husband. No prosecution can be launched against a husband who commits adultery, as set out in the Article above, except by a complaint filed by his wife. The action and the penalty shall be dismissed if the complaint is dropped.
2. No prosecution can be launched against the partner, except jointly with the adulterous wife.
3. A complaint shall not be admissible after the lapse of three (3) months starting on the date on which the husband or the guardian is informed of the offence.
4. The complaint shall be dropped if the husband allowed his wife to return, and in the event of the death of the husband, the guardian, the adulterous woman or her partner.

Article 285: Incest

A prison sentence for a period of two (2) to three (3) years shall be imposed in the case of incest committed between ascendants and descendants, whether they are legitimate or not, brothers and sisters, half-brothers and half-sisters, all relatives by marriage in the same position, or if one of the offenders has legal or *de facto* authority.

Article 286: Prosecution of Incest

The prosecution of a case of incest, as set out in the Article above, can be launched by a complaint filed by a relative, or a relative by marriage, of one of the offenders up to the fourth degree.

Title VII

Offences against Public Ethics and Morality

Chapter I

Offences against Honour

Article 292: Rape

1. Any person who has forced sexual intercourse with a female, other than his wife, shall be sentenced to at least five (5) years of temporary hard labour.
2. The sentence shall not be less than seven (7) years if the victim is less than fifteen (15) years of age.

Article 293: Rape of a Vulnerable Female

Any person who has forced sexual intercourse with a female, other than his wife, who cannot defend herself due to a physical disability, a cognitive impairment, or as a result of any form of deception, shall be sentenced to temporary hard labour.

Article 294: Sexual Intercourse with a Female under Fifteen (15) or Twelve (12) Years of Age

1. Any person who has sexual intercourse with a female that is under fifteen (15) years of age shall be sentenced to temporary hard labour.
2. The sentence shall not be less than five (5) years if the victim is less than twelve (12) years of age.

Article 295: Sexual Intercourse with a Female between Fifteen (15) and Eighteen (18) Years of Age

1. Any person who has sexual intercourse with a female who has reached fifteen (15) years of age, but is less than eighteen (18) years of age, and is an ascendant, whether legitimate or not, step-father, the husband of the paternal grandmother, or the caregiver of the girl, shall be sentenced to temporary hard labour.

2. The same penalty shall be imposed if the perpetrator of the act is a clergyman, or a director of a public office, or an employee therein, who commits such an act by abusing the power or privileges granted to him.

Article 296: Attacking, by Violence or Intimidation, the Honour of a Person

1. Any person who attacks the honour of another person by using violence or intimidation shall be sentenced to at least four (4) years of hard labour.
2. The sentence shall not be less than seven (7) years if the victim is less than five (5) years of age.

Article 297: Attacking the Honour of a Vulnerable Person

Any person who attacks the honour of another person, and the latter cannot defend themselves due to a physical disability, a cognitive impairment, or as a result of any form of deception, or forces the latter to commit such an act, shall be sentenced to temporary hard labour.

Article 298: Attacking, without Violence, the Honour of a Person

1. Any person who attacks, without having recourse to violence or intimidation, the honour of a child, whether a boy or a girl, who is less than fifteen (15) years of age, or forces the said child to commit such an act, shall be sentenced to temporary hard labour.
2. The sentence shall not be less than five (5) years if the victim, whether a boy or a girl, is less than twelve (12) years of age.

Article 299: Attacking the Honour of a Person between Fifteen (15) and Eighteen (18) Years of Age

Any person mentioned in Article 295 above who attacks the honour of another person, whether a male or a female, who has reached fifteen (15) years of age but is less than eighteen (18) years of age, or forces the latter to commit such an act, shall be sentenced to temporary hard labour.

Article 300: Aggravating Circumstances

The penalties for the crimes provided for in Articles 292, 293, 294, 296 and 298 shall be increased by one-third (1/3) to one-half (1/2) if the accused is one of the persons mentioned in Article 295 above.

Article 301: Aggravating Circumstances

1. The penalties for the crimes provided for in the Articles of this Chapter shall be increased by one-third (1/3) to one-half (1/2):
 - a. If two persons committed the crime in order to overcome any resistance by the victim, or if the victim was successively attacked by the perpetrators.
 - b. If the male victim contracted a venereal disease, or if the female victim lost her virginity as a result of the crime.
2. The sentence shall not be less than ten (10) years of hard labour if the victim dies after the commission of one of the abovementioned crimes, provided that the perpetrator did not intend to cause such an outcome.

Article 302: Abduction

Any person who abducts, by using a ruse or coercion, another person, whether male or female, and escapes with the abducted person to any place, shall be sentenced to:

1. A prison sentence of two (2) to three (3) years, if the abducted person is a male and has not reached fifteen (15) years of age;
2. Temporary hard labour, if the abducted person is a female;
3. Hard labour for a period of no less than five (5) years, if the abducted person was a married female who has reached, or not, fifteen (15) years of age;
4. Hard labour for a period of no less than ten (10) years, if the abducted person, male or female, was raped or attacked;
5. Hard labour for a period of no less than ten (10) years, if the abducted person was a married female, who has not reached fifteen (15) years of age, and who was sexually assaulted;

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6. Hard labour for a period of no less than seven (7) years, if the abducted person was a married female, who has reached fifteen (15) years of age, and who was sexually assaulted.

Article 303: Release of the Abducted Person

A prison sentence for a period of one (1) month to one (1) year shall be imposed upon the abductor if they voluntarily release and return, within forty-eight (48) hours, the abducted person to a secure place, provided that the abducted person was not subject to any attack to their honour or reputation, or any other act that amounts to a crime or a misdemeanour.

Article 304: Seduction

1. Unless a harsher sentence is deserved, a prison sentence for a period of three (3) months to one (1) year shall be imposed upon any person who deflowers a virgin, who has reached fifteen (15) years of age, after promising to marry her. The perpetrator shall also guarantee her virginity.
2. The following elements constitute admissible evidence against the accused: a confession made by the accused before the inquiry judge or in court; or, the existence of letters and other relevant written documentation.
3. A prison sentence for a period of no less than three (3) months shall be imposed upon any person who incites a woman, married or not, to leave her residence and take up with an unknown man, or attempts to separate by corruption the said woman from her husband to break the marriage bond.

Article 305: Unwanted Sexual Contact

A prison sentence for a period not exceeding one year shall be imposed upon any person who engages in unwanted sexual contact with:

1. Another person, male or female, under fifteen (15) years of age; or,
2. A woman or a girl, who has reached fifteen (15) years of age, but without their consent.

Article 306: Indecent Acts and Words

A prison sentence for a period up to six (6) months, or a fine not exceeding twenty-five (25)

Dinars, shall be imposed upon any person who exposes a boy who is less than fifteen (15) years of age, or a female, to indecent acts or words.

Article 307: Entrance into Places Reserved for Women

A prison sentence for a period up to six (6) months shall be imposed upon any man, disguised as a woman, who enters into a place reserved, or restricted, for the use of women at the time of commission of his act.

Article 308: Discontinuance and Resumption of the Prosecution

1. If a valid marriage is concluded between the perpetrator of one of the crimes provided in this Chapter and the victim, the prosecution shall be discontinued, and the execution of any sentence rendered against the perpetrator shall be stayed.
2. If the marriage ends with the divorce of the woman without a legitimate reason, the Prosecutor General may, before the lapse of three (3) years starting on the date of the commission of a misdemeanour, or five (5) years starting on the date of the commission of a crime, resume the prosecution of a case, and the execution of a sentence.

Chapter II

Incitement to Debauchery and Breach of Public Ethics and Morality

Article 309: Definition of Brothel

For the purposes of this Chapter, a brothel means any house, room, or a set of rooms in a house, in which two women or more reside, or regularly frequent, to engage in prostitution.

Article 310: Incitement to Debauchery

A prison sentence of one (1) month to three (3) years, in addition to a fine of five (5) to fifty (50) Dinars, shall be imposed upon any person who leads, or attempts to lead:

1. A woman under twenty (20) years of age to have illegal sexual intercourse with another person in the country or abroad, provided

that such a woman is not a prostitute, and is not known for her immoral character;

2. A woman to become a prostitute inside or outside the country;
3. A woman to leave the country to reside in, or regularly frequent a brothel;
4. A woman to leave her ordinary place of residence in the country, provided that such place of residence is not a brothel, to reside in, or regularly frequent, a brothel inside or outside the country with a view of engaging in prostitution; or,
5. A person under fifteen (15) years of age to be sodomized.

Article 311: Coerced Debauchery

A prison sentence of one (1) to three (3) years shall be imposed upon any person who:

1. Leads or attempts to lead a woman by coercion or intimidation to have illegal sexual intercourse inside or outside the country;
2. Leads a woman who is not a prostitute, and not known for her immoral character, by making false claims or by other means of deception, to have illegal sexual intercourse with another person; or
3. Gives to a woman, or causes her to be given, a drug or another substance with the intent of subduing her to have illegal sexual intercourse with another person.

Article 312: Establishment, Management and Ownership of a Brothel

A prison sentence for a period up to six (6) months, or a fine not exceeding one hundred (100) Dinars, or both, shall be imposed upon any person who:

1. Established, managed, or assisted in the management, or worked in a brothel;
2. Was renting, or was responsible for a house, and knowingly allowed the house, or any part thereof, to be used as a brothel; or,
3. Was the owner of a house, or the representative of the owner of the house, and

rented the said house, or any part thereof, with the knowledge that it would be used as a brothel, or has intentionally participated in its continuous use as a brothel.

Article 313: Owner or Tenant of a House Used as a Brothel

1. A court may annul a tenancy agreement, order the evacuation of the rented property, and its restitution to the owner, if a house tenant is convicted of establishing or managing a brothel in a house or any part thereof, or working in it, or assisting in the performance of such actions, or knowingly permitting the use of the house or any part thereof as a brothel.
2. A court may make a closure order of a house in accordance with Article 35 of this law, if a house owner is convicted of any of the charges mentioned in the paragraph above.

Article 314: Children Residing in a Brothel

A prison sentence for a period up to six (6) months, or a fine not exceeding twenty (20) Dinars, shall be imposed upon the caretaker of a child, between six (6) and sixteen (16) years of age, who permits the said child to reside in, or regularly frequent, a brothel.

Article 315: Earnings Generated by Prostitution

1. A prison sentence of six (6) months to two (2) years shall be imposed upon any male who totally or partly bases his livelihood on what a female earns from engaging in prostitution.
2. Unless otherwise proven, a man shall be deemed to knowingly base his livelihood on earnings generated by prostitution if he lives or cohabitates with a prostitute, or if he controls or influences her actions in a manner suggesting that he assists her, or obliges her, to engage in prostitution with another person, or in general.

Article 316: Helping or Obliging a Person to Engage in Prostitution

A prison sentence for a period up to one (1) year, or a fine not exceeding fifty (50) Dinars,

shall be imposed upon any woman, who for lucrative purposes, interferes with the freedom of movement of a prostitute in a manner suggesting that the said woman assists, or obliges, the prostitute to engage in prostitution with another person, or in general.

Article 317: Obliging a Woman to Engage in Prostitution

A prison sentence for a period of two (2) months to two (2) years shall be imposed upon any person who retains a woman against her consent:

1. In any place to have illegal sexual intercourse with another man, or in general; or,
2. In a brothel.

Article 318: Obliging a Woman to Continue Engaging in Prostitution

If a woman is present in a house or a brothel to have illegal sexual intercourse with another person, the said person is deemed to retain the woman against her will in the said house or brothel if the person does not give her any clothing or money with the intent to coerce her to stay in that house or brothel.

Chapter III

Abortion

Article 321: Self-induced Abortion

A prison sentence for a period of six (6) months to three (3) years shall be imposed upon any woman who aborts by using, or allowing another person to use, any instrument to that effect.

Article 322: Abortion with a Woman's Consent

1. A prison sentence for a period of one (1) year to three (3) years shall be imposed upon any person who uses any method for abortion with a woman's consent.
2. Should the abortion, or the method used to perform such an abortion, lead to the death of the woman, the perpetrator shall be sentenced to temporary hard labour for a period of no less than five (5) years.

Article 323: Abortion without a Woman's Consent

1. Any person who intentionally causes an abortion without a woman's consent shall be sentenced to hard labour for a period not exceeding ten (10) years.
2. The penalty shall not be less than ten (10) years if the abortion, or the method used to perform such an abortion, leads to the death of the woman.

Article 324: Honour-related Abortion

A woman who performs an abortion on herself to protect her honour, and a person who commits the crimes provided for in Articles 322 and 323 to protect the honour of a descendant, or a relative up to the third degree, shall benefit from a mitigating excuse.

Article 325: Aggravating Condition

The penalty shall be increased by one-third (1/3) if the perpetrator of the offences provided for in this Chapter is a physician, a surgeon, a pharmacist or a midwife.

Chapter VIII

Crimes and Misdemeanours against Human Beings

Chapter I

Article 331: Intentional Killing of a Newborn Child

A woman that causes, through an intentional act or omission, the death of her newborn child, who is less than one (1) year of age, shall be sentenced to death. The death penalty shall be substituted by a sentence of no less than five (5) years of detention if the court is convinced that the woman, at the moment of causing the death of her newborn child, had not fully recovered her consciousness as a result of the delivery or the breastfeeding of the said newborn child.

Article 332: Intentional Killing of a Newborn Child in the Case of Incest

A mother who causes, through an intentional act or omission, the death of her newborn child to avoid dishonour in the case of incest shall be sentenced to detention for a period of no less than five (5) years.

Article 336: Intentional Infliction of Harm Causing Abortion

Any person who causes, as a result of the commission of a violent act provided for in Article 333 above, the abortion of a woman he knows to be pregnant shall be sentenced to temporary hard labour for a period not exceeding ten (10) years.

Article 340: Excuse

1. A husband who surprises his wife or a close female relative in the act of adultery with another person, and kills, injures or harms either of them, or both, shall benefit from a mitigating excuse.
2. The perpetrator of a killing or an injury shall benefit from a mitigating excuse if he surprises a spouse, ascendant, descendent, or sibling with another person in an unlawful bed.

Law of Penal Procedure No. 3 of 2001²⁴

Part II

The Gathering of Evidence and the Institution of the Action

Chapter IV

Searches

Article 47: Women's Search

If the person required to be searched is female, only another female appointed for this purpose by the person in charge of the search operation may search her.

Book IV

Execution

Part I

Executory Judgments

Article 402: Implementation of the Sentence on a Pregnant Woman

If the person sentenced to imprisonment is pregnant, the execution of the sentence may be postponed until after three (3) months from the delivery. If it is decided to proceed with the execution of the sentence or if the condition of pregnancy is established during its execution, she must be treated as a provisional detainee in the Correctional and Rehabilitation Centre ('Prison').

Article 405: Postponement of the Execution of the Sentence with Regard to Either Spouse

If a man and his wife are sentenced to imprisonment for a term not exceeding one year, even for different crimes, and if they were not previously imprisoned, the implementation of the sentence against one of them may be postponed until the other is released if they are responsible for a child younger than fifteen (15) years of age and if they have a known domicile in Palestine.

Chapter II

Execution of Capital Punishment

Article 414: Commutation of Capital Punishment to Life Imprisonment on Pregnant Women

The sentence of capital punishment shall not be carried out on a pregnant woman. If she gives birth to a live infant, the court that issued the sentence shall commute the capital punishment to life imprisonment.

²⁵ Applicable in the West Bank.

Correction and Rehabilitation Centres (‘Prisons’) Law No. 6 of 1998

Chapter VIII

Classification of Inmates

Article 24: Separation of Inmates Based on Gender

Male inmates shall be placed in a separate section from female inmates. It shall thereby not be possible for them to talk, contact, or see each other. Juveniles shall be placed in special Centres.

Article 25: Classification of Inmates

Inmates of each gender shall be classified and distributed in separate sections, in as much as it is permitted under the circumstances of any Centre, as follows:

1. Detained inmates against whom no judgments have yet been issued by the competent courts.
2. Inmates convicted in civil actions, such as debt and alimony lawsuits.
3. Inmates with no previous convictions.
4. Inmates with previous convictions.

Article 26: Rights of Detained or Convicted Inmates in Civil Actions

Detained or convicted inmates in civil actions shall have the right to bring in special food, clothes, or covers from outside of the Centre.

Article 27: Treatment of the Pregnant Inmate

A pregnant inmate shall be given, from the time of the appearance of the pregnancy symptoms

and until sixty (60) days after delivery, special treatment in terms of nutrition, time of sleeping, and work, and she shall be provided with medical care in accordance with the recommendations of the physician. Measures shall be taken that she may deliver at a hospital.

Article 28: Treatment of Infants Born to Inmates

It shall not be mentioned in the official records or in the birth certificate if an inmate delivers her baby in the Centre. A hospital shall be considered the place of birth, and the child shall remain in the custody of the mother until two (2) years of age. The Director shall provide a place separate from other inmates for the breast-feeding mother.

Article 29: An Inmate Not Wishing to Keep Her Child with Her

1. If an inmate does not wish to keep the child with her after delivery or if the child reaches two (2) years of age, the child shall be handed over to the legal custodian after the mother, unless the physician decides that the health condition of the child does not so allow.
2. If no legal custodian is available the child shall be placed in a children care institution, provided that the mother is notified of such place and permitted to see her child periodically.

Chapter XVI

Inmates Sentenced to Capital Punishment

Article 60: Cases of Postponement of the Execution of Capital Punishment

1. The execution of the sentence of capital punishment against pregnant inmates shall be postponed until after the delivery and after the child completes two (2) years of age.
2. The judgement shall not be executed during official holidays or religious or national feasts.
3. The execution of the sentence of capital punishment may not be postponed after having received the execution order and the notification of the convicted person and his family of the matter.

Executive Decisions

Application of the Egyptian Penal Code and Criminal Procedure Code Including Crimes of Adultery, Issue No. 260 of 1953

District Commissioner Mohammed Abdul Mun'em Saleh, Director General of the Royal Border Corps and Administrative Governor-General of the Areas under the control of the Egyptian Forces in Palestine,

In pursuance of the power bestowed upon me by Order No. 767 issued forth by the Minister of the Military and Navy, dated August 2nd, 1952,

(Hereby orders the following):

Article 1: Enforcement of Articles 273 -277

Articles from 273 to 277 on the Crimes of Adultery, mentioned under Title Four of Book Three of the British Penal Law, shall be applicable. These articles stipulate:

Article 273- The adulteress shall not be tried except on the basis of a lawsuit brought by her husband. However, in case the husband commits adultery in the house in which he resides with his wife, as described under Article 277, his lawsuit against her shall not be heard.

Article 274- The married woman, whose adultery has been established, shall be sentenced to confinement for a term that does not exceed two (2) years. However, her husband shall be entitled to stay the execution of such sentence upon his consent to her social intercourse with him as she used to.

Article 275- The adulterer with the woman shall also be punished with the same penalty.

Article 276- Evidence deemed to be admissible as proof of the offense of adultery shall be the catching of the adulterer and adulteress *in flagrante delicto*, their confessions, or the presence of correspondence or other papers written by them or that are present in the house of a Muslim in the premise designated

for the *harem* [women's partition in a Muslim household].

Article 277- Each husband who commits adultery in the matrimonial house, and this matter is established against him in the lawsuit brought by the wife, shall be punished with confinement for a term that does not exceed six (6) months.

Article 2

The provisions of Article 3 under the Criminal Procedure Law No. 150 of 1950 shall be applicable in relation to the crimes prescribed under the two Articles 274 and 277, mentioned under Article 1. It [Article 3] stipulates:

The criminal lawsuit may not be lodged except on the basis of a verbal or written complaint from the victim or his or her special representative to the Public Prosecution or to a Judicial Police officer in the crimes provided for under Articles 185, 274, 277, 279, 292, 293, 303, 306, 307, and 308 of the Penal Law, as well as in the other cases prescribed by the Law. The complaint shall not be admitted after three (3) months from the victim's knowledge of the crime and of its perpetrator unless the Law provides otherwise.

Article 3: Annulment by Contradiction

Enforcement of the articles under the Palestinian Penal Law, which contradict the provisions referred to under Articles 1 and 2 of this Order, shall be annulled.

Article 4

Application of the provisions of Articles under this Order shall be applied to all of the persons residing in the areas under the control of the Egyptian Forces in Palestine, whatsoever their nationality and citizenship.

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Article 5: Entry into Force

This Order shall enter into force after thirty (30) days from being publishing in the *Al Waqa'i al Filistiniya* (Palestinian Official Gazette).

Kubri al Qubba on Jumada ath Thaniya 25th,
1372 Anno Hijiri – March 11th, 1953 Anno Domini

District Commissioner

Mohammed Abdul Mun'em Saleh

Administrative Governor-General of

Areas under the Control of the Egyptian Forces in
Palestine

**Chapter III:
The Legislative Framework
Regulating the Personal
Status of Muslim Palestinian
Women**

Personal Status Laws

Egyptian Family Rights Law, Issue No. 303 of 1954

Brigadier Abdullah Rif'at, the Administrative Governor General of the Area under Control of the Egyptian Forces in Palestine;

In pursuance of the Republication Decree issued forth on January 26th, 1954, and in accordance with the power bestowed upon me by virtue of the Order No. 154 issued forth by the Minister of War on February 10th, 1954;

(Hereby decides the following):

Article 1: Title

This Law shall be entitled the Law of Family Rights.

Book One

On Marriage

Title I

Chapter I

On Betrothal

Article 2: The Conclusion of Marriage

Marriage shall not be concluded by betrothal or by promise of marriage.

Article 3: Recovery of the Original Dowry In Kind

In the event one of the spouses abstains or dies after the consent to marriage: if the original dowry that the fiancé has given exists, it may be redeemed in kind. In case it was damaged, it may be restored by way of compensation. On the

other hand, the other things that one of them gave to the other by way of a gift shall be subject to the provisions of the gift.

Article 4: Recovery of the Trousseau (Drakhoumah)

The provision of Article 3 shall be applicable to the trousseau given by non-Muslims.

Chapter II

On the Eligibility for Marriage

Article 5: Conditions of the Eligibility for Marriage

It shall be a condition precedent to the eligibility for marriage that the fiancé be eighteen (18) years of age or more and the fiancée be seventeen (17) years of age or more.

Article 6: Permission for the Male Adolescent to Marry

In the event the male adolescent, who has not yet completed eighteen (18) years of age, claims that he has reached the age of majority, the judge shall be entitled to permit him to marry in case he is of such a conceivable appearance.

Article 7: Permission for the Female Adolescent to Marry

In case the female adolescent, who has not yet completed seventeen (17) years of age, claims that she has attained the age of majority, the judge shall be entitled to permit her to marry in case she is of such a conceivable appearance and her guardian thus permits.

Article 8: Prohibition to Wed Two Minors

No one may wed the male minor who has not yet completed twelve (12) years of age or the female minor who has not yet completed nine (9) years of age.

Article 9: Wedding of the Woman Who Has Completed Seventeen (17) Years of Age

In the event the adult woman, who has completed seventeen (17) years of age, reports to the judge with the intention of marriage to a man, the judge shall inform her guardian thereof. If the guardian does not object or his objection is unintelligible, he [the judge] shall permit her to marry.

Article 10: Marriage of the Insane Man or Woman

The marriage of the insane man and woman shall not be permissible unless a necessity exists. In the event an exigency arises, their guardians shall conclude their marriage.

Article 11: The Guardian in Marriage

The guardian in marriage shall be the paternal kinsman in the sequential order. In case he does not exist, the guardianship shall be transferred to the judge.

Article 12: Conditions of the Eligibility of the Guardian in Marriage

It shall be a condition precedent to the eligibility of the guardian in marriage that he be competent. Principally, the insane and imbecile shall not have guardianship over any person.

Title II

On Women Forbidden for Marriage

Article 13: Prohibition of Marriage with the Wife of Another Man or His [Divorced or Widowed] Wife during Her Legally Prescribed Waiting Period

It is prohibited to marry the wife of another man or his [divorced or widowed] wife during her legally prescribed waiting period.

Article 14: The Man Married to Four Wives

The man who has four wives, or wives during their legally prescribed waiting periods, shall not marry another woman.

Article 15: Pronouncement of Divorce on Three Separate Occasions

The man who pronounces divorce three times against his wife on three separate occasions shall not marry her so long as the major irrevocable divorce exists.

Article 16: The Prohibition of Marriage to Two Women with a Prohibiting Relationship between Them

It shall be prohibited to marry two women with a prohibiting blood or wet-nursing relationship between them, whereby if one of them had been presumed to be a male, she would not be allowed to marry the other, such as two sisters. In contrast, in case one of them had been presumed to be a male, she may not be married. If the second had been presumed to be a male, her marriage to the other shall be permissible such as the daughter and stepmother, who may be combined [in one marriage].

Article 17: Prohibition of Marriage to a Woman Who Is a Blood Relative

It is prohibited for a man to marry a woman from among his blood relatives. There are four categories of forbidden women in this respect: first, the man's mother and grandmothers; second, his daughters and granddaughters; third, his sisters, daughters of his sisters and brothers, and their granddaughters on an absolute basis; and fourth, his paternal and maternal aunts on an absolute basis.

Article 18: Prohibition of Marriage to a Woman because of Wet-Nursing

As it is permanently unallowable that a man marry a woman from among his blood relatives as is explicated under the previous Article, it shall also be impermissible on a permanent basis that he marry a woman with whom he has a wet-nursing relationship.

Article 19: Prohibition of Marriage Due to a Relationship by Affinity

It shall be prohibited on a permanent basis that a man marries a woman with whom he has a relationship by affinity. These women are of four categories: first, the wives of the man's sons and the wives of his grandsons; second, the mother of his wife and her grandmothers on an absolute basis; third, the wives of the man's father and the wives of his grandfathers; and fourth, his step-daughters – that is the daughters of his wife, daughters of his stepsons and granddaughters of his wife. Consummation of marriage with the wife shall be a condition precedent in the fourth type. Consummation of marriage through the void contract necessitates the unlawfulness of the relationship by affinity.

Title III

Chapter I

On the Marriage Contract

Article 20: Conditions of the Validity of the Marriage Contract

It shall be a condition precedent for the contract of marriage to be valid that two competent witnesses be present. The testimony of the antecedents and descendants of the fiancé and fiancée to the contract shall be permissible.

Article 21: Conclusion of the Marriage Contract with the Offer and Acceptance

Marriage shall be concluded with the offer and acceptance of the spouses or their representatives in the council of the contract.

Article 22: The Expressions of the Offer and Acceptance

The offer and acceptance shall be in explicit expressions, such as 'giving in marriage' and 'marriage'.

Article 23: Presence of the Judge at the Contract

The judge who is present in the domicile of one of the spouses or his deputy, who is authorized

by a special permission paper, shall be present at the time of the contract. The judge or his deputy shall draw up the paper of the contract and register it.

Article 24: Conditions of Non-marriage to Another Woman

In the event the fiancée stipulates that her suitor shall not take a woman as another wife and the latter marries, she or her fellow wife shall be divorced and the contract shall be valid and the condition shall be legally eligible. As such, the woman whose divorce is stipulated shall be divorced.

Chapter II

On Fitness

Article 25: Conditions of the Requirement of Fitness

It shall be a condition precedent to the requirement of marriage that the man be fit for the woman in terms of property, profession and similar conditions. Fitness in property shall require that the husband be capable of giving the advance dowry and of providing the alimony for the wife. Fitness in the profession shall require that the trade or work, which the husband exercises, are approximate in honour to the trade and livelihood work of the guardians of the wife.

Article 26: Observation of Fitness at the Time of the Contract

Fitness shall be observed at the time of the contract. If it disappears thereafter, such shall not affect the marriage.

Article 27: Marriage of the Adult Woman Initiated by Herself

In the event the adult woman denies that a guardian exists for her and she initiates marriage to a man by herself, the matter shall be examined as follows: if she married herself to a fit man, the contract shall be incumbent even if the dower was lower than the *Mahr al Mithl* [dower of the like or proper dower]. If she married herself to an unfit man, the guardian shall be entitled to report to the judge and dissolve the marriage.

Article 28: Stipulation of Fitness

In the event the guardian gives in marriage the adult woman with her consent to a man whose fitness they both do not know, then it appears that he is unfit, neither shall have the right to objection. However, if the fitness was stipulated at the time of the contract or if the husband noted that he was fit, and then it appeared that he was not, each one of them [the wife and guardian] shall be entitled to report to the judge and dissolve the marriage.

Article 29: Cessation of the Guardian(s)' Right to Objection against the Marriage

Consent of one of the guardian(s), who are equal in grade, shall terminate the right of others to object. Likewise, the consent of the more distant guardian upon the absence of the closer guardian shall extinguish the right of the latter.

Title IV

On the Invalidity and Voiding of the Marriage

Article 31: The Voiding of the Contract because of Unsatisfied Eligibility

In the event one of the two parties did not possess the eligibility conditions at the time of the contract, the marriage shall be void, save the exceptions in Article 45.

Article 32: The Voiding of the Contract of Marriage to the Wife's Sister

In case one of the two women, the combination of whom is prevented in accordance with the provision of Article 16, is married to someone, the same may not marry her sister, and his marriage to her shall be void.

Article 33: The Voiding of the Marriage to Al Muharramat [Women Unmarriageable to Certain Men]

The marriage to a woman, the unlawfulness of marriage to whom is expounded under Articles 13, 14, 15, 17, 18 and 19, shall be void.

Article 34: The Voiding of the Mut'ah Marriage and Temporary Marriage

The *Mut'ah* marriage [marriage concluded for a limited period, for a certain sum of money] and temporary marriage shall be void.

Article 35: The Voiding of the Marriage Concluded without Witnesses

The marriage that is concluded without witnesses shall be void.

Article 36: The Voiding of the Marriage Contracted with Coercion

The marriage that is contracted with coercion shall be void.

Article 37: Invalidity of Marriage of a Muslim Woman to a Non-Muslim Man

The marriage of a Muslim woman to a non-Muslim man shall be invalid.

Title V

On the Provisions of Marriage

Article 38: The Wife's Right to the Dowry, Alimony and Inheritance

As soon as the marriage is concluded in a rightful manner, the dowry and alimony shall be incumbent therewith for the wife by the husband and the right to inheritance shall be established between them.

Article 39: Obligation of the Husband to Prepare the Legal House

The husband shall be obliged to prepare a legal house along with all of its essentials for his wife in the place of residence that he chooses.

Article 40: Obligation of the Wife to Reside in Her Husband's House

The wife, after the receipt of her advanced dowry, shall be obliged to reside in her husband's house, which is a legal house, and travel with him in case he wants to travel to another town should there not be a proscription. The husband must consort

with his wife in kindness and the woman must obey her husband in the lawful matters.

Article 41: Accommodation of Relatives in the Matrimonial House

The husband shall not be entitled to accommodate his family and relatives without the consent of his wife in the house, which he prepared for her, with the exception of his prepubescent or mentally ill son. Likewise, the wife shall not be entitled to accommodate her children and relatives with her without the consent of her husband.

Article 42: Justice and Equality between Wives

Each man with more than one wife must treat each of his wives equally and fairly.

Article 43: Effects of the Invalid Marriage with or without a Consummation of Marriage and the Void Marriage without a Consummation of Marriage

The invalid marriage, regardless of whether consummation of the marriage has occurred therein or not, and the void marriage, in which the consummation of the marriage has not occurred, shall not denote a status in principal. Thereupon, the provisions of the valid marriage, such as the alimony, dowry, lineage, *'iddah* [a woman's legally prescribed waiting period after divorce from (or death of) the husband], inheritance, or unlawfulness of marriage because of a relationship by affinity, shall not be established thereby between the spouses.

Article 44: Effects of the Void Marriage if a Consummation of Marriage Occurred

In the event a void marriage has been consummated, the dowry and the legally prescribed waiting period shall be incumbent therewith and the lineage and unlawfulness of marriage due to a relationship by affinity shall be established. Provisions such as alimony and inheritance shall not be incumbent.

Article 45: Obligation of the Separation between the Spouses in the Invalid and Void Marriage

Continuance by the spouses in the invalid and void marriage shall be forbidden. In case they

do not separate, the judge shall separate them at the time of the trial unless the reason of the voidance is the loss of the eligibility of age or non-permission from the judge, and the marriage is associated with a manifest pregnancy or birth, whereby the judge shall not separate them and the marriage shall be valid in accordance with the ruling of the judge.

Title VI

Chapter I

On the Dowry

Article 46: Types of Dowry

The dowry is of two types: the defined dowry which the two parties define regardless of whether it is little or considerable and the proper dowry which shall be the proper dowry of the wife and her counterparts from the family of her father. In the event counterparts from [the relatives of] her father do not exist, then from her counterparts among the residents of her town.

Article 47: Advancing and Deferment of the Payment of the Dowry

Payment of the defined dowry may be advanced or deferred, wholly or partly.

Article 48: Claim of the Deferred Dowry

In the event a term is set for the deferred dowry, the wife shall not be entitled to claim it prior to the maturity of the prescribed term even if the divorce occurs. In contrast, if the husband died, the prescribed term shall abate. In case the term was not defined, the dowry shall be regarded as deferred until the occurrence of divorce or death of one of the spouses.

Article 49: Payment of the Dowry upon Death or Divorce

In the event a dowry was defined in the valid contract, it shall be requisite to pay it in full upon the death of one of the spouses or upon divorce following the valid consummation of marriage. In contrast, if divorce occurs before the valid consummation of marriage, half (1/2) of the defined dowry shall be incumbent. In case the

wife initiates a parting, such that the guardian requests separation because of unfitness, the whole of the dowry shall abate.

Article 50: Payment of the Proper Dowry upon Death or Divorce

If the dowry was not defined in the valid contract or if it was defined, but such definition was void, the proper dowry shall be incumbent upon the death of one of the spouses or upon the occurrence of divorce after the valid consummation of marriage. In the event divorce occurs prior to the definition of the dowry and prior to the valid consummation of marriage, the *Mut'ah* [money or property given to the divorced wife] shall be imperative. The *Mut'ah* shall be identified in accordance with the customary practice and tradition, provided that it exceeds half (1/2) of the dowry.

Article 51: The Dowry that Is Due upon Separation after Entry into the Void Contract

In the event separation occurs after the entry into the void contract, the matter shall be examined: if the dowry was defined, the lesser of the defined dowry and the proper dowry shall be incumbent. In case the dowry was not defined or it was defined in a void manner, the proper dowry shall be incumbent whatsoever its amount. In case the separation occurs before the consummation of marriage, the dowry shall principally not be imperative.

Article 52: Disagreement in the Definition of the Dowry

In case a disagreement occurs in the definition of the dowry and the definition was not established, the proper dowry shall be incumbent. However, if the person who claimed the definition was the wife, the dowry shall not exceed the amount that she claimed. If the claimant was the husband, the dowry shall not be less than the amount that he claimed.

Article 53: Disagreement about the Amount of the Defined Dowry

In case a disagreement arises about the amount of the defined dowry and the husband claimed a contradictory amount of the dowry, the husband's statement shall be approved.

Article 54: The Marriage Defined for the Woman Who Marries a Man in His Death/Illness

If a man marries in his death/illness, the matter shall be examined: in case the defined dowry was equal to the proper dowry of the wife, the wife shall take it from the estate of the husband. In case it exceeds it, the provisions of bequest shall be applicable to the excess.

Article 55: Non-obligation of Preparing the Trousseau from the Dowry

The dowry is the property of the wife. Therefore, she shall not be obliged to use it to prepare her trousseau.

Article 56: Prohibition of the Receipt by the Parents and Relatives in Consideration for the Marriage or Handing

The parents or a relative of the wife may not take from the husband dirhams [money] or anything else in consideration for giving her in marriage or handing her to the husband.

Chapter II

Article 57: Amount of the Alimony Due to the Wife

Payment of the alimony shall be imperative in the amount to which the spouses consented or in accordance with the judge's ruling. It may be increased or decreased upon the change of prices or upon the alteration of the means of the husband, whether he was solvent or insolvent, and in disregard of the means of the wife.

Article 58: Expediting the Alimony

The alimony shall be expedited. In the event that death or divorce occurs after the wife collects the alimony that exists in her hand in kind, the alimony may not be restored.

Article 59: Inability of the Husband to Spend on the Wife

In the event the present husband refrains from spending on his wife and the wife requests the alimony, the judge shall estimate alimony for her in accordance with the means of the husband as

of the day of the request and shall order that it be paid in advance for the days that he designates.

Article 60: Abatement of the Period Preceding the Request to Estimate the Alimony

The period that elapses before the wife's request that alimony be estimated for her shall cause the abatement of the alimony.

Article 61: Incapability of the Husband to Spend on the Wife

In case the husband is incapable of spending on his wife and the wife requests alimony, the judge shall estimate alimony for her as of the day of the request, provided that it shall be a debt owed by him [the husband] and he [the judge] shall permit the wife to borrow on the account of the husband.

Article 62: Alimony of the Wife Whose Husband Is Absent

In the event the husband was absent and left his wife without any alimony, if he travelled to a distant or close location, or in the event he was missing, the judge shall estimate an alimony amount as of the day of the request on the basis of the evidence which the wife establishes as for the existence of the matrimonial status between them and after he puts her under oath to testify that her husband did not leave any alimony for her and that she is neither a *Nashez* [recalcitrant] nor a divorcée whose legally prescribed waiting period has expired.

Article 63: Borrowing by the Insolvent Wife

In the circumstances where the insolvent wife is permitted by the judge to borrow in pursuance of the previous Articles, the person who is incumbent to spend on her shall be bound to lend to her upon request as if she were assumed to be without a husband. In the future, he [the person concerned] shall have the right to claim it from the husband only. In the event the wife borrowed from a stranger, the creditor shall have the choice either to claim it from the wife or to claim it from the husband.

Article 64: Payment of the Alimony of the Wife, Whose Husband Is Absent from His Available Properties

In the event the absent husband has property in the hand of another or in his liability, and the depositary or debtor acknowledges the existence of the property of the husband in his hand or liability and acknowledges the matrimonial status as well, or in case the wife proves it with evidence upon his denial, the judge shall decide an amount of alimony for her as of the day of the request, provided that she is given from that property or from *Tamgha* [stamp revenue], after they take an oath that the husband did not leave any alimony for her and that she is neither a recalcitrant nor a divorcée whose legally prescribed waiting period has expired. The judge shall appoint a sponsor for the alimony that is prescribed for her.

Article 65: Non-revocation of Alimony with Divorce or Death

The due amount of alimony, which has been estimated by a judicial ruling or by mutual consent, shall not abate with the divorce or death of one of the spouses. In contrast, the amount that has not been borrowed in tandem with the judge's order shall abate with *Nushuz* [the wife's violation of marital duties].

Article 66: Abatement of the Alimony of the Recalcitrant Wife

In case the wife becomes recalcitrant and leaves the house of her husband, or in the event the house is hers and she prevented the husband from entering it before she requests movement to another house, the alimony shall abate during the period of such recalcitrance.

Book Two

On Separation

Title I

Chapter I

General Provisions

Article 67: Eligibility of the Husband for Divorce

The husband shall be eligible for divorce in the event that he is competent.

Article 68: The Subject of Divorce

The subject of the divorce shall be the woman with whom a valid contract of marriage is concluded or the woman in her legally prescribed waiting period. On the other hand, the wife whose marriage has been dissolved shall not be the subject [of divorce].

Article 69: Divorce by the Inebriated and the Coerced

Divorce by the inebriated and the coerced [man] shall not take effect.

Article 70: Divorce which is Associated with a Condition

Divorce that is associated with a recognized condition shall be valid unless it is intended to force [the wife] to do something or leave her husband.

Article 71: Divorce in the Future

Determining that divorce will take place in the future shall be a valid [decision]²⁶.

Article 72: The Pronouncements of Divorce which the Husband Possesses

The husband shall possess three pronouncements of divorce against his wife.

²⁶ Note from the editor: this means that the husband can stipulate in the marriage contract that the marriage will have a definite duration, and that this clause is valid.

Article 73: Expressions for the Occurrence of Divorce

Divorce shall take effect with explicit expressions even if he (the husband) did not intend it.

Article 74: The Pronouncement of Divorce Associated with a Number is One Pronouncement

The divorce that is associated with a number either by utterance or by sign shall not affect but one pronouncement of divorce.

Article 75: Occurrence of Divorce with Implicit Expressions

Implicit expressions of divorce, including the meaning of divorce or something similar, shall not affect the divorce unless this was intended.

Article 76: Occurrence of the Revocable Divorce and the Exceptions thereof

Each divorce that is affected shall be revocable except for the divorce that complements the three pronouncements, and so shall be the divorce that precedes the consummation of marriage, the divorce in consideration of property [whereby the wife pays money to the husband in return for divorcing her], and the divorce that is prescribed to be irrevocable under this Law.

Article 77: Informing the Judge of the Divorce by the Husband

The husband who divorces his wife shall notify the judge thereof.

Chapter II

On the Divorce

Article 78: Effect of the Revocable Divorce

The revocable divorce shall not remove the matrimonial status immediately. The husband shall have the right to take his wife back [revoke the divorce] during the legally prescribed waiting period either in word or in deed. Such right cannot be extinguished even if the husband does not wish to use it.

Article 79: Recoverability by the Husband of His Wife during the Legally Prescribed Waiting Period

If the husband takes his wife back during the legally prescribed waiting period, he thus maintains the marriage that is still existent. His *Rujou'* [return to his wife or recoverability of the divorce] shall not be conditional to the wife's consent, nor shall a new dowry be required from him.

Article 80: The Recoverability that Is Associated with a Condition or with Time

The recoverability, which is associated with a condition or with a future time, shall not be valid²⁷.

Article 81: Recoverability Following the Irrevocable Divorce

Recoverability following the first revocable divorce shall be valid. It shall also be as such after the second revocable divorce. The sentence that complements the three pronouncements of divorce shall affect the major irrevocability.

Article 82: Effect of the Irrevocable Divorce

The irrevocable divorce shall remove the matrimonial status immediately. The said irrevocable divorce, regardless of whether it occurred with one or two pronouncements of divorce, shall not proscribe the renewal of the marriage. Following the three pronouncements of divorce, however, the major irrevocability shall be affected therewith.

Article 83: Effect of the Major Irrevocability

The major irrevocability shall cease with the marriage of the [irrevocably divorced] woman, after expiration of her legally prescribed waiting period, to another husband not with the intention of *Tahlil* [to divorce her as well so that the first husband may marry her again]. She shall come to be lawful to the first husband after her separation from the second husband and on condition of the consummation of marriage and the lapse of the legally prescribed waiting period.

²⁷ Note from the editor: that means that the husband who wants to take his wife back cannot reunite based on conditions or decide that it will only happen in the future.

Chapter III

On Separation by the Judge's Ruling

Article 84: The Cases in which the Wife Resorts to the Judge to Request Divorce

The woman who is void of any deficiency that prevents the consummation of marriage shall be entitled, in the event she learns that an ailment in her husband prevents the consummation of marriage, to report to the judge and request that she be separated from her husband. The request of the woman who has such a deficiency shall not be heard. Furthermore, the wife with whom marriage was consummated shall not have the right to a choice because of the occurrence of such a deficiency.

Article 85: Termination of the Wife's Right to a Choice

The wife who knows prior to the conclusion of marriage about her husband's deficiency which prevents the consummation of marriage, with the exception of impotence, or who is satisfied after the marriage with the existing deficiency whatsoever it is, shall have her right to choose terminated. In contrast, her awareness prior to the marriage of the impotence of her husband shall not terminate the right to a choice.

Article 86: Remediable and Irremediable Deficiency

In the event the wife reports to the judge, as it is prescribed under the previous two Articles, the matter shall be examined as follows: if the deficiency is irreparable, the judge shall rule for the separation between them immediately. If the deficiency is remediable, the judge shall give the husband a respite of one (1) year from the time of the incident or from the time at which the husband was cured in case he had been ill. If one of the spouses becomes ill during the prescribed term, for a period that is either short or long, in a manner that prevents the consummation of marriage or if the wife is absent, the period that elapses in that manner shall not be counted within the period of the prescribed term. However, the absence of the husband and the days of menses of the wife shall be counted. In case the deficiency does not vanish during this

period and the husband was not satisfied with the divorce, but the wife insisted on her request, the judge shall rule for the separation. In the event the husband claimed at the onset or at the conclusion of the incident that he reached her, the matter shall be examined as follows: if the wife was previously wedded, the husband may make a statement under oath. If she was a virgin, she shall make a statement without an oath.

Article 87: Appearance of a Deficiency in the Husband after the Marriage

In the event it appears to the wife after the consummation of marriage that the husband is afflicted with a defect, where it would be impossible to reside with him without incurring an injury, or in the event such deficiency has affected him lately, the wife shall be entitled to report to the judge and request that her marriage be dissolved from him. If hope for the disappearance of the deficiency exists, the judge shall postpone the separation for one (1) year. In case the deficiency does not vanish within such period and the husband did not accept the divorce but the wife insisted on her request, the judge shall rule for the dissolution. On the other hand, the existence of a deficiency, such as blindness and lameness, in the husband may not necessitate the separation.

Article 88: Insanity of the Husband

In the event the husband becomes insane after the conclusion of marriage and the wife reports to the judge, requesting that she be separated, the judge shall put off the separation for a period of one year. If the insanity does not vanish during this period and the wife insists on her request, the judge shall rule for the separation.

Article 89: The Divorce Effected by Separation Due to a Deficiency

The separation due to a deficiency shall be an irrevocable divorce.

Article 90: The Nature of the Wife's Choice

The wife's choice shall not be immediate in the circumstances in which she has a choice. She shall be entitled to delay the action or leave it for a period after it was instituted.

Article 91: Termination of the Wife's Right to a Choice upon the Renewal of the Contract

In case the two parties renew the contract after the separation in accordance with the previous Articles, the wife shall not be entitled to the right to a choice in the second marriage.

Article 92: Execution of the Judgement on Alimony on the withholding Husband

In the event the husband abstains from spending on his wife: if he had a manifest property, the judgement shall be executed against him as to pay the alimony from his own property. If he did not have a manifest property and he was solvent but insisted not to spend, the judge shall separate the wife by divorce immediately.

Article 93: Execution of the Judgement on Alimony on the Absent Husband

In the event the husband was absent for a short period: if he had a manifest property, the judgement on alimony shall be executed on his property. If he did not have a manifest property, the judge shall warn him through the known means and prescribe a term for him: in case he did not send what the wife spends on herself and did not attend to spend on her, the judge shall separate her by divorce following expiration of the prescribed term. In the event he was absent for a long period whereby it was not easy to reach him, his place of residence was unknown, or he was missing and it was proven that he did not possess property from which the wife can spend; the judge shall separate her by divorce.

Article 94: Separation Due to Absence

If the husband has been absent for one (1) year or more without an acceptable excuse, his wife may request that the judge divorce her in an irrevocable manner in the event she sustains an injury from his absence from her, even if he possesses money from which she can spend.

Article 95: Notification of the Absent Husband

In the event messages can reach the absent [husband], the judge shall set a term for him and warn him that he will separate the husband and wife by divorce should he not attend and reside with his wife, move her to him, or divorce

her. If the prescribed term expires and he does not do so, nor does he produce an acceptable excuse, the judge shall separate them by a pronouncement of irrevocable divorce. In case messages cannot reach the absent [husband], the judge shall separate the wife from him by divorce without a warning and a prescribed term.

Article 96: Separation by Divorce of the Wife of the Husband Who Is Sentenced to Confinement

The wife of the imprisoned [husband], who is finally sentenced to a freedom-restricting penalty for a term of three (3) years or more, shall be entitled to request that the judge, following the lapse of one (1) year from the date of his confinement, separate her irrevocably due to the damage [she sustained] even if he had property from which she can spend. The judge shall be entitled to separate her by divorce in an irrevocable manner.

Article 97: Separation of the Wife by Divorce Due to Dispute and Discord

In the event the wife claims that her husband caused damage to her in a manner with which the continuance of the marital life has become impossible amongst the like of her, she may request separation from the judge. Thenceforth, the judge shall separate her by divorce in case the damage is proven and he is incapable of reconciling them. If the request was first rejected, then the complaint was repeated and the damage was not demonstrated, the judge shall dispatch two arbiters and shall rule in the manner expounded under Articles 98, 99, 100, 101 and 102.

Article 98: Terms and Conditions of the Arbiters

It shall be a condition precedent that the two arbiters be rightful men and be from the family of the spouses, if possible. Otherwise, there shall be two others who possess experience in their [the spouses'] status as well as the capability of reconciliation between them.

Article 99: Obligations of the Arbiters

The arbiters must identify the causes of the dispute between the spouses and exert their

effort to reach reconciliation, as they deem possible.

Article 100: Arbiters' Incapability of Reconciliation between the Spouses

If the two arbiters are incapable of reconciliation and if the wrongdoing is on the part of the husband or on the part of both of them or if the situation was unidentifiable, they shall decide on the separation between them by one pronouncement of irrevocable divorce. In the event the wrongdoing is on the part of the wife, they shall decide to submit her to *Mukhala'ah* [divorce in return for a monetary compensation to be paid by the wife to the husband] for the whole of the dowry or for a portion thereof.

Article 101: Disagreement between the Arbiters

In case the two arbiters disagree, the judge shall order them to deliberate once more. Should the disagreement continue, the judge shall appoint two others as arbiters.

Article 102: Reporting the Arbiters' Decision to the Judge

The two arbiters shall report to the judge what they have decided and the judge shall enter a ruling accordingly, if it is consistent with the legal norms.

Title III

Chapter I

On the Provisions of `Iddah [A woman's legally prescribed waiting period after divorce from (or death of) the husband]

Article 103: The Duration of the Legally Prescribed Waiting Period of the Menstruating Woman

The duration of the legally prescribed waiting period of the woman, who was married in accordance with a valid contract and who was separated from her husband following the consummation of marriage through a divorce or dissolution, shall be three (3) complete menstrual

periods [(monthly) courses] in the event that she was not pregnant and has not attained the age of menopause. If she claims before the expiration of three (3) months that her legally prescribed period has elapsed, such a claim shall not be admitted.

Article 104: The Duration of the Legally Prescribed Waiting Period of the Non-menstruating Woman

In the event the divorced woman who is in the legally prescribed waiting period does not see menses at all or saw it once or twice then the menses discontinued, the matter shall be examined as follows: if she has attained the age of menopause, she shall wait for three (3) months as of the time she attains it. If she has not reached it, a lunar year shall be counted for her.

Article 105: The Duration of the Legally Prescribed Waiting Period of the Woman Who Attained the Age of Menopause

The legally prescribed waiting period of women who were married in accordance with a valid contract and who separated from their husbands after the consummation of marriage through a divorce or dissolution shall be three (3) months in the event they have attained the age of menopause.

Article 106: The Scope of Implementation of the Previous Provisions

The provisions under the previous Articles shall be applicable to women with whom marriage was consummated on the basis of a void marriage, and who then were separated from their husbands or their husbands died.

Article 107: The Legally Prescribed Waiting Period of Non-Pregnant Women Married in Accordance with a Valid Contract

In the event their husbands died, the women who were married in pursuance of a valid contract, with the exception of pregnant women, shall wait, keeping themselves apart for four (4) months and ten (10) days regardless of whether the marriage was consummated or not.

Article 108: The Legally Prescribed Waiting Period of the Pregnant Woman Married on the Basis of a Valid Contract

In the event the woman, who was married in accordance with a valid contract, parts with her husband through divorce or dissolution or in the event her husband died while she was pregnant, she must wait, keeping herself apart, until she gives birth. In case she miscarries, the matter shall be examined as follows: if the baby was of a manifest physique, the case shall be like the giving of birth. Otherwise, she shall be treated in accordance with the provisions drawn up under the previous Articles. The provisions of these Paragraphs shall also be applicable to pregnant women who were married in accordance with a void contract in the event they were separated from their husbands or if the latter died.

Article 109: Commencement of the Legally Prescribed Waiting Period

The principle of the legally prescribed waiting period, which is mentioned under the previous Articles, shall be applicable to the divorce, occurrence of the dissolution, or death of the husband, even if the wife was not divorced in these circumstances.

Article 110: Cases in which the Legally Prescribed Waiting Period Is Not Required

In the event the divorce or dissolution was affected before the valid or void contract was confirmed by privacy [staying alone with the wife] or consummation of marriage, the legally prescribed waiting period shall not be required.

Article 111: Effect of a Death on the Divorce-related Legally Prescribed Waiting Period

In the event the husband of a woman who is in the waiting period prescribed for the revocable divorce died, the waiting period of the divorce shall end and the waiting period prescribed for death shall be incumbent on her. In contrast, if she was irrevocably divorced, the waiting period prescribed for death shall not be incumbent on her and she shall complete the waiting period of the divorce.

Chapter II

On the Alimony of the Legally Prescribed Waiting Period

Article 112: Incumbency of the Alimony of the Woman in Her Legally Prescribed Waiting Period

The husband shall be duty bound to the alimony of his wife who is in the legally prescribed waiting period as of the date of the divorce.

Article 113: Abatement of the Alimony for the Divorced Woman in the Waiting Period in the Event of Her *Nushuz* [Violation of Marital Duties]

The divorced woman, during her *Nushuz*, shall not receive alimony during her legally prescribed waiting period.

Article 114: Nonexistence of Alimony for the Waiting Period Prescribed for [the Husband's] Death

The woman whose husband died, regardless of whether she was pregnant or not, shall not receive alimony for the legally prescribed waiting period.

Article 115: Abatement of Alimony because It Was Not Estimated Prior to the Expiration of the Duration of the Legally Prescribed Waiting Period

Alimony shall abate in the event the duration of the legally prescribed waiting period had expired before a judicial ruling or mutual consent estimated the alimony.

Article 116: Non-abatement of the Due Alimony with Death

The due alimony shall not abate with the death of one of the spouses.

Article 117: Lineage

Upon denial, the case on the lineage of the child of a wife, whose meeting with her husband has not been proven since the date of the contract, shall not be heard, nor shall it be heard for the

child of a wife born after more than one (1) year from the time of the divorce or death.

Article 118: Custodianship

The judge shall be entitled to permit a woman custodianship of a male child aged seven (7) to nine (9) years old and of a female child aged nine (9) to eleven (11) years old in the event it appears that it is in their best interest.

Article 119: Adjudication of the Death of a Missing Person

The death of a missing person who most probably has been dead shall be adjudicated following the lapse of four (4) years from the date of his being missing. In the event the husband was absent in war, the judge shall separate them by divorce after the lapse of one (1) year, as the two combatants' parties and their captives return to their countries. In both cases, the wife shall commence the legally prescribed period for the death [of her husband] as of the date of the adjudication. In all other cases, the matter of the period, following which the death of the missing man is adjudicated, shall be vested in the judge after conducting an investigation about him through all the possible means that would lead to the knowledge of whether the missing man is alive or dead.

Article 120: The Legally Prescribed Waiting Period of the Wife of a Missing [Husband] and the Distribution of His Estate

Following the adjudication of the death of a missing [husband] in the manner expounded under the previous Article, his wife shall commence the waiting period legally prescribed for death and his estate shall be divided between his present heirs at the time of the adjudication.

Article 121: The Return of the Missing [Husband] and His Right to His Wife

In the event the missing [husband] returned or did not return but it appeared that he was alive, his wife shall continue to be married to him unless the second [husband] has had sexual intercourse with her whilst he was unaware of the life of the first. In case the second has had sexual intercourse with her unknowing of the first husband being alive, the wife shall continue

to be married to the second husband unless his contract was concluded during the waiting period prescribed for the death of the first husband.

General Provisions

Article 122: Number of the Days of the Year

What is intended by the year provided for under Articles 94, 96 and 117 shall be a year with 365 days.

Article 123: Repealing by Contradiction

All that contradicts this Order shall be repealed.

Article 124: Entry into Force

This Law shall enter into force as of the date of its publication in the *Official Gazette*.

Brigadier

Abdullah Rif'at

The Administrative Governor General

Shari'a Court Procedures Law No. 12 of 1965²⁷

Article 78 Witnesses' Testimonies

The testimonies of the witnesses shall be sufficient for rendering a judgment on any type of alimony, or on expenses arising from custody, breastfeeding, and housing, as well as for satisfying the conditions related to such judgments.

Article 192: Circumstances in which the Execution of a Judgment Shall Not Be Suspended

The appeal shall suspend the execution of a judgment except under either of the following circumstances:

1. When a judgment orders the payment of alimony, or other expenses arising from breastfeeding, housing, and custody, or the delivery of a child to his/her mother;
2. When the provisional execution of a judgment is ordered in matters of urgent nature, or in matters where a delay in the execution is likely to cause an injury.

Article 219: Exception to the Judgment for Obedience

The execution of the judgment keeps the child with his/her guardian, and shall be coercive in relation to the separation of the spouses or any other relevant personal status matters, except by a ruling. Should the wife fail to comply with the judgment, she shall be construed as disobedient, and the judgment to deliver the child shall be executed again whenever necessary.

Title II

Provisional Execution

Article 220: Provisional Execution

Notwithstanding appeal, provisional execution applies in respect of any judgment ordering the payment of alimony, or other expenses arising from custody, breastfeeding, and housing, or ordering the delivery of a child to his/her mother, or the discharge of a trustee, guardian, or custodian.

²⁸ Applicable in the Gaza Strip.

Jordanian Personal Status Law of 1976

Chapter I

On Marriage and Betrothal

Article 1: Title of the Law

This Law shall be entitled the "Law of Personal Status of 1976" and shall enter into force as of the date of its publication in the *Official Gazette*.

Article 2: Marriage

Marriage shall be a contract between a man and a woman, who is legally permissible to him, for the constitution of a family and production of progeny between them.

Article 3: Conclusion of the Marriage

Marriage shall not be concluded by the betrothal, promise, recitation of the *Surat Al Fatihah* ["The Opening"] – the first chapter of the Holy Qur'an, receipt of anything on account of the dowry, nor by the acceptance of a gift.

Article 4: Desistance from the Betrothal

Each fiancé and fiancée shall be entitled to desist from the betrothal.

Article 5: Conditions of Eligibility for Marriage

It shall be a condition precedent to the eligibility for marriage that the fiancé and fiancée are of sound mind and that the fiancé has completed sixteen (16) years of age and the fiancée has reached fifteen (15) years of age.

Article 6: *Al 'Adl* (Barring) by the Guardian

1. The judge shall have the right, upon request, to wed a virgin who has reached fifteen

²⁹ Applicable in the West Bank.

(15) years of age to a fit man in the event the guardian has barred the marriage from occurring [as to unjustifiably prevent her from marriage], other than the father or grandfather from among the guardians without a legitimate reason.

2. On the other hand, in case her father or grandfather barred her from marriage, her request shall not be heard unless she has reached eighteen (18) years of age and the barring was without a legitimate reason.

Article 7: Conclusion of the Contract

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

Article 8: Marriage of the Insane and Imbecile

The judge shall be entitled to permit the marriage of a person who suffers from insanity or imbecility in the event it is proven by a medical report that the marriage serves an interest for him/her.

Chapter II

Guardianship in Marriage

Article 9: The Guardian in Marriage

The guardian in marriage shall be the agnate relative himself in accordance with the order prescribed by the prevailing statement in the Abu Hanifah School of Thought.

Article 10: Conditions of the Eligibility of the Guardian

It shall be a condition precedent that the guardian is of sound mind and an adult and be a Muslim in the event the fiancée is a Muslim.

Article 11: Consent of the Guardians

The consent of one of the guardians to the fiancé shall revoke the objection of others in case they are equal in grade. The consent of the more distant guardian upon absence of the closer guardian shall revoke the right of objection of the absent guardian. The guardian's consent shall be regarded as evidence of his explicit consent.

Article 12: Absence of the Guardian

In the event the closer guardian is absent, and waiting for him might cause the loss of the fiancée's interest, the right to guardianship shall be transferred to his successor. If it is impossible to consult with his successor immediately or if the latter does not exist, the right to guardianship shall be transferred to the judge.

Article 13: Marriage of the Previously Married Woman without a Guardian

The consent of the guardian shall not be stipulated as a condition in the marriage of the previously wedded woman who is over eighteen (18) years of age.

Chapter III

The Marriage Contract

Article 14: Conclusion of the Marriage

The marriage shall be concluded with the offer and acceptance of the suitors or their representatives in the council of the contract.

Article 15: The Manner of the Offer and Acceptance

The offer and acceptance shall be in the explicit expressions, such as 'giving in marriage' and 'marriage', and shall be for the person who is incapable thereof by his known sign.

Article 16: Conditions of the Valid Conclusion of Marriage

It shall be a condition precedent for the contract of marriage to be valid that two witnesses be present – two Muslim men or one Muslim man and two Muslim women (in the event the spouses are Muslims), who are of sound mind, are adults, and who shall hear the offer and acceptance, and understand the meaning thereof. The testimony of the antecedents and descendants of the fiancé and fiancée to the contract shall be permissible.

Article 17: Obligation of the Registration of the Contract

- a. The fiancé must report to the judge or his deputy in order to conclude the contract.
- b. The contract of marriage shall be concluded by the marriage officer authorised by virtue of an official document and may be performed by the judge himself, acting in an ex officio capacity, by permission of the Chief Justice.
- c. In the event the marriage is concluded without an official document, each concluder of the contract, spouses and witnesses shall be punished by the penalty prescribed under the Jordanian Penal Law and by a fine not exceeding one hundred (100) Dinars.
- d. Any marriage officer who fails to register the contract on the official document following the satisfaction of the fee shall be punished by the two penalties referred to under the previous Paragraph, and shall be dismissed from office.
- e. The religious judge shall appoint the marriage officer upon approval of the Chief Justice. The Chief Justice shall issue forth the instructions that he deems fit for the regulation of the tasks of the marriage officers.

Registration of the Marriage and Divorce:

- f. The Muslim consuls of the Hashemite Kingdom of Jordan outside the Kingdom shall perform the marriage contracts and hear the report on divorce for the Jordanian subjects who are present outside the Kingdom and shall register such documents on their designated registers.

g. The word 'consul' shall include the ministers of the Hashemite Kingdom of Jordan, including the commissioners and Charge d'Affaires of these commissions and their consultants or their representatives.

Article 18: Non-Conclusion of the Marriage

Neither the marriage that is ascribed to the future nor that which is dependent on an unfulfilled condition shall be concluded³⁰.

Article 19: Conditions of the Husband and Wife

In the event a condition that is beneficial to one of the parties, without prejudice to the purpose of marriage and that does not prescribe a commitment to a legally prohibited act, and is registered on a contract document, it must be observed in accordance with the following:

1. In the event the wife stipulates to her husband a condition, that brings her benefit that is not legally prohibited, nor does it infringe upon the right of a third party, such that she stipulates that he shall not remove her from her country, or that he shall not take another wife during their marriage, or that he shall delegate to her the power to divorce if she thus desires, or that he shall settle her in a certain country, the condition shall be valid and binding, and if the husband does not satisfy it, the contract shall be dissolved upon the request of the wife and she may claim all her matrimonial rights from him.
2. In the event the husband stipulates to his wife a condition that brings him a benefit that is not legally prohibited nor does it infringe upon the rights of a third party, such that he stipulates that she does not work outside the house or that she lives in the country where he works, the condition shall be valid and binding. Should the wife not meet it, the contract shall be dissolved upon the request of the husband and he shall be exempted from her deferred dowry and from the alimony of her *`iddah* [A woman's legally prescribed waiting period after divorce from (or death of) the husband].

³⁰ Note from the editor: this means that the marriage contract is not valid if it contains a clause related to unfulfilled conditions or something that is supposed to take place in the future.

3. By contrast, in the event the contract is stipulated to a condition that contradicts its goals or prescribes a commitment to what is legally prohibited, such that if one of the spouses stipulates that the other shall not live with him/her, or that they shall not share marital intimacy, or that one of them shall drink alcohol, or that one of them shall break off relationships with their parents, then the condition shall be void and the contract shall remain valid.

Chapter IV

Fitness

Article 20: Conditions of Fitness

It shall be a condition precedent to the requirement of marriage that the man be fit for the woman in terms of property; that is, the husband shall be capable of the dowry in advance and of the maintenance of the wife. Fitness shall be observed at the time of the contract. If it disappears thereafter, such shall not affect the marriage.

Article 21: Unawareness of Fitness

If the guardian marries off a virgin or a previously wedded woman with her consent to a man, whose fitness they both do not know, then it appears that he is unfit, neither shall have the right to object. However, if the fitness was stipulated at the time of the contract or if the husband noted that he was fit, and then it appeared that he was not, each of the wife and guardian shall be entitled to report to the judge in order to dissolve the marriage. If he was fit at the time of the dispute, however, no one shall have the right to request the dissolution.

Article 22: Denial by an Older Woman of the Existence of the Guardian

In the event a virgin or a previously wedded woman, who has reached at least eighteen (18) years of age, denies the existence of a guardian for her and marries herself to a man, then a guardian appears for her, the matter shall be examined as follows: in case she married herself to a fit man, the contract shall be incumbent even if the dower is lower than the *Mahr al*

Mithl [dower of the like or proper dower]. If she married herself to an unfit man, the guardian shall be entitled to request that the judge dissolve the marriage.

Article 23: Unfitness Necessitates Dissolution before, Not after, Pregnancy

The judge shall be entitled, upon a request, to dissolve the marriage due to the unfitness of the husband unless the wife has conceived a child of his from his matrimonial bed. Following the pregnancy, the marriage shall not be dissolved.

Chapter V

Al Muharramat [Women Unmarriageable to Certain Men]

Article 24: Permanent Unlawfulness of Marriage because of a Blood Relationship

It shall be prohibited on a permanent basis that a man marries a woman from among his blood relatives. These are four:

1. His mother and grandmothers;
2. His daughters and granddaughters and their descendants, if any;
3. His sisters, the daughters of his brothers and sisters, and their daughters and their descendants, if any; or
4. His paternal and maternal aunts.

Article 25: Permanent Unlawfulness of Marriage because of a Relationship by Affinity

It shall be prohibited on a permanent basis that a man marries a woman whom he has a relationship by affinity. These are of four types:

- a. The wives of the man's sons and the wives of his grandsons;
- b. The mother of his wife and her grandmothers on an absolute basis;
- c. The wives of the man's father and the wives of his grandfathers; or
- d. His step-daughters; that is the daughters of his wife and the daughters of his stepsons.

Consummation of the marriage with the wives shall be a condition of the fourth type.

Article 26: Permanent Unlawfulness of Marriage because of Wet-Nursing

What is prohibited from the blood kinship shall also be prohibited on a permanent basis from wet-nursing with the exception of what is expounded in the School of Thought of Imam Abu Hanifah.

Article 27: Women Unlawfully Able to Be Married on a Temporary Basis

The contract with the wife of another man or his [divorced or widowed] wife during her legally prescribed waiting period shall be prohibited.

Article 28: Prohibition of Marriage

Each man who has four wives or wives during their legally prescribed waiting periods shall be prohibited from concluding his marriage with another woman before he divorces one of them and her waiting period expires.

Article 29: Restriction on Marriage

The man who has divorced his wife shall be prohibited from marrying a blood relative of hers so long as she is in the legally prescribed waiting period.

Article 30: The Woman Unlawfully Able to be Married because of a Major Irrevocable Divorce

The man who gives a sentence of divorce to his wife on three separate occasions in three councils shall be prohibited from marrying her unless her waiting period from another husband, with whom she consummated marriage, expires.

Article 31: The Prohibition of Marriage to Two Women with a Prohibiting Blood or Wet-Nursing Relationship between Them

It shall be prohibited to marry two women with a prohibiting blood or wet-nursing relationship between them, whereby if one of them had been presumed to be a male, she would not be allowed to marry the other.

Chapter VI

Types of Marriage

Article 32: The Valid Marriage

The marriage contract shall be valid and shall produce its effect once its pillars and all of its conditions are satisfied.

Article 33: The Invalid Marriage

Marriage shall be invalid in the following cases:

- a. Marriage of a Muslim woman to a non-Muslim man.
- b. Marriage of a Muslim man to a woman who is not from the People of the Book.
- c. Marriage of a man to a woman from among the blood relatives to whom it is unlawful to be married. These are the types expounded under Articles 24, 25, and 26 under this Law.

Article 34: The Void Marriage

Marriage shall be void in the following cases:

- a. In the event the two parties or one of them did not possess the eligibility conditions at the time of the contract.
- b. If the marriage contract was without witnesses.
- c. If the marriage was concluded with coercion.
- d. If the witnesses of the contract did not possess the legally required specifications.
- e. If the marriage contract was concluded with one of the two women, the combination of which is prevented because of a prohibiting blood or wet-nursing relationship.
- f. The *Mut'ah* marriage, or temporary marriage.

Chapter VII

The Provisions of Marriage

Article 35: Obligation of the Dowry, Alimony and Inheritance

In case the contract is valid, the dowry and alimony shall be incumbent therewith for the wife by the husband and the right to an inheritance shall be established between them.

Article 36: The House

The husband shall prepare a house that contains the legal essentials in accordance with his means and in the place of his residence and address.

Article 37: Obligation of Residence in the Husband's House

The wife, after the receipt of her advance dowry, must obey and reside in the legal house of her husband and move with him to any place the husband wants even if it were outside the Kingdom, on condition that he be trustworthy for her and that the contract document does not entail a stipulation requiring otherwise. Should the wife refrain from obedience, her right to alimony shall be revoked.

Article 38: The Wife's Exclusive Right to the House

The husband shall not be entitled to lodge his family and relatives or his son who has reached the age of puberty and who is not mentally ill with him without the consent of his wife in the house, which he prepared for her. Excepted from this shall be his poor, disabled parents in case he cannot sustain them independently and their presence with him is expedient. However, such shall not prevent marital association. In addition, the wife shall not be entitled to house her children with another man or her relatives without the consent of her husband.

Article 39: Consorting in Kindness

The husband must consort with his wife in kindness and treat her with courtesy. The woman must obey her husband in the lawful matters.

Article 40: Prevention of the Accommodation of Fellow Wives in One House

Each man with more than one wife must do justice to them and treat them as equals. He shall not be entitled to accommodate them in a single house except with their consent.

Article 41: Status of the Invalid Marriage

The invalid marriage, regardless of whether a consummation of marriage has occurred therein or not, shall not denote a status in itself. Thereupon, the provisions of the valid marriage, such as alimony, parentage, a legally prescribed waiting period, and unlawfulness of marriage because of a marriage kinship and inheritance, shall not be established thereby between the spouses.

Article 42: Status of the Void Marriage

The void marriage, in which the consummation of marriage has not occurred, shall not denote a status in itself. However, if the consummation of marriage has occurred therein, the dowry and the waiting period shall be incumbent therewith and the parentage and unlawfulness of the marriage due to a marriage relationship shall be established. The rest of the provisions, such as inheritance and alimony, shall not be incumbent before or after the separation.

Article 43: Continuance by the Spouses of the Invalid and Void Marriage Shall Be Forbidden

Continuance by the spouses of the invalid and void marriage shall be forbidden. In case they do not separate, the judge shall separate them once it is demonstrated in trial in the name of the legal public interest. The act of voiding the marriage shall not be heard due to a minor's age in the event the wife gave birth or was pregnant or the two parties were in possession of the conditions of eligibility at the time of the action was instituted.

Chapter VIII

The Dowry

Article 44: The Defined Dowry and the Proper Dowry

The dowry is of two types: The defined dowry which the two parties define at the time of the

contract, regardless of whether it is little or considerable. The proper dowry shall be the proper dowry of the wife and her counterparts from her paternal side. In the event counterparts from her paternal side do not exist, then those from among her counterparts among the residents of her town may be selected.

Article 45: Advancing and Deferring the Payment of the Dowry

Payment of the defined dowry may be advanced or deferred, wholly or partly, provided that such is supported by a written document. In the event the deferment is not announced, the dowry shall be offered in advance.

Article 46: Abatement of the Term with the Death of the Husband

In the event a term is allotted for the deferred dowry, the wife shall not be entitled to claim it prior to the maturity of the prescribed term even if the divorce occurs. In contrast, if the husband dies, the prescribed term shall abate. It shall be a condition precedent in the prescribed term that if the prescribed period was not well-defined, like until solvency or until it is requested or until the wedding, the term shall be invalid and the dowry shall be advanced. In case the term was not defined, the dowry shall be deemed to be deferred until the occurrence of divorce or the death of one of the spouses.

Article 47: The Defined Term

In case the wife receives the advanced dowry and its accessories or in case she consents to the deferment of the dowry or the accessories, wholly or partly, for a defined term, she shall not have the right to refrain from obedience. Such shall not prevent her from claiming her right.

Article 48: Exigency of the Defined Dowry in the Contract

Once a dowry is defined in the valid contract, it shall be requisite to pay it in full upon the death of one of the spouses or upon the divorce following the valid consummation of marriage. In contrast, if the divorce occurs before the sexual intercourse and valid consummation of marriage, half of the defined dowry shall be incumbent.

Article 49: Abatement of the Dowry

In the event a separation occurs upon a request from the wife due to the existence of a deficiency or ailment in the husband or if the guardian requests a separation because of unfitness and such was prior to the sexual intercourse and valid consummation of marriage, the whole of the dowry shall abate.

Article 50: Dissolution of the Contract

In case the contract was dissolved prior to the sexual intercourse and consummation of marriage, the husband shall be entitled to recover the dowry that he paid.

Article 51: The Separation that Necessitates the Abatement of the Dowry

The separation, where half of the defined dowry must be incumbent before the sexual intercourse *ipso facto* or *ipso jure*, shall be the separation that was effected by the husband, regardless of whether it was a divorce or dissolution, such as separation by *Ila'* [a husband's oath not to have a sexual intercourse with his wife for a certain period], *Li'an* [a form of separation that happens between a husband and wife after an oath which is taken by the couple if any of them accuses the other of committing adultery], impotence, apostasy and rejection of Islam in case his wife converted to Islam, and the husband's performance of what necessitates the prohibition of the relationship by affinity.

Article 52: Abatement of the Dowry as a Whole

The dowry shall abate as a whole in the event the separation was effected by the wife, such as her apostasy or rejection of Islam, in the event her husband converts to Islam and she was not from the People of the Book, or by her performance of what necessitates the prohibition of the relationship by affinity with the descendants or antecedents of her husband. In the event she received anything from the dowry, she must restore it.

Article 53: Abatement of the Wife's Right to the Dowry upon Dissolution

The wife's right to the dowry shall be revoked in the event the contract was dissolved upon a

request from the husband due to a deficiency or ailment of the wife prior to sexual intercourse. The husband shall be entitled to claim from her the dowry that he paid.

Article 54: Exigency of the Proper Dowry

If the dowry was not defined in the valid contract, or if the husband married the wife on the condition that she will not have a dowry, or if the dowry was defined but the definition was void, the proper dowry shall be incumbent.

Article 55: Necessity of the *Mut'ah* [Money or Property Given to a Divorced Woman]

In the event divorce occurs prior to the definition of the dowry and prior to sexual intercourse and the valid consummation of marriage, the *Mut'ah* [money or property given to the divorced wife] shall be imperative. The *Mut'ah* shall be identified in accordance with the customary practice and tradition according to the husband's means, provided that it does exceed half (1/2) of the proper dowry.

Article 56: Separation

In the event a separation occurs after entry into the void contract, the matter shall be examined as follows: if the dowry was defined, the lesser of the defined dowry and proper dowry shall be incumbent. In case the dowry was not defined or the definition was void, the proper dowry shall be incumbent whatsoever its amount is. In case the separation occurs before the consummation of marriage, the dowry shall originally not be incumbent.

Article 57: Disagreement on the Definition of the Dowry

In case a disagreement occurs in the definition of the dowry and the definition was not established, the proper dowry shall be incumbent. However, if the person who claimed the definition was the wife, the dowry must not exceed the amount that she claimed. If the claimant was the husband, the dowry shall not be less than the amount that he claimed.

Article 58: Disagreement on the Amount of the Dowry

In case the spouses disagree about the amount of the defined dowry, the onus of proof shall be

upon the wife. In the event she fails, the husband shall make the statement under oath unless he claimed what does not fit to be a proper dowry for her in pursuance of the customary practice, in which case a judgement shall be given in favour of the proper dowry. Likewise, such judgement shall be applicable in the case of disagreement between one spouse and the heirs of the other spouse or between their paternal heirs.

Article 59: The Dowry Lawsuit Shall Not Be Heard If It Contravenes the Contract Except under a Deed

When the spouses disagree about the dowry established in the contract, the lawsuit shall not be heard in the event it contradicts the established contract document unless there is a written deed indicating their agreement at the time of the marriage to a dowry other than the dowry mentioned in the document.

Article 60: Marriage during Death/Illness and the Request of the Dowry

If a person marries in his death/illness, the matter shall be examined as follows: in case the defined dowry was equal to the proper dowry of the wife, the wife shall take it from the estate of the husband. In case it exceeds it, the provisions of the bequest shall be applicable to the excess.

Article 61: The Dowry Is a Right of the Wife

The dowry is property of the wife. Therefore, she shall not be obliged to prepare the trousseau from it.

Article 62: Recovery of the Dowry Paid Prior to the Contract

The parents or a relative of the wife may not take from the husband dirhams [money] or anything else in consideration for giving her in marriage or handing her to him. The husband shall be entitled to recover the in kind object that was taken from him in case it still exists or to recover its value in case it deteriorated.

Article 63: Raise and Reduction of the Dowry

The husband shall be entitled to raise the dowry after the contract and the wife shall be entitled to reduce it in the event the spouses are eligible

to do so. Such [modifications] shall be annexed to the original contract in case the other party consents to a raise or a reduction at the time.

Article 64: The Father and Paternal Grandfather Shall Be Entitled to Receive the Dowry of a Virgin

The father and paternal grandfather shall be entitled to receive the dowry of a virgin, even if she is of full capacity that her guardian receives her dowry whether he is a father or a grandfather, on the condition that she does not prohibit the husband from paying it.

Article 65: The Conclusion of Marriage

In the event the fiancée abstains or the fiancé recoils or one of them dies prior to the conclusion of marriage, all that was paid on the account of the dowry and which still exists, the fiancé shall restore it in kind. If it was lost by the disposition thereof or had deteriorated, he shall recover its value if it was in kind and its equivalent if it was monetary.

In contrast, the other things that one of them gave to the other by way of a gift shall be subject to the provisions of the gift.

Chapter IX

Alimony of the Wife

Article 66: Types of Matrimonial Alimony

1. The wife's alimony shall include food, clothing, accommodation and medication to the fair extent [of provision], as well as the service of the wife whose counterparts have servants.
2. The husband shall be bound to pay alimony to his wife in the event he abstains from spending on her or in case his omission is established.

Article 67: Exigency of the Alimony

It shall be incumbent upon the husband to provide alimony to the wife even with the discrepancy of religion as of the date of the valid contract and even if she is resident in the house of her family unless he demands that she

move [to his house] but she refrained without a legitimate right. She shall have the right to refrain when the husband does not pay her advanced dowry to her or when he does not prepare a legal house for her.

Article 68: Restriction of the Alimony

The wife who works outside the house without the husband's consent shall not receive alimony.

Article 69: No Alimony with *Nushuz* [The Wife's Violation of Marital Duties]

In case the wife becomes recalcitrant, she shall not receive alimony. The *Nashez* [recalcitrant] is the woman who leaves the matrimonial house with a legitimate justification or prevents the husband from entering her house before she requests movement to another house. Her departure from the house shall be deemed legitimate and justified only when her husband harms or mistreats her.

Article 70: Imposition of Alimony According to the Husband's Means

Matrimonial alimony shall be prescribed in accordance with the husband's means, whether [he is] solvent or insolvent. It may be increased or decreased in line with his means, provided that it is not less than the minimum limit of the food and apparel that are necessary for the wife. Alimony shall be imperative either with the mutual consent of the spouses to a certain proportion or by the judge's ruling. Alimony associated with the period that precedes the mutual consent or request from the judge shall abate.

Article 71: Non-hearing of the Lawsuit on the Adjustment of Alimony

The lawsuit on the increasing or reducing of the prescribed alimony shall not be heard before six (6) months have elapsed from its imposition, unless exceptional emergencies apply, such as a rise in prices.

Article 72: The Expedited Alimony

Alimony shall be expedited. In the event death or divorce occurs after the wife utilises it, it may not be restored.

Article 73: Imposition of Alimony on the Husband

In the event the present husband refrains from spending on his wife and the wife requests alimony, the judge shall assess her alimony as of the day of the request and shall order that it be paid in advance for the days that he designates.

Article 74: Alimony Shall Be a Debt Owed by the Husband in the Event of an Inability to Pay

In case the husband is incapable of spending on his wife and the wife requests alimony for her, the judge shall estimate it from the day of the request, provided that it shall be a debt owed by him [the husband] and he [the judge] shall permit the wife to borrow on the account of the husband.

Article 75: Imposition of Alimony on a Person Other than the Husband

In the event a judgement on the alimony is given in favour of the wife by the husband, but was impossible to collect from him, the person who is incumbent to spend on her shall be bound to the alimony as if she were assumed to be without a husband and he [the concerned person] shall have the right to claim it from the husband.

Article 76: In the Absence of the Husband, an Oath Shall Be Administered and the Evidence Established

In the event the husband was absent and left his wife without alimony and travelled to a close or distant location or in the event he was missing, the judge shall estimate her alimony as of the day of the request on the basis of the evidence that the wife establishes for the existence of the matrimonial status between them after he puts her under oath that her husband has not left any alimony for her and that she is neither recalcitrant nor a divorced woman, whose legally prescribed waiting period has expired.

Article 77: Imposition of Alimony for the Wife from the Property of Her Absent Husband

The judge shall impose as of the date of the request alimony for the wife of the absent husband from his property, whether it was movable or immovable, or upon his debtor

or upon his depositor who acknowledge the property and the matrimonial status or who denies them wholly or partly after proving the points of their denial with the legal evidence and after putting her in all cases under the previous legal oath.

Article 78: The Wage of the Midwife and Physician and the Price of Treatment Shall Be Incumbent on the Husband

The wage of the midwife and physician who are called for the purpose of delivery when needed, as well as the price of the treatment and expenses necessitated by the delivery, shall be incumbent on the husband to the acknowledged extent and in line with his means, whether the matrimonial status is existent or not.

Article 79: The Alimony of the Woman Who Is in the Legally Prescribed Waiting Period Shall Be Incumbent on the Husband

The husband shall be duty bound to the alimony of his wife who is in the legally prescribed period following a divorce, separation or dissolution.

Article 80: The Alimony of the Woman Who Is in the Legally Prescribed Waiting Period Shall Be Like the Matrimonial Alimony

The alimony of the legally prescribed period shall be like the matrimonial alimony and it shall be determined as of the date of the maturity of the waiting period in the event the divorced woman does not have a prescribed matrimonial alimony. If she has alimony, it shall extend towards the expiry of the waiting period, provided that it does not exceed one (1) year. The divorced woman shall be entitled to claim it when the document of divorce is served to her. In the event she is notified of the divorce by at least one (1) month prior to the expiration of the waiting period but she does not claim it until her waiting period expires, her right to alimony shall abate.

Article 81: No Alimony for the Woman in the Waiting Period in the Event of Her *Nushuz* [Violation of Marital Duties]

The divorced woman shall not receive, during her *Nushuz*, alimony for the legally prescribed waiting period.

Article 82: Expenses of Outfitting and Shrouding Shall Be Incumbent on the Husband

The husband shall incur the expenses of outfitting and shrouding his wife following her death.

Chapter X

General Provisions on Divorce

Article 83: Eligibility of the Husband for Divorce

The husband shall be eligible for divorce in the event he is competent.

Article 84: The Subject of Divorce

The subject of the divorce shall be the woman with whom a valid contract of marriage is concluded.

Article 85: The Multiplicity of Divorce

The husband shall possess three separate pronouncements to divorce his wife in three councils.

Article 86: Divorce Shall Take Effect by Utterance, Writing or Sign

Divorce shall take effect by utterance or in writing and shall be offered by those with a disability through his known sign.

Article 87: Delegation of a Third Party

The husband shall be entitled to delegate a third party in the divorce and to authorise his wife to initiate divorce by herself, provided that the entitlement is established in writing.

Article 88: Nullity of the Divorce

1. A divorce by the inebriated, astounded, coerced, imbecile and unconscious [man] shall not take effect.
2. The astounded is the man who lost his discretion due to anger or infatuation or else whereby he does not know what he says.

Article 89: Non-occurrence of the Divorce

The incomplete divorce shall not occur if it is intended to prompt the wife to do something under the threat of desertion.

Article 90: The Divorce that is Associated with a Period of Time

The divorce that is associated with a number either by utterance or by sign and the divorce that is repeated in a single council shall not effect but one pronouncement of divorce.

Article 91: Divorce by the Husband

If the husband divorces his wife voluntarily and willingly before the judge whilst he is in a legally eligible status or if he acknowledged the divorce whilst he is in such a state, a claim otherwise shall not be heard from him.

Article 92: The Oath with an Utterance

Divorce shall not take effect under oath with the utterance: "I swear I will divorce you" and "You are forbidden to me" and the like, unless the formula of the divorce entails addressing the wife or her proxy.

Article 93: The Valid *Raj'ah* [Recoverability]

The valid recoverability (return to one's divorced wife) shall take effect during the legally prescribed waiting period after the first and second pronouncements of divorce. Upon the third pronouncement of divorce, the situation shall be irrevocable.

Article 94: Divorce Complementing the Three Pronouncements

Each divorce that is affected shall be recoverable except for the one that complements the three pronouncements, as well as the divorce that precedes the consummation of marriage, the divorce for property [whereby the wife pays money to the husband in return for divorcing her], and the divorce that is prescribed to be irrevocable under this Law.

Article 95: Occurrence of Divorce with Explicit Expressions

The divorce shall take effect with explicit expressions and with what is commonly used in

the customary practice without need of intent. It shall also take effect with implicit expressions, which imply the meaning of divorce or else with intent.

Article 96: Conditional Pronunciation of the Divorce

Determining that the divorce is conditional or that it will take place in the future is [a] valid [decision]. The husband's revocation of the determination that the divorce is conditional or will take place in the future shall be unacceptable.

Article 97 The Recoverable Divorce

The recoverable divorce shall not remove the matrimonial status immediately. The husband shall have the right to take his wife back [revoke the divorce] during the legally prescribed waiting period either in word or in deed. Such right shall not be terminated and the *Raj'ah* [recoverability] shall not be conditional to the wife's consent nor shall a new dowry be requisite therewith.

Article 98: The Irrevocable Divorce

The irrevocable divorce, which is provided for under Article 93 of this Law, shall remove the matrimonial status at once.

Article 99: Renewal of the Marriage

In the event a divorce is irrevocable with one or two pronouncements of divorce, there shall not be a proscription as to renew the marriage thereafter with the consent of both parties.

Article 100: Cessation of the Major Irrevocable Divorce

The major irrevocable divorce shall cease with the marriage of the irrevocably divorced woman, whose legally prescribed waiting period expired, to another husband without the intention of *Tahlil* [to divorce her as well so that the first husband may marry her again]. It shall be a condition precedent that he [the other husband] consummates the marriage with her. After her divorce from him and the expiration of her legally prescribed waiting period, she shall come to be lawful to the first husband.

Article 101: Registration of Divorce

The husband must register his divorce before the judge. In case he divorced his wife outside the court and did not register it, he must report to the religious court for the registration of the divorce within fifteen (15) days. Each one who fails to do so shall be punished by the penalty provided for under the Jordanian Penal Law. The court must notify the wife of the divorce *in absentia* within one (1) week from its registration.

Chapter XI

Mukhala'ah [Divorce in Return for a Monetary Compensation to Be Paid by the Wife to the Husband]

Article 102: The Mukhala'ah

1. It shall be a condition precedent for *Mukhala'ah* to be valid that the husband be eligible for the effecting of the divorce and that the wife be subject to it.
2. In case the woman who has not attained the age of majority asks for *Mukhala'ah*, she shall not be bound to the compensation of the *Khul'* [an alternative word for *Mukhala'ah*] except with the approval of the guardian of the property.
3. In the event the compensation is void, the divorce shall be affected in a revocable manner. The compensation agreed upon shall not be incumbent on the wife to the husband in return for such divorce.

Article 103: Offer in the Mukhala'ah

Each party shall be entitled to revoke their offer in the *Mukhala'ah* prior to the acceptance of the other.

Article 104: Compensation for the Khul'

All that is legally valid to be committed to, shall be acceptable as compensation in the *Khul'*.

Article 105: The Mukhala'ah Shall Be Applicable to the Dowry and Others

In the event the *Mukhala'ah* relates to a property other than the dowry, it shall be imperative to

pay it. The parties to the *Mukhala'ah* shall be absolved of each right pertaining to the dowry and the matrimonial alimony.

Article 106: In the Case of Non-designation in the Mukhala'ah

In the event the parties to the *Mukhala'ah* do not designate anything other than the dowry at the time of the *Mukhala'ah*, each party shall be absolved of the rights of the other which pertain to the dowry and the matrimonial alimony.

Article 107: Denial of Compensation

In case the parties to the *Mukhala'ah* declare a denial of the compensation, the *Mukhala'ah* shall be as good as a mere divorce and a pronouncement of revocable divorce shall take effect with it.

Article 108: The Alimony of the Legally Prescribed Waiting Period Shall Not Abate Except by a Provision thereon in the Mukhala'ah

The alimony of the legally prescribed waiting period shall not abate unless it is explicitly provided for under the contract of *Mukhala'ah*.

Article 109: Claims by the Husband of the Compensation of the Mukhala'ah from the Wife

If a stipulation is made in the *Mukhala'ah* as to exempt the husband from the wage of breast-feeding or custodianship of the child or if he stipulates that she retains the child without a wage for a defined period or her spending on him but she married or left the child or died, the husband shall claim from her the equivalent of breast-feeding, custodianship and maintenance for the remaining period. However, if the child dies, the father shall not be entitled to claim anything from her for the period following the death.

Article 110: The Mother Requesting the Mukhala'ah

In the event the mother who requests the *Mukhala'ah* was insolvent at time of the *Mukhala'ah* or becomes insolvent thereafter, the father shall be obliged for the maintenance of the

child, and it shall be a debt owed to him by the mother.

Article 111: Validity of the *Mukhala'ah*

In case the man in the *Mukhala'ah* stipulates that he retain the child with him during the period of custodianship, the *Mukhala'ah* shall hold good and the stipulation shall be void. As such, the legal custodian of the child shall be entitled to take the child from him, and his father shall be bound to the maintenance of the child only if the child is poor.

Article 112: The Maintenance of the Child Shall Not Be Deducted from the Debt

The child's maintenance that is incumbent on the father and is a debt owed to the custodian of the child shall not be offset.

Chapter XII

Separation

Article 113: The Ailment that Permits the Dissolution of Marriage

The woman who is free of any deficiency that prevents the consummation of marriage shall be entitled to report to the judge and request a separation between her and her husband in the event she learns that he has an ailment that prevents him from consummating the marriage with her, such as being a eunuch, being impotent and/or being castrated. The request of the woman who has a deficiency, such as colpatresia [vaginal atresia] and uterine cornu [uterine horns] shall not be heard.

Article 114: The Wife's Knowledge of the Deficiency before the Contract of Marriage

The wife who knows prior to the contract of marriage about her husband's deficiency which prevents the consummation of the marriage or who is satisfied with the husband after marriage with the existing deficiency shall terminate the right of her choice, with the exception of impotence, the awareness of which prior to the marriage shall not terminate the right to a choice.

Article 115: The Request for Separation Due to an Irremediable Deficiency

In the event the wife reports to the judge and requests separation for the existence of a deficiency, the matter shall be examined as follows: if the deficiency is irreparable, the judge shall rule for separation between them immediately. If it is able to be remedied, such as impotence, the judge shall give the husband a respite of one (1) year from the day on which she handed herself to him or from the time when the husband was cured in case he had been ill. If one of the spouses becomes ill during the prescribed term, for a period that is either short or long, in a manner that prevents the consummation of marriage or if the wife is absent, the period that elapses in that manner shall not be counted within the period of the prescribed term. However, the absence of the husband during the days of menses shall be counted. In case the deficiency does not disappear during this period and the husband was not satisfied with the divorce, but the wife insisted on her request, the judge shall rule for separation. In the event he claimed at the onset or at the conclusion of the pleading that he reached her, the matter shall be examined as follows: if the wife was previously wed, the husband may make a statement under oath. If she was a virgin, she shall make a statement without an oath.

Article 116: The Husband's Deficiency with which Residence Cannot Be Tenable without Injury

In the event it appears to the wife before or after the consummation of marriage that the husband is afflicted with a defect or ailment, with which residence with him is impossible without injury, such as leprosy, vitiligo, tuberculosis, or syphilis, or in the event such deficiencies and ailments occurred, she shall be entitled to report to the judge and request separation. The judge shall, after consultation with experienced experts, examine the matter as follows: if hope does not exist for a cure, he shall rule for separation at once. If hope for a cure exists or the vanishing of the deficiency exists, separation shall be postponed for one (1) year. In case it does not vanish within such period and the husband did not accept the divorce but the wife insisted on her request, the judge shall rule for divorce as well. On the other hand, the existence of a

deficiency such as blindness and lameness in the husband shall not necessitate the separation.

Article 117: The Husband Shall Be Entitled to Request Dissolution of the Marriage Contract for the Existence of a Deficiency in the Wife, with which Residence Is Impossible

The husband shall be entitled to request dissolution of the marriage contract in the event that he locates in his wife a reproductive deficiency that prevents the consummation of marriage, such as colpatresia [vaginal atresia] and uterine cornu [uterine horns] or a repugnant illness, with which residence with her is impossible without an injury, and the husband did not know about it prior to the contract or explicitly or implicitly consented to it thereafter.

Article 118: Lawsuit on Dissolution Shall Not Be Heard from the Husband if the Ailment Affected the Wife after the Consummation of Marriage

A lawsuit on the request for dissolution from the husband in regard to the ailment that affected the wife after the consummation of marriage shall not be heard.

Article 119: Demonstration of the Deficiency

The deficiency that inhibits the consummation of marriage with the woman or man shall be established by a report from the midwife or physician, to be supported with their testimony.

Article 120: Separation Due to Insanity

In the event the husband becomes insane after the contract of marriage and the wife requests from the judge a separation, the separation shall be postponed for a period of one (1) year. If the insanity does not vanish during this period and the wife insists on her request, the judge shall rule for a separation.

Article 121: The Right to Delay the Request for Dissolution by the Wife

The wife shall be entitled, under the circumstances that give her the right to choose, to delay the action or leave it for a period of time after it was instituted.

Article 122: Renewal of the Contract after Separation in Accordance with the Previous Articles, Neither Shall Be Entitled to Request Separation

In case the two parties renew the contract after separation in accordance with the previous Articles, neither party shall be entitled to request a separation.

Article 123: Separation Due to Absence and Injury

If the wife proves the absence of her husband or desertion of her for one (1) year or more without an acceptable excuse whilst his place of residence is known, his wife shall be permitted to request that the judge divorce her in an irrevocable manner in the event she sustains an injury from his absence from her or desertion of her even if he possesses money from which she can spend.

Article 124: Absence of the Husband with the Possibility of Messages Reaching Him

In the event messages can reach the absent husband, the judge shall prescribe a term for him and warn him that he will separate his wife from him by divorce should he not attend and reside with her or move her to him or divorce her. If the prescribed term expires and he does not do so, nor does he produce an acceptable excuse, the judge shall separate them by a pronouncement of an irrevocable divorce after she is put under oath.

Article 125: Absence of the Husband in an Identifiable Place and the Impossibility of Delivering Messages to Him or in Case He Is at an Unknown Place of Residence

In case the husband was located in an identifiable place but messages could not reach him or in case his place of residence was unknown and his wife proved her claim with evidence and took the oath in accordance with the claim, the judge shall separate her from him by divorce without a warning and request for a prescribed term. In the event she was incapable of establishing the proof or abstained from the oath, the action shall be rebutted.

Article 126: Dissolution of the Marriage Due to Restraint in the Payment of the Dowry Prior to the Consummation of Marriage

In the event the husband's incapability is proven prior to the consummation of marriage either by his approval or by evidence to pay all or some of the advanced dowry, the wife shall be entitled to request that the judge dissolve the marriage contract. The judge shall give him a respite of one (1) month. If he does not pay the dowry thereafter, the marriage between them shall be dissolved. However, if the husband was absent and a place of residence or property is not known for him and whereby the dowry can be collected, it shall be dissolved without a respite.

Article 127: Separation by Divorce Due to an Inability or Abstention from Paying Alimony

In the event the husband abstains from spending on his wife after a judgement adjudicating that he maintain her is entered against him: If he had property on which the judgement on alimony can be executed, the judgement shall be executed against him so as to pay the alimony from his own property. If he did not have property and did not say that he was insolvent or solvent or said that he was solvent but insisted not to spend, the judge shall separate her by divorce at once. In case he claimed an inability: if he did not prove it, the judge shall separate her by divorce at once. If he proved it, the judge shall give him a respite of a period of not less than one (1) month and not more than three (3) months. In the event he did not spend, he shall separate from her by divorce thereafter.

Article 128: The Absent Husband and the Request for Separation by Divorce

In the event the husband was absent for a short period; if he had property on which the judgement of alimony could be executed, the judgement of alimony shall be executed on his property. If he did not have property, the judge shall warn him and prescribe a term for him; in case he did not send what the wife spends on herself or did not attend to spend on her, the judge shall separate her by divorce following the prescribed term. In the event he was absent for a long period whereby it was not feasible to reach him or his place of residence was unknown and it was proven that he did not possess property

from which the wife could spend, the judge shall separate her by divorce without a warning or prescription of a term. The provisions of this Article shall be applicable to the imprisoned who becomes strained by alimony.

Article 129: Separation by Divorce for Non-expenditure Shall Occur Retroactively

Separation by divorce by the judge due to non-expenditure (non-payment of alimony) shall occur retroactively in the event it takes place after the consummation of marriage. If it was enacted before the consummation of marriage, it shall occur irrevocably. In case the divorce was revocable, the husband shall be entitled to revoke the divorce during the legally prescribed waiting period if he proves his solvency of paying three (3) months of the alimony that has been accumulated for his wife by him, as well as his preparedness to spend in deed during the legally prescribed waiting period. In the event he did not prove his solvency and was not prepared for the alimony, the revocation of the divorce shall not be valid.

Article 130: Separation Due to Imprisonment for Three (3) Years Shall Be Deemed Irrecoverable

The wife of the imprisoned husband, who is finally sentenced to a freedom-restricting penalty for a term of three (3) years or more, shall be entitled to request that the judge, following the lapse of one (1) year from the date of his confinement and restriction of his freedom, separate her irrevocably even if he had property from which she can spend.

Article 131: Separation of the Wife of the Missing Husband Due to Injury

In the event the wife of a missing husband reported to the judge that her husband had left property as a type of alimony for her and she requested that he separate her in virtue of the injury she sustained because of his absence from her; if the judge despairs of learning about the news of the husband being alive or dead following a search and investigation about him, the matter shall be postponed for four (4) years as of the date of him missing. In case news was not communicated about the missing husband and she was insistent on her request, the judge

shall separate them in the state of security and lack of disasters. However, if he was missing in a circumstance in which it is most probable that he passed away, such as missing in a battle or in the aftermath of an aerial raid or earthquake or the like, the judge shall be entitled to separate them following the elapsed period of not less than one (1) year as of the date missing and after the search and investigation about him.

Article 132: Separation Due to Dispute and Discord

In the event a dispute and discord appears between the spouses, each one of them shall be entitled to request separation in case he or she claims the damage is caused by the other to him or her in word or in deed, whereby the continuance of the marital life becomes impossible with such damage:

1. If the request for separation is from the wife, who proves the damage caused by the husband to her, the judge shall exert his effort to reach reconciliation between them. In case reconciliation is not tenable, he shall warn the husband to reconcile his status with her and shall postpone the lawsuit for a period of not less than one (1) month. In the event reconciliation between them is not reached, he shall refer the matter to the two arbiters.
2. In the event the husband is the claimant and he proves the existence of the dispute and discord, the judge shall exert his effort to reach reconciliation between them. If reconciliation is untenable, the judge shall postpone his action for a period of not less than one (1) month, inspiring hope for reconciliation. Following expiration of the prescribed term, if he insists on his lawsuit and reconciliation is not attained, the judge shall refer the matter to two arbiters.
3. The two arbiters shall be required to be rightful men who are capable of reconciliation. One of them shall be from the family of the wife and the other from the family of the husband, if possible. If such was unaffordable, the judge shall appoint as arbiters two men who possess experience, justice and capability of reconciliation.
4. The arbiters shall discuss the causes of the dispute and conflict between the spouses with them, with their neighbours, or with any person whom the arbiters believe to be useful. They must write down their investigation in a record in which he [the person consulted] shall sign. If they decide on the possibility of reconciliation and reestablishment of a close relationship in a satisfactory manner, they shall approve it.
5. If the two arbiters are incapable of reconciliation and it appeared for them that all of the wrongdoing is on part of the wife, they shall decide on the separation between the spouses for the compensation they deem appropriate, provided that it is not less than the dowry and its accessories. In the event all of the wrongdoing is on the part of the husband, they shall decide on the separation between the spouses by one pronouncement of irrevocable divorce, provided that the wife shall be entitled to claim all of her matrimonial rights as if he had divorced her himself.
6. If it appeared to the arbiters that the wrongdoing is on the part of both spouses, they shall decide on the separation between them for a portion of the dowry in proportion with the wrongdoing of each one of them. In the event the case was unknown whereby they were unable to estimate the proportion of the wrongdoing, they shall decide on the separation between the spouses for the compensation they deem appropriate to take from any one of them.
7. In case a judgement on any compensation is given against the wife, whereas she requested the separation herself, she must secure a payment prior to the two arbiters' decision on separation unless the husband does not consent to its postponement. In the event of the husband's consent to postponement, the two arbiters shall decide on separation for the consideration [stated]. The judge shall enter a judgement to this effect. However, if the husband requested separation and the arbiters decided that the wife pay compensation, the judge shall rule for both the separation and the compensation in accordance with the decision of the two arbiters.
8. In case the two arbiters disagree, the judge shall appoint two others or join a third arbiter

to them. In the latter case, the decision of the majority shall be adopted.

9. The two arbiters shall submit a report to the judge on the conclusion they reach. The judge shall enter a ruling in accordance with it in the event it was consistent with the provisions of this Article.

Article 133: The Judgement on Separation

The judgement rendered on separation shall entail an irrevocable divorce.

Article 134: Abusive Divorce Necessitates Compensation for the Divorced Wife

In the event the husband divorced his wife in an abusive manner, such that he divorced her without a reasonable cause and she requested compensation from the judge, the judge shall give a judgement in her favour, ruling that her divorcer pay the compensation deemed fit, on the condition that it does not exceed the amount of her alimony for one (1) year. Such compensation shall be paid in bulk or by instalments as the case may be and subject to the solvency or insolvency of her husband. This shall not affect the rest of the other matrimonial rights of the divorced wife, including the alimony of the legally prescribed waiting period.

Chapter XIII

The 'Iddah [Legally Prescribed Waiting Period]

Article 135: The Duration of the Legally Prescribed Waiting Period

The duration of the legally prescribed waiting period of the woman who was married in accordance with a valid contract and who has separated from her husband following the consummation of marriage through a divorce or dissolution shall be three (3) complete menstrual cycles [(monthly) courses] in the event she was not pregnant and has not attained the age of menopause. If she claims before the expiration of three (3) months that her legally prescribed period has elapsed, it shall not be admitted.

Article 136: Non-sight of the Menses

In the event the divorced woman who is in the legally prescribed waiting period does not see menses or saw it once or twice then it discontinued during the aforesaid period, the matter shall be examined as follows: if she has attained the age of menopause, she shall wait for three (3) months from the time she attains it. If she has not attained the age of menopause, she shall wait for an additional nine (9) months to complete a full year.

Article 137: The Legally Prescribed Waiting Period of Women Who Attained the Age of Menopause

The legally prescribed waiting period of women who were married in accordance with a valid contract and who have separated from their husbands after the consummation of marriage through divorce or dissolution shall be three (3) months in the event they have attained the age of menopause.

Article 138: The Voided Marriage

The provisions under the previous Articles shall be applicable to the woman whose marriage was consummated on the basis of a voided marriage and separation.

Article 139: The Legally Prescribed Waiting Period of Women Other than Those that Are Pregnant

In the event the husbands of the women who were married in pursuance of a valid contract, with the exception of those who are pregnant, died, such women shall wait, keeping themselves apart, for four (4) months and ten (10) days regardless of whether marriage was consummated with them or not.

Article 140: The Woman Married on the Basis of a Valid Contract

In the event the husband of a woman, who was married in accordance with a valid contract, parts with her through divorce or dissolution or in the event he died while she was pregnant, she must wait, keeping herself apart, until she gives birth. In case she miscarries, the matter shall be examined as follows: if the baby was of

a manifest physique wholly or partly, the case shall be like the giving of birth. If it was not of a manifest physique, she shall be treated in accordance with the provisions drawn up under the previous Articles. The provision of this Article shall also be applicable to pregnant women who were married in accordance with a voided contract in the event they were separated from their husbands or if the latter died.

Article 141: Commencement of the Legally Prescribed Waiting Period

The principle of the legally prescribed waiting period, which is mentioned under the previous Articles, shall be the occurrence of the divorce or occurrence of the dissolution or death of the husband even if the wife was cognisant of such circumstances.

Article 142: Requirement of the Legally Prescribed Waiting Period

In the event the divorce or dissolution was affected before the valid or void contract was confirmed by privacy [staying alone with the wife] or consummation of marriage, the legally prescribed waiting period shall not be required.

Article 143: Death of the Husband during the Legally Prescribed Waiting Period

In the event the husband of the woman, who is in the waiting period prescribed for the revocable divorce, died, the waiting period of the divorce shall cease and the waiting period prescribed for death shall be incumbent on her. In contrast, if she was irrevocably divorced, the waiting period prescribed for death shall not be incumbent on her, but rather she shall complete the waiting period of the divorce.

Article 144: No Alimony for the Waiting Period Prescribed for [the Husband's] Death

The woman whose husband died, regardless of whether she was pregnant or not, shall not have alimony for the legally prescribed waiting period.

Article 145: Alimony of the Legally Prescribed Waiting Period Shall Be Deemed to Be a Debt as of the Date of the Divorce

If a divorced woman is entitled to alimony, the alimony prescribed for the legally prescribed

waiting period shall be deemed to be a debt owed by her divorcer as of the date of the divorce subject to the provisions of Article 80 under this Law.

Article 146: The Divorced Woman Shall Stay at the Matrimonial House during the Legally Prescribed Waiting Period

The woman who is in the waiting period prescribed for the revocable divorce and the death [of her husband] shall stay in the house which is designated for residence of the spouses prior to separation. In the event she was divorced or her husband died while she was in a place other than her house, she shall return to it immediately. The woman who is in the waiting period prescribed for divorce shall not go out of her house except for a need. The woman who is in the waiting period prescribed for [her husband's] death shall be entitled to go out to fulfil her interest, but she shall not pass the night outside her house. In case the spouses are forced to go out of the house, the woman in the waiting period prescribed for the divorce shall move to where her husband wants. If the woman who is in the waiting period prescribed for [her husband's] death is forced to go out, she shall move to the place closest to it.

Chapter XIV

Lineage

Article 147: Cases in which the Action on Lineage Shall Not Be Heard

Upon denial, the action on the lineage of the child of a wife, whose meeting with her husband has not been proven since the date of the contract, shall not be heard. Neither shall it be heard for the child of a wife whom she delivered after one year from the absence of the husband, nor for the child of the divorced woman and the woman whose husband died in the event she delivered a child after more than one (1) year from the date of the divorce or death.

Article 148: Lineage of the Child Born after a Void Marriage

The lineage of a wife's child begotten through a valid or void marriage following the

consummation of marriage or a “valid privacy”³¹ if he was born after six (6) or more months from the date of the consummation of marriage or “valid privacy” shall have his lineage traced to the husband. In the event the child was born following a separation, the lineage of the child shall not be traced to the husband unless the child was delivered within one (1) year from the date of the separation.

Article 149: Declaration of Filiation for a Child with an Unknown Lineage

For a child with an unknown lineage, the individual with the declaration of filiation shall establish lineage, even if it takes place during the last illness if the difference of age presumes such filiation along with the endorsement of the person to whom the declaration is made in case he was of legal age. Approval by the child with an unknown lineage of paternity or maternity shall establish lineage in the event the person making the declaration ratified it and the difference of age presumes it.

Chapter XV

Wet-Nursing

Article 150: Obligation of the Mother to Breastfeed Her Child

The mother must breastfeed her child and shall be obliged to do so in case the father has no money to hire a wet nurse and there is no volunteer woman or if the father did not find a woman other than his mother to breastfeed him/her or if the child did not accept the breast of another woman.

Article 151: Hiring a Wet Nurse by the Father

In the event the mother refuses to breastfeed her infant when she is not obliged to breastfeed the infant, the father must hire a wet nurse to breastfeed the infant.

Article 152: Entitlement of the Mother to the Wage of Wet-Nursing

³¹ Note from the editor: according to Shari’a, this is when the spouses, after signing the marriage contract, go to a private place alone (and nobody else knows what happened between them).

The mother of the child, once the matrimonial status is established or during the legally prescribed waiting period of the revocable divorce, shall not be entitled to a wage for breastfeeding her child. She shall be entitled thereto during the waiting period prescribed for the irrevocable divorce as well as thereafter.

Article 153: The Mother’s Right to Breastfeed Her Child

The mother shall be worthier of breastfeeding her child and shall take precedence over other women in regard of the equivalent wage which is congruent with the means of the person who is responsible for maintaining the child unless she demands a higher wage. In such case, the person responsible for the maintenance shall not be made to suffer because of the maintenance. The wage shall be imposed as of the date of wet-nursing until the child completes two (2) years of age unless the child was weaned before then.

Chapter XVI

Custodianship

Article 154: The Women Entitled to Custodianship

The genealogical mother shall be more deserving of the custodianship and upbringing of her child once the matrimonial status is established and after separation. Then, following the mother, the right shall devolve to the women who follow the mother in the order provided for in the School of Thought of Imam Abu Hanifah.

Article 155: Conditions of the Female Custodian

It shall be a condition precedent that the female custodian is of legal age, of sound mind and trustworthy, with whom the child is not negatively affected because of her engagement [with matters] other than the child. She shall be capable of the upbringing and maintenance of the child and she shall neither be an apostate nor shall she be married to a person who is a *Mahram* (unmarriageable relative) of the child. Furthermore, she shall not retain the child in the house of those who are malicious to him/her.

Article 156: Loss of Custodianship

The female custodian with a marriage contract with a *Mahram* who is a relative to the fostered child shall lose her custodianship.

Article 157: Choice of the Fittest for the Fostered Child

In the event the persons entitled to the right of custodianship are in one grade and are multiple, the judge shall have the right to choose the fittest person for the fostered child.

Article 158: Restoration of Custodianship

The right to custodianship shall be restored in case the reason of its loss has vanished.

Article 159: The Wage of Custodianship

The wage of custodianship shall be incumbent on the person who is responsible for the maintenance of the child. It shall be estimated with a similar wage of the female custodian, provided that it does not surpass the capacity of the maintainer.

Article 160: Non-entitlement by the Mother to a Wage

The mother shall not be entitled to a wage for custodianship during the existence of her matrimonial status or during the waiting period legally prescribed for the revocable divorce.

Article 161: Termination of the Mother's Custodianship

Custodianship of the male child by a woman other than his mother shall terminate once he reaches nine (9) years of age and of the female child once she reaches eleven (11) years of age.

Article 162: Extension of the Mother's Custodianship

Custodianship of the mother, who has occupied herself with the upbringing and custodianship over her children, shall extend until they reach the age of puberty.

Article 163: Visiting the Child

The right of the mother and the right of the father or paternal grandfather to see the child

shall be equal when he is in the hand of another person who has the right to foster the child.

Article 164: Retention of the Child

The travel of the guardian or female custodian with the child to a region inside the Kingdom shall not affect his or her right to the retention of the child unless such travel bears an influence on the preponderance of the child's interest with him or her. In the event the influence of travel upon the interest of the child is established, the travel of the child shall be prevented and the child shall be handed to the other party.

Article 165: The Female Virgin

1. The *Mahram* [unmarriageable] guardian shall be entitled to supervise the female virgin in case she is under forty (40) years of age, as well as the previously wedded woman if it is not safe for her to be unsupervised, and in case the supervision is not intended to beguile or harm her.
2. In the event the woman who is under the supervision of her guardian disobeys him without cause, her alimony shall not be incumbent on him.

Article 166: Prohibition of Travel for the Female Custodian

The female custodian shall not be allowed to travel with the fostered child outside the Kingdom except with approval of the guardian and after the verification of safeguarding the interest of the child.

Chapter XVII

The Maintenance of Relatives

Article 167: Alimony of the Wife Is from Her Husband

The maintenance of each person shall be from his own property, with the exception of the wife whose maintenance shall be incumbent on her husband.

Article 168: Maintenance of the Child

1. In the event the child does not have property, his/her maintenance shall be incumbent on

his/her father and no one shall share it with the father unless he is poor and incapable of maintenance and earning a living due to a physical or mental ailment.

2. The maintenance of children shall continue until the female child, who is not solvent by virtue of her work and earning of a living, marries and until the male child reaches the extent in which he is likely to earn a living, unless he is a student.

Article 169: The Provision of Education

The solvent father who is obliged to provide the maintenance for his children shall be bound to the provision of their education as well throughout the educational phases until the child obtains the first university certificate. It shall be a condition precedent that the child be successful and competent of education. All this shall be assessed in accordance with the means of the father, whether he was strained or rich, provided that the provision is not less than the proportion of sufficiency.

Article 170: The Provision of Treatment

1. The solvent father who is obliged to provide the maintenance for his children shall be bound to the provision of their treatment.
2. In the event the father is insolvent and is not capable of paying the wage of the physician, treatment, or the expense of education, but the mother was solvent and capable thereof, she shall be bound to it, provided that it shall be a debt owed by the father to be claimed from him upon solvency. Such shall also be the case if the father was absent and it was impossible to collect it from him.
3. In the event the father and mother were insolvent, it [the provision] shall be incumbent on the person charged thereof when the father lacks the expense of treatment or education, provided that it shall be a debt owed by the father, which the spender shall claim from him upon solvency.

Article 171: The Poor Father

In the event the father is poor and capable of earning a living but his earnings do not exceed

his need or in the event he does not find a source of living, the person who is bound to maintenance shall be assigned to maintain the child in case of the father's incapability. Such maintenance shall be a debt owed by the maintainer on the father, which the maintainer shall claim from the father when the latter becomes solvent.

Article 172: Provision of the Parents

1. The solvent child, whether he is male or female or adult or young, shall be bound to the maintenance of his poor parents even if they are capable of earning a living.
2. In the event a child is poor but is capable of earning a living, he shall be bound to the maintenance of his poor parents. In case his source of living does not exceed his need and the need of his wife and children, he shall be obliged to take in his parents and feed them along with his family.

Article 173: Provision of the Poor Relative

The maintenance of the poor children as well as each poor adult who is incapable of earning a living due to a physical or mental ailment shall be incumbent on their solvent relatives who inherit them in accordance with their hereditary shares. In the event the heir is insolvent, it shall be imposed upon the person who follows such heir in the inheritance and he shall claim it from the heir when the latter becomes solvent.

Article 174: The Evidence of Solvency Precedes the Evidence of Insolvency

In the event of a disagreement about solvency and insolvency in the lawsuits on maintenance, the evidence of solvency shall prevail except in the case of claiming contingent insolvency, whereby the onus of proof of its claimant shall be preponderant.

Article 175: Commencement of the Imposition of Maintenance for Relatives

The maintenance of relatives shall be imposed as of the date of application.

Article 176: Putting the Applicant for Maintenance under Oath

In the event the person on whom the maintenance is imposed from among the antecedents, descendants or relatives is absent or attended the trial but was absent before the merits of the action were answered, the applicant for the maintenance shall take an oath that he had not received the maintenance in advance.

Chapter XVIII

General Provisions

Article 177: Adjudication of the Death of the Missing Person

The missing person who was lost in a known area and it is most probable that he is dead, it shall be adjudicated that he is dead following the lapse of four (4) years from the date of his being missing unless he was lost in the aftermath of a disaster, such as an earthquake, aerial raid, security instability, occurrence of chaos and the like, whereby his death shall be adjudicated one (1) year after he was missing. On the other hand, if he was in an unknown area and his death is not likely, the matter of the period, during which his death is to be adjudicated, shall be imputed to the judge, provided that such period is sufficient for his death to be most probable. In all cases, an investigation about him must be conducted through the means that the judge deems sufficient to reach the knowledge of whether he is alive or dead.

Article 178: The Legally Prescribed Waiting Period of the Wife of the Missing Husband

Following the adjudication of the death of the missing husband in the manner expounded under the previous Article, his wife shall commence as of the date of the adjudication the waiting period legally prescribed for death and his estate shall be divided between his present heirs at the time of the adjudication.

Article 179: The Second Marriage Shall Not Be Dissolved after the Adjudication of the Death of the Missing Husband

In the event the husband's death was adjudicated and it was ascertained after his wife had married

again, the second marriage shall not be dissolved following the consummation of marriage. Prior to the consummation of marriage, however, it shall be dissolved.

Article 180: Sharing by Half-Brothers of Their Shares with the Uterine Brothers

Children of the mother shall be entitled to the prescribed share of one-sixth (1/6) per child and one-third (1/3) for two or more. Their males and females shall be equal in the distribution. The half-brothers shall share one-third (1/3) with them in the event the prescribed shares consume the whole estate.

Article 181: *Al-Radd* [Surplus Redistribution] to One of the Spouses

1. In the event the prescribed shares do not consume the whole estate and agnate relatives do not exist, the remaining surplus shall be redistributed to heirs of the lawful shares in proportion with their shares.
2. The remainder of the estate shall be redistributed to one of the spouses in the event one of the heirs prescribed by blood kinship or blood relatives do not exist.
3. In the event an heir to the deceased does not exist from among those mentioned above, his movable and immovable estate shall be left to the Directorate General of Waqf [Endowments].

Article 182: The Obligatory Bequest

In the event a grandfather died and he had grandchildren and his son died before or with him, a bequest shall be incumbent for his grandchildren in one-third (1/3) of his legal estate as a bequest in accordance with the following proportion and conditions:

- a. The obligatory bequest for those grandchildren shall be according to the proportion of their father from the estate in the event he had been alive, provided that it does not exceed one-third (1/3) of the estate.
- b. Those grandchildren shall not be entitled to a bequest in case they are heirs to the antecedent of their father, whether a grandfather or a grandmother, or in case

he bequeathed or gave them during his life without consideration the proportion of what they were entitled to in such an obligatory bequest. In the event the bequeathed is less than that, it must be complemented. If he bequeathed more for them, the surplus shall be a voluntary bequest. If he bequeathed for some of them, it shall be incumbent for the others in proportion with their share.

- c. The bequest shall be due to the grandchildren and to the children of the grandchildren however low, whether they were one or more, [according to the rule stating that] the male takes as much as the share of two females. Each antecedent shall exclude (of being an heir) his descendant, and not the descendant of others. Each descendant shall take the share of his antecedent only.
- d. This obligatory bequest shall take precedence over the voluntary bequests as to satisfy it from the one-third (1/3) of the estate.

Article 183: Application of the Predominant Opinion in the Abu Hanifah School of Thought

Reference shall be made in regard of what is not mentioned under this Law to the predominant opinion in the Abu Hanifah School of Thought.

Article 184³²: Incidents of Divorce

The incidents of divorce that took place prior to the promulgation of this Law, and were associated with a judgement or a decision and were registered by the religious judge, shall not be included under the provisions of this Law. On the other hand, in the event they took place after its promulgation and they were not associated with a registered judgement or decision, the provisions of this Law shall be applicable to them even if the causes of such lawsuits were established before it was promulgated.

Article 185 The Hijri Lunar Year

The year mentioned under this Law shall be the lunar year of the *Hijri*.

Chapter XIX

Repeals

Article 186: Repealing

The following Laws shall be repealed:

1. The Jordanian Law on Family Rights No. 92 of 1951.
2. Any Jordanian, Ottoman or Palestinian [piece of] legislation that had been promulgated before the enactment of this Law to the extent to which it contradicts the provisions of this Law.

Article 187: The Prime Minister and Ministers shall be assigned to implement the provisions of this Law.

³² This is how this Article was amended by the Law No. 25 of 1977, published in the Official Gazette on June 1st, 1977, Issue No. 2703.

Law No. 1 Amending the Personal Status Law of 2009

The President of the Palestinian National Authority,

Having reviewed the amended Basic Law, in particular Article 41 thereof,

And the Personal Status Law, effective in Gaza,

And Law No. 303 concerning Family Rights, issued on 26 January 1954, and effective in Gaza,

And Law No. 61 of 1976 concerning Personal Status, and effective in the West Bank,

And the Bylaws of the Palestinian Legislative Council, in particular Article 71 thereof,

And based upon what the Legislative Council approved during its session convened on 3 December 2008,

And having reviewed the letter of transmittal to the Chairman of the Palestinian National Authority, issued by the Legislative Council on 5 December 2008,

In the name of God, and in the name of the Arab Palestinian People,

Has hereby promulgated the following law:

Article 1

Article 391 of the Personal Status Law, effective in Gaza, Article 118 of Law No. 303 concerning Family Rights, issued on 26 January 1954, and effective in Gaza, and Article 162 of Law No. 61 of 1976 concerning Personal Status, and effective in the West Bank, are hereby amended as follows:

A judge may grant to a woman the custody of a boy between seven (7) and nine (9) years of age, and of a girl between nine (9) and eleven (11) years of age, if such custody is deemed to be in the best interest of the child.

A judge may order the continuation of the custody by a mother, whose husband has died and who has brought up and looked after the children, if such custody is deemed to be in the best interest of the children, and subject to the right of access and inspection of the paternal relatives.

An aggrieved party may appeal a decision on the continuation of custody in accordance with the relevant applicable rules, and may, in exceptional cases, re-appeal the said decision on the basis of newly discovered facts.

Article 2

All provisions that may contradict the provisions of this law are hereby repealed.

Article 3

All competent authorities, each within its respective competence, shall enforce the provisions of this law, which shall come into effect after the lapse of thirty (30) days from the date of its publication in the *Official Gazette*.

Issued on 5 January 2009 (A.D.)

Corresponding to 9 Muharram 1430 (A.H.)

Chairman of the Palestinian National Authority

Alimony Fund Law No. 6 of 2005

The Chairman of the Executive Committee of the Palestinian Liberation Organisation,

The President of the Palestinian National Authority,

Having reviewed the Amended Basic Law,

And the draft law submitted by the Council of Ministers,

And based upon what the Legislative Council approved during its session convened on 7 April 2005,

Have hereby promulgated the following law:

Chapter I

Definition and General Provisions

Article 1: Definitions

In the application of the provisions of this law, the following words and expressions shall have the meanings specified hereunder, unless the context indicates otherwise:

Alimony Judgment: Any final judgment issued by the competent court, and ordering the payment of alimony to the wife, the wife during the waiting period, the children, the parents, or a dependent relative.

Judgment Creditor: The party in whose favour an Alimony Judgment is issued.

Judgment Debtor: The party against which an Alimony Judgment is issued.

Board: The Board of Directors of the Fund.

Fund: The Alimony Fund.

Article 2: Alimony Fund

A fund shall be created in accordance with the provisions of this law, and shall be called the Alimony Fund. The Fund shall be affiliated with the office of the Prime Minister, and it shall have a legal personality and an independent budget.

Article 3: Headquarters

The headquarters of the Fund shall be located in the city of Jerusalem. The Board of Directors may decide to open additional branches in any other city.

Article 4: Aim of the Fund

The aim of the fund shall be to guarantee the execution of an Alimony Judgment in the event such judgment cannot be executed due to the absence of the Judgment Debtor, the lack of knowledge of the place of residence of the Judgment Debtor, the lack of money necessary for the execution of the said judgment, or for any other reason.

Chapter II

Administration and Operation of the Fund

Article 5: Administration of the Fund

The Fund shall be administered by a Board of Directors composed of the following persons:

1. The Chief Justice of the Shari'a Courts	(President);
2. The Deputy Chief Justice of the Shari'a Courts	(Vice-President);

3. The Director General of the Ministry of Justice	(Member);
4. The Director General of the Ministry of Finance	(Member);
5. The Director General of the Ministry of Labour and Social Affairs	(Member);
6. The Director General of the Ministry of Endowments and Religious Affairs	(Member);
7. A representative from the Ministry of Women's Affairs	(Member);
8. Four members representing civil society organisations, nominated by their respective organisation and selected by the Council of Ministers for a term of three (3) years.	

Article 6: Powers of the Board

The Board may:

1. Adopt regulations and directives necessary for the achievement of the aims of the Fund;
2. Adopt bylaws determining the operations of the Fund, the manner of convening and conducting meetings, and the powers of the Director General;
3. Appoint a qualified and experienced Director General of the Fund;
4. Appoint and dismiss employees, in accordance with the Civil Service Law;
5. Select a chartered accountant;
6. Debate and approve the reports submitted before it by the Director General of the Fund;
7. Approve the closing accounts and the annual budget of the Fund, and submit the said documents to the competent authorities;
8. Represent the Fund before the courts and all other official and non-official authorities;
9. Invest the money of the Fund; and
10. Take any other action consistent with the aims and powers of the Fund.

Article 7: Required Documents

An application submitted by a Judgment Creditor in relation to the services provided by the Fund must be accompanied by the following documents:

1. A certified copy of the final Alimony Judgment;
2. A certificate by the execution department indicating that the Alimony Judgment was not executed after the exhaustion of all the required legal procedures; and
3. Any other document as required by the Board.

Article 8: Payment

1. The Fund shall pay to the Judgment Creditor, in accordance with the law and the accounting principles applicable in Palestine, the alimony specified in the Alimony Judgment.
2. The payment shall be made within a period not exceeding fifteen (15) days from the date of submission of an application that meets the required conditions.
3. The payment shall be made as long as the execution of the Alimony Judgment is not satisfied, and shall cease if it is no longer justified.

Article 9: Decision of the Court

1. The competent court must notify forthwith the Fund of its decision to revoke or amend the Alimony Judgment.
2. The Fund shall notify the Judgment Creditor and execute the judgment, as amended.

Chapter III

Financial Resources of the Fund

Article 10: Financial Resources of the Fund

The financial resources of the Fund shall consist of the following:

1. A fee amounting to five (5) Jordanian Dinars, or the equivalent thereof in the legally

circulated currency, imposed on any marriage contract or deed of divorce;

2. A fee amounting to one (1) Jordanian Dinar, or the equivalent thereof in the legally circulated currency, imposed on every certificate of marriage issued by competent courts;
3. The monies collected by the Fund from Judgment Debtors;
4. Grants, donations and subsidies; and
5. The monies allocated from the annual budget of the Palestinian National Authority.

Article 11: Commencement of the Fund's Financial Year

1. The Fund's financial year shall commence on the 1st of January and shall expire on the 31st of December of every year.
2. The first financial year shall commence on the date of entry into force of this law and shall expire at the end of the month of December of the same year.

Article 12: Books of the Fund

1. The books and records of the Fund shall be organised and kept in accordance with the legal accounting principles applicable in Palestine.
2. The chartered accountant shall submit its report to the Board within two (2) months after the expiry of the financial year.
3. The Fund shall be subject to the supervision of the State Audit and Administrative Control Bureau.

Chapter IV

Collection of Monies

Article 13: Legal Procedures

The Fund may take all necessary legal procedures, including the filing of an action before the competent courts, to collect the monies it paid on behalf of the Judgment Debtor.

Article 14: Recovery from the Judgment Debtor

1. The Fund shall recover from the Judgment Debtor the value of the adjudged monies.
2. The Judgment Debtor shall be obliged to pay a fine representing five (5) percent of the value of the adjudged monies, in addition to legal expenses and attorney fees.

Article 15: Return of the Monies to the Fund

1. The Judgment Creditor shall, without delay, return to the Fund the monies it has received without a legal basis.
2. Any person that does not return the abovementioned monies shall be sentenced to a penalty of imprisonment for a period not exceeding one (1) month, and/or a fine of one hundred (100) Jordanian Dinars, or the equivalent thereof in the legally circulated currency, in addition of the return of the said monies.

Chapter V

Final Provisions

Article 16: Dissolution of the Fund

In the event of the dissolution of the Fund, all its money shall be transferred to the General Treasury of the Palestinian National Authority.

Article 17: Issuance of Implementing Regulations

The Council of Ministers, on the recommendation of the Board of Directors, shall issue the required regulations for the implementation of the provisions of this law.

Article 18: Repeal

All provisions that may contradict the provisions of this law are hereby repealed.

Article 19: Enforcement and Entry into Force

All competent authorities, each within its respective competence, shall enforce the provisions of this law, which shall come into effect after the lapse of thirty (30) days from the

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date of its publication in the *Official Gazette*.

Issued in the city of Ramallah on 26 April 2005
(A.D.)

Corresponding to 17 Rabee al-Awwal 1426 (A.H.)

Mahmoud Abbas

Chairman of the Executive Committee of the
Palestinian Liberation Organisation

President of the Palestinian National Authority

**Chapter IV:
The Legislative Framework
Regulating the Political Rights
of Palestinian Women**

Laws Related to Women's Participation in Elections

Elections of Local Councils Law No.10 of 2005

Article 17: Women's Representation

Women's representation in the local body should not be less than twenty (20) percent whereby each list should ensure a minimum representation of women of no less than:

- a. One woman shall be among the first three names;
- b. One woman shall be among the next four names; and
- c. One woman shall be among the next names.

Law No. 12 Amending Some Provisions of the Law on Elections of Local Councils No. 10 of 2005

Article 1: Amendment of Article 17 "Representation of Women"

Article 17 of Law No. 10 of 2005 Concerning the Election of Local Bodies' Councils is hereby amended as follows:

1. Women must hold at least two seats in a local body in which the number of seats does not exceed thirteen:
 - a. One woman shall be among the first five names on the list; and
 - b. One woman shall be among the five subsequent names on the list.
2. In the local body in which the number of seats exceeds thirteen, a seat shall be allocated to women among the five names following subparagraph (b).
3. The provisions of paragraph 1 shall not apply to local bodies in which the number of voters, according to the final voters' list, is less than one thousand. In such a case, each electoral list may freely determine the number of positions allocated to women among its candidates.
4. In the event where a seat allocated for women in the local body council becomes vacant, it shall be given to the woman that follows in the sequence of seats allocated for women in the same list to which she belongs.

Decision by Law No. 1 on General Elections of 2007

Article 17: Representation of Women

Each electoral nomination list for the elections shall include a minimum limit for the representation of women that is not less than one woman among:

1. The first three names on the list;
2. The next four names that follow;
3. Each five names that follow.

Executive Decisions Related to Women's Participation in Elections

Council of Ministers Resolution No. 44 on Systematic Procedures for the Election of Local Councils of 2005

Having reviewed the Amended Basic Law of 2003,

And Law No. 10 of 2005 Concerning the Election of Local Bodies' Councils, in particular Article 70 thereof, as amended,

And based upon what the Legislative Council approved during its session convened on 20 September 2005,

We hereby decided the following:

Article 1: Distribution of Seats in Local Councils

The local council seats shall be distributed according to the Sainte-Laguë method, as set out below:

1. The High Commission for Local Elections shall compute the number of votes obtained by each electoral list.
2. The total number of votes obtained by each list shall be divided by odd numbers (1, 3, 5, 7, 9, 11, 13, and 15), as necessary, for the distribution of seats. The output of such divisions shall be considered as the "quotients", which shall be organised in a descending order.
3. The first seat in the council shall be given to the first candidate of the electoral list that obtained the highest quotient. The second seat in the council shall be given to the first candidate of the electoral list that obtained the second highest quotient, as long as the candidate did not receive any other seat; otherwise, the seat shall be given to the subsequent candidate of the said list.
4. A seat cannot be given to a list that does not have at least one candidate to win the said seat. If an electoral list does not have a candidate, the quotient it obtained shall be excluded, and the seat shall be given to the list that has obtained the next highest quotient.
5. If two or more lists obtain an equal quotient, the seat shall be given, in the first place, to the list that received fewer seats at the time of distribution of the said seat, and the following seat shall be given to the other list. In the event of an equality of quotients at the time of distribution of the latter seat, the seat shall be given to the list that obtained the highest number of vote counts.
6. If two or more lists obtained an equal quotient at the time of distribution of the first seat, lots shall determine its distribution, and the second seat shall be given to the other list.
7. If a list constituted of five candidates won and obtained six seats, the last seat shall be given to the following list according to the descending order of the Sainte-Laguë method.
8. If the list is constituted of five members, and one of its seats becomes vacant as a result of the resignation of one of its members, then pursuant to Article 60, paragraph (3) of the Law Concerning the Election of Local Bodies' Councils, the seat shall be given to the candidate following the last winning candidate of the same list. In the event of the resignation of one of the five winning candidates of the list, and in the absence of an additional candidate of the same list, the seat shall be given to the following list that obtained the highest number of vote counts,

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according to the descending order of the Sainte-Laguë method and pursuant to Article 60, paragraph (4).

9. As a general rule, only lists that win at least eight (8) percent of total votes shall be eligible to receive seats in local councils. An exception to the general rule shall apply in the case of a small constituency, where there was only one list, without any competition, and where the number of seats is equal to the number of candidates of the said list.
10. In order to ensure a transparent, impartial and independent process, the coordinator of a list may not be a member of a security agency. In such an event, the concerned list shall be requested to substitute the said coordinator with another one in order to avoid the impression that the involvement of the coordinator in question amounts to interference by security agencies.
11. Each list may have only one balloting and tallying representative.

Article 2: Representation of Women

Pursuant to Article 1 Amending Article 17 of Law No. 10 of 2005 Concerning the Election of Local Bodies' Councils, the representation of women in local councils shall be mandatory with respect to the order of nomination on the list, as provided for by sub-paragraphs (a) and (b) thereof. The exception set out in paragraph (3) of the said Article is intended to give the electoral lists the freedom to choose the seats allocated to women among their candidates, notwithstanding the order stipulated in paragraph (1). In accordance with the said Article, the representation of women in local councils may not be less than two seats.

If the results of the elections, according to the proportional system, show that women are not represented, or have only one seat, then the High Commission shall ensure the application of Article 1 Amending Article 17 of Law No. 10 of 2005 Concerning the Election of Local Bodies' Councils, which pertains to the representation of women as follows:

Substitution of a man's seat by a woman's seat on the lists that received the highest number of seats:

1. If there is a gap of one seat in the women's seats, the list that received the highest number of seats shall substitute the last man of its winning candidates with the first woman on the list.
 - a. If one or more lists received the same number of seats, then the list that obtained the highest number of votes shall make the substitution. If the two lists obtained an equal number of votes, then a lot shall determine the substitution.
 - b. If the list that received the highest number of seats has one woman among its winning candidates, then we move to the following list in terms of the number of seats.
2. If there is a gap of two seats in the women's seats, the substitution shall be made by the two lists that received the highest number of seats.
 - a. In both aforementioned cases, the list making the substitution must have won more than one seat.
3. If the number of lists is equal to the number of seats in the local council, each list having received one seat, and if women are not represented, it shall be mandatory to substitute a man from the list that obtained the least number of votes among the winning lists with a woman from the same list.

Article 3: Distribution of Seats in Constituencies with a Muslim-Christian Quota

1. The distribution of seats in constituencies with a Muslim-Christian quota shall be made pursuant to the steps mentioned in the paragraph pertaining to the distribution of seats in Article 1. The process envisaged in the third step shall be repeated until the number of Muslim or Christian seats reaches the limit fixed by the presidential decree. All remaining candidates of the religion whose candidates reached the maximum fixed limit shall thereafter be excluded from all lists. Then, the third step is repeated until the distribution of all seats, and subject to the stipulations of the fourth step mentioned in Article 1.

2. If a given list received one seat only after reaching the maximum number of seats allocated to either religion, and the first candidate of that list belongs to the religion that reached the maximum limit, then the said list shall receive the seat, and the last seat given to a candidate belonging to the religion whose seats reached the maximum limit shall be withdrawn.

Article 4: Application of a Women's Quota in Constituencies with a Muslim-Christian Quota

If the women's quota is not satisfied through the Muslim-Christian quota system, the following procedures shall apply:

- a. The list that received the highest number of seats shall substitute the last man it has with the first woman of the same religion on that list.
- b. If the said list does not have a woman of the same religion as that of the last man, then it shall substitute the last man belonging to the same religion as that of the first woman on the said list.
- c. If one or more lists received an equal number of seats, the substitution shall be made by the list that obtained the highest number of votes. If the two lists obtained an equal number of votes, then a lot shall determine the substitution.
- d. If at least one woman is represented on the list that received the highest number of seats, the substitution shall not be made by such list, rather by the list following it in terms of number of votes obtained, unless the latter list has only one seat.
- e. If there is a gap of two seats in the women's seats, step (a) above shall be repeated until the women's quota is reached.
- f. In all cases, the substitution of a man by a woman should not be detrimental to the Muslim-Christian quota.

Article 5: Illiterate Voters

Pursuant to Article 40, paragraph (2) of Law No. 10 of 2005 Concerning the Election of Local Bodies' Councils, the High Commission may

determine the appropriate legal and procedural conditions to ensure that the vote of those who are illiterate or persons with disabilities is not exploited. The balloting mechanism adopted for such voters shall be carried out as follows:

- a. If the voter is illiterate, he shall bring a card on which is indicated the symbol of the list (the letter shape) for which he wishes to vote, thus allowing him to compare the symbol and the letter on his card with those on the balloting card in order to put a mark (X) next to the list of his choice.
- b. If the voter is an elderly person who cannot walk on his own, or is a person who has a disability preventing him from filling out the balloting card, he may be accompanied only by one relative, of the first or second degree, to help him fill out the balloting card.
- c. The head of the ballot station shall verify the identity of the person accompanying the voter, and shall verify that the accompanying individual is a first or second degree relative of the voter.

Article 6: Enforcement, Entry into Force and Publication

All competent authorities, each within its respective competence, shall enforce the provisions of these rules, which shall be effective as of the date of their publication in the *Official Gazette*.

Issued in the city of Ramallah on 20 September 2005 (A.D.)

Ahmed Qurei (Abu Ala)

Prime Minister

Laws Regulating Citizenship and Civil Status

Palestinian Citizenship Orders, 1925 to 1941 Consolidated

WHEREAS by treaty, capitulation, grant, usage, sufferance and other lawful means His Majesty has power and jurisdiction within Palestine:

And WHEREAS it is desirable to regulate the grant and acquisition of Palestinian citizenship:

Now, THEREFORE, His Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Act, 1890, or otherwise, in His Majesty vested, is pleased by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

Part I

Article 1: Turkish Subjects Residing in Palestine Who Wish to Become Palestinian Citizens

1. Turkish subjects habitually residing in the territory of Palestine upon the first day of August 1925 shall become Palestinian citizens.

Right to Opt for Turkish and Other Nationalities and Conditions Governing the Same

2. Any person over eighteen (18) years of age who by virtue of this Article becomes a Palestinian citizen may within a period of two (2) years from the sixth day of August 1924, by declaration made as hereinafter, provided the state his option for Turkish nationality and subject to the provisions of this Article shall cease to be a Palestinian citizen:

Provided that such person shall not for the purposes of this Order be deemed to have ceased to be a Palestinian citizen unless and until he has obtained a certificate from such officer as may be prescribed by Regulation under this Order that he has transferred his place of residence from Palestine.

3. Any person over eighteen (18) years of age who by virtue of clause (1) of this Article becomes a Palestinian citizen and differs in race from the majority of the population of Palestine may in the like manner and subject to the same conditions opt for the nationality of one of the States in which the majority of the population is of the same race as the person exercising the right to opt subject to the consent of that State and he shall thereupon cease to be a Palestinian citizen.

Article 1A

1. Turkish subjects who were habitually residing in the territory of Palestine upon the sixth day of August 1924, but ceased to be so habitually residing before the first day of August 1925, shall be deemed Palestinian citizens, unless before the twenty-third day of July 1931, they shall have voluntarily acquired another nationality.
2. Nevertheless, the High Commissioner shall have power in the case of any person who becomes a Palestinian citizen by virtue of the preceding paragraph and shall make an application to this effect within four (4) years of the twenty-third day of July 1931, to apply to any such person the provisions of paragraphs (2) and (3) of Article 1 of this Order, and to extend the period of option provided for therein.

Article 2: Acquisition of Palestinian Citizenship by Turkish Subjects Born in Palestine and Now Residents Abroad

1. Persons of over eighteen (18) years of age who were born within Palestine and acquired on birth or subsequently and still possess Turkish nationality and on the first day of August 1925, are habitually residing abroad,

may acquire Palestinian citizenship by opting in such manner as may be prescribed by Regulation under this Order, subject to the consent of the Government of Palestine which may be granted or withheld in its absolute discretion:

Provided that without prejudice to the foregoing provisions the consent of the Government of Palestine may be refused unless an agreement on the subject has been concluded between the said Government and the Government of the country where the person concerned is resident and shall be refused if the person desiring to opt possesses another nationality in addition to Turkish nationality. This right of option must be exercised within two (2) years from the sixth day of August 1924.

2. Persons of over eighteen (18) years of age by the sixth of August 1924, who were born within Palestine and acquired upon birth or subsequently and still possess Turkish nationality and on the first day of August 1925, were habitually residing abroad and have since maintained an unbroken personal connection with Palestine and intend to resume permanent residence in Palestine, may acquire Palestinian citizenship by opting in such manner as may be prescribed by Regulation under this Order, subject to the consent of the Government of Palestine which may be granted or withheld in its absolute discretion:

Provided that, without prejudice to the foregoing conditions, the consent of the Government of Palestine may be refused unless an agreement on the subject has been concluded between the said Government and the country where the person concerned is resident, and shall be refused if the desiring to opt possesses another nationality in addition to Turkish nationality. This right of option must be exercised within three (3) years of the twenty-fifth day of July 1939.

Part II

Article 3: Palestinian Citizenship by Birth

Subject to the provisions of Part I of this Order the following persons shall be deemed to be Palestinian citizens:

- a. Any person born in lawful matrimony within Palestine whose father at the time of such person's birth was a Palestinian citizen.
- b. Any person born in lawful matrimony out of Palestine whose father was a Palestinian citizen at the time of that person's birth and was either born within Palestine or had obtained a certificate of naturalisation, or who had acquired Palestinian citizenship under Article 1 or Article 5 of this Order.
- c. Any person born whether in or out of lawful matrimony within Palestine who does not by his birth or by subsequent lawfully acquiring the nationality of any other State or whose nationality is unknown.

Article 4: Acquisition of Palestinian Citizenship

1. Any person over eighteen (18) years of age, who, within two (2) years from the date at which this Order comes into force, by declaration made as hereinafter provided, states his desire to become a Palestinian citizen and satisfies the authority before whom the declaration is made that he fulfils the following conditions, namely:
 - a. That the declarant was born within Palestine and acquired upon birth or subsequently and still possesses Turkish nationality; and
 - b. That the declarant shall have been a resident within Palestine for not less than six (6) months immediately prior to the date of making such declaration; and
 - c. That the declarant has not, while a resident in any country other than Palestine, acquired any foreign nationality that may be subject to the approval of the High Commissioner acquire Palestinian citizenship, and the High Commissioner may grant to such a person a certificate of Palestinian citizenship.
2. A person by whom a declaration has been made, and to whom a certificate of Palestine citizenship has been granted, in accordance with the provisions of this Article shall be deemed to be a Palestinian citizen from the date of such declaration.

Article 5: Acquisition of Palestinian Citizenship by Persons Who Have Already Declared Intention to Opt for Palestinian Citizenship

1. Persons who have made a declaration of their intention to opt for Palestinian citizenship in accordance with Article 2 of the Palestinian Legislative Council Election Order, 1922, and have received provisional certificates of Palestinian citizenship and have, since declaring their intention to opt for Palestinian citizenship, been ordinarily residing in Palestine shall be deemed to have made a declaration under Article 4 of this Order, and shall, subject to the approval of the High Commissioner, be deemed to be entitled to acquire Palestinian citizenship under that Article, and the High Commissioner may grant to such persons certificates of Palestinian citizenship.
2. A person by whom a declaration has been made, and to whom a certificate of Palestine citizenship has been granted, in accordance with the provisions of this Article shall be deemed to be a Palestinian citizen from the date of such certificate.

Article 6: Status of Married Women and Minors

Save as provided in Articles 10 and 12 of this Order, for the purpose of Parts I and II of this Order, the status of a married woman will be governed by that of her husband and the status of a child who has not attained the age of majority by that of its father.

Part III

Article 7: Naturalisation

1. The High Commissioner may grant a certificate of naturalisation as a Palestinian citizen to any person who makes an application and therefore and who satisfies:
 - a. That he has resided in Palestine for a period not less than two (2) years out of the three (3) years immediately preceding the date of his application.
 - b. That he is of good character and has an adequate knowledge of either the English, Arabic or Hebrew language.

- c. That he intends, if his application is granted, to reside in Palestine.

2. A certificate of naturalisation shall not take effect until the application has taken the oath of allegiance in the form stated in the Schedule to this Order:

Provided that any person authorised to make a solemn affirmation or declaration instead of taking an oath may make such affirmation or declaration in lieu of such oath.

3. The granting of a certificate of naturalisation shall be at the absolute discretion of the High Commissioner, who may with or without assigning any reason give or withhold the certificate as he thinks most conducive to public good; and no appeal shall lie from his decision.
4. In the case of a woman who was a Palestinian citizen prior to her marriage to an alien and whose husband has died or whose marriage has been dissolved, the requirements of residence prescribed in clause (1)(a) of this Article shall not apply.
5. The High Commissioner may in any special case, if he thinks fit, grant a certificate of naturalisation, although the two (2) years residence has not been within the last three (3) years immediately preceding the date of the application.
6. For the purpose of this Article:
 - a. a period spent in the service of the Government of Palestine; or
 - b. a period of service in His Majesty's Forces immediately following a period of residence in Palestine,

may, if the High Commissioner thinks fit, be treated as equivalent to a period of residence in Palestine.

Article 8: Rights and Obligations of a Naturalised Person

A person to whom a certificate of naturalisation is granted by the High Commissioner shall, subject to the provisions of this Order, be entitled to all political and other rights, powers and privileges and be subject to all obligations, duties and

liabilities to which a Palestinian citizen is entitled or subject.

Article 9: Status of the Minor Children of a Naturalised Person

1. Any child under the age of majority of a person applying for a certificate of naturalisation may with the approval of the High Commissioner be included by name in the certificate of naturalisation granted to his parent and shall thereupon become a Palestinian citizen:

Provided that any such child may within twelve (12) months after attaining his majority make a declaration of non-citizenship and shall thereupon cease to be a Palestinian citizen.

Naturalisation of a Minor

2. The High Commissioner may in any special case grant a certificate of naturalisation to any minor whether or not the conditions required by this Order have been complied with.

Persons Characterised as Having a Disability Not Eligible for Naturalisation

3. Except as otherwise provided in this Order a certificate of naturalisation shall not be granted to any person characterised as having a disability.

Article 10: Revocation of Naturalisation

1. Where it appears to the High Commissioner that a certificate of naturalisation granted by him has been obtained by false representation or fraud or by concealment of material circumstances, or that the person to whom the certificate is granted has, since being granted, been for a period of not less than three (3) years ordinarily residing out of Palestine and has not maintained a substantial connection with Palestine, or has shown himself by act or speech to be disaffected, or disloyal to the Government of Palestine, the High Commissioner may, subject to the approval of one of His Majesty's Principle Secretaries of State, by order revoke the certificate, and the order of revocation shall have effect from such date as the High Commissioner may direct.

Annulment of Acquisition of Palestinian Citizenship

2. The High Commissioner may, for like reasons, and subject to like approval, annul a Certificate of Citizenship granted under the provisions of Articles 4 and 5 hereof, or a declaration of the retention or resumption of citizenship made under the provisions of Article 12 and paragraph (2) of Article 14 of this Order.

Certificates and Documents to Be Returned in Case of Revocation or Annulment

3. Where the High Commissioner revokes a certificate of naturalisation or annuls a declaration he may order the certificate of naturalisation or any documentary evidence of the acceptance of the declaration to be given up and cancelled and any person refusing or neglecting to give up the certificate or documents shall be liable for conviction to a fine not exceeding one hundred (100) Palestinian pounds.

Article 11: Effect of Revocation of Certificate of Naturalisation

1. Where a certificate of naturalisation granted to a man is revoked, the High Commissioner may by Order direct that his wife and his minor children (or any of them), cease to be Palestinian citizens, and any such person shall thereupon become an alien; but except when the High Commissioner directs as aforesaid, the nationality of the wife and minor children of the man whose certificate is revoked shall not be affected by the revocation, and if they are already Palestinian citizens, they shall remain Palestinian citizens:

Provided that:

- a. It shall be lawful for the wife of any such person within six (6) months after the date of the order of revocation to make a declaration of non-citizenship, and thereupon she and any minor children of her husband and herself shall cease to be Palestinian citizens and shall become aliens; and
- b. The High Commissioner shall not make any such order as aforesaid in the case of a wife who was at birth, or who becomes

by virtue of Articles 1 and 6 of this Order, a Palestinian citizen, unless he is satisfied that if she had held a certificate of naturalisation in her own right, the certificate could properly be revoked under this Order.

2. The provisions of this Article shall, with respect to persons affected thereby, have effect in substitution for any other provisions of this Order as to the effect upon the wife and children of any person where the person ceases to be a Palestinian citizen and such other provisions shall accordingly not apply in any such case.

Article 11A

Where a certificate of naturalisation is revoked or a certificate of citizenship or a declaration of the acquisition, retention or resumption of citizenship is annulled as aforesaid, the former holder of the certificate or the declarant, as the case may be, shall become an alien.

Part IV

Article 12: Status of Married Women

1. Subject to the provisions of this Article, the wife of a Palestinian citizen shall be deemed to be a Palestinian citizen and the wife of an alien shall be deemed to be alien.
2. Where after the twenty-fifth day of July 1939 an alien woman marries a Palestinian citizen, she shall not, by reason of such marriage, become a Palestinian citizen; but the High Commissioner may grant her a certificate of naturalisation, if she makes application therefore, whether or not the conditions required by Part III of this Order have been complied with.
3. Where a woman has married an alien and was at the time of her marriage a Palestinian citizen, she shall not, by reason only of her marriage, be deemed to have ceased to be a Palestinian citizen unless and until she possesses the nationality of her husband.
4. Where a man has, during the continuance of his marriage, ceased to be a Palestinian citizen, his wife shall not, by reason only of

that fact, be deemed to have ceased to be a Palestinian citizen unless and until she possesses some other nationality possessed by her husband.

5. Where a man has, during the continuance of his marriage, ceased to be a Palestinian citizen and solely by reason of his acquisition of a new nationality his wife, being a Palestinian citizen, also acquires that nationality, she may, whether her marriage is still continuing or not, at any time within a period of twelve (12) months from the date on which she so acquired that nationality, or at such later date as the High Commissioner may in special circumstances allow, make a declaration that she desires to retain Palestinian citizenship and thereupon she shall be deemed to have remained a Palestinian citizen.
6. Where on or after the twenty-fifth day of July 1939, a certificate of the naturalisation is granted to an alien, his wife shall not thereby become a Palestinian citizen, but she may, with the approval of the High Commissioner, be included by name in the certificate granted to her husband and shall thereupon become a Palestinian citizen.
7. Where the wife of an alien, who was a Palestinian citizen previous to her marriage, is living apart from her husband in such circumstances that the separation may, in the opinion of the High Commissioner, be presumed to be permanent, the High Commissioner may, if he thinks fit, grant her a certificate of naturalisation as if her marriage had been dissolved.

Article 13

A woman, who having been a Palestinian citizen has by, or in consequence of, her marriage become an alien, shall not by reason only of the death of her husband, or the dissolution of her marriage, cease to be alien, and a woman, who, having been an alien has by, or in consequence of, her marriage become a Palestinian citizen, shall not by reason only of the death of her husband or the dissolution of her marriage cease to be a Palestinian citizen.

Article 14: Status of Minor Children

1. Where a person ceases to be a Palestinian citizen, whether by declaration of non-citizenship, or otherwise, every child of that person being a minor shall thereupon cease to be a Palestinian citizen, if such child has already obtained or obtains, on that person ceasing to be a Palestinian citizen, the nationality of some other country:

Provided that where a widow or a woman whose marriage has been dissolved by a decree of divorce marries an alien, any child of hers by her former husband shall not, by reason only of her marriage, cease to be a Palestinian citizen.

2. Any child who has so ceased to be Palestinian citizen may, within one (1) year after attaining his majority, make a declaration that he wishes to resume the status of Palestinian citizen, and shall thereupon become a Palestinian citizen from the date of such declaration.

Article 15: Loss of Palestinian Citizenship

A Palestinian citizen who, when in any foreign State and not with a disability, by obtaining a certificate of naturalisation or by any other voluntary and formal act, becomes naturalised therein shall thenceforth be deemed to have ceased to be a Palestinian citizen.

Article 16: Declaration of Non-citizenship

Any person who, after the coming into force of this Order, has by birth become a Palestinian citizen but who at his birth or during his minority became under the law of any other State a national of that State and is still such a national may, if of full age and not characterised as having a disability, makes a declaration of non-citizenship and on making such declaration shall cease to be a Palestinian citizen.

Article 17: Persons Ceasing to Be Palestinian Citizens Not Discharged from Obligations Incurred Prior to that Date

Where any Palestinian citizen ceases to be a Palestinian citizen he shall not thereby be discharged from any obligation, or duty of

liability in respect of any act done before he ceased to be a Palestinian citizen.

Article 18: Procedure

A declaration of non-citizenship or of acquisition, resumption or retention of Palestinian citizenship shall be made in Palestine before such officer as may be prescribed by regulation under this Order or outside Palestine before an officer in the diplomatic or consular services of Great Britain.

Article 19: Power of the High Commissioner to Make Regulations

The High Commissioner may make regulations generally for carrying into effect the objects of the Order and in particular with respect to the following matters:

- a. The form and registration of certificates of naturalisation granted by the High Commissioner.
- b. The form and registration of declarations of option for Turkish nationality or of non-citizenship and declarations of acquisition, resumption or retention of Palestinian citizenship.
- c. The fees to be paid in respect of any declaration or grant under this Order.
- d. The procedure to be followed in regard to the revocation and annulment of certificates of naturalisation, certificates of citizenship and declarations of acquisition, retention or resumption of citizenship, including the endorsement of certificates granted to persons other than those whose citizenship will be affected by the revocation or annulment.

Article 20: Status of Wives and Children of Persons Acquiring Palestinian Citizenship

Where in pursuance of this Order any person has become a Palestinian citizen under Article 6 by virtue of the acquisition of Palestinian citizenship by the husband or parent of that person under Article 4 or Article 5, or the name of any person is included in a certificate of naturalisation granted to the husband or parent of that person, such person shall, for the purpose of this Order, be deemed to be a person who has acquired

Palestinian citizenship under the said Article 4 or Article 5 or a person to whom a certificate of naturalisation may be granted, as the case may be; and the provisions of this Order relating to the annulment of certificates of Palestinian citizenship and the revocation of certificates of naturalisation shall, so far as applicable, have effect (but only, in the case of a child, as from the date when such child attains its majority), as though a certificate of Palestinian citizenship, or a certificate of naturalisation, as the case may be, had been granted to such person.

Article 21: Definitions

For the purpose of this Order:

1. The expression "Palestine" includes the territories to which the mandate for Palestine applies, except such parts of the territories comprised in Palestine to the east of Jordan and the Dead Sea as were defined by Order of the High Commissioner dated the first of September 1922.
2. The expression "Palestinian citizen" means a person who is by birth or becomes by naturalisation of otherwise a Palestinian citizen.
3. The expression "Alien" means a person who is not a Palestinian citizen.
4. The expression "disability" means the status of being a married woman or a minor, lunatic or idiot, or otherwise legally incompetent.
5. The age of majority shall be taken to be eighteen (18) years calculated according to the Gregorian Calendar.

Article 22: Penalty for Making False Statements

If any person for any of the purposes of this Order knowingly makes any false representation or any false statement in particular material, he shall, in Palestine, be liable for conviction in respect of such offence to imprisonment with or without hard labour for any term not exceeding three (3) months.

Article 23: Exercise of the High Commissioner's Powers

The powers of the High Commissioner under this Order, other than those conferred by Articles 10 and 24, which shall be exercisable by the High Commissioner alone, may be exercised by the High Commissioner or a person his authority. The term "High Commissioner" shall include every person for the time being administering the Government of Palestine.

Article 24: Powers to Vary this Order

The High Commissioner may by Proclamation in the Gazette at any time within two (2) years from the date of the commencement of this Order and subject to his obtaining the previous approval of a Secretary of State vary, annul or add to any of the provisions of this Order in order to carry out the purposes of the same and may provide for any other matters necessary in order to carry into effect the provisions thereof.

Article 25: Powers of Revocation Reserved for His Majesty

His Majesty, His Heirs and Successors in Council may at any time revoke, alter or amend this Order.

Article 26: Date of Coming into Force

This Order shall come into force on the first day of August 1925.

Article 27: Title

This order shall be known as the Palestinian Citizenship Orders, 1925 to 1941, Consolidated.

Civil Status Law No. 2 of 1999

Article 25

Notwithstanding the provisions of Articles 23 and 24, the Head of the Civil Registry Division may not mention the name of the father, mother or both of them even if he is requested to do so in the following cases:

1. If the parents are unmarriageable persons.
2. If the mother is married and the newborn is not from her husband.

Part III

Marriage and Divorce

Article 26

The competent authorities for conducting the marriage contracts or divorce certificates should affix thereon the identity card number of the husband and wife and the issuing authority. It should send, within one (1) month, a copy of the contract or certificate to the Department located in the area where the event of marriage or divorce has taken place.

The Department should record the contracts and certificates in the respective register thereof after stamping or inserting thereon an entry number as well as keep a copy of every contract or certificate.

Article 27

The secretariats of clerks in the competent courts should notify the Civil Status Department in the area located within the area of its competence according to the form provided for this purpose of the final judgments passed of the marriage or annulment thereof, divorce, divorcing (event) or substantiation of relationship within seven (7)

days from the date in which the judgment has become final. The Department should record the judgments in the respective register.

Article 28

The Head of the Civil Registry Division shall, following the recording of marriage or divorce in the events register, make a remark thereof in the register of the couple, divorcees or one of them if they are registered therein. If the couple, divorcees or one of them is registered in another civil register, the Head of the Civil Registry Division should send a statement to the concerned Registry within three (3) days in order to make an annotation note in the civil register of each of them.

Law No. 3 of 2008 Amending the Civil Status Law No 2 of 1999

Article 2: Addition of Paragraph (3) to Article 18

Both parents shall have the right to name the newborn. In the event of a disagreement between the parents, the father, then the mother, then the next of kin, or the legal representative of the rights holder shall have, respectively, the right to name the newborn.

Article 5

A new Article shall be added after Article 48 (bis.) of Law No. 2 of 1999 Concerning Personal Status, and shall read as follows:

1. The family name of a woman cannot be changed or modified on her identity card on the basis of marriage.
2. The full quadruple name of the husband shall appear in the annex to the wife's identify card, indicating her marital status as "married".

**Chapter V:
The Legislative Framework
Regulating the
Socio-Economic Rights of
Palestinian Women**

Laws

Widows and Orphans Pension Law No. 33 of 1944

Providing for the establishment of a pension fund for the widows and orphans of government employees subject to pension.

The High Commissioner of Palestine, following consultation with the Advisory Council, hereby enacts the following:

Chapter I

Preamble

Article 1: Title

This Law shall be entitled the Widows and Orphans Pension Law of 1944.

Article 2: Definitions

1. The following expressions and phrases, mentioned in this Law, shall have the meanings specified thereto below, unless the context indicates otherwise:

The phrase "Accountant General" shall apply to the Accountant General of the Government of Palestine.

The expression "Accountant" shall mean a person who is a member of the Institute of Accountants in England or the Association of Accountants in Scotland or of any institute or association or assembly of accountants that is approved by the High Commissioner through a declaration to be published in the *Al Waqa'i al Filistiniya* [Palestinian Official Gazette].

The phrase "approved project" shall mean each project or fund that provides for granting retirement pensions to the widows and orphans of employees in the public service, and which the Minister has made a statement considering

it as an approved project for the fulfilment of the purposes intended by this Law.

The expression "entitled person" shall mean:

- a. The contributor's widowed wife.
- b. The child of the contributor who is in the "retirement age" and born to him from a wife who died or who is not entitled to a retirement pension in accordance with this Law. It shall be a condition precedent that if there are two or more children begotten from a single marriage, those children shall be deemed to comprise one entitled person.

The expression "Board" shall apply to the Board of Directors of the Fund, which is appointed in pursuance of the provisions of this Law.

The expression "contributor" shall denote the person who contributes to the Fund. It shall include the person who discontinues the contribution or the person exempted from the contribution in conformity with Paragraph (2) under Article 9 with the exception of the cases that this Law provides otherwise.

The phrase "expatriate allowance" shall mean a supplement to be added to the salary and granted in accordance with the Government's public regulations pertaining to this allowance.

The expression "Fund" shall apply to the Fund that is established in accordance with this Law.

The expression "Government" shall mean to the Government of Palestine.

The phrase "other public service" shall designate any public service in any government other than the Government of Palestine.

The phrase "retirement pension" shall mean the retirement pension granted to any entitled

person in accordance with this Law, unless the context indicates that the intention thereof is the retirement pension granted to the contributor.

The phrase "pensionable position" shall designate, in relation to the person who occupies it, a pensionable position in accordance with the provisions of the Retirement Law of 1944.

The phrase "public service" shall refer to the service in a civil position in the Government, or in the Government of any section of the independent properties of His Majesty, or in the Government of any state under British protection, or British protectorate, or in the Government of any countries under the British Mandate which His Majesty has accepted the mandate thereon on behalf of the League of Nations, or in the Government of the English-Egyptian Sudan, or for the High Commissioner for Transport in Kenya and Uganda, or any other service that the Minister approves to consider it to be a public service for the fulfilment of the purposes intended by this Law.

The expression "salary" shall designate the total salary of the basic position that the employee occupies, including the expatriate allowance. However, it shall not include any other allowance or any other returns, or the value of any benefit which the employee may incur or which he may enjoy.

2. The child shall be in the "retirement age", for the fulfilment of the purposes intended by this Law, in the case of the male, who is under twenty (20) years of age and in the case of the female if she is under twenty-one (21) years of age and unmarried.
3. In the event the marriage of any contributor is annulled or dissolved by a decision pronounced by a competent court, or otherwise in accordance with the Law of Personal Status that is applicable to his case, his wife shall be deemed, for the fulfilment of the purposes intended by this Law, as if she had died. The contributor shall be deemed to have become a widower as of the date on which the marriage was annulled or dissolved.
4. In case the contributor is married or has become married, in a legal manner to more than one woman at the same time, in pursuance of the Law of Personal Status

which applies to his case, the expressions "wife" and "children" shall mean in relation to such a contributor his first wife and children from that wife, for the fulfilment of the purposes intended by this Law.

It shall be a condition to the application of the paragraph above, that if any wife was entitled to a pension under this Law, and she then became disentitled while the contributor was, at the time of her disentanglement, married in a legal manner, (as mentioned above) to another wife or more, the contributor shall be deemed, for the fulfilment of the purposes intended by this Law, to have become a widower at the time of the disentanglement of his wife ceased (as is mentioned above), and that he was already married at the same time that he was declared a widower to the woman to whom he married first after his marriage to his other wife who became disentitled to the pension (as is mentioned above).

5. The child, who becomes a legitimate son by marriage in accordance with the laws of the country in which his father used to live at the time of his marriage shall be deemed to be a son begotten from that marriage for the fulfilment of the purposes intended by this Law.

Chapter II

Establishment and Management of the Fund

Article 3: Establishment, Management and Control of the Widows and Orphans Pension Fund

1. A fund to be called the Widows and Orphans Pension Fund shall be established in Palestine in order to secure retirement pensions for the widows and orphans of contributors to the Fund.
2. A Board of Directors shall assume control of the Fund. It shall be under the presidency of the Accountant General and comprise members to be appointed by the High Commissioner from time to time, provided that it includes a representative or representatives of contributors.

A Legal Collection

3. All retirement pensions and returns of the contributed amounts (including the interest, if any) shall be disbursed from the Fund in accordance with this Law, as well as all the expenditures and expenses of the Fund's management (including consultation with the accountants).
4. All of the amounts that the contributors and Government pay in pursuance of this Law, and all interests of the Fund's invested funds, and all the amounts paid in accordance with Paragraph (1) under Article 6, shall be paid to the Fund.
5. All of the funds that belong to the Fund shall be deposited with the Accountant General, and shall be invested, with the exception of the portion which the Board deems fit to keep in order to disburse necessary amounts from the Fund in accordance with this Law, on behalf of the Fund in debentures. Otherwise, they shall be invested at an interest in the manner approved by the High Commissioner. Any funds invested as such may be substituted at any time with debentures approved in the manner mentioned above. Necessary funds may be secured to disburse any amounts from the Fund, in accordance with this Law, through the selling or accruing of any invested moneys from the Fund.

It shall be a condition precedent that any portion of the funds, which belong to the Fund, shall neither be spent at any time for the purchase of government bonds or invested at interest for the purposes of the Government in the event such a purchase or investment may cause the total value of the government bonds that are owned on behalf of the Fund, at the market price, along with the amounts invested with interest for purposes of the Government, to become more than triple the prices of the total assets of the Fund at that time.

6. The Accountant General shall prepare annual accounts of the Fund's transactions during the year expiring on the thirty-first day of the previous March, along with a statement of the Fund assets on that date. Such accounts shall be examined on a yearly basis and approved by the Controller of Government Accountant. Thereafter, they shall be submitted to the High Commissioner,

enclosed with the Board's report on the Fund's transactions, no later than the thirty-first day of the following August.

Article 4: Contributor Records

Records shall be kept to register the date of birth of each contributor and the name of any woman or children of his, who may become entitled to a pension under this Law, in addition to all of the details pertaining to the sums paid to the Fund by or on behalf of that contributor, the retirement pension or retirement pensions payable at the examined time to each contributor in the event of his death; and all of the dates and details relating to each contributor and to members of his family that should be registered for the fulfilment of the purposes intended by this Law.

Article 5: The Presentation of Information by the Contributors

1. Each contributor must, within three (3) months from the date on which he becomes a contributor for the first time, send to the Board a written notice, in which he states his birth date. If he was, then, married or a widower and had children in the "age of retirement", he must list the dates of his marriage and the dates of birth of his wife and children (in case he had children).
2. Each contributor, who marries while he is a contributor, must send to the Board within three (3) months from the date of his marriage a written notice of his marriage and its date, as well as of his wife's birth date.
3. Each contributor must send to the Board within three (3) months from the date of the occurrence of any of the following incidents a written notice, in which he states:
 - a. The delivery of any child born to him and the child's birth date.
 - b. The marriage of any of his daughters under twenty-one (21) years of age.
 - c. The death of his wife or any of his children in the "age of retirement", in case the death occurs while he is still a contributor.
 - d. The annulment or dissolution of his marriage and the date thereof.

4. Following the death of any contributor, his widowed wife must notify the Board or Crown Agents in writing within three (3) months from his death of the following:
 - a. The date of death of the contributor in case he was not at the time of his death in the service of the Government.
 - b. The birth of any child following the death of his or her contributing father (from her and from her said husband) and the child's birth date.
 - c. The marriage of any of the contributor's daughters under twenty-one (21) years of age.
 - d. The death of any of the contributor's children in the "age of retirement".
 - e. The marriage of the wife for the second time or her insolvency.
5. The validity of any such statement or notice shall be verified, if the Board or Crown Agents thus request, by presenting the certificate of birth or death, marriage contract, sworn statement or otherwise, in a manner that convinces the Board or Crown Agents, as the case may be.
6. The provisions of this Article shall neither be applicable to any marriage that is subject to the provisions of Paragraph (1) under Article 29, nor to the wife or widow or children of such marriage.

Article 6: Penalty of the Failure to Present Information or Presenting False Information

1. In the event the contributor fails or neglects, or the contributor's widowed wife fails or neglects, to act in line with the requirements of Article 5, he or she shall be punished for each failure or negligence as such, at the High Commissioner's free will, by the payment of a sum that does not exceed two (2) Pounds to the Board. Such a sum may be deducted from his or her salary or from his or her retirement pension, as the case may be.
2. In case the contributor or contributor's widowed wife deliberately presents at any time any false statement pertaining to any of the details whose submission is required

under this Law, the entitlements merited by the contributor or his widowed wife or his children in the Fund, shall be seized in whole or in part, at the Minister's free will. The Minister may instruct that the retirement pension paid to any of the contributor's children be raised as a result of seizing any entitlement of any other children of the contributor or his widowed wife, in accordance with this Article. Thereafter, the retirement pension shall be raised accordingly.

3. Nothing under this Article shall prejudice any right of the Board to restore any amount disbursed from the Fund, which would have not been disbursed from it if it were not for such failure, negligence or false statement, as is mentioned above.

Article 7: Assessment of the Fund Assets

An accountant to be approved by the High Commissioner shall assess assets of the Fund at intervals of not less than five (5) years. Such an accountant must submit a report to the High Commissioner, including the methods which he deems fit to implement in order to invest the surplus [funds] or avoid the deficit either by reconciling the contributed funds or benefits or by any other means. Should the High Commissioner in the Board approve of the implementation of any of these methods, which does not necessitate the introducing of amendments to this Law, the High Commissioner shall issue forth a regulation in accordance with this Law to implement that method.

Chapter III

Contributors and Paid Funds

Article 8: Contributors

Subject to the provisions of this Law:

1. Each employee appointed in a pensionable position in the service of the Government, who has chosen his appointment in such a position after the first day of the month November 1944, shall become a contributor in conformity with the provisions of this Law as of the date on which he received the salary of such a position, or as of the date on which

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- he becomes eligible in the event he was on that date ineligible to be a contributor or to become a contributor in accordance with the provisions of Article 9.
2. Each employee who occupies such a position on the date mentioned above, or who was appointed in that position after that date, but had chosen to be appointed therein before that date, may submit an application, requesting that he be considered to be a contributor no later than the first day of the month of November 1945, or during any period that follows such a date, and which the High Commissioner might allow in any special case. In the event the High Commissioner grants permission thereof, at his own free will, after the submission of a medical report in regard of such an employee for this purpose, the employee shall become a contributor as of the first day of the next month which follows the month in which the employee was served a notice with the decision of the High Commissioner in that respect.
 3. If it occurs that any employee amongst those referred to under Paragraph (2) was appointed, but has not become a contributor, in the service of the Government after the first day of the month of November 1945 in accordance with the conditions that include his reappointment or employment in the service of the Government, such employee shall be subject to the provisions of Paragraph (1) by virtue of such appointment.
- d. The persons employed by virtue of explicit contracts, which prescribe that the period of their employment is less than three (3) years.
 - e. The contributors to the Fund that is established in accordance with the Law on the Reserve Fund of 1943.
 - f. The persons whose salaries are less than three hundred (300) Pounds a year.
 - g. The persons who reaches fifty-four (54) years of age prior to the first day of November 1939.
 - h. Women.
2. Subject to the provisions of this Paragraph, if the Board is convinced that an employee who is competent under this Law would become a contributor, while he is a contributor in accordance with an approved project, the Board may, based upon the request of such an employee, instruct that he be exempted from the contribution, so long as he continues to be a contributor in accordance with the aforesaid approved project, until such time the assigned amount of contribution becomes from time to time, under the provisions of this Law, if it were not for the provisions of this Paragraph, more than the amount which he contributed in accordance with the approved project mentioned above. As long as the exemption is valid, and as long as the employee continues to make the contribution in accordance with the aforesaid project, he shall not be assigned to contribute to the fund with an amount (if there is an amount as such) that exceeds such increase.

Article 9: Persons Excluded from Contributing to the Fund

1. The persons referred to below shall not be eligible to be contributors, namely:
 - a. Incompetent persons, or those who are not entitled to be contributors in pursuance of the provisions of Article 8.
 - b. The persons temporarily employed in the service of the Government in special missions.
 - c. The persons seconded to the service of the Government from any other public service.
3. The Board may assign any contributor, who was granted an exemption according to this Paragraph, from time to time to present receipts of the amounts that he contributed or any other evidence that proves his continued contribution in line with the approved project mentioned above. In the event he fails to do so, the Board may cancel such exemption.
4. The application for exemption shall not be legal in accordance with this Paragraph unless it is submitted in writing and delivered

to the Board no later than three (3) months from the date on which the employee started to earn his salary from the Government Fund, or on any ensuing date which the High Commissioner approves in any special case.

5. In the event any employee who does not contribute to the Fund, in accordance with an exemption granted to him under this Paragraph, he shall as such be deemed, for the fulfilment of purposes of this Law, to have discontinued to make the contribution or that he is continuing the contribution, as the case may be, in case he ceases or continues to make the contribution if he had not been granted that exemption. He may exercise all of the rights to choice, which are authorised to him under Chapter V of this Law.

Article 10: The Amount of Contribution to the Fund

1. With the exception of what is outlined to the contrary under this Law, each contributor must contribute to the Fund with a rate of five (5) percent a year from his annual salary or from his retirement pension at that time.

It shall be a condition precedent that any employee is not assigned to contribute with a rate that exceeds sixty (60) Pounds during a single year.

2. In the event a contributor is absent on leave with or without pay, or he was suspended from employment, he must contribute the rate designated under Paragraph (1).
3. The amounts contributed according to this Article shall accrue every day, and shall be deducted on a monthly basis from the contributor's salary or retirement pension, as the case may be, at the end of each of month. In case the contributor does not pay the contributed amount during his unpaid leave, the late payable amount shall be deducted from his salary, after he returns from the leave, in the instalments that the Board defines in any special case.

Article 11: The Government's Contribution

1. Subject to the provisions of Paragraph (4), an amount at the rate of four (4) percent shall be paid annually on behalf of the employee

from his annual salary to the Fund from the public revenues of Palestine, so long as that employee is in the service of the Government and contributes to the Fund, or so long as he is exempted from the contribution in accordance with the provisions of Paragraph (2) under Article 9.

2. In the event a contributor is absent on leave with partial pay or without pay, or he was suspended from employment, contributions must continue [to be paid] in accordance with this Article in the rate defined under Paragraph (1) of Article 10.
3. Subject to the provisions of Paragraph (4), in the event an employee from among the contributors leaves the service of the Government, and he used to receive a retirement pension from the public revenues of Palestine, a rate of four (4) percent shall be paid yearly on his behalf from his annual retirement pension.
4. Wherever an employee chooses or is obliged to receive a reduced retirement pension and an honorarium, instead of the retirement pension to which he would be entitled to if it were not for that choice or obligation, his retirement pension shall be deemed, for the purpose of calculating the amounts to be contributed on his behalf in accordance with this Paragraph, to be the amount of his unreduced retirement pension to which he is entitled to in the manner mentioned above.
5. The amount contributed in pursuance of this Article may not exceed sixty (60) Pounds in a single year.
6. The amounts contributed in line with this Article shall accrue on a daily basis and shall be deducted every month.

Article 12: Lump Sum Contributions

1. The employee who becomes a contributor in accordance with Paragraph (2) under Article 8 may pay to the Fund, if he thus chooses, a lump sum contribution that does not exceed the total amount which he would have paid during the period in which he was a contributor if this Law had entered into effect on the first day of the month of November 1939, and his salary during that period

was equal to his salary at the time this Law entered into force.

2. Wherever an employee chooses to pay a lump sum contribution according to Paragraph (1), he must pay such a contribution no later than three (3) months from the date on which the High Commissioner's decision was served to him in pursuance of Paragraph (2) under Article 8, or on any ensuing date which the High Commissioner sets in any special case. A parallel contribution shall not be disbursed from the public revenues of Palestine.

Article 13: Discontinuance of the Payment of Contributions

Payment of the amounts by the contributor to the Fund shall cease upon the occurrence of any of the following incidents:

- a. If he reached the age of fifty-five (55) years;
- b. If he died;
- c. If he left the public service, with the exception of what is provided for under Article 20; or
- d. If he was transferred from the Government service to any other public service, with the exception of what is prescribed under Chapter V.

Article 14: Payment of Contributions in the Event the Contributor's Salary Is Reduced

In case a contributor's salary is reduced:

- a. He may, after dispatching a written notice thereon to the Board, continue to pay contributed amounts, which are calculated proportionally to his salary before the reduction took place, on condition that:
- b. The rate of the amount contributed by the Government will be calculated proportionally to the real salary earned by the contributor, regardless of whether he continued, or not, to pay in this manner.

Article 15: Reappointment of the Contributors

If it happened that a contributor left the Government service, and was reappointed, but he used to pay a contribution to the Fund in accordance with Chapter V immediately before the date of his reappointment, he must, as of the date of his reappointment, contribute with the rate which he should have made he had not been a contributor prior to that date.

It shall be a condition precedent that he may, in case the rate is less than that which he used to contribute prior to that date, and so long as he is as such, continues to pay that amount, if he thus chooses based on a written request that he sends to the Board. He may also withdraw his choice at any time.

Chapter IV

Refunding of Contributions

Article 16: Prohibition of the Refunding of Contributions

With the exception of what is explicitly provided for under this Law, contributed amounts may not be refunded to contributors.

Article 17: Prohibition of the Refunding of Contributions to Exceptions

1. Subject to the provisions of Chapter V, in case a contributor who is a bachelor or a widower who does not have children in the "age of retirement", and ceases to contribute to the Fund, will no longer be considered as a contributor and shall be void for the fulfilment of the purposes intended by this Law. After deduction of any debt due by him to the Government, the amount described below shall be disbursed from the Fund to him or to his legal personal representative (in the event he had a personal legal representative), and if he did not have a legal personal representative, then to the person entitled in accordance with the Law:
 - a. In the case of the bachelor, the amount that he contributed with its compound interest added to it.
 - b. In the case of the widower, the amount that he contributed within the period that

commenced from the date of the death of his last wife, or from the date on which the last of his children has no longer been in the "age of retirement", whichever is the latest, with its compound interest added to it.

It shall be a condition precedent that if a contributor is dismissed from the public service because of his misconduct, the amount that he contributed shall be disbursed to him, in accordance with the above [provisions], without interest counted therein.

2. For the fulfilment of the purpose intended by this Article, the interest shall be calculated at the rate of two and a half (2 ½) percent per year, along with annual due payments, on the thirty-first day of the month of March of each year. The interest shall be due for each contributed amount on the first day of the month that follows the day on which the contribution was paid. It shall discontinue on the last day of the month preceding the day on which the payment was made in accordance with this Article.

Chapter V

Provisions Pertaining to the Employees Who Leave the Service

Article 18: Transference of Employees to Another Public Service with a Pension Plan

In case an employee is transferred from the Government service to any other public service with an approved plan, the following provisions shall be applied:

1. If the contributor is a bachelor or a widower who does not have children in the "age of retirement":
 - a. He may, if he thus chooses based on a written notice that he sends to the Board no later than three (3) months from the date of his transference, continue to be a contributor for the fulfilment of the purposes intended by this Law without contributing other amounts.
 - b. Article 17 shall not apply prior to the lapse of the aforesaid three (3) months

or upon his death if it occurs before that date. However, it shall then apply as of the date of his transference in case he did not exercise the right to choose provided for under Clause (a), not in another manner.

- c. In case he exercised the right to choose prescribed above, then he left the public service or died without having married or remarried as the case may be, the provisions of Article 17 shall be applicable to his case.
 - d. In the event he exercised the right to choose provided above, then he married before he had left the public service, the latter provisions shall not be applicable to him.
2. In case the contributor was married or a widower who had children in the "age of retirement":
 - a. He may, if he thus chooses based on a written notice that he sends to the Board no later than three (3) months from the date of his transference, continue to contribute to the Fund at the rate that he used to make on that date.
 - b. If he does not choose to continue to make the contribution in the manner mentioned above, he shall discontinue the contribution as of the date of his transference.

Article 19: Transference of Contributors to a Public Service that Does Not Provide for the Widows and Orphans Pension

In the event a contributor is transferred from the Government service to any other public service without an approved pension plan, the following provisions shall be applied:

1. If the contributor is a bachelor or a widower who does not have children in the "age of retirement":
 - a. He may, if he thus chooses, based on a written notice that he sends to the Board no later than three (3) months from the date of his transference, continue to contribute to the Fund in the rate that he used to make on that date.

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- b. Article 17 shall not apply prior to the lapse of the aforesaid three (3) months or upon his death if it occurs before that date. However, it shall then apply as of the date of his transference in case he does not exercise the right to choice provided for under Clause (a), not in another manner.
 - c. In the event he does exercise the right to choose prescribed above, then he chooses thereafter to discontinue the contribution based on a written notice which he sends to the Board at any time, he shall cease the contribution as of the first day of the month in which he sent the notice in the manner expounded above. Subject to the provisions of this Law, if he was at that time a bachelor or a widower who did not have children in the "age of retirement" and he ceased the contribution in the manner described above while he was still in the public service, or he left the public service or died, the provisions of Article 17 shall apply to his case.
2. In case the contributor was married or a widower who had children in the "age of retirement":
 - a. He may continue, then cease, the contribution in the manner described under Paragraph (1).
 - b. If he does not choose to continue to make the contribution in the manner mentioned above, he shall cease it as of the date of his transference.

Article 20: The Contributor's Retirement before Attaining the Age of Retirement

1. If a contributor, who is married or a widower who has children in the "age of retirement", retires from the public service before he reaches fifty-five (55) years of age and he is granted a retirement pension from the public revenues of Palestine, he shall continue to make a contribution at the rate he used to make immediately before he retired from the services, until he chooses based on a written notice that he sends to the Board:
 - a. To make a contribution that is consistent with his retirement pension; or
 - b. To cease the contribution as of the first day of the month during which he sent the notice in the manner described above.
- If he chooses the above, his contribution shall be reduced or discontinued as per his choice. In accordance with this Paragraph, the contributor may choose to discontinue the contribution even if he has already chosen to make the contribution in pursuance of the provisions under Clause (a).
2. Notwithstanding the provisions of Article 24, in the event the aforesaid contributor retires from the service for health reasons and he dies:
 - a. Within a period of not more than three (3) years from the date on which he retired from the service, if he was at the time of his death a contributor in accordance with the provisions of Clause (a) under Paragraph (1).
 - b. Within a period of not more than two (2) years from the date of his retirement from the service if he had at the time of his death ceased the contribution.
- In this case, any due retirement pension shall be calculated as if he had died on the day preceding the date on which he retired from the service.
3. In case the aforesaid contributor continued to make the contribution in accordance with Paragraph (1), then his wife died and his children, if he had any, surpassed the "age of retirement", or died, he shall cease to make the contribution.
 4. Wherever an employee chooses or is obliged to receive a reduced retirement pension and an honorarium, instead of the retirement pension to which he is entitled, if it were not for that choice or obligation, his retirement pension shall be deemed, for the sake of calculating the amounts which he contributes in accordance with Clause (a) under Paragraph (1), to be the amount of his unreduced retirement pension to which he is entitled in the manner described above.

Article 21: The Choice to Discontinue the Contribution

1. With the exception of what is provided explicitly under this Law, the right to choose, which the contributor exercises in accordance with Articles 18, 19 or 20, may not be revoked.
2. In the event the amount due by a contributor who chose to cease the contribution, wholly or partly, remained unpaid for a period of three (3) months, such a contributor shall be deemed to have chosen to discontinue the payment as of the month in which the aforementioned amount was due.

It shall be a condition precedent that this Paragraph is applicable as if the reference mentioned therein to the three (3) months is substituted with any longer period which the High Commissioner determines in case he thus instructs in any special case.

Article 22: Retirement from the Service for Health Reasons without a Retirement Pension

In the event a contributor, who is married or a widower who has children in the "age of retirement", retires from the public service due to his ill health, but he was not granted a retirement pension from the public revenues of Palestine, the retirement pension which is disbursed at the time of his death, in case he died within two (2) years from the date on which he retired from the service, shall be calculated as if he died on the day preceding the date of his retirement from the service.

Chapter VI

Calculation and Disbursement of Retirement Pensions

Article 23: Calculation and Disbursement of Retirement Pensions

1. All retirement pensions shall be calculated in accordance with the Table of Pensions and Instructions in Appendices (A) and (B) annexed to this Law. The Accountant General shall disburse these pensions, or instruct the Crown Agents to disburse them, when they are due.

2. Subject to the provisions of this Law, the retirement pension shall commence from the day following the death of the contributor, in regard of whom the pension is paid. It shall accrue on a daily basis and shall be disbursed at the end of each month.

It shall be a condition precedent that the retirement pension may be paid once every three (3) months in case the person entitled to the pension thus wishes.

Article 24: Influence of Increments and Reductions on Contributions

1. If the total of the contributions, which are payable monthly by a contributor who is married or a widower who has children in the "age of retirement", is raised on his behalf, the retirement pension that is payable in regard of that contributor shall be increased by a sum that is consistent with the retirement pension payable for a contribution that equals such raise as if the contributor had commenced to make a contribution to the Fund on the date of that raise.
2. If those contributions are reduced, the payable retirement pension shall be reduced by a sum that is equal to the sum of the raise if those contributions had increased, instead of decreasing.
3. When the payment of contributions is discontinued contrary to the provisions of Clauses (a) and (b) under Article 13 of this Law, such a discontinuation shall be deemed to be a reduction for the fulfilment of the purposes intended by Paragraph (2).

Article 25: Rights of the Entitled Persons

Subject to the provisions of this Law,

1. Upon the death of a contributor who is succeeded by one or more entitled person(s), such an entitled person, or all of the entitled persons, as the case may be, shall receive a retirement pension in pursuance of the provisions of this Law.
2. In case the retirement pension is disbursed to more than one entitled person(s), each one of them shall receive a retirement pension proportionally to the amount to which he or she is entitled to if he or she were the only

entitled persons as the ratio of a unit to the total number of the entitled persons.

3. Wherever two or more entitled persons receive a retirement pension in regard of one contributor, but the term of the pension which any one of them receives in accordance with the provisions of this Law elapses, the remaining entitled person or persons shall receive, as of the date on which the pension ceases, the retirement pensions to which they are entitled to if the first entitled person had not been alive at the time that the contributor died.

Article 26: The Pension of Orphaned Children

1. Wherever there is only one child (either a male or a female) begotten by a contributor from any marriage and who is entitled to a retirement pension, his or her retirement pension shall be at the rate which his or her mother received or to which she was entitled to if it was payable to her. It shall discontinue when that child surpasses the "age of retirement" or upon his or her death.
2. Wherever there are two or more children begotten by a contributor from any marriage and who are entitled to a retirement pension, the retirement pension shall be at the rate which their mother received, or which she could have received if it had been payable to her. It shall be disbursed to those children at equal shares. In the event any of these children (either a male or a female) surpasses the "age of retirement" or dies, his or her share of the retirement pension shall be disbursed to the remaining children from the same marriage. In case there are two or more children, it shall be disbursed between them in equal shares.

Article 27: Entitlement of the Contributor's Widowed Wife

1. In the event the contributor's widowed wife is one of the entitled persons, the retirement pension shall cease upon her marriage.
2. In the case the retirement pension is ceased in the manner mentioned above, or because of the widow's death, or in case it is seized in accordance with Paragraph (2) under Article 6, if there are no living children from

the widow's marriage to the contributor who are in the "age of retirement", the retirement pension shall cease. In case such children exist, the retirement pension shall be disbursed to them in accordance with the provisions of this Law.

Article 28: Insolvency of the Widow

In the event the contributor's widowed wife is one of the entitled persons, and a ruling on insolvency is entered against her or she is declared to be unable to repay her debts by a competent court, the disbursement of the retirement pension to her shall cease. It shall also cease if the High Commissioner thus instructs.

It shall be a condition precedent that if the High Commissioner does not instruct that the retirement pension cease, the Board may, with the consent of the High Commissioner, pay to her, so long as she is alive, or during any period or shorter periods, either consecutive or intermittent, as it deems valid from time to time, an allowance of which the rate does not exceed that of the retirement pension granted to her, or to any child or more from her marriage to the contributor, or to pay a portion of the allowance to her and the other portion to that child or those children. In case the sum of the allowance disbursed in this manner is less than the retirement pension, the Minister may issue instructions to raise the retirement pension disbursed to any of the contributor's children from any other marriage, as a result of reducing the amount disbursed from the Fund in pursuance of this Article. Thence, such an amount shall be raised in the manner described above.

Article 29: Persons Not Entitled to the Pension

1. The contributor's widowed wife, whom he married after he had attained fifty-five (55) years of age, or after he had left the public service, and any child from such marriage, shall not be deemed to be from among those entitled for the fulfilment of the purpose intended by this Law, and none of them shall become entitled to the retirement pension.
2. In the event a contributor dies within twelve (12) months of his marriage, without having begotten a child from such marriage, his widowed wife shall not be deemed to be from among those entitled for the fulfilment of the purposes intended by this Law, nor

shall she become entitled to a retirement pension in accordance therewith.

It shall be a condition precedent that the Board may, with the approval of the High Commissioner, give an instruction to disburse to that widow all or some of the retirement pension, to which she would have been entitled to if it were not for the provisions of this Paragraph (it shall be called under this Article as the prescribed pension). Wherever the Board thus instructs, it shall be payable to that widow in line with its instruction, whereby she shall be from among the entitled persons for the fulfilment of the purposes intended by this Law. If only a portion of the prescribed pension is disbursed to that widow based on the Board's instruction, the retirement pension payable to another entitled person shall be raised so as to be equal to the difference between the retirement pension which such an entitled person deserves if the Board had instructed to disburse the whole of the prescribed pension to the aforesaid widow and the retirement pension to which he is entitled if the Board had not issued any instruction in accordance with this Paragraph, in the ratio of such portion of the prescribed retirement pension to the total pension.

Article 30: The Contributor's Widowed Wife's Failure to Support His Children

If the Board is convinced that a contributor's widowed wife, while she was receiving the retirement pension, has deserted a child from her marriage to the contributor, whom she is held responsible by virtue of the Law to sustain while he is in the "age of retirement", or that she has failed to take care of or help him to the extent the means of living available to her allow, or that has failed to do so, the Board may, at its own free will and choice and so long as that child is in the "age of retirement", pay to them and to instruct that they be paid a portion of the retirement pension that the Board deems to be appropriate. That widow shall not have any other claim regarding such portion of the retirement pension that is disbursed to the children in such a manner.

Article 31: Disbursement of the Retirement Pensions to Children in the "Age of Retirement"

1. Any retirement pension, portion of the retirement pension or allowance disbursed

under this Law, or in accordance with its provisions, to a child in the "age of retirement", and any allowance disbursed to a widow in accordance with the provisions of this Law, may be paid at the free will and choice of the Board:

- a. To that child or widow, or
 - b. To the person or persons whom the Board approves in order to support, assist or benefit that child or widow.
2. In case the retirement pension is disbursed by means of the Crown Agents, Paragraph (1) under this Article shall be in force as if the reference mentioned therein to the Board is a reference to the Crown Agents.

Article 32: Establishing the Entitlement to a Pension

The Board may request the evidence that it deems appropriate to prove that the person, who claims the retirement pension, or on behalf of whom a retirement pension is being claimed, is alive and is entitled to a retirement pension. Disbursement of any retirement pension may be rejected until such evidence is submitted in a manner that is satisfactory to the Board.

Chapter VII

Miscellaneous Provisions

Article 33: Impermissible Transference or Attachment of the Retirement Pension

With the exception of what is explicitly provided under this Law, the retirement pension that is due under this Law as well as the rights authorised to any contributor in accordance therewith, may not be transferred or conveyed, nor may they be subject to attachment, seizure or collection in satisfaction of any debt or claim whatsoever.

It shall be a condition precedent that any contribution or any other amount due for the Fund by a contributor or deceased contributor may be deducted from any amount payable by the Fund to or on behalf of that contributor. Any amount that is due for the Fund by a contributor's widow or children may also be deducted from the due retirement pension or

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allowance of that widow or those children, or on behalf of them, in accordance with this Law.

Article 34: The Exchange Rate

Upon the payment of any contributions, retirement pensions or any other amounts in pursuance of this Law, the exchange rates shall in all cases that require the conversion of currency, be in accordance with what the High Commissioner decides from time to time for such purpose.

Article 35: Settlement of Issues and Disputes

The Board shall refer to the High Commissioner all of the issues and disputes which arise about who can be deemed to be a contributor, or about the right of any widow or child to receive a retirement pension, or the sum of such pension or in relation to the rights and duties of any person in accordance with this Law. The High Commissioner's decision shall be binding to and inclusive of all parties and shall be final for the fulfilment of all purposes and intentions. It shall not be subject to appeal, nor shall it endure examination before any court.

Article 36: Setting Forth Regulations

The High Commissioner of the Board may, after obtaining the approval of the Minister of Colonies, put forward regulations to implement the provisions of this Law.

October 27th, 1944

Acting Government Agent

G. F. W. Shaw

Palestinian Childhood Law No. 7 of 2004

Chapter XII

The Higher Council for Maternity and Childhood

Article 70 Establishment of the Higher Council for Maternity and Childhood

In accordance with the provisions of this Law, a council to be called the "Higher Council for Maternity and Childhood" shall be established and shall have a juridical personality. A law on its formation, regulation and definition of its capacities shall be promulgated.

The Public Health Law No. 20 of 2004

Chapter II

The Health of the Woman and the Child

Article 4: Prioritisation of the Healthcare of Women and Children

The Minister must give the priority to the healthcare of women and children and regard it as an integral part of the development strategy of the Palestinian National Authority.

Article 5: Provisions of Preventive, Diagnostic, Curative and Rehabilitative Services

The Ministry must provide preventive, diagnostic, curative and rehabilitative services pertaining to mother and child health, including:

1. Conducting a medical examination before conclusion of the marriage. The contract of marriage shall not be documented except after the medical examination to ensure that the couple is not carrying any diseases that may affect the life and health of their offspring.
2. Providing care to women, especially during the periods of pregnancy, delivery and breastfeeding, and encouraging natural breastfeeding.
3. Monitoring children's growth and development.
4. Raising awareness of the family and society on how to care for, protect and deal with children during the various phases of their growth and development.

Article 6: Preventive Immunisation

1. The Ministry shall perform the following:
 - a. Develop and implement preventive immunisation programmes.
 - b. Work towards ensuring the quality of vaccinations and maintaining them in the process of transportation, storage and use.
2. No charges shall be collected for the immunisation of newborns, children and pregnant women.

Article 7: Compulsory Adherence to Immunisation Programmes

In accordance with the Law, the child's parents or caregivers must abide by the immunisation programmes provided by the Ministry.

Article 8: Abortion

1. It shall be prohibited to provide an abortion to any pregnant woman by any means whatsoever unless an exigency necessitates the abortion to save her life from danger, on condition that two specialised physicians are witnesses (at least one of whom is a gynaecologist). The following [conditions] must also be satisfied:
 - a. A prior written approval from the pregnant woman. In the event she is unable to do so, the written approval shall be taken from her husband or guardian.
 - b. The abortion shall take place in a healthcare institution.

2. The healthcare institution, in which the abortion was conducted, must keep a special record, in which it registers the name of the pregnant women and the date, type and justifications of the operation. It must keep this information, in addition to the testimony of the two physicians and the written approval of the abortion, for a period of at least ten (10) years.

Income Tax Law No. 17 of 2004

Chapter III

Exemptions and Clearance

Article 10: Exemptions

In order to attain the net taxable income:

1. The resident naturalised person shall be granted the following annual exemptions:
 - a. An exemption at the amount of three thousand (3,000) American dollars for the resident taxpayer.
 - b. A family exemption, the amount of which is five hundred (500) American dollars for each of the parents, spouse, dependent children and dependents of the first and second degrees.
 - c. An exemption for the purpose of education at the recognised higher educational institutions in the amount of two thousand and five hundred (2,500) American dollars for each dependent individual, with the exception of those who have obtained a grant.
 - d. An Exemption of the rent of the residence of the resident along with his or her dependents at a maximum limit of two thousand (2,000) American dollars per annum.
 - e. An Exemption of the purchase or construction of houses in the amount of five thousand (5,000) American dollars on one occasion only.
 - f. Medical treatment that is supported with documents, which the resident person pays for himself or herself or on behalf of

his or her dependents, provided that it does not exceed the value of the taxable income.

- g. In the event the husband and wife jointly submit an application to impose the tax, each one of them shall enjoy the exemption provided under Clause (a) above. Meanwhile, the other exemptions shall be granted to one of them.
 - h. Relevant probative documents must be submitted in order to benefit from the exemptions of education, residence rent, maintenance and medical treatment.
2. The non-resident naturalised person shall be granted the exemptions provided in Paragraph (1) above in the event his or her family resides in Palestine.
 3. The amount which the functionary or employee pays to the funds of retirement, health insurance, social security or any other fund to which the Minister agrees shall be exempted from the tax.

In all cases, the total of the annual exemption must not exceed twelve thousand (12,000) American dollars or the taxable gross income in any year, any of which is less.

Article 11: The Income of the Husband and Wife

1. Each of the husband and wife shall be a taxpayer who is independent of the other.
2. Each of the husband and wife shall enjoy the exemptions prescribed in this Law, except for the exemption of children, exemption of education and exemption of residence, which shall be granted to one of them.

3. The spouses may request that their income be consolidated and that they be deemed to be one taxpayer.
4. The income of the unmarried children who have not completed eighteen (18) years of age shall be consolidated with the income of one of the parents.

Executive Decisions

Council of Ministers Resolution No. 366 to Improve the Protection of Women Subjected to Violence of 2005

The Council of Ministers,

Having reviewed the Amended Basic Law of 2003 and its Amendments,

Having reviewed the proposal of the Minister of Women's Affairs,

Based upon what the Council of Ministers has approved in its session, which convened in the city of Ramallah under No. 40/9 on November 23rd, 2005,

Hereby decides the following:

Article 1: Violence Directed against Women

Violence directed against women shall mean: the physical, sexual and psychological violence that occurs within the framework of the family and society, and that violates the applicable laws.

Article 2: The Provision of Qualified Female Officers

The Ministries of Interior and National Security are assigned to make available qualified female officers to deal with the cases of violence directed against women at the police stations.

Article 3: Issuance of Directives

The Ministry of Justice, in coordination with the Attorney General, is assigned to issue forth directives to members of the public prosecution to provide protection to women subjected to violence by relocating them to one of the safe houses of the Ministry of Social Affairs until the necessitating causes terminate.

Article 4: The Ministry of Health

The Ministry of Health is assigned:

1. To provide specialised psychiatrists [to treat] cases of violence directed against women.
2. The psychiatrist of the woman subjected to violence shall be bound to prepare a psychological report on the case, to be attached with the therapy report of the same case, to the public prosecution.

Article 5: The Ministry of Social Affairs

The Ministry of Social Affairs is assigned to integrate women subjected to violence into the relief and development programmes applicable at the Ministry as urgent exceptional cases.

Article 6: Coordination with Ministries

The Ministry of Women's Affairs shall assume the responsibility for coordinating with the respective ministries for the purposes of the implementation of the provisions of this Decision.

Article 7: Enforcement, Entry into Force and Publication

All the competent authorities, each within the sphere of its jurisdiction, shall enforce the provisions of this Decision, which shall enter into force as of the date of its promulgation and shall be published in the *Official Gazette*.

Promulgated in the city of Ramallah on November 23rd, 2005 Anno Domini,

Corresponding to Shawwal 21st, 1426 Anno Hijiri

Ahmed Qurei' (Abu Ala')

The Prime Minister

Presidential Decree No. 13 Declaring the Eighth of March a Paid Holiday for Women of 2006

The Chairman of the Executive Committee of the Palestine Liberation Organisation,

The President of the Palestinian National Authority,

Having reviewed the Amended Basic Law of 2003 and its Amendments,

Based upon the powers bestowed upon me,

And in realisation of the public interest,

I hereby promulgate the following Decree:

Article 1: The International Women's Day

The announcement of the eighth day of March as paid leave for women at all governmental institutions, local bodies and private institutions on the occasion of the celebration of the International Women's Day.

Article 2: Enforcement, Entry into Force and Publication

All the competent authorities, each within the sphere of its jurisdiction, shall enforce the provisions of this Decision, which shall enter into force as of the date of its promulgation and shall be published in the *Official Gazette*.

Promulgated in the city of Ramallah on March 8th, 2006 Anno Domini,

Corresponding to Safar 8th, 1427 Anno Hijiri

Mahmoud Abbas

Chairman of the Executive Committee of the Palestine Liberation Organisation

President of the Palestinian National Authority

Presidential Decree No. 24 of 2005

The Chairman of the Executive Committee of the Palestine Liberation Organisation

The President of the Palestinian National Authority

Having reviewed the Amended Basic Law of 2003 A.D. and its Amendments,

Upon the provisions of the Security Council Resolution No. 1325, dated October 31st, 2000,

Based upon the powers bestowed upon me, and

In realisation of the public interest,

I hereby promulgate the following Decree:

Article 1: Institutions' Support of Women

The institutions of the Palestinian National Authority shall support the equal participation and full involvement of women in all efforts for the maintenance and promotion of peace and security and shall work towards applying them.

Article 2: Support of Women by the Palestinian National Authority

The National Authority shall support the participation of Palestinian women in the International Women's Commission³³ to carry out good relations within the framework of the United Nations and to participate in the negotiations and establishment of a real, just and sustainable peace in the Palestinian-Israeli conflict.

Article 3: Enforcement, Entry into Force and Publication

All the competent authorities, each within the sphere of its jurisdiction, shall enforce the

³³ The full name of the organisation is the International Women's Commission for a Just and Sustainable Israeli-Palestinian Peace.

provisions of this Decree, which shall enter into force as of the date of its promulgation and shall be published in the *Official Gazette*.

Promulgated in the city of Ramallah on September 26th, 2005 Anno Domini,

Corresponding to Sha'ban 22nd, 1426 Anno Hijri

Mahmoud Abbas

Chairman of the Executive Committee of the Palestine Liberation Organisation

President of the Palestinian National Authority

Presidential Decree No. 19 Concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 2009

The President of the State of Palestine

The Chairman of the Executive Committee of the Palestine Liberation Organisation

The President of the Palestinian National Authority

Having reviewed the Amended Basic Law of 2003 A.D. and its Amendments,

Based upon the powers bestowed upon me, and

In realisation of the public interest,

I hereby promulgate the following Decree:

Article 1

To endorse the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) consistent with the provisions of the Palestinian Basic Law.

Article 2

All the competent authorities, each within the sphere of its jurisdiction, shall enforce the provisions of this Decree, which shall enter into force as of the date of its promulgation and be published in the *Official Gazette*.

Promulgated in the city of Ramallah on March 8th, 2009 Anno Domini,

Corresponding to Rabee' al Awwal 11th, 1430 Anno Hijiri

Mahmoud Abbas

President of the State of Palestine

Chairman of the Executive Committee of the Palestine Liberation Organisation

President of the Palestinian National Authority

Resolution by the Council of Ministers No. 219 Declaring International Women's Day as a National Holiday of 2004

The Council of Ministers,

Having reviewed the Amended Basic Law, and

Based upon what the Council of Ministers approved in its session, which convened in the city of Ramallah on December 23rd, 2004 A.D. under No. 05/53 in the year 2004 A.D.

Hereby decides as follows:

Article 1: Considering the International Women's Day as a National Holiday

The International Women's Day, which falls on the 8th of March, shall be deemed to be a national holiday, on which celebrations shall be organised and Palestinian women honoured.

Article 2: Enforcement, Entry into Force and Publication

All the competent authorities, each within the sphere of its jurisdiction, shall enforce this Decision, which shall enter into force as of the date of its promulgation and be published in the *Official Gazette*.

Promulgated in the city of Ramallah on December 23rd, 2004 *Anno Domini*,

Corresponding to Thu al Qi'dah 11th, 1425 *Anno Hijiri*

Ahmed Qurei' (Abu Ala')

The Prime Minister

Draft Laws Related to Palestinian Women

Draft Law for Family Protection against Violence of 2009

First: General Provisions / Definitions

Article 1

This Law shall be entitled the "Draft Law for Family Protection against Violence of 2009" and shall enter into force after the lapse of one (1) month from its publication in the *Official Gazette*.

Article 2

This Law shall aim to protect the family in order to secure a safe environment, which ensures for its members sound growth and decent living within it.

Article 3

No article under any other law that contradicts the provisions of this Law shall take effect.

Article 4

The provisions of this Law shall be applicable to the issue of domestic violence without prejudice to the provisions of the Penal Law in relation to other criminal cases or any other law.

Article 5

The following expressions and terms shall have the meanings ascribed thereto adjacently unless the context indicates otherwise:

1. Family: For the purposes of this Law, the family shall include the father, mother, son/daughter, brother/sister, husband/wife, grandfather, grandmother, grandson/granddaughter, paternal uncle/aunt, maternal uncle/aunt, nephew/niece, cousin [son and daughter of the paternal uncle/aunt], cousin [son and daughter of the

maternal uncle/aunt], stepfather, stepmother, wife's stepson/stepdaughter, husband's stepson/stepdaughter, father-in-law/mother-in-law, and brother-in-law/sister-in-law.

2. Child: Each human being who has not yet completed eighteen (18) years of age.

3. Violence: Notwithstanding the provisions of any other piece of legislation, each act or omission performed by a member of the family towards any other member thereof, which implies a physical, sexual or psychological assault or a serious threat of a physical, sexual or psychological assault, or which generates a serious fear of a transgression as mentioned earlier, shall be deemed to be a violence which this Law prevents.

It shall also entail the deprivation from basic needs, such as shelter, food, beverage, clothing, and loss of "personal safety".

4. Protection: In pursuance of this Law, protection shall mean all the procedures and orders that are expedient to provide physical, sexual and psychological security and safety for the assaulted person.

5. Ad-interim Injunction In Absentia: The temporary order which is entered by the competent Court on the basis of a request from a member of the family as is described in the Law.

6. Order of Protection: An order, entered by the competent Court on the basis of a request from a member of the family as is expounded in the Law, stating that the perpetrator shall not enter the place where the complainant and/or the member who is in need of protection and/or that the latter be prevented from harassing or interfering

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with him or her in a direct or indirect manner and in any place during the period in which the order is effective, and/or stating that the perpetrator be subjected to treatment and/or that an alternative framework be provided for the victim.

- 7. Community Service Order:** An order entered by the competent Court as described in this Law, including the obligation of the perpetrator to fulfil a community service order at a public facility in the field of his or her professional and scientific specialisation. The order shall include the place, number of hours and conditions of work.
- 8. Family Protection Counsellor:** A functionary at the Ministry of Social Affairs who is assigned to receive and follow up with the issues of domestic violence.
- 9. The Court:** The Court of First Instance or the Family Court, when it is formed.
- 10. The Law:** The Law for Family Protection against Violence.

Article 6

The Council of Ministers shall be entitled to set forth the regulations necessary for the enforcement of the provisions of this Law.

Second: Mechanisms of the Submission of Notices

Article 7

Each family member, who has been subjected to violence by a member of the family, or who has witnessed violence exercised against a member of the family, shall be entitled to approach the Court and submit an application for the issuance of an order of protection, or to file a notice with the Judicial Police.

Article 8

In the event that the violence committed against a member of the family was sexual and/or grave, each adult member of the family who was witness to the occurrence of the offence must approach the Judicial Police and apply for an order of protection.

Article 9

Without prejudice to the provision of Article 7, in the event the victim of the violence was a child, the representative of the Judicial Police shall have the right to approach the Court in order to take the proper measures.

Article 10

The physician, nurse, social worker, police officer, psychiatrist, lawyer, educational adviser at a school and its principal in the event of his or her absence, or any other person who knows through the treatment of a person or offering of advice or service to him or her within the framework of his or her work or function that violence was exercised against that person by a member of his or her family must notify the assaulted person of his or her right to approach the police station or the Social Affairs Office.

Article 11

The physician, nurse, social worker, police officer, psychiatrist, educational adviser at a school and its principal in the event of his or her absence, or any other person who knows during the treatment or offering of advice that a child was subjected to violence by a member of the family must notify the Judicial Police thereof.

Article 12

Upon receipt of the notice, the Judicial Police must conduct a preliminary investigation. And,

1. The Court shall be entitled to issue forth an injunction stating that the applicant appear solely, on condition that it hears the case again in the presence of the two parties within a period that does not exceed one (1) week from the date on which the injunction was issued forth.
2. Parties and witnesses, including children, shall be heard in separate rooms and under appropriate conditions. A chance shall be made available for each one of them to make their statements in a free, confidential and safe manner.
3. The notice shall be registered in detail.
4. Protection shall be provided to the person who submitted the notice when necessary.

5. Necessary measures shall be taken to distance the accused from the house. Should this be impossible and the assaulted member is still in danger, exigent arrangements shall be taken to arrest him or her [the perpetrator].
6. The assaulted member and/or members shall be moved and/or necessary measures shall be taken to move them to a safe place or to a protection house when necessary.

Article 13

In the event the victim of the violence is a child, the competent Court shall notify the Family Protection Counsellor about the order of protection, where the protection order was lodged, and request that the Ministry submit to it a report within a period which the Court defines.

Article 14

The report of the Family Protection Counsellor must include the following:

1. The date and duration of the sessions in which the assaulted member was interviewed.
2. The relationship between the perpetrator and the assaulted member.
3. The full name of both parties.
4. The sex of each party.
5. The social conditions in which the assaulted member lives and each piece of information that the Social Affairs employee deems to be relevant to the subject matter of the complaint.
6. A recommendation to the Court, seeking to find the most ideal solution for the case. This may include, inter alia, an order of protection, a community service order, distancing of the perpetrator from the victim, the place which is suggested for the distanced party to stay in, subjecting of the perpetrator to treatment, and finding of an alternative framework for the victim.

Article 16

The person who fails to perform his or her obligation in accordance with this Article shall have committed a misdemeanour, the penalty of which shall be imprisonment up to three (3) months.

Third: Judicial Proceedings

Article 17

The Court may issue forth an *ad-interim* injunction *in absentia* based upon the request of the assaulted person in the event the perpetrator does not appear before the Court or in case it is impossible to subpoena him or her to appear due to his or her disappearance or ignorance of his or her place. The injunction may include an order of non-interference in the future and/or prevention of the perpetrator from opposing the assaulted person in the use of the house or his or her private properties or those designated for the joint use or the assets of the house.

Article 18

The Court may, upon request, expand the scope of the persons who are included under the right to request the issuance of the injunction so as to cover the witnesses or other relatives and persons who offered or offer assistance to the assaulted member.

Article 19

In the event of the existence of a sexual assault or grave danger that threatens the life or health or safety of the victim or the impossibility of preventing the danger until the Court's order is issued forth, an application may be filed to issue an *ad-interim* injunction *in absentia* within a maximum period of twenty-four (24) hours from the occurrence or threat of violence. The injunction shall provide for:

1. Obliging the perpetrator to leave the house of the family.
2. Preventing the perpetrator from contacting the assaulted person.
3. Each person who contravenes such order may be arrested and a penal charge shall be ascribed to him or her.

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4. The assaulted person shall be moved to a protection house in case the perpetrator could not be distanced.
5. The assaulted person shall be informed that he or she has the right to bring a penal action against the perpetrator.
6. The assaulted person shall be informed that he or she has the right to claim their civil right (have a right to compensation for the damaged caused).
7. The assaulted person shall be informed that he or she has the right to file a claim before the Religious Court.

Article 20

The *ad-interim* injunction *in absentia* shall remain in effect until the order of protection is issued forth, provided that the period does not exceed ten (10) days.

Article 21

The Court shall issue forth an order of protection in case it appears that one of the following matters has occurred:

1. The perpetrator committed a physical assault against a member of the family within a period that did not exceed three (3) months before the request was submitted.
2. The perpetrator committed a sexual offence against a member of the family or commenced its perpetration.
3. The perpetrator confined a member of the family or restricted his or her freedom under a circumstance that the Law does not permit, but it was not established that the perpetrator's act was the only means to deter a grave danger, the source of which was the assaulted member, on him or her.
4. The perpetrator's conduct entailed a tangible physical danger against a member of the family, or he threatened to commit a sexual offence.
5. The perpetrator subjected a member of the family to psychological torture on a continuous basis.

6. The perpetrator prevented and deprived a member of the family of basic needs, such as shelter, food and beverage.

Article 22

The order of protection must:

1. Oblige the perpetrator to leave the house of the family.
2. Prevent the perpetrator from contacting the assaulted person.
3. Move the assaulted person to a protection house in case the perpetrator could not be distanced.
4. Inform the assaulted person that he or she shall have the right to bring a penal action against the perpetrator.
5. Inform the assaulted person that he or she shall have the right to claim their civil right (have a right to compensation for the damaged caused).
6. Inform the assaulted person that he or she shall have the right to file a claim before the Religious Court.

Article 23

The competent Court shall dispatch a certified copy of the order of protection to the Judicial Police and relevant bodies in order to execute the order of protection issued forth by the Court.

Article 24

The period of validity of the order of protection shall not exceed three (3) months. The Court shall have the power to extend its validity from one period to another, provided that the total of the periods does not exceed six (6) months. However, under special circumstances and for material causes that are to be detailed in a written report, the Court may extend the validity of the order of protection based upon the report of the Family Protection Counsellor, which is prescribed under Article 14.

Article 25

Based upon the report of the Family Protection Counsellor, the Court shall be entitled to issue forth the community service order and shall identify in it the body and the period of time of the service, provided that the perpetrator produces a certificate from the concerned body, demonstrating his or her commitment to the service.

Article 26

Based upon the report of the Family Protection Counsellor, the Court shall be entitled to oblige the perpetrator to undergo psychological therapy or counselling sessions or to attend rehabilitation and training programmes, on condition that he or she presents a report on the results of the therapy within the prescribed period to the Court from the monitoring body.

Article 27

Non-compliance with the order of protection shall lead to the trial of the perpetrator on grounds of the charge of abstention from executing a judicial decision and to the punishment of him or her with the fine and imprisonment prescribed for such a charge.

Article 28

In the event the Court finds ill faith or deliberate cause of damage to the perpetrator without a foundation or if it becomes clear that the application was unjustified, the Court shall enter a ruling against the applicant whereby he or she satisfies the expenses and pays the proper compensation to the perpetrator.

Fourth: The Family Protection Counsellors

Article 29

1. The Ministry of Social Affairs shall establish a department to be called the Family Protection Department, which includes a number of family protection counsellors.
2. The Minister of Social Affairs shall issue forth the bylaws that identify the criteria of the Family Protection Counsellors, their

specialisation, and methods of dealing with relevant bodies and entities.

Article 30: Granting Judicial Police Capacity to Counsellors

1. The Family Protection Counsellors shall enjoy the Judicial Police capacity within the scope of the implementation of the provisions of this Law.
2. The Family Protection Counsellor must, before he or she commences his or her tasks, take an oath in the manner of the Judicial Police officer.

Article 31

The Family Protection Counsellor shall be delegated with the task of preventive and remedial intervention in all cases that threaten the safety of the family in accordance with this Law.

Article 32

1. The Family Protection Counsellor shall enjoy the following powers:
 - a. To summon the assaulted member and perpetrator in order to hear their statements and responses about the facts of the notice.
 - b. To enter alone or in the company of the person whom he or she deems to be useful to any place in which the assaulted person is present. Meanwhile, he or she shall be incumbent to exhibit a card that demonstrates his or her capacity. If entry is impossible for him or her, a summary judicial permission can be obtained even if he or she seeks assistance from the public force.
 - c. To initiate investigations and take the appropriate preventive measures in relation to the assaulted person.
 - d. To submit a detailed report on the condition of the perpetrator and assaulted person as expounded under Article 14 of this Law.

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2. Each person who prevents the Family Protection Counsellor from performing his or her tasks or impedes the progress of investigations, such as making erroneous statements or deliberate concealment of the truth in relation to the condition of the assaulter, without prejudice to the penalties prescribed under the Penal Law for the offences of assaulting a civil servant during the performance of the duties of his or her function shall be punished with a fine of not more than five hundred (500) Jordanian Dinars and not less than two hundred (200) Dinars or its equivalent in the legally circulated currency.
3. The Childhood Protection Counsellor must refer all the cases forwarded to him or her, in which the perpetrator is a member of the family, to the Family Protection Counsellor.
8. The judgement entered by the Court of Family Affairs shall be subject to immediate execution.
9. The judgement entered by the Court shall be subject to the grades of litigation.
10. The judgement entered by the Court shall be executed under its supervision.

Conclusive Provision

Powers of the Court of Family Affairs

1. The Court of Family Affairs in Palestine shall examine the complaints, conflicts and offences pertaining to domestic violence and relevant [cases].
2. The Court shall examine the order of protection in a summary manner.
3. The sessions of the Court shall be held *in camera*. Attendance of its sessions shall not be permissible except with a special permission from the judge of the Court.
4. The Court of Family Affairs shall be composed of the Family Protection Counsellor and a single judge, who shall be responsible for the administrative supervision thereof. In the event its judges are multiple, the more senior judge shall assume these tasks.
5. The High Judicial Council shall be responsible for regulating the functions of the Court of Family Affairs.
6. Courts of Family Affairs shall be established in the centres of governorates as the case may be.
7. The Court shall exempt the assaulted person from attending the trial in person in the event it deems that his or her interest thus requires. The trial shall be deemed to be *in praesentes* in relation to him or her.
1. The proposed Law in general, and the order of protection issued forth in accordance with it in particular, shall constitute but a temporary solution or stage at which the victim receives protection until the fundamental problem from which the violence has arisen is resolved.
2. All of the cases examined before regular courts shall be remitted to the Court of Family Affairs in accordance with the provisions of this Law unless the examined case is retained for the final pleading or issuance of the judgement.
 - a. This Law shall be published in the *Official Gazette* and shall enter into force after thirty (30) days from the date of its publication.
 - b. All the authorities concerned, each within the sphere of its jurisdiction, shall implement the provisions of this Law.

Draft Penal Law No. () of 2003

Book Four

Crimes of Assault on Persons and Properties

Title I

Crimes of Assault on Persons

Chapter I

The Crimes of Genocide, Crimes against Humanity and War Crimes

Article (...)

1. For the purposes of this Law, the definition of the Statute of the International Criminal Court of genocide, crimes against humanity and war crimes shall apply to the crimes mentioned in the provisions of this Chapter.
2. The elements of the crimes approved by the Assembly of State Parties to the Rome Statute of the International Criminal Court shall be applicable to the crimes enumerated under this Chapter.

Article (...)

Each person who orders, instigates, plans or executes a crime of genocide, a crime against humanity or a war crime in Palestine or abroad shall be punished by imprisonment for life.

Article (...)

1. The original perpetrator or the accomplice in the crime of genocide, crimes against humanity or war crimes shall not be exempted from the criminal responsibility in

the event that his perpetration of such crimes was implemented in compliance with the order of a government or superior, whether he was a military member or a civilian, or that he was implementing a decision imposed by his superiors, or licensed in accordance with the legislative or regulatory provisions, or a decision issued forth by a legitimate authority.

2. The Judiciary shall take such a circumstance into consideration at the time of ruling on the penalty.

Article (...)

The attempt of committing the crimes mentioned under this Chapter shall be punishable by the penalty prescribed for the completed crime.

Article (...)

The penal lawsuit or the entered sentence relating to the crimes of genocide, crimes against humanity or war crimes, which are provided under this Chapter, shall not be subject to the statute of limitations, nor shall the judgments of special pardon be applicable to them.

Article (...)

The Palestinian law shall be applicable to the crimes mentioned under this Chapter and shall be applicable to the crimes that are committed outside the Country in the event there is an international convention obliging Palestine to prosecute and try the perpetrator of such crimes.

Article (...)

1. The universal criminal jurisdiction of national courts shall be applicable to the crimes

prescribed under this Chapter in relation to the prosecution and trial of the perpetrators of such acts or the accomplices with them so long as they are present in the Palestinian territory.

2. The penal lawsuit in the crimes mentioned in the provisions of this Chapter shall not be set in motion except upon a request from the Attorney General or one of his assistants based upon a complaint from the victim, or his descendant who is entitled thereto, or upon a formal notice by the authorities of the State, on the territory of which the act occurred.
3. In case the Attorney General decides to maintain the lawsuit on file in regard of one of the crimes of those referred to above, he must notify the Minister of Justice thereof and state the reasons on which he founded his decision. The latter shall, in turn, notify the International Criminal Court.

Chapter II

Premeditated Murder

Article (...)

Premeditation is the determined intent, prior to the act, to commit a crime or misdemeanour for the purpose of harming a particular person or any other person he [the perpetrator] finds or meets by chance, even if the intent was dependent on a matter or attached to a condition.

Article (...)

Ambuscade is when the culprit lies in wait for a person in one place or several places for a period of time, whether long or short, so as to kill or harm someone caught off-guard, even if the act is committed on someone other than the intended person.

Ambuscade shall be deemed fulfilled even if the execution of the act was dependent on the occurrence of a particular matter or contingent on a condition.

Article (...)

Each one who murders a person with premeditation or ambuscade shall be punished by imprisonment for life.

Article (...)

Each one who murders a person other than the intended person, with substances or materials that may cause death sooner or later, no matter how they were used, shall be deemed to be a murderer by poison and shall be punished by imprisonment for life.

Article (...)

1. Each one who murders a person with premeditation shall be punished by imprisonment for life.
2. The penalty shall be imprisonment for a term of thirty (30) years:
 - a. In the event the purpose of the murder was a preparedness to perpetrate a crime or misdemeanour, or facilitate its perpetration, or complete its execution, or assist its perpetrators or accomplices to escape, or extricate them from the penalty.
 - b. In the event the murder was preceded, associated with or followed by another crime.

Article (...)

1. Each person who, in a premeditated manner, prompts, tempts or assists a person to commit suicide, and this person does commit suicide, shall be punished by temporary imprisonment, provided that the term is not less than five (5) years.
2. The penalty shall be imprisonment in the event death does not result therefrom.

Article 235

The person who is surprised to see his or her spouse caught *in flagrante delicto* committing adultery or his or her presence in a bed with his or her accomplice and murders them at once, or murders one of them, or assaults one or

both of them in a manner that leads to death or permanent disability shall be punished with temporary imprisonment of not less than five (5) years.

Article (...)

Each person who conceals the corpse of a murdered person or buried it without having notified the competent authorities and prior to conducting a medical examination thereon and verification of the state of death and its causes shall be punished by imprisonment for a term that does not exceed one (1) year.

Chapter II

Battery Leading to Death or Permanent Disability

Article (...)

1. Each person who batters or wounds someone deliberately or gives him or her, with ill faith, harmful substances, or perpetrates against him any other act that contravenes the Law, but has not intended thereby to murder him or her, but the assault led to his or her death, shall be punished by imprisonment for a term that does not exceed ten (10) years.
2. The penalty shall be temporary imprisonment in the event the assault was preceded by premeditation or ambushade.

Article (...)

1. Each person who batters or wounds someone deliberately or gives him, with ill faith, harmful substances, and such [an act] results in the loss or amputation of an organ or deprivation from its utility or blindness or loss of one eye or any other permanent disability shall be punished by imprisonment for a term of not more than seven (7) years.
2. The penalty shall be imprisonment for a term that does not exceed ten (10) years in the event the assault was preceded by premeditation or ambushade.
3. In case the culprit deliberately causes a disability to the victim, the penalty shall be temporary imprisonment.

Chapter III

Battery, Serious and Mild Wounds, and Slight Harm

Article (...)

1. Each person who batters or wounds someone deliberately, and as such results in an injury or disability of personal activities for a period that exceeds fifteen (15) days shall be punished by either imprisonment for a term that does not exceed one (1) year or a fine that is not more than five hundred (500) Dinars, or both.
2. In the event the element of premeditation or ambushade is fulfilled, the penalty shall be either imprisonment for a term of not more than two (2) years or a fine that does not exceed one thousand (1,000) Dinars in the crime, or both.

Article (...)

1. Each person who batters or wounds someone deliberately, and as such results in an injury or disability of personal activities for a period that does not exceed fifteen (15) days shall be punished by either imprisonment for a term that does not exceed six (6) months or a fine that is not more than five hundred (500) Dinars, or both.
2. In the event the condition of premeditation or ambushade is fulfilled in the crime, the penalty shall be either imprisonment for a term of not more than one (1) year or a fine that does not exceed one thousand (1,000) Dinars, or both.

Article (...)

In the event of battery or wounding, mentioned under the previous two Articles, and one or more within a group or a crowd composed of at least three persons agreed to the assault and injury, each one of them shall be punished with imprisonment for a term that does not exceed one (1) year.

Article (...)

1. The penalty of battery shall be aggravated to its maximum limit in the event the battery is

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committed by the spouse against his or her spouse, or by the descendant against his or her antecedent, or the antecedent against his or her descendant.

2. The penalty shall be doubly aggravated in the event the battery occurs against a child.
3. The penal lawsuit in the crimes of battery affecting spouses, descendants and antecedents shall not be filed except by a complaint from the aggrieved person, or by a complaint from the child or his or her relative up to the fourth degree in case he or she was under fifteen (15) years of age.

Article (...)

In case several persons take part in a fight, which results in the murder of or the disruption of an organ or injury or harm [caused to] to a person, but it was impossible to identify the perpetrator in person, those who took part in the criminal offences that resulted in the death or disruption of the organ or injury or harm shall be punished by the penalty legally prescribed for the perpetrated crime after it is reduced to its half.

Chapter IV

Manslaughter and Accidental Wounding

Article (...)

The person who causes by error the death of another person, due to a reason arising from his or her negligence, rashness, want of caution or inconsideration of laws or regulations or bylaws shall be punished by either imprisonment or a fine that does not exceed one thousand (1,000) Dinars, or both.

Article (...)

The person who causes by error the wounding of another person, due to a reason arising from his or her negligence, rashness, want of caution or inconsideration of laws or regulations or bylaws shall be punished by either imprisonment for a term that does not exceed six (6) months or by a fine that is not more than two hundred (200) Dinars, or both.

Article (...)

The penalties prescribed under the previous two Articles shall be doubled in the event the culprit was:

1. In a state of inebriation or under the influence of narcotics when he committed the error, from which the incident resulted.
2. Or he recoiled from the assistance of the victim or from requesting assistance to him even though he was capable thereof.
3. Or a death or wounding of three or more persons resulted from the crime.
4. Or he attempted to escape the criminal or civil responsibility that he might be subject to by fleeing after the occurrence of the incident took place or by altering the condition of the crime scene or with any other means.

Chapter V

Threat

Article (...)

1. Each person who threatens another by graphic or electronic means or with any other means so as to prompt him to perpetrate a crime against a person or property, which is punishable by life or temporary imprisonment, or to induce him to reveal a secret, or attribute a matter involving moral turpitude, or ascribe a charge of the perpetration of a crime, and the threat was accompanied by [a financial claim or with an assignment to perform an act or to refrain from performing it] shall be punished with imprisonment for a term of not more than five (5) years.
2. The penalty shall be confinement if the threat was not accompanied by a financial claim or with an assignment to perform an act or to refrain from performing it.
3. The penalty shall be imprisonment for a term that is not less than seven (7) years in the event a person issued the threat forth with an authority in virtue of, or in association with, his position.

Article (...)

1. Each person who threatens another in a similar manner to what is mentioned under the previous Article in the event the threat was accompanied by a claim or by an assignment shall be punished with imprisonment from three (3) to five (5) years.
2. Each person who threatens another verbally or through a third person in a similar manner to what is mentioned under the previous Article in the event the threat was associated with a claim or with an assignment shall be punished by confinement.
3. The penalty shall be confinement for a term that does not exceed one (1) year in case the threat was not accompanied by a claim or by an assignment.
4. The mediator shall be punished in all cases with the same penalty, which is prescribed under the previous two Paragraphs.

Article (...)

Each threat other than what is mentioned under the previous two Articles shall be punishable with confinement for a term of not more than one (1) month or with a fine that does not exceed one hundred (100) Dinars.

Chapter VI

Abortion

Article (...)

Each person who deliberately causes the miscarriage of a pregnant woman by means of battery or similar types of injury shall be punished by imprisonment for a term that does not exceed ten (10) years.

Article (...)

Each person who deliberately causes the miscarriage of a pregnant woman by giving her medicines or other substances or by using any means that leads to an abortion shall be punished by imprisonment for a term that is not less than seven (7) years.

Article (...)

In the event the perpetrator of the crime of abortion, that is provided for under Article 250 is a physician, surgeon, pharmacist or midwife, the penalty shall be imprisonment for a term that is not less than ten (10) years.

Article (...)

Each pregnant woman who deliberately takes harmful medicines or substances or consents to use means that lead to an abortion, or enables another person to use such means with her, and resulted in an abortion, shall be punished by confinement.

Article (...)

In the event the abortion, which is prescribed under Articles 249, 250 and 251, results in the death of the woman, the penalty shall be temporary imprisonment.

Article (...)

Abortion shall not be deemed to be a crime in the event it has been necessitated to save the life of the pregnant woman from danger, or if it has been proven that she was subject to severe pains that she was incapable of enduring.

Article (...)

1. The woman who induces an abortion herself as a result of a sexual assault shall be exempted from punishment.
2. Such exemption shall be applicable to each person who assists her in such abortion.

Article (...)

1. An abortion may not be conducted without obtaining permission from a specialised medical committee, on the establishment of which the Minister of Justice shall issue forth a decision.
2. Such procedure shall not be applicable to the circumstances of exigency that require an urgent medical intervention in order to prevent a concurrent and imminent danger.

Article (...)

No penalty shall be prescribed for the attempt to commit the crime of abortion.

Chapter VII

Rape, Assault on Decency, and the Infringement upon Morals

Article (...)

Each person who commits the following acts shall be deemed a perpetrator of the crime of rape and shall be punished by life or temporary imprisonment in the following manner:

1. Each [man] who copulates with a female in an illegitimate manner without her consent by using force against her, or by threatening her, or by deceiving her in the nature of the act, or personality of the perpetrator, or whilst she was losing sense or consciousness, or whilst she was in a physical or mental or psychological condition which rendered her incapable of resistance, shall be punished by temporary imprisonment.
2. Each [man] who copulates with a female who has not yet reached fifteen (15) years of age shall be punished by temporary imprisonment.
3. The penalty shall be imprisonment for life in the event the perpetrator was an ancestor of the victim, or from among those who assume her upbringing or observation, or from among those who have a *de facto* authority over her, or he was employed by her or by any person mentioned above.

Article (...)

1. Each [man] who copulates with a female who has reached eighteen (18) years of age or more in an illegitimate manner and such with her consent, both shall be punished by confinement.
2. In the event the perpetrator was an ancestor of the female, or from among those who assume her upbringing or observation, or from among those who have a *de facto* authority over her, he shall be punished

by imprisonment for a term that does not exceed five (5) years.

3. The provisions of Article 278 of this Law shall be taken into consideration in the implementation of the provisions of this Article.

Article (...)

1. Each [man] who copulates with a female who has reached fifteen (15) years of age, but has not yet attained eighteen (18) years of age, in an illegitimate manner, without use of the means described in the first Paragraph under Article 257 of this Law shall be punished by imprisonment for a term of not more than ten (10) years.
2. The penalty shall be temporary imprisonment in the event the perpetrator was from among those prescribed in the third Paragraph under Article 257.

Article (...)

1. Each male who commits the act of sodomy with another male without his consent by using force against him, or by threatening him, or by deceiving him in the nature of the act, or whilst he was losing sense or consciousness, or whilst he was in a physical or mental or psychological condition which rendered him incapable of resistance, or the victim has not yet reached fifteen (15) years of age, shall be punished by temporary imprisonment.
2. The penalty shall be imprisonment for life in the event the perpetrator is from among those provided for in the second Paragraph under Article 257.

Article (...)

1. Each male who commits the act of sodomy with another male who has reached fifteen (15) years of age, but has not yet attained eighteen (18) years of age, without use of the means described in the first Paragraph under Article 260 shall be punished by imprisonment for a term of not more than ten (10) years.

2. The penalty shall be temporary imprisonment in the event the perpetrator is from among those prescribed in the third Paragraph under Article 257.

Article (...)

1. Each male who commits the act of sodomy with another male who has reached eighteen (18) years of age or more and has his consent, both shall be punished by imprisonment for a term of not more than five (5) years.
2. In the event the perpetrator was from among those prescribed in the third Paragraph under Article 257, he shall be punished by imprisonment for a term that does not exceed ten (10) years.

Article (...)

1. An assault on decency shall mean that the culprit deliberately touches an intimate part of the victim's body or induces the victim to touch an intimate part of the culprit's body, thereby outraging his or her sense of shame.
2. Each person who assaults the decency of a person with the use of force against him, or by threatening him, or by deceiving him in the nature of the act, or whilst he was losing sense or consciousness, or whilst he was in a physical or mental or psychological condition which rendered him incapable of resistance, or the victim has not yet reached fifteen (15) years of age, shall be punished by imprisonment for a term that does not exceed seven (7) years.
3. The penalty shall be imprisonment for a term of not more than ten (10) years in the event the perpetrator is from among those provided for in the second Paragraph under Article 257.
4. If the aforesaid act was committed without the use of the means described in Paragraphs (2) above, and the victim has reached fifteen (15) years of age but has not yet attained eighteen (18) years of age, the perpetrator shall be punished by imprisonment for a term of not more than five (5) years.

Article (...)

1. The scandalous act, which offends modesty, shall mean each statement, act, movement or gesture that might outrage another person's sense of shame when he or she hears or beholds it.
2. Each person who commits a scandalous act that offends modesty in a public place or in a manner by which the person who is in a public place can hear or behold it shall be punished by either confinement for a term that does not exceed six (6) months or a fine that is not more than two hundred (200) Dinars, or both.

Chapter VIII

Prostitution and the Corruption of Morals (Whoredom)

Article (...)

Each person who opens a house or premise for the exercise of prostitution, or assumes its management, or provides assistance in any manner in its affairs, shall be punished by imprisonment for a term of not more than ten (10) years and by a fine that does not exceed ten thousand (10,000) Dinars. Subject to the rights of third parties with good faith, a ruling shall be entered on the closure of the house or premise for a period that is equal to the term of the adjudicated penalty.

Article (...)

1. Each person who panders or attempts to pander a female so that she would become a prostitute inside Palestine or abroad, shall be punished by imprisonment for a term of not more than seven (7) years and by a fine that does not exceed five thousand (5,000) Dinars.
2. Each person who panders or attempts to pander a male who has not yet reached eighteen (18) years of age for the exercise of lechery and debauchery shall be punished by the same penalty.
3. In all cases, the penalty shall be imprisonment for a term that does not exceed ten (10) years in the event the female

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has not yet reached eighteen (18) years of age or the culprit was an ancestor of the female or male, or from among those who assume their upbringing or observation, or from among those who have a de facto authority over them, or used force or threat or deceit with them.

Article (...)

1. Each person who instigates a female, encourages her, or facilitates the exercise of prostitution for her, shall be punished by confinement.
2. Each person who instigates a male who has not yet reached eighteen (18) years of age, or encourages him or facilitates for him the exercise of lechery and debauchery shall be punished by the same penalty.
3. In all cases, the penalty shall be imprisonment for a term that does not exceed ten (10) years in the event the crime was associated with one of the aggravating conditions, which is prescribed in the third Paragraph under the previous Article.

Article (...)

Each female who has been used to exercise prostitution with her consent shall be punished by imprisonment for a term of not more than seven (7) years and by a fine that does not exceed five thousand (5,000) Dinars.

Article (...)

Each person who knowingly has based his livelihood, wholly or partly, on what a female gains from the exercise of prostitution shall be punished by imprisonment for a term that does not exceed seven (7) years and by a fine of not more than five thousand (5,000) Dinars.

Article (...)

Each person who is caught in a public place while he is instigating a person to commit an act of lechery and debauchery, through a statement or sign, shall be punished by imprisonment for a term of not more than one (1) year.

Each person who is caught in a public place while he is addressing a statement or sign that

is incompatible with decency to a child shall be punished with confinement for a term that does not exceed two (2) years.

Article (...)

1. Each person who commits the act of sexual harassment shall be punished by confinement for a term of six (6) months and by a fine of the amount of three hundred (300) Dinars.
2. Sexual harassment shall mean each insistence of the harassment of another person with the repetition of acts, statements or signs that may degrade his or her dignity or outrage his or her sense of shame with the intention to prompt him or her to yield to his or her or another's sexual desires or the sexual desires of another person or by the exercise of pressures on him or her, thereby weakening his or her will to challenge such desires.
3. The penalty shall be doubled in the event the crime is perpetrated against a child or a person with a mental or physical deficiency that impedes their challenge of the culprit.
4. The penalty shall not be less than confinement for a term of one (1) year in case the perpetrator is an ancestor or from among those who assume upbringing or observation, or from among those who have a de facto or functional authority over the victim.

Article (...)

1. Each person who instigates or encourages or facilitates the sexual exploitation of children who are under eighteen (18) years of age in obscene materials, by showing sexual activities by any means whatsoever, be it during actual exercise or by simulation or watching or any photographing of children's sexual organs for purposes of a sexual nature shall be punished by imprisonment from three (3) to five (5) years and a fine from three thousand (3,000) to five thousand (5,000) Dinars.
2. The same penalty shall be applicable to each person who produces, distributes, publishes, imports, exports, exhibits, sells or possesses obscene materials of such type.

3. Such acts shall be punishable even if their elements were committed outside Palestine.
4. The penalty provided for in the first Paragraph under this Article shall be doubled in the event the perpetrator was an ancestor of the child or is assigned to provide care for him or her or had an authority over him or her.
5. The same penalty shall be applicable to the attempt of committing the aforesaid acts.
6. The judgment on conviction shall entail the seizure and damage of the obscene materials as well as the closure of the premise for a period that is equal to the adjudged term of penalty. The court may also order that the judgment on conviction be published or posted.

Article (...)

1. Each person who sells, possesses, prints, photographs, records or copies with the intention of sale, distribution or lending, or advertises, disseminates or exhibits by any means scripts, drawings, photographs, films, forms or anything else that contains indecent material that may lead to the corruption of morals, or violation of public ethics, shall be punished by confinement and by a fine that does not exceed three thousand (3,000) Dinars.
2. Each person who manages or takes part in the management of a premise in which any of the acts provided for in the previous Paragraph is exercised shall be punished by the same penalty.

Article (...)

In addition to the penalty prescribed under the previous Article, a ruling shall be made on the confiscation of objects, which constitute the subject matter of the crime. A ruling may be made on the closure of the premise for a period that is equal to the term of the adjudicated penalty.

Article (...)

In the event the culprit commits any of the crimes provided for under the previous Articles

again, the prescribed penalty shall be doubled and ruled against him.

Chapter IX

Adultery

Article (...)

The crime of adultery, provided for under this Chapter, is based upon the contact of a married person – either a man or a woman – in a sexual manner with a person other than his or her spouse.

Article (...)

1. Each spouse who commits the crime of adultery shall be punished by imprisonment for a term that does not exceed five (5) years.
2. The accomplice – either a man or a woman – shall be punished by the same penalty of the spouse.

Article (...)

1. Neither an investigation into the crime of adultery nor an institution of the relevant penal lawsuit may be conducted except on the basis of a written or verbal complaint to be submitted by the aggrieved spouse or his or her special attorney to the Public Prosecution. The complaint shall not be admitted after the lapse of three (3) months from the day on which he or she knew about it and about its perpetrator.
2. The complainant spouse may abandon his or her complaint in any stage of the investigation or trial. Abandonment shall result in the suspension of all procedures.
3. In addition, the aggrieved husband may suspend the execution of the judgment on penalty with his consent to copulate with his convicted wife. Such shall be the case with the consent of the aggrieved wife to copulate with her convicted husband.

Article (...)

The provisions of the previous Article shall apply to the accomplice in the crime of adultery –

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either a man or a woman - with the exception of the provision mentioned in the third Paragraph.

Article (...)

The evidence that is admitted and constitutes an argument against the person accused with the crime of adultery shall be his or her being caught *in flagrante delicto* in the perpetration of the act, or his or her confession before the Judiciary, or the existence of papers written by him or her, including his or her acknowledgment of the adultery.

Chapter X

Begging, Inebriation and Gambling

Article (...)

Each person who has habitually exercised begging or practiced it as a profession in any place shall be punished by confinement for a term that does not exceed six (6) months.

Article (...)

Each person who employs an infant or child, or a person with a disability or an elderly person, by any means, in begging, shall be punished by imprisonment for a term of not more than five (5) years.

Article (...)

Each person who was present in a public place or in a place frequented by the public while he was in a state of inebriation and conducted themselves in a manner which involved disturbance for people or caused disorder, shall be punished by either confinement for a period that does not exceed three (3) months or a fine that is not more than five hundred (500) Dinars, or both.

Article (...)

Each person who sells or offers an inebriant to a person who has not yet reached eighteen (18) years of age shall be punished by confinement for a term that does not exceed six (6) months or a fine of not more than five hundred (500) Dinars, or both.

Article 283

1. Each person who prepares or manages a public place for the exercise of gambling games without permission from the competent authorities and prepares it for people to enter shall be punished by imprisonment for a term that does not exceed seven (7) years and by a fine that is not more than five thousand (5,000) Dinars.
2. Each person who gambles in the place described in Paragraph (1) above or is located therein with the intention of gambling shall be punished by confinement and by a fine that does not exceed one thousand (1,000) Dinars.

Article (...)

Each person who opens, manages, or uses a place for the activities of lottery of any type whatsoever without permission from the competent authorities shall be punished by the same penalty provided for in the first Paragraph under the previous Article.

Article (...)

Each person who prints or publishes an advertisement about a lottery, or sells or exhibits for sale a ticket or paper thereof without permission from the competent authorities shall be punished by confinement for a term of not more than six (6) months and by a fine that does not exceed two hundred (200) Dinars.

Article (...)

The word lottery, which is provided for under the previous two Articles, shall include each means of any type whatsoever that is introduced to the public in general for the sale, donation, disposition or distribution of a property by means of a lot or by way of luck.

Article (...)

In the crimes provided for under the previous three Articles, a ruling shall be made on the confiscation of the seized money, luggage and papers, which were subject of the crime.

A ruling may be made on the closure of the place, which is the subject matter of the crime provided

for in the first Paragraph under Article 274 of this Law, for a period that is equal to the term of the adjudicated penalty.

Chapter XI

The Assault on Personal Freedom and the Sanctity of the Private Life

Article (...)

In the enforcement of the provisions of this Law, abduction shall mean the transportation of a person by means of fraud, coercion or threat from the place in which he is present to another place.

Article (...)

1. Each person who abducts another person in the manner described under the previous Article shall be punished by temporary imprisonment.
2. Each person who knowingly hides an abducted person shall be punished by the same penalty, mentioned in Paragraph (1) above.

Article (...)

Each person who abducts and copulates with a female, or abducts and sodomises a male, shall be punished by imprisonment for life.

Article (...)

1. Each person who apprehends or confines or detains another person in circumstances other than those permitted by law without observation of the legally prescribed procedures shall be punished by confinement.
2. In the event that a public employee perpetrates the crime, he shall be punished by imprisonment for a term of not less than seven (7) years and with dismissal from office.

Article (...)

In the event the apprehension, confinement or detention, provided for under the previous Article, is effected by a person who falsely claims

that he occupies an official position or that he carries a legal notice thus permitting him, he shall be punished by temporary confinement. Furthermore, each person who unlawfully prepares a place for confinement, detention or apprehension, or lends, rents or offers it for such a purpose without having taken part in the apprehension, confinement or detention shall also be punished by this penalty.

Article (...)

1. Each person who unlawfully abducts, apprehends, confines or detains a person and threatens to murder him, or tortures him physically, or demands for himself or for a third party a ransom or any other benefit, shall be punished by imprisonment for a term of not less than ten (10) years.
2. In the event the torture results in the victim sustaining a serious wound or permanent disability, the penalty shall be imprisonment for a term that is not less than fifteen (15) years.
3. In case the torture leads to the death of the victim, the penalty shall be imprisonment for life.

Article (...) Child Trafficking

1. Each person who sells or purchases a child who is under eighteen (18) years of age shall be punished with temporary imprisonment.
2. For the purposes of this Law, child trafficking shall mean each act or transaction in accordance with which a child is transported by a person or a group of persons to another person or a group of persons for a consideration of whatsoever its type.
3. To be punished with the penalty prescribed in the first Paragraph under this Article shall be:
 - a. Each person who instigates the parents or one of them or the guardian, custodian, caregiver or the person who has an authority over a child or who is responsible for his care to sell a child less than eighteen (18) years of age, facilitates it, or extends assistance thereto.
 - b. Each person who mediates the sale or purchase of a child less than eighteen

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(18) years of age, facilitates it, or extends assistance thereto by any means.

4. The attempt to commit such crimes shall be punishable with the penalty prescribed for the completed crime.

Article (...)

1. The person who locates a newborn baby, but does not notify the competent authorities thereof, shall be punished either by confinement from one (1) to two (2) months or by a fine from five hundred (500) to one thousand (1,000) Dinars, or both.
2. The person who deliberately transports, conceals, absents or replaces a child with another or presents him physically as if he had been born to a woman who did not deliver him shall be punished by imprisonment from three (3) to five (5) years.
3. The penalty prescribed in the first Paragraph under this Article shall be doubled in the event the perpetrator is an ancestor of the child or a person assigned to his care or has an authority over him.

Article (...)

1. Each person who obliges another person in an illegitimate manner to work on corvée duty shall be punished by confinement for a term of not more than one (1) year.
2. The penalty shall be confinement for a term of (2) two years in the event the victim is a child.

Article (...)

Each person who assaults the sanctity of the private life of a person by committing one of the following acts in cases other than those legally permitted, or without consent of the victim shall be punished by confinement for a term that does not exceed one (1) year:

1. Overheard, recorded, copied or transmitted by means of a device of any type whatsoever a private conversation that happened in a place, or over the telephone.
2. Took, transmitted, copied or sent by any device a photograph of a person in a private

place. In the event the said act(s) took place during a meeting in full view of the concerned persons who were present in such a meeting, their consent shall be presumed unless they express their objection to the act.

3. Deliberately misused the devices of telephone lines, or the internet, or any technological device for the same purpose itself, whereby he disturbed others, or addressed obscene or outrageous expressions to them, or his speech entailed an instigation of lechery and debauchery.

Article (...)

Each person who disseminates, publishes, prints, copies or uses, even if not publicly, a recording, picture or document which has been obtained by one of the means expounded under the previous Article, while such was without consent of the concerned person shall be punished by confinement.

Article (...)

In the event the perpetrator of the crime that is provided for under the previous Article, is a public employee and the act is affected by him in reliance on the power of his office, he shall be punished by imprisonment for a term that does not exceed five (5) years.

Article (...)

The attempt to commit the misdemeanours prescribed under Articles 295 and 296 shall be punishable with confinement for a term that does not exceed six (6) months.

Article (...)

In all of the cases prescribed under the previous Articles, a ruling shall be entered on the confiscation of the devices and other [objects] which may have been used in the crime or resulted therefrom. It shall also be ruled that the recordings arising from the crime be erased or destroyed.

Article (...)

Each person with whom, by virtue of his profession, industry or function, is provided a private secret by a person who trusted him with

it, but he disclosed it in cases other than those which the law obliges him to notify, shall be punished by either confinement for a term that does not exceed six (6) months or a fine of not more than five hundred (500) Dinars, or both.

Chapter XII

Violation of the Sanctity of the Property of a Third Party

Article (...)

1. Each person who enters or attempts to gain entry to the residence of a third person or to the property in the possession of another person with the intention to lay hold of it by force or with the intention to perpetrate a crime therein, or with the intention to terrify or disturb the person who has the right to possess it, shall be punished by confinement for a term that does not exceed two (2) years.
2. In the event such an offence is committed by two or more persons or by a person, who carries a weapon, or it occurs at night, or by means of breaking open or climbing, the penalty shall be confinement.
3. In case such conditions are concurrent in the said offence, the penalty shall be imprisonment for a term that does not exceed five (5) years.

Article (...)

1. Each person who commits any of the following acts shall be punished with confinement for a term that does not exceed one (1) year:
 - a. Entered in a lawful manner a residence or property in the possession of another person and stayed therein with the intention of committing an act mentioned under the previous Article.
 - b. Was located in one of the places referred to in Paragraph (a) above while he was hidden from the eyes of those who have the right to expel him out.
 - c. Entered in an illegitimate manner agricultural land, open space, buildings or

an inhabited house or [a house] prepared for residence or any of its premises, but did not go out of it based upon a decision issued forth by the competent authorities.

- d. Encroached upon agricultural land, vacant land or land or buildings owned by a third party, whereby he cultivated, planted or ploughed it or constructed installations thereon or benefited from it in any form.

2. In all of the offences provided for under this Article and Article 301 of this Law, a ruling shall be entered, requiring that the culprit return the usurped property to the victim.

Chapter XIII

Abuse of an Individual Person by Employees

Article (...)

For the provisions of this Chapter, torture shall mean any act that results in severe pain or torment, whether physical or mental, and is caused deliberately to a person with the intention of obtaining from him or from another person information, or a punishable confession, in regard to an act that he committed or that is suspected to have been committed by him or by any other person, or intimidating or forcing him or any other person for the same purpose above. Furthermore, the pain or torment resulting from the exercise of discrimination of any type, or that is admitted, instigated or is kept silent by a public employee or any other person who acts in his official capacity shall also be deemed torture. However, the pain or torment resulting from or inherent to penalties imposed in accordance with the Law, as well as the pain or torment that is an incidental result thereof shall not be deemed torture.

Article (...)

For the provisions of this Law:

1. Psychological torture shall mean the threatening or intimidation of a person by subjecting him to torture and cruel and degrading treatment, or by subjecting a person to unjustified, utter seclusion under

circumstances that render him incapable of knowing the place where he is present or the time that passes, or by subjecting a person to mock executions or absolute negligence, or by putting a person in places prepared for torture or under circumstances suggesting that the detaining bodies intend to commit torture.

2. Cruel and inhuman treatment shall mean the causing of a significant extent of torment or pain for no specific purpose.
3. Degrading treatment shall mean the causing of a significant extent of humiliation or physical or psychological insult without the availability of a certain purpose.

Article (...)

1. Each public employee or person assigned to a public service who orders that a person be tortured, instigates that he be tortured, admits it, or is silent thereon shall be punished by imprisonment for a period of not more than ten (10) years.
2. In the event the torture results in the victim sustaining a serious wound or permanent disability, the penalty shall be temporary imprisonment.
3. In the event the torture leads to the death of the victim, the penalty shall be imprisonment for life.

Article (...)

Each physician or the like who takes part in the perpetration of the crime of torture or other forms of cruel or inhuman treatment or punishment or intervenes in the concealment of the traces of torture or prompts a third party to believe that it did not occur shall be punished by confinement for a term that is not less than five (5) years.

Article (...)

1. Any exceptional circumstances, whether be they a state of war, threat of war, internal political instability, or any state of emergency, cannot be admitted as a justification for torture and other forms of cruel, inhuman or

degrading treatment or punishment, or the threat of their perpetration.

2. The orders issued forth by an employee with a higher rank or by a public authority cannot be used as a justification for torture and other forms of cruel, inhuman or degrading treatment or punishment, or the threat of their perpetration.

Article (...)

1. Each public employee who orders that a convicted person be punished or he personally punishes him with a penalty that is graver than the penalty ruled against him or with a penalty that has not been entered against him, shall be punished by imprisonment for a term that is not less than five (5) years.
2. The penalty shall not be less than seven (7) years in the event the crime has affected a child under eighteen (18) years of age.

Article (...)

Each public employee who entered, relying on his position, the residence of an individual without his consent, in circumstances other those expounded under the Law, or without observation of the legal norms and procedures, shall be punished by confinement.

Article (...)

Each public employee who uses cruelty against an individual, in reliance on his position, or prejudices his dignity or honour, or causes pains to his body, shall be punished by confinement.

Article (...)

1. Each public employee who imposes on an individual labour in cases other than those authorized under the Law, or uses a person to work on corvée duty, shall be punished by confinement for a term that does not exceed two (2) years.
2. The penalty of confinement shall not be less than three (3) years in the event the crime affects a child.

Article (...)

Each public employee who uses the power of his position to unlawfully coerce an individual to sell or dispose of his property or convey his title thereto, be it for the benefit of the employee himself or for the benefit of a third party, shall be punished by confinement and by a fine of not less than one thousand (1,000) Dinars and not more than double the value of the property affected by the crime, and shall be dismissed from his office.

Chapter XIV

Assault on Honour and Esteem

Article (...)

1. The person who ascribes in public to a person, either by means of a statement, sign, writing, printing, drawing, photography or by any other public means, a matter that may offend his reputation, prejudice his honour, degrade his esteem or subject him to people's wrath, disparagement or mockery, even if such matter is true, shall be deemed a slanderer.
2. The slanderer shall not be allowed to submit proof to establish evidence in order to prove the validity of his slander.

Article (...)

The provision of the previous Article shall not apply to the case of objection against the acts of a public employee or a person who has a public representative capacity or assigned with a public service so long as the objection does not transcend the acts of the position, representation or public service in the event the slanderer proved the validity of his imputations to the disadvantage of any of the aforementioned persons.

Article (...)

Each person who assaults the person of the President of the State by slander or revilement shall be punished by confinement.

Article (...)

Slander shall be punishable by either confinement for a term of not more than one (1) year or a fine that does not exceed five hundred (500) Dinars, or both.

Article (...)

Without prejudice to the provision of Article 310, in case the slander is committed against a public employee or a person who has a public representative capacity or assigned with a public service, and such was in virtue of the performance of function, representation or public service, the slanderer shall be punishable by either confinement or a fine that does not exceed one thousand (1,000) Dinars, or both.

Article (...)

No punishment shall be imposed on the person who notifies, with honesty and without ill faith, the public authorities or administrative bodies or persons assigned with a public service of a matter that necessitates the punishment of its perpetrator.

Article (...)

Each revilement that does not include the establishment of a certain incident, but entails in any form an assault on honour and esteem by any public means, shall be punishable by either confinement for a term of not more than six (6) months or a fine that does not exceed two hundred (200) Dinars, or both.

Article (...)

Each person who utters an unpublicised revilement or through the telephone against a person shall be punished by either confinement for a term that does not exceed three (3) months or a fine that is not more than one hundred (100) Dinars, or both.

Article (...)

The provisions of Articles 309, 312, 313, and 315 shall not be applicable to what a party ascribes to their adversary in the verbal or written pleading before courts in the event it is an exigency of the pleading. In such an event, only the right to

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compensation, if necessary, shall result from the aforementioned case.

Article (...)

1. Discrimination shall be punishable by either confinement for a term that does not exceed two (2) years or a fine of not more than one thousand (1,000) Dinars, or both.
2. For the purposes of this Law, discrimination shall mean each differentiation between natural persons due to the national origin, social origin, colour, sex, familial status, health condition, disability, political opinion or union affiliation or due to real or presupposed affiliation or non-affiliation with a particular race, nation, lineage or religion.
3. Discrimination shall also include any differentiation between juridical persons in virtue of the origin of [all] or some of their members or their sex, familial status, health condition, disability, political opinions or union activities or in virtue of real or presupposed affiliation or non-affiliation with a particular race, nation, lineage or religion.

Article (...)

In case a juridical person commits discrimination as defined under the previous Article, they shall be punished with a fine from one thousand (1,000) to two thousand (2,000) Dinars.

Article (...)

1. Each person who commits a crime of violence against women shall be punished by confinement from six (6) months to one (1) year.
2. Violence against women shall mean each violent act that is driven by gender-based fanaticism and results, or which is likely to result, in harm or suffering for the woman, whether in physical, sexual or psychological terms, including the threat of similar acts, or coercion or arbitrary deprivation of freedom, either in the public or private life.

Article (...)

1. The penal lawsuit may not be instituted in the offences provided for under Articles 312,

313, 315, and 316 except on the basis of a written complaint from the victim or his or her private representative to be submitted to the public prosecution or to a judicial officer. The complaint shall not be admitted after the lapse of three (3) months from the day the victim knew about the offence and its perpetrator.

2. In the event the slander is addressed to a dead person, his or her heirs shall solely have the right to initiate the lawsuit.

Title II

Trading of Human Body Parts

Article (...)

1. Each person who disposes of, by means of sale, any organ of his body or a part thereof to another person for any purpose shall be punished by imprisonment for a term that does not exceed five (5) years.
2. The purchaser shall be punished by the same penalty, which is prescribed under the previous Paragraph.

Article (...)

1. Each person who knowingly conducts an operation to remove or transplant organs sold from the body of a human being or to him shall be punished by imprisonment for a term that is not more than seven (7) years.
2. The penalty shall be imprisonment for life in the event an organised or transnational group commits the offences mentioned under this Title.

Article (...)

Mediators in the offences provided for under this Chapter shall be punished by the same penalty of the original perpetrator.

Title III

The Offences of Assault on Properties

Chapter I

Theft and the Offences Associated therewith

Article (...)

Each person who takes movable property owned by a third party, without consent and with the intention of possessing it, shall be considered a thief.

Article (...)

1. The person who commits a theft in order to cause damage to his or her spouse or any of his or her antecedents or descendants shall not be put on trial except on the basis of a request from the victim.
2. Any of these may abandon his request at any stage of the lawsuit. He may also suspend the execution of the penalty against the offender at any time he wants.

Article (...)

The expressions mentioned under the Articles of this Chapter shall have the following meanings and intentions:

Night: The period between sunset and sunrise.

Weapon: Each firearm of whatever type even if it is without ammunition, as well as any sharp weapon or dangerous tool of those prescribed under Article 225 of this Law.

Inhabited place: Each place in which one or more person lives on a continuous or intermittent actual basis.

The place prepared for residence: The place that is prepared for residence even if it was not actually inhabited at the time of the theft.

Adjuncts: All the places that are adjoined with the residence and located within its scope.

The place designated for worship: Each place that is designated for observation of religious rituals.

Fenced place: [The place that is] surrounded by a wall or fence of any type whatsoever, which the owner of the place has prepared to serve as a barrier and to intercept the way of the person entering it.

Breakage: Demolishing, excavating, damaging, pulling out, cutting off or removing the fence with which the place is surrounded or its doors, balconies, windows or other tools designated for the closure of the place and obstruction of a person who seeks to enter it from outside.

Coercion: Each coercive method affecting the victim or another person who rises to help him with the intention to disrupt or exterminate their power of resistance in order to facilitate the theft before or during the perpetration thereof or with a view to preserving the stolen object or escaping with it immediately after its perpetration.

Public road: A road on which the public is permitted to pass at all times, whether the land is owned by the government or by individuals.

Artificial keys: The keys that are emulated or changed, including the tools used for opening all padlocks as well as the right key in the event it was used in the wrong place.

Breakage of seals: The breaking open of seals provided for under Article 151 of this Law.

Public property: The property that is owned by a body mentioned under Article 108 of this Law.

Public employee: Each employee mentioned under Articles 99 and 100 of this Law.

Article (...)

Each person who commits a theft, along with the concurrence of the following five circumstances, shall be punished by imprisonment for life:

1. Such theft occurred at night.
2. Two or more persons committed the theft.
3. The two thieves or one of them had visible or hidden weapons.
4. The thieves entered an inhabited place, a place prepared for residence or one of its adjuncts, by means of climbing, breakage from outside or use of artificial keys, or by means of putting on the uniforms of law enforcement officials, or by presenting a

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counterfeited order, which is alleged to have been issued forth by a competent authority.

5. They committed the aforesaid theft by way of coercion or threat by using their weapons.

Article (...)

Thefts committed on public roads or onboard transportation on land, sea or air in any of the following circumstances shall be punishable by life or temporary imprisonment:

1. If the theft was committed by two or more persons while at least one of them carried a visible or hidden weapon.
2. If two or more persons committed the theft by means of coercion.
3. If the theft was committed by one person who carried a weapon, and it was overnight.
4. If the theft was committed by one person who carried a weapon and by means of coercion or threat using a weapon.

Article (...)

Thefts that take place at night with two or more persons shall be punishable by temporary imprisonment in the event at least one of them carried a visible or hidden weapon.

Article (...)

Each person who commits a theft by coercion shall be punished by temporary imprisonment. In the event the coercion leaves scars or wounds, the penalty shall be life or temporary imprisonment.

Article (...)

Thefts that are affected by a person who carried a visible or hidden weapon shall be punishable by imprisonment for a term that does not exceed ten (10) years.

Article (...)

1. Thefts that affect the weapons of a competent security agency shall be punished by imprisonment that does not exceed ten (10) years.

2. The penalty shall be temporary imprisonment in the event the perpetrator of the theft is an employee at the aforesaid agencies.
3. A fine that is not less than double of the value of the object of the offence shall be added to the penalty prescribed under the two Paragraphs above.

Article (...)

1. Thefts that affect the missions, the tools used, or designated to be used in the facilities of wired and wireless communications or generation or connection of the electric current or water or sewerage [networks] shall be punishable by imprisonment for a term of not more than five (5) years.
2. The penalty shall be temporary imprisonment in the event one of the conditions provided for under Article 325 is fulfilled in the offence or the perpetrator of the offence is an employee of the affected facility.

Article (...)

1. Thefts that are perpetrated by individuals on public property shall be punishable by imprisonment for a term that does not exceed ten (10) years.
2. The penalty shall be temporary imprisonment in case the perpetrator of the theft is a public employee.

Article (...)

Thefts that take place in an inhabited place, or a place prepared for residence or any of its adjuncts, in the event the place is entered by means of climbing, breakage, use of artificial keys, impersonation of a false capacity, allegation of performing a public service or other means of deceit, shall be punished by imprisonment for a term that does not exceed five (5) years.

Article (...)

The person who deliberately kills a human being with the motive of mercy, as a result of the insistence of the latter, shall be punished by temporary imprisonment for, at most, ten (10) years.

Article (...)

Thefts that are committed on public roads or onboard transportation on land, sea or air shall be punishable by confinement in the event that none of the conditions of those provided for under Article 325 are available in the offence.

Article (...)

Each person who commits a theft in any of the following cases shall be punished by confinement:

1. If the theft took place in an inhabited place or a place prepared for residence or any of its adjuncts, in a place designated for worship, or in educational facilities.
2. If the theft occurred in a place that is surrounded by a wall or fence of any type or with a trench, and such took place by means of a breakage from outside or climbing.
3. If the theft occurred by means of breaking open seals.
4. If the theft took place at night.
5. If two or more persons committed the theft.
6. If an employee, worker, or manufacturer committed the theft in a place where they work in order to cause damage to their employers.

Article (...)

Thefts in which none of the conditions provided for under the previous Articles are fulfilled shall be punishable by confinement for a term that does not exceed one (1) year.

Article (...)

Each person who steals an electric current, telephone line, water, or any other form of energy with an economic value shall be punished by confinement for a term that does not exceed six (6) months.

Article (...)

Thefts that are deemed to be from among misdemeanours shall be punishable by confinement for a term that does not exceed half

of the maximum limit prescribed by the Law for the complete offence.

Article (...)

In all of the offences provided for under the previous Articles, the culprit shall be sentenced to return the stolen property to the victim and to pay a fine that does not exceed double the value of the stolen property.

Article (...)

Each person who submits or hands to a court or public prosecution, in a case or investigation lodged before it, an instrument or paper, and then steals it in any manner, shall be punished by confinement.

Article (...)

Each person who finds or takes hold of movable property by mistake or coincidence, but does not return it to its owner once it is feasible for him, or does not hand it to the police station and keeps it for himself with the intention of possessing it, shall be punished by confinement for a term that does not exceed six (6) months.

Article (...)

Each person who discovers a treasure, even if on land or property owned by him, but he does not notify the competent public authorities thereof and possessed it wholly or partly, shall be punished by confinement for a term of not more than one (1) year.

Article (...)

Each person who embezzles movable property on which seizure is imposed through a judicial or administrative order shall be considered as the thief of such a property even if he is the proprietor, and shall be punished by confinement.

Article (...)

The person who embezzles movable objects that he pledged for a debt owed by him or owed by another person shall be considered a thief and shall be punished by confinement.

Article (...)

Each person who illegally appropriates, without the intension of ownership, a car or any other vehicle with an engine and is owned by a third party, shall be punished by either confinement for a term that does not exceed six (6) months or a fine of not more than five hundred (500) Dinars, or both.

Article (...)

Each person who has food or beverage in a place designated thereto, or occupies a room in a hotel or a similar premise, or hires a car or mounts it while it is designated for rent, or fills in fuel for a means of transportation knowing that it is impossible for him to pay the price or rent or refrains without a justification from paying the value of the due amount or flees without satisfying it, shall be punished by either confinement for a term that does not exceed six (6) month or a fine of not more than two hundred (200) Dinars, or both.

Article (...)

Each person who receives by means of fraud a programme designated for a televised broadcast or assists a third party to receive it, while such a programme is addressed to a group of subscribers in consideration of paying a wage to the person entitled to use it, shall be punished by either confinement for a term of not more than one (1) year or a fine that does not exceed five hundred (500) Dinars, or both.

Article (...)

1. Each person who obtains by means of a verbal or written threat an amount of money or anything else shall be punished by confinement.
2. The attempt to commit this act shall be punishable by confinement for a term that does not exceed one (1) year.

Article (...)

1. Each person who knowingly possesses, acquires, sells, purchases or conceals objects that were stolen or arising from another offence shall be punished by confinement.

2. In the event the culprit knows that such objects have been generated from an offence, the penalty of which is worsened than that prescribed under the Paragraph above, a ruling with the penalty provided for this offence shall be entered against him.

Article (...)

Each person who copies a key or introduces an alteration thereto, or manufactures a machine or tool that is used for the opening of padlocks, though he anticipates that it would be used in the perpetration of a theft or any other offence, shall be punished by confinement for a term of not more than one (1) year.

Article (...)

Each person found to be armed with a weapon or a dangerous tool, or masked or disguised with the intention of perpetrating a crime or misdemeanour, shall be punished by confinement.

Chapter II

Swindling and Offences Associated therewith

Article (...)

Swindling shall be the obtaining of movable property that is owned by a third party or the provision of a service or consent to an act that generates an obligation or acquittal from an obligation by the use of a fraudulent method that is supported with external features that would deceive the victim in an incident that belongs to the past or future, or by the taking of a false name or untrue capacity, prompting him to believe in the honesty of what the culprit alleges and to hand the property as a result thereof.

Article (...)

1. Each person who commits the offence of swindling, which is prescribed under the previous Article, shall be punished by confinement.
2. The commission of an attempt to commit such an offence shall be punishable by

confinement for a term that is not more than one (1) year.

Article (...)

Each person who knowingly disposes of immovable or movable property, that is neither his own nor does he have the right to dispose of it, shall be punished by confinement.

Article (...)

1. Each person who seizes the opportunity of a need, weakness or inclination of a minor person who has not yet attained eighteen (18) years of age and obtained from him, with the intention to cause harm to him, a debenture, discharge from a debt, waiver of commercial papers or any other binding or discharging instruments shall be punished by confinement.
2. The penalty shall be imprisonment for a term that does not exceed five (5) years in the event the culprit is assigned with the guardianship or custodianship over the juvenile victim, or is from among those who have an actual authority over him.

Article (...)

1. Each person who commits in ill faith the following acts shall be punished with either confinement or a fine that does not exceed one thousand (1,000) Dinars, or both:
 - a. Gives a cheque that is not met on the allotted date by an existing balance able to be withdrawn, or the balance is less than the amount of the cheque.
 - b. Draws after giving the cheque and before its disbursement all or some of the balance, whereby the remainder does not satisfy the amount of the cheque.
 - c. Orders the drawee not to pay [the cheque].
 - d. Signs it in a manner that prevents its disbursement.
2. Each person who endorses a cheque for a third party or hands him a cheque that is payable to its bearer, knowing that a balance

does not exist so as to satisfy the whole of its amount or that it is non-disbursable shall be punished by the same penalty.

Article (...)

1. The court may exempt the culprit from the penalty in the event it is established that he satisfied the amount of the cheque prior to entering the final ruling.
2. In case it is demonstrated that the culprit satisfied the amount of the cheque after the final ruling was entered, the court may, on the basis of a request from the convicted person or his representative, order to suspend the execution of the adjudged penalty. The aforementioned request shall be presented to the court that entered the judgment and it shall be adjudicated within three (3) days from the date of its submission.

Chapter III

The Breach of Trust

Article (...)

Each person who receives movable property that is owned by a third party as a form of bail, guardianship, lease, or by way of a loan for use, mortgage or attorneyship, and then he embezzles, disposes of or squanders it, shall be punished by confinement.

Article (...)

The owner who is appointed as an official receiver for his movable properties, that are under a judicial or administrative seizure in the event he embezzles anything from them, shall be punished by the same penalty provided for under the previous Article.

Article (...)

Each person who is entrusted with a paper that is signed, stamped or fingerprinted, but breaches trust and writes over the signature, stamp or fingerprint of a debenture or acquittal or other bonds which result in the occurrence of damage to the person or property of the holder of the signature, stamp or fingerprint, shall be punished by confinement.

Article (...)

The provisions provided for under Article 323 of this Law shall be applicable to the offences of swindling and breach of trust.

Chapter IV

Sabotage, Disruption and Damage

Article (...)

1. Each person who deliberately disrupts or damages, in any manner whatsoever, a means of service of public facilities or a means of production with a public benefit shall be punished by imprisonment for a term of not more than five (5) years.
2. The penalty shall be imprisonment for a term that does not exceed ten (10) years in the event the offence occurs with the intention of damaging production or jeopardising the progress of the public facility.

Article (...)

1. Each person who deliberately dilapidates or damages property owned by a third party or renders it unusable shall be punished by either confinement or a fine that does not exceed one thousand (1,000) Dinars, or both.
2. The penalty shall be imprisonment for a term that does not exceed five (5) years in the event a disruption or suspension of the operations of a facility with a public benefit arises from the act or in case it results in jeopardising the life or health or security of persons.

Article (...)

Each person who intentionally damages in any manner whatsoever any books, registers or other governmental, bank or commercial papers or renders them unusable, shall be punished by either or both confinement or a fine that does not exceed three thousand (3,000) Dinars, or both.

Article (...)

Each person who deliberately damages, in any manner whatsoever a fence owned by a third

party, whether it was made of green or dry trees or otherwise, shall be punished by either confinement for a period that does not exceed one (1) year or a fine of not more than five hundred (500) Dinars, or both.

Article (...)

1. Each person who relocates or removes a boundary or benchmark that separates different properties or exploited areas or fills up (with earth) the whole or part of a trench that divides them, shall be punished by either confinement for a term of not more than one (1) year or a fine that does not exceed five hundred (500) Dinars, or both.
2. The penalty shall be confinement and a fine of not more than five hundred (500) Dinars in the event any of these acts are committed with the intention to assault the possession of a third party.

Article (...)

Each person who commits any of the following acts shall be punished by confinement for a term that does not exceed one (1) year and a fine of not more than five hundred (500) dinars:

1. Deliberately cuts down or damages a non-harvested crop that is not owned by him.
2. Deliberately damages a grove that is owned by a third party, propagates a harmful weed therein, or puts a harmful substance therein.
3. Deliberately uproots a planted tree or any other plant that is owned by another person.
4. Enters in an illegal manner with the intention of causing damage [to a piece of] land belonging to a third party and that is prepared for cultivation or cultivated, or entered animals therein, or left them to pasture or graze thereon.

Article (...)

In the event any of the crimes prescribed in the first three Paragraphs under the previous Article is committed at night by three or more persons or by one person who carried a weapon, the penalty shall be imprisonment for a term that does not exceed five (5) years.

Article (...)

Each person who deliberately kills and without an exigency a riding, draft or pack animal, or any type of livestock or sheep, or causes a grave damage to it, shall be punished by either confinement or a fine that does not exceed two thousand (2,000) Dinars, or both.

Article (...)

Each person who deliberately kills and without an exigency a domesticated animal other than those mentioned under the previous Articles, or a bird, or causes a grave damage to it, shall be punished by either confinement for a term of not more than six (6) months or a fine that does not exceed two thousand (2,000) Dinars, or both.

Article (...)

Each person who puts poison into a sea, river, water course, brook, swamp or water basin, whether with the intention of fishing or else, shall be punished by either confinement for a term that does not exceed one (1) year or a fine of not more than five hundred (500) Dinars, or both.

Title IV

Food Fraud and Expired Pharmaceutical Drugs and the Trading thereof

Article (...)

Each person who imports or brings, with the intention of trading, to Palestine in any manner, food supplies, natural or manufactured agricultural produce, or any other products that are prepared for human or livestock consumption, or any pharmaceutical drugs that are not compatible with the Palestinian health standards, specifications, validity conditions or importation conditions, shall be punished by temporary imprisonment and by a fine that is not less than fifteen thousand (15,000) Dinars, without prejudice to any more aggravate penalty which may be prescribed under any Law.

Article (...)

Each person who manufactures with the intention or sale of exhibition, or sold food

supplies, pharmaceutical drugs, or natural or manufactured agriculture products, knowing that they are debased or incompatible with the Palestinian health standards, specifications, validity conditions or importation conditions, shall be punished by temporary imprisonment and by a fine that is not less than ten thousand (10,000) Dinars without prejudice to any more aggravate penalty that may be prescribed under any Law.

Article (...)

Each person who adulterates food supplies, or any natural or manufactured agricultural products or pharmaceutical drugs that are prepared for human or livestock consumption shall be punished by temporary imprisonment and by a fine that is not less than five thousand (5,000) Dinars, without prejudice to any more aggravate penalty that may be prescribed under any Law.

Article (...)

Each person who manufactures or possesses without a legitimate reason, exhibits for sale, or sold substances that are used for the adulteration of food supplies, products or drugs referred to under Articles 374 and 373 of this Title, or promotes their use in a manner contrary to the legitimate use thereof shall be punished by confinement and by a fine that is not less than three thousand (3,000) Dinars without prejudice to any more aggravate penalty that may be prescribed under any Law.

Article (...)

1. The attempt to commit the offences referred to under this Title shall be punishable by the same penalty that is prescribed by the Law for the complete offence.
2. The penalty shall be aggravated from one-third (1/3) to one half (1/2) in the event the supplies, drugs and vaccines mentioned under the previous Articles pertain to children's use.

Article (...)

A ruling shall be made for seizure and damage at the expense of the convicted person in all of the cases referred to under the Articles of this Title.

The Draft Consolidated Law of Personal Status No. () of 2010

The Chairman of the Executive Committee of the Palestine Liberation Organisation,

The President of the Palestinian National Authority,

Having reviewed the Basic Law,

The Law of Personal Status No. 61 of 1976 A.D. in force in the governorates of the West Bank,

The Law on Family Rights of 1954 A.D., issued forth by the Order No. 303, and in force in the Gaza Strip, and

The Law on the Alimony Fund No. 6 of 2005 A.D.;

Based upon the Draft Law submitted by the Council of Ministers; and

Following approval of the Legislative Council in its Session which convened on / / A.D.

I hereby promulgate the following Law:

Title I

Marriage

Chapter I

Betrothal

Article 1

Betrothal shall be a request for marriage and a promise thereof. Marriage shall not be concluded therewith, or with the recitation of the *Surat Al Fatihah* [(“The Opening”) – the first chapter of the Holy Qur’an], or by the acceptance of gifts, or by the receipt of anything on account of the dowry.

Article 2

1. The fiancé and fiancée shall each be entitled to desist from the betrothal. The one who desists from it shall notify the other party in writing.
2. In case the betrothal is culminated with death, or due to a reason that is beyond the control of either party, or with a proscription that prevents the marriage, none of the gifts shall be restored.
3. In the event desisting from the betrothal was without a legitimate cause, the aggrieved party shall be entitled to claim compensation from the competent courts in accordance with the general norms.
4. In all cases, if the marriage contract has been dissolved prior to the consummation of marriage, the marital status of the woman shall be registered on the official documents as “unmarried”.

Chapter II

General Provisions

Article 3

Marriage shall be a contract between a man and a woman who are of the legal age, legally eligible, and equal in rights and duties. Its basis shall be mutual understanding and respect, its essence partnership and complementarity, and its goal the creation of a coherent family.

Article 4

1. Each one of the suitors shall have the right to set forth special conditions in the marriage

contract, with which an interest is to be achieved for any one of them.

2. No condition contrary to the Law shall be taken into consideration unless it is explicitly provided for in the marriage contract.
3. Any condition that contravenes the Law shall not be taken into consideration.
4. If the party under the stipulation declines from satisfying the stipulation, the judge shall oblige him or her to fulfil it. In the event he or she refrains from satisfying it, the stipulator shall be entitled to request that the contract be dissolved and to claim compensation for the damage caused to him or her in accordance with the general norms.

Article 5

It shall be a condition precedent to the completion of the contract of marriage that each of the young man and the young woman has completed at least eighteen (18) Gregorian Calendar years of age.

Article 6

With the exception of the provision of Article 5, the judge may permit the marriage of the person who has completed seventeen (17) years of age based upon a report from the competent authorities, stating the existence of:

1. A fundamental interest that requires the conduct of such marriage.
2. The verification of fitness and capacity.
3. The competent authorities shall be identified by a decision from the Ministry of Social Affairs.

Article 7

1. The marriage contract shall be documented in an official manner at the Religious Court.
2. The document of the marriage contract shall be deemed to be the admissible means to prove the marriage.
3. In the event compelling causes prevent the documentation of the contract on time and for a maximum period of three (3) months,

the marriage may be proven by evidence or when its basic elements and conditions of its validity provided for under this Law are fulfilled.

Article 8

1. Only a competent functionary may conclude the marriage contract.
2. In case the contract was concluded, but it was not documented at the Religious Court in due form, the relevant functionary shall be punished by imprisonment for six (6) months and a financial fine that is not less than five hundred (500) Jordanian Dinars and not more than one thousand (1,000) Dinars.

Article 9

The parents or a relative of the wife may not take from the husband money or anything else in return for giving her in marriage or handing her to him. The husband shall be entitled to recover the in kind objects that were taken from him in case they still exist or their value in case they were damaged.

Article 10

The conclusion of any marriage contract that contravenes Articles 5, 6 and 7 shall be prohibited. It shall be punishable by a financial fine of not less than one thousand (1,000) Jordanian Dinars and not more than two thousand (2,000) Dinars.

Article 11

1. The suitors shall abide by conducting the required medical examinations in coordination with the Ministry of Health before conclusion of the marriage contract. The conclusion of the contact for the suitors, both of who carry a genetic disease that may be transmitted to the children, shall be forbidden.
2. In the event it was an infectious or communicable disease, written consent by both contractors shall be incumbent, provided that it shall not prejudice the interest of the children.

A Legal Collection

3. The relevant functionary must make sure, prior to the conclusion of the marriage contract, that both suitors are aware of the results of the medical examinations pertaining to the other party.
4. The Chief Justice shall issue forth the instructions concerning the expedient medical examinations in coordination with the Ministry of Health.
5. A prison term of six (6) months and a financial fine of not less than five hundred (500) Jordanian Dinars and not more than one thousand (1,000) Dinars shall punish each person who knowingly concludes such a contract.

Article 12

1. The judge shall permit the marriage of the person who is placed under guardianship due to foolishness with the consent of the guardian. In case the guardian does not indicate his consent within a period that is specified by the judge or in case he objects, but his objection was unjustified, the judge shall wed him.
2. The judge shall adhere to making sure that the other party is aware of the foolishness from which the husband suffers.

Article 13

1. The person who attains the age of majority shall have the right to wed on his own [without a guardian].
2. The person who reaches the age of majority shall have the right to conclude the contract of his marriage by himself or to authorise anyone of his choice.

Article 14

The judge shall verify the interest and consent of the fiancée to the marriage of a man who is older than she by fifteen (15) years or more.

Article 15

1. Polygamy shall not be permissible except in accordance with the following cases and conditions:

- a. Explicit acceptance by the first wife of the conclusion of the contract of the second marriage before the judge.
- b. Positive knowledge by the second wife of his first marriage prior to the conclusion of the marriage contract.
- c. The judge shall not permit polygamy unless he ascertains the husband's capability of providing the essentials of the material life on an equal footing with the first wife and her children in all aspects of life in pursuance of the Law.
- d. The woman whose husband takes a woman as another wife shall have the right to request separation by divorce due to the damage [sustained], along with the preservation of all of her rights.

2. Each man who marries in contravention of the previous Paragraph shall be punished by a fine not less than two thousand (2,000) Dinars.
3. Each person who concludes a contract of marriage in contravention of the first Paragraph shall be punished by dismissal from the function and with a fine that is not less than one thousand (1,000) Dinars.

Article 16

1. In case the condition on the abstention from polygamy is not existent, the man who desires it shall submit a request for permission to the Court.
2. The request must include a statement of the objective and exceptional causes that justify it. It shall also be enclosed with a declaration of his financial situation.

Article 17

1. The Court shall summon the wife, whose husband wants to take a woman as another wife, to appear in order to ensure that she accepts his second marriage.
2. The summons shall be served to the wife through the legally applicable methods of summons service.

3. In case the reason why the wife did not learn about the summons has resulted from the submission by the husband in ill-faith an incorrect address or misrepresented the wife's name, he shall be punished by a financial fine that is not less than one thousand (1,000) Dinars, along with preserving the wife's right to claim compensation for the damage [sustained] in accordance with the general norms.

Article 18

The contract of marriage shall be concluded in the presence of its parties. However, authorisation of its conclusion shall be allowable in accordance with the following conditions:

1. Existence of special conditions, with which it is untenable for the principal to conclude the contract of marriage by himself or herself.
2. Drawing up of the power of attorney of the marriage contract on an official paper, the signature of the principal on which is endorsed, before a relevant functionary.
3. The proxy shall be of legal age and shall enjoy his full civil eligibility.
4. The principal shall specify in the power of attorney the name of the other spouse and his or her specifications, the information pertaining to his or her identity, and all the information that he deems useful to mention.
5. The power of attorney shall include the amount of the dowry and, when necessary, the advanced and deferred dowry. The principal shall be entitled to set forth the conditions that he wants to include in the contract as well as the conditions that he accepts from the other party.
6. The proxy may not delegate a third party without permission from his principal.
7. In the event the proxy transcends the limits of his power of attorney in a flagrant manner, he shall be punished by a fine not less than five hundred (500) Dinars.

Article 19

1. Marriage shall be concluded with the offer and acceptance of the contractors, or of their

proxies, to be produced out of full consent with explicit expressions that denote the meaning of marriage both linguistically and customarily.

2. The offer and acceptance shall be valid by the person who is incapable of speech through writing in case he writes, or otherwise through his sign which is understood by the other party.

Article 20

It shall be a condition precedent that the offer and acceptance be:

1. Verbal when possible, or otherwise through writing or an understandable sign.
2. Identical and in a single council.
3. Definitive and not restricted to a term or a suspended condition.

Chapter III

Section I

Basic Elements and Conditions of Marriage

Article 21

It shall be a condition precedent to the validity of the contract of marriage that two Muslim men are called upon as witnesses in accordance with the provisions of the Law.

Article 22

1. The competent functionary shall conclude the contract. The judge may conclude the contract by himself, upon permission from the Presiding Judge of the Court.
2. The contract of marriage must be documented at the Religious Court within the area of jurisdiction where the fiancée resides. It may also be documented at any other court.

Article 23

1. The representative of the State of Palestine abroad or the person whom he delegates

shall be responsible for concluding the marriage contracts and for hearing the divorce reports of the Palestinian subjects who are present abroad. Such documents shall be kept in the respective registers in coordination with the Bureau of the Chief Justice.

2. The Bureau of the Chief Justice shall issue forth the instructions that regulate the conclusion and documentation of marriage contracts.

Section II

Types and Provisions of Marriage

Article 24

In case the marriage contract satisfies its basic elements and conditions of its validity, and when impediments are non-existent, it shall be deemed to be valid and shall produce all of its effects, including rights and duties that the Law prescribes for the spouses, children and relatives, as provided for under this Law.

Article 25

The unsound marriage shall be either invalid or void.

Article 26

The Invalid Marriage

1. If the match between offer and acceptance did not exist.
2. If an impediment to marriage provided for under this Law existed.
3. If the contract contradicted the provisions of Article 22.

Article 27

The invalid marriage, following the consummation of marriage, shall result in the establishment of lineage and unlawfulness of marriage because of an affinity by marriage.

Article 28: The Voided Marriage

The voided marriage is the one whose basic element was fulfilled, but one of the conditions of its validity was defective.

Article 29

Prior to the consummation of marriage, the voided marriage shall be similar to the invalid marriage.

Article 30

Following the consummation of marriage, the voided marriage shall result in the incumbency of the dowry, *`iddah* [the woman's legally prescribed waiting period after divorce from (or death of) the husband], unlawfulness of marriage in virtue of an affinity by marriage, and the establishment of a lineage.

Article 31

The voided marriage, in which the marriage was not consummated, shall not result in any effects.

Article 32

1. The spouses may not stay in the matrimonial relationship in the invalid and voided marriage. The judge must separate them when such is proven in the trial.
2. In the event the cause of the voidance is the loss of the eligibility of age or non-permission from the judge and the marriage has resulted in a pregnancy or birth in conformity with a certified medical report, the spouses shall not be separated. The marriage shall be valid in accordance with the ruling of the judge.

Article 33

In the event the marriage contract was concluded in a valid manner, the rights, duties and effects shall be established therewith.

Chapter IV

The *Al Muharramat* Women [Women Unmarriageable Due to a Relationship of Affinity]

Article 34

It shall be prohibited on a permanent basis that a man marries a woman with a blood relationship. These are four:

- a. His mother and grandmothers howsoever they ascended.
- b. His daughters and granddaughters howsoever they descended.
- c. His sisters and their daughters and daughters of his brothers howsoever they descended.
- d. His paternal and maternal aunts.

Article 35

It shall be prohibited on a permanent basis that a man marries a woman because of an affinity by marriage. These are:

- a. The wives of his sons and grandsons, howsoever they descended.
- b. The mother of his wife and her grandmothers, howsoever they ascended.
- c. The wives of his father and grandfathers, howsoever they ascended.
- d. His step-daughters, these are the daughters and the daughters of the sons of his wife, with whom he consummated marriage in a real manner, howsoever they descended.

Article 36

What is permanently prohibited from the blood kinship shall also be prohibited on a permanent basis from wet-nursing, with the exception of what is expounded in the School of Thought of Imam Abu Hanifah.

Article 37

Marriage to the wife of another man or his [divorced or widowed] wife during her legally prescribed waiting period shall be prohibited.

Article 38

The man who has divorced his wife shall be prohibited from marrying a blood relative of hers so long as she is in the legally prescribed waiting period.

Article 39

Marriage to a man's previously wedded wife, whom he divorced through a judicial ruling, shall be prohibited unless her legally prescribed waiting period, following the divorce from or death of another husband, who had consummated marriage with her, expired.

Article 40

The husband shall be prohibited from marrying a woman who is in a state of ritual consecration at the *Haji* (pilgrimage) or *'Umrah* (minor pilgrimage) in Mecca.

Chapter V

Effects of the Marriage

Article 41

Joint Conjugal Rights

1. Cohabitation, which necessitates social intercourse, *Ihssan* [sticking to virtuousness and chastity by marriage] and fidelity to one another.
2. Consorting in kindness, exchange of respect, intimacy and mercy, and preservation of the interest of the family.
3. Shouldering by the wife and husband the responsibility for the management of and care for the affairs of the house and children.
4. Consultation in the making of decisions pertaining to the management of the affairs of the family and children, as well as birth control.
5. Fair treatment by each one of the parents and blood relatives of the other and to respect, visit and invite them to visit them in kindness.
6. The right of inheritance between them.

A Legal Collection

7. Establishment of the lineage of the children as well as to raise them, safeguarding a pious upbringing for them.

Article 42

Should the marriage contract be concluded in a valid manner, the religious and legal rights, duties and effects shall be established therewith.

Article 43

The spouses shall prepare in the place of residence, to which they agree, a house that is suitable for a decent living in line with the capacity of each one of them.

Article 44

No one shall be entitled to accommodate any of his or her relatives except with the approval and consent of the other party. Excepted from this shall be their children from another marriage and their poor parents in the event they cannot spend on them independently.

Article 45

The husband shall not have the right to accommodate with his wife another wife in a single house unless they consent thereto. They shall have the right to decline whenever they want.

Article 46

The wife, whose husband dies, shall be entitled to stay in the matrimonial house unless she goes out of it upon her own accord.

Maintenance of the Family

Article 47

Maintenance of the family shall be a duty of both spouses, each of whom shall contribute to the extent of his or her capacity. The woman's work inside the house shall be deemed to be a contribution by the wife in spending on the family.

Article 48

Maintenance shall include food, clothing, accommodation and medical treatment of the

family, as well as the education of the children until the end of their university education.

Article 49

In the event the wife does not work outside the house, the provision of the family shall be incumbent on the husband. The provision shall be incumbent as soon as the marriage contract is concluded.

Article 50

The Alimony Fund, in accordance with its provisions, shall pay maintenance that is the responsibility of the husband, when a judgment is given in favour of the family, one of its members, or someone for whom maintenance is due.

Article 51

The husband shall be duty bound to the expenditures of child delivery, including the wage of the hospital, physician or midwife, as well as to the expenses of treatment, regardless of whether the matrimonial status was existent or not.

Article 52

The husband may not preclude education to his children. He shall be duty bound to the costs of the provision of their education until the end of the first university certificate. In the event he does not do so, the wife shall be entitled to request that the judge oblige him to provide for their education and to borrow on the account of the husband from the Alimony Fund, considering it to be a debt owed against the father.

Lineage

Article 54

Lineage shall be established by declaration, evidence and medical examination utilising "deoxyribonucleic acid" (DNA).

Article 55

The declaration of filiation, even if it takes place during the last illness, shall establish lineage upon the following conditions:

1. The person to whom the declaration is made shall be of an unknown lineage.
2. The declarer shall be of legal age and of sound mind.
3. The difference of age between the declarer and the person to whom the declaration is made presumes the truth of the declaration.
4. The person to whom the declaration is made, once he is of legal age and of sound mind shall endorse the declarer's [statement].

Article 56

The lawsuit of the declarer's heirs as to deny the lineage after it has been established by the correct declaration or evidence and medical examination (DNA) shall not be heard.

Article 57

1. The denial of lineage shall be through medical evidence (the DNA examination), to which shall be added the declaration or non-declaration. The lawsuit shall not be admitted before the medical examination is conducted.
2. The person who institutes the lawsuit on the denial of lineage shall sustain the costs of the medical examination (DNA).
3. In the event it appears that the person who lodged the lawsuit on the denial of lineage was untrue in his lawsuit, the aggrieved person shall be entitled to claim compensation for the damages that were caused to him or her.

Title II

Chapter I

Dissolution of the Marriage

Article 58

The matrimonial relationship shall terminate in the following cases:

1. The valid marriage contract shall terminate with either death or divorce.
2. Divorce shall not take effect except upon a decision from the competent Court.

3. Each one of the spouses shall be entitled to request separation by divorce from the Court on an equal footing.
4. The separation by divorce shall be in the presence of the spouses, or their representatives.
5. The Court shall notify the other party of the institution of the lawsuit on separation by divorce in accordance with the legally applicable methods of notification.

Article 59 Reasons of the Request for Separation by Divorce for Both Spouses

The Court shall rule for the separation by divorce for one of the following reasons:

- a. Sexual dysfunction and insanity.
- b. Absence, desertion and loss.
- c. Lack of maintenance.
- d. Imprisonment.
- e. Dispute and discord.
- f. Violence of all forms.
- g. Marital infidelity.
- h. Infertility.

Article 60

The Court shall rule for the termination of the matrimonial relationship in one of the following cases:

- a. With the mutual consent of the spouses.
- b. Upon a request from the husband.
- c. Upon a request from the wife.

Article 61

The separation by divorce shall be through the competent Court. The judge must notify the other party, summon him or her to appear at the judge's council, and [he shall] exert the effort to reconcile between the spouses. In the event the other party is outside the country or he or she was of an unknown place of residence, the judge shall give the party requesting the separation

by divorce a term, during which the other party shall be notified of the request of the separation by divorce submitted to the Court in accordance with the applicable norms of notification.

Article 62

Should a request be filed for the termination of the matrimonial relationship, the judge shall listen to the applicant and to the other party and shall refer the file to the Family Guidance Department and give them a respite of three (3) months in the hope of reconciliation.

Article 63

The interested party shall submit the proceedings of the termination of the matrimonial relationship directly. An attorneyship shall be authorised in the event a pressing exigency thus requires.

Article 64

The Family Guidance Department, which is assigned to conduct the reconciliation, shall submit a detailed report on the conclusion of the attempts of reconciliation prior to the lapse of three (3) months.

Article 65

The judge shall be entitled to extend the term of reconciliation for another three (3) months in the event he realises progress towards reconciliation on the basis of the report of the Family Guidance Department.

Article 66

The judge must, during the period of reconciliation, decide on the temporary measures, which he deems to be fit, so as to ensure the maintenance, custodianship and visitation of the children by the non-custodial party.

Article 67

The request for the termination of the matrimonial relationship shall be expunged upon the completion of the reconciliation or in the event the applicant did not report to the court after the lapse of three (3) months from the

date on which the request for the separation by divorce had been lodged.

Article 68

In case the period set for reconciliation expired and it appeared for the judge that it would be unfeasible to extend it once more, the judge shall enter his decision on the termination of the matrimonial relationship.

Article 69

The decision on the termination of the matrimonial relationship shall be executed as of the date of its issuance.

Article 70

The judge must enter his decision on the termination of the matrimonial relationship. It shall be enclosed with the financial entitlements of each party, the maintenance and custodianship of the children, regulation of the right to visit by the non-custodial party, and the share of each of the spouses in the properties acquired during the period of matrimony. Such decision shall be deemed to be of an expedited execution.

Article 71

Any separation other than the judicial separation, which is entered by the competent Court and to which the legal proceedings provided for under this Law are applied, shall not be taken into consideration.

Article 72

'iddah [the woman's legally prescribed waiting period after divorce from (or death of) the husband] shall mean the term specified for the elimination of the remaining effects of the marriage after the termination of the matrimonial relationship or death of the husband. It has been enacted to make sure that the woman is not pregnant and that lineage is safeguarded against intermingling and to allow an opportunity for the spouses to return to the matrimonial life.

Article 73

The legally prescribed waiting period shall commence immediately after the termination of the matrimonial relationship upon the decision of the Court or upon the death of the husband.

Article 74

The spouses shall be entitled to return to the matrimonial life during the term of the *'iddah* and prior to the expiration of the legally prescribed period.

Article 75

The divorced woman, who is not pregnant, shall wait for three (3) full months and the woman, whose husband has died, shall wait for four (4) months and ten (10) days. The legal waiting period prescribed for the pregnant woman shall expire upon the delivery of her child.

Article 76

The wife of the missing man shall commence the waiting period legally prescribed for death after the judgment on his loss was entered.

Article 77

The wife shall be entitled to the alimony of the legally prescribed waiting period immediately upon the termination of the matrimonial relationship.

Article 78

In the event of the termination of the matrimonial relationship with death, the wife shall stay in the matrimonial house together with her family, away from her husband. No one shall have the right to oust her from it.

Article 79

Breastfeeding shall be a right of the child and the mother shall be worthier of breastfeeding her child and shall take precedence over other women.

Chapter II

Custodianship

Article 80

1. Custodianship shall be amongst the rights and duties of the parents as soon as the matrimonial status is established between them. In the event it terminates, it shall be [given] to the mother, then to the father, and then to the relatives of the fostered child, taking into consideration the best interest of the child.
2. Custodianship shall mean the preservation, upbringing, care and education of the children.
3. The decision on custodianship shall be based upon the best interest of the child.

Article 81

The age of majority, sound mindedness and capability of the upbringing and care of the children shall be a condition precedent to the eligibility for custodianship.

Article 82

The custodianship of boys and girls shall extend towards the legal age.

Article 83

In the event the parents are not present and no entitled person has accepted the custodianship, the judge shall choose the person whom he deems to be fit from among the relatives of the fostered child or others or an institution that is qualified for such a purpose, taking the interest of the fostered child into consideration.

Article 84

The others who are entitled to the custodianship shall have the right to request a reconsideration of the decision on custodianship. They shall bear the onus to prove the illegibility of custodian.

A Legal Collection

Article 85

In the event the custodian abstains from the custodianship, he or she shall not be compelled thereto.

Article 86

The custodian shall have the right to an independent house with the fostered child.

Article 87

It shall be observed that the fostered child reside in the place which enables those who have the right to visit do so unless a pressing exigency prevents it.

Article 88

The custodian may not travel with the fostered child outside the country except upon the approval of the non-custodial party. In the event of disagreement, the judge shall adjudicate the matter for the benefit of the fostered child.

Article 89

In case the custodian wants to reside outside the country, the matter shall be settled by the judge so as to establish custodianship for him or her or discharge him or her from it, subject to the interest of the fostered child.

Article 90

Marriage of the custodian shall not waive the custodianship from him or her unless the judge decides otherwise, taking into consideration the interest of the fostered child.

Article 91

The education of the custodian mother or her external work shall not be deemed to be a reason to terminate her custodianship in case she is securing the fostered child's care.

Article 92

Expenses of the fostered child shall be from their property if he or she has any; otherwise, they shall be from the property of his or her parents.

Article 93

The Court shall determine the contribution of the husband and wife in the provision for the fostered children according to the capacity and solvency of each. The care of the fostered child shall be estimated from a portion of the contribution to the maintenance.

Article 94

The parents shall be entitled to visit their children who are under the custodianship of the other party on a periodic basis, or in accordance with the agreement of both parties.

Article 95

In the event the child is under the custodianship of a person other than his or her parents, the judge shall appoint those who are entitled to visit him from among his or her relatives.

Article 96

The place of the visit shall be agreed upon between the parents. In case they do not agree, the judge shall oblige the custodian to hand him or her [the fostered child] to the non-custodial party at a specific time each week.

Article 97

In the event the party, in whose hand the custodianship is, abstains from implementing the right to visit or postpones it, the judge shall warn the child or her. If his or her abstention is repeated, the custodianship shall be transferred to the other party for a period that the judge shall designate.

Article 98

The judge shall be entitled to rule that the child be hosted by the non-custodial party in case he or she thus demands.

Chapter III

Joint Property

Article 99

Each of the spouses shall have an independent financial estate and each one of them shall have

the right to divide the properties that were generated during the marriage on an equal footing.

Article 100

The financial estate of the husband shall consist of:

1. The movable and immovable properties that he acquired prior to the conclusion of marriage.
2. The debts owed by him towards a third party.
3. The debts owed against him towards a third party.
4. What might devolve to him by way of donation, inheritance, bequest or the like or by way of a personal indemnity.

Article 101

The financial estate of the wife shall consist of:

1. The movable and immovable properties that she acquired prior to the conclusion of marriage.
2. The debts due to her by a third party.
3. The debts owed by her towards a third party.
4. What might devolve to her by way of donation, inheritance, bequest or the like or by way of a personal indemnity.
5. The dower and gifts that the husband presented during the betrothal and upon the conclusion of the marriage contract or during the existence of the matrimonial relationship.

Conclusive Provisions

Article 102

The work of the wife shall be a right of hers that she exercises whenever she wishes. The husband's objection thereto shall not be heard.

Article 103

The woman, who does not have a resource, shall be exempted from the judicial fees arising from this Law. The Bureau of the Chief Justice

shall issue forth the procedures that must be applicable to the exemption from the fees.

Article 104

The Council of Ministers shall issue forth the expedient bylaws for the implementation of this Law.

Annexes

The Palestinian Declaration of Independence

Algiers, Algeria

15 November 1988

In the name of God, the Compassionate, the Merciful

Palestine, the land of the three monotheistic faiths, is where 'the Palestinian Arab people' was born, on which it grew, developed and excelled. The Palestinian people were never separated from, nor diminished in their integral bonds with, Palestine. Thus the Palestinian Arab people ensured for themselves an everlasting union between themselves, their land, and their history.

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

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

When, in the course of modern times, a new order of values was declared with norms and

values fair for all, it was the Palestinian Arab people that had been exempt from the destiny of all other peoples by a hostile array of local and foreign powers. Yet again had unaided justice been revealed as insufficient to drive the world's history along its preferred course.

And it was the Palestinian people, already wounded in its body that was submitted to yet another type of occupation over which floated the falsehood that "Palestine was a land without people". This notion was foisted upon some in the world, whereas in Article 22 of the Covenant of the League of Nations (1919) and in the Treaty of Lausanne (1923), the community of nations had recognized that all the Arab territories, including Palestine, of the formerly Ottoman provinces, were to have granted to them their freedom as provisionally independent nations.

Despite the historical injustice inflicted on the Palestinian Arab people resulting in their dispersion, and depriving them of their right to self-determination, following upon U.N. General Assembly Resolution 181 (1947), which partitioned Palestine into two states, one Arab, one Jewish, yet it is this Resolution that still provides those conditions of international legitimacy that ensure the right of the Palestinian Arab people to sovereignty.

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

Thus were principles of international legitimacy violated. Thus were the Charter of the United

Nations and its Resolutions disfigured, for they had recognized the Palestinian Arab people's national rights, including the right of Return, the right to independence, the right to sovereignty over territory and homeland.

In Palestine and on its perimeters, in exile distant and near, the Palestinian Arab people never faltered and never abandoned their conviction in their rights of Return and independence. Occupation, massacres and dispersion achieved no gain in the unabated Palestinian consciousness of self and political identity, as Palestinians went forward with their destiny, undeterred and unbowed. And from out of the long years of trial in ever-mounting struggle, the Palestinian political identity emerged further consolidated and confirmed. And the collective Palestinian national will forged for itself a political embodiment, the Palestine Liberation Organization (PLO), its sole, legitimate representative recognized by the world community as a whole, as well as by related regional and international institutions. Standing on the very rock of conviction in the Palestinian people's inalienable rights, and on the ground of Arab national consensus and of international legitimacy, the PLO led the campaigns of its great people, moulded into unity and powerful resolve, one and indivisible in its triumphs, even as it suffered massacres and confinement within, and without, its home. And so Palestinian resistance was clarified and raised into the forefront of Arab, and world, awareness, as the struggle of the Palestinian Arab people achieved unique prominence among the world's liberation movements in the modern era.

The massive national uprising, the Intifada, now intensifying in cumulative scope and power on occupied Palestinian territories, as well as the unflinching resistance of the refugee camps outside the homeland, have elevated awareness of the Palestinian truth and right into still higher realms of comprehension and actuality. Now at last the curtain has been dropped around a whole epoch of falsehood and negation. The Intifada has set siege to the mind of official Israel, which has for too long relied exclusively upon myth and terror to deny Palestinian existence altogether. Because of the Intifada and its revolutionary irreversible impulse, the history of Palestine has therefore arrived at a decisive juncture.

Whereas the Palestinian people reaffirms most definitively their inalienable rights in the land of their patrimony:

Now by virtue of natural, historical and legal rights, and the sacrifices of successive generations who gave of themselves in defence of the freedom and independence of their homeland; In pursuance of Resolutions adopted by Arab Summit Conferences and relying on the authority bestowed by international legitimacy as embodied in the Resolutions of the United Nations Organization since 1947; And in exercise by the Palestinian Arab people of their rights to self-determination, political independence and sovereignty over its territory;

The Palestine National Council, in the name of God, and in the name of the Palestinian Arab people, hereby proclaims the establishment of the State of Palestine on our Palestinian territory with its capital Jerusalem (Al-Quds Ash-Sharif).

The State of Palestine is the state of Palestinians wherever they may be. The state is for them to enjoy in it their collective national and cultural identity, theirs to pursue in it a complete equality of rights. In it will be safeguarded their political and religious convictions and their human dignity by means of a parliamentary democratic system of governance, itself based on freedom of expression and the freedom to form parties. The majority will duly respect the rights of minorities, as minorities must abide by decisions of the majority. Governance will be based on principles of social justice, equality and non-discrimination in public rights of men or women, on grounds of race, religion, colour or sex, under the protection of a constitution which ensures the rule of law and an independent judiciary. Thus shall these principles allow no departure from Palestine's age-old spiritual and civilisational heritage of tolerance and religious co-existence.

The State of Palestine is an Arab state, an integral and indivisible part of the Arab nation, at one with that nation in heritage and civilization, including its aspiration for liberation, progress, democracy and unity. The State of Palestine affirms its obligation to abide by the Charter of the League of Arab States, whereby the coordination of the Arab states with each other shall be strengthened. It calls upon Arab compatriots to consolidate and enhance the emergence in reality of our state, to mobilize

A Legal Collection

potential, and to intensify efforts whose goal is to end Israeli occupation.

The State of Palestine proclaims its commitment to the principles and purposes of the United Nations, and to the Universal Declaration of Human Rights. It proclaims its commitment as well to the principles and policies of the Non-Aligned Movement.

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

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

The State of Palestine herewith declares that it believes in the settlement of regional and international disputes by peaceful means, in accordance with the U.N. Charter and resolutions. With prejudice to its natural right to defend its territorial integrity and independence, it therefore rejects the threat or use of force, violence and terrorism against its territorial integrity or political independence, as it also rejects their use against the territorial integrity of other states.

Therefore, on this day unlike all others, November 15, 1988, as we stand at the threshold of a new dawn, in all honour and modesty we humbly bow to the sacred spirits of our fallen ones, Palestinian and Arab, by the purity of whose sacrifice for the homeland our sky has been illuminated and our land given life. Our hearts are lifted up and irradiated by the light emanating from the much blessed Intifada, from those who have endured and have fought the fight of the camps, of dispersion, of exile, from those who have borne the standard for freedom, our

children, our aged, our youth, our prisoners, detainees and wounded, all those whose ties to our sacred soil are confirmed in camp, village, and town. We render special tribute to the brave Palestinian women, guardians of sustenance and life, keepers of our people's perennial flame. To the souls of our sainted martyrs, the whole of our Palestinian Arab people, to all free and honourable peoples everywhere, we pledge that our struggle shall continue until the occupation ends, and the foundation of our sovereignty and independence shall be fortified accordingly.

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

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

"Say: 'O God, Master of the Kingdom,

Thou givest the Kingdom to whom Thou wilt,

and seizest the Kingdom from whom Thou wilt,

Thou exaltest whom Thou wilt, and Thou

abasest whom Thou wilt; in Thy hand

is the good; Thou are powerful over everything".

Palestinian Women's Bill of Rights of 2008

Issued by the General Union of Palestinian Women, the Ministry of Women's Affairs, and women's frameworks, organisations and centres (2008).

Foreword

In reference to the 1988 Palestinian Declaration of Independence, that emphasises the Palestinian people's will to build their state on their land – the land of the three monotheistic faiths and the land of an unfolding series of civilisations and cultures - the Palestinian people have declared that the "State of Palestine is the state of Palestinians wherever they may be. The state is for them to enjoy in it their collective national and cultural identity, theirs to pursue in it a complete equality of rights. In it will be safeguarded their political and religious convictions and their human dignity by means of a parliamentary democratic system of governance, itself based on freedom of expression and the freedom to form parties. The majority will duly respect the rights of minorities, as minorities must abide by decisions of the majority. Governance will be based on principles of social justice, equality and non-discrimination in public rights of men or women, on grounds of race, religion, colour or sex, under the aegis of a constitution which ensures the rule of law and an independent judiciary. Thus shall these principles allow no departure from Palestine's age-old spiritual and civilisational heritage of tolerance and religious coexistence".

Proceeding from the momentous challenges that face our people and demand that all their living forces, including men and women, be mobilised in the battle of liberation, independence and building, which at the same time requires the promotion of all parties of the society to play their role in building governmental and non-

governmental institutions and materialise social development, this endeavour cannot be realised or rendered successful without the involvement of all productive elements of the society, including women and men, both on an equal footing and in all phases and fields. Accordingly, we will consolidate our people's perseverance in confronting schemes of the occupation and embody the Palestinian dream of building the State of Palestine on the land of Palestine – "The State of democracy, equality and social justice".

On the grounds of the bitter struggle that the women of Palestine have waged, generation after generation, on an equal footing with men in terms of effort and enormous sacrifices, and as an indivisible part of the struggle of our great people and their heroic perseverance and sacrifices both in the homeland and in the Diaspora under the leadership of the Palestine Liberation Organisation, our women have defended the homeland and made visible the people's inalienable rights to return, self-determination and building of their independent state, with Jerusalem as its capital.

Recognising the vital contribution of Palestinian women both in the homeland and in the Diaspora to preserving the cohesion of the Palestinian society through the challenge of attempts to dissolve the identity and destroy the fabric of the society, the women of Palestine, wherever they may be, are looking forward to shoulder the responsibility, side by side with men, as equal partners in the stage of national and democratic liberation.

Against this background, consistent with the Arab and Islamic civilisations of the Palestinian people, and grounded in the commitment of the State of Palestine to the Charter of the United Nations and Universal Declaration of Human Rights and all Arab and international charters

and conventions, including first and foremost the Convention on the Elimination of All Forms of Discrimination against Women, which was adopted by the United Nations General Assembly in 1979.

The women of Palestine both in the homeland and in the Diaspora, represented by the General Union of Palestinian Women and women's frameworks, organisations and centres, have united in their vision of the need to eliminate all forms of discrimination and safeguard equality within all Palestinian laws and legislation, and hereby they announced this Palestinian Women's Bill of Rights in Jerusalem in 1994.

The Palestinian women's movement has maintained its concerted effort to review the laws that have been in force in the Palestinian territory since the periods of the British Mandate, Jordanian rule in the West Bank, Egyptian Administration in the Gaza Strip, and Israeli occupation. In this vein, women's organisations have introduced amendments and submitted proposals that would consolidate Palestinian regulations and ensure equal rights for women. In partnership with the General Union of Palestinian Women, women's frameworks, organisations and centres and inter-ministerial coordination committee, the Palestinian women's movement also developed in 1997 the Palestinian National Women's Strategy with a view to enhance women's status. In 1997, 2000 and 2002 respectively, the Palestinian Women's Bill of Rights was further upgraded and submitted to the Palestinian Legislative Council. In addition to launching nation-wide women's campaigns, the Palestinian feminist movement has scored several gains in favour of women in a number of Palestinian regulations. Most importantly, Article 9 under the Basic Law provides that, "Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views or disability". Establishment of the Ministry of Women's Affairs has further marked a major step forward to make policies that strengthen and integrate women within official institutions. New policies will further support Palestinian women's efforts and aspirations towards adopting a positive intervention in Palestinian electoral laws.

Declaring our determination to maintain our unrelenting effort towards preserving the gains

that have materialised through the efforts of the feminist movement, to bridge the gap that still exists between women and men, to work towards eliminating all forms of discrimination within Palestinian society, and to play our full role in all areas with a view to promote our people's unity and perseverance, we continue to build the institutions of our independent state and establish the Palestinian society on the grounds of equal rights and duties with men; we hereby present this Palestinian Women's Bill of Rights as a reference to further enhance the feminist discourse of Palestinian women. It will serve as a tool of struggle and pursuit to consolidate women's efforts and prescribe women's rights within Palestinian regulations. Herewith, we demand that the political leadership of the Palestinian people take, through its legislative and executive branches, all the measures needed to bolster, safeguard and adopt the rights enshrined in this Palestinian Women's Bill of Rights, which also partly provides for rights that have duly been accomplished and acquired by Palestinian women. To ensure the humanitarian and civilisational development that our great people truly merit, women's rights may not be alienated or revoked in the process of redrafting any Palestinian regulation.

Content of the Palestinian Women's Bill of Rights

Without grounding demands within an integrated legal framework, Palestinian women would have not been capable of improving their legal status. Women's demands are generally based on a set of principled values and legal rights that will bring about positive results and achieve full equality between women and men in tandem with relevant international conventions and the Palestinian Basic Law.

According to legal surveys on women's legal status under international charters and conventions, as well as under the Palestinian constitutional system and legislation, it would have been more appropriate that women's rights were categorised into discrete legal fields, which will materialise essential, public rights of Palestinian women. In general, these rights constitute legitimate demands that should guide the Palestinian legislature in the course of exercising the legislative task, including in relation to functions of the Legislative and

Executive powers. Ultimately, general legal controls will contribute to scaling up the social, economic and cultural aspects of our Palestinian society and to creating a state of legal balance between the Palestinian woman's significant role in our contemporary society and the legal status, of which they should be entitled. This endeavour will be grounded in the rule that the rights acquired by Palestinian woman may not be prejudiced.

To this avail, the Palestinian woman demands that the following rights be safeguarded and materialised:

First: Political Rights

1. The Palestinian woman shall have the right to vote in all national elections in Palestine, including presidential, legislative, municipal, or union elections or any elections that may determine the features of the legal system in Palestine.
2. The Palestinian woman shall have the right to run for all national elections in Palestine, no matter what the legal position arising therefrom is, under legal conditions that are equal to those applicable to men and without discrimination.
3. The Palestinian woman shall have the absolute right to take part in all public referendums in the State, so long as the consequences of such referendums will equally apply to both men and women.
4. The Palestinian woman shall have the right to occupy all public positions in the State and exercise all the legal powers associated with the functions of these positions in accordance with legal and professional needs and conditions and without discrimination between women and men.
5. Electoral legislation in Palestine shall ensure the inclusion of a legal quota for women from among candidates in all elections in the State in order to guarantee their effective and basic representation throughout legislative and executive institutions without distinction.
6. The Palestinian woman shall have the right to form and join political parties so long as their establishment is in accordance with the legally enshrined conditions of formation and on the basis of the rule of non-discrimination between men and women.
7. Protection of women against physical and psychological torture and arrest shall be ensured. She may not be used as a means of pressure in the cases of the arrest of men.
8. Women's right to participation in decision making processes in the states of war and peace shall be promoted.
9. The Palestinian woman shall have the right to take part in all political activities of various trends and goals so long as they do not contradict the exigencies of the public interest and national security without discrimination from men.
10. The Palestinian woman shall enjoy the right to keep her original nationality when she marries a foreigner, or separates from him upon the dissolution of the marital bond. She shall also enjoy the same right in the event the husband changes his nationality or acquires the nationality of another state.
11. The Palestinian woman shall enjoy all of the rights and conditions prescribed for men in regard to acquiring, changing or maintaining nationality. Her marriage to a foreigner shall not result in any impingement on her nationality or in the imposition of the husband's nationality on her without her consent.
12. The husband and children of the Palestinian woman, who is married to a foreigner, shall have the right to obtain the mother's nationality in pursuance of the naturalisation conditions and requirements that are established for the children of the Palestinian man under the Palestinian legal system.
13. These rights may not be construed in a manner that revokes a privilege that has been granted to the Palestinian wife, whether it is judicial or legislative, in relation to her right to apply for and obtain the nationality of her foreign husband on the basis of the principle of not prejudicing acquired rights.
14. The unity of the Palestinian family shall be made visible in their homeland in accordance with the Universal Declaration of Human Rights.

15. The right of the refugee woman to return in accordance with the United Nations [General Assembly] Resolution 194 and to enjoy all rights on an equal footing with the refugee man shall be confirmed.

Second: Economic and Social Rights

1. The Palestinian woman shall have the right to enjoy fair and satisfactory working conditions, including financial honorariums, without discrimination between her and the man, provided that she enjoys the right to a wage that is equal to that of the man in the event labour is equal between them.
2. The Palestinian woman shall have the right to equal opportunities of professional training, thereby assisting her to freely choose the occupation she desires and which suits her. In this context, the relevant authorities in Palestine shall be committed to providing social and cultural patterns that enable all members of the society to accept the idea of the woman's presence in many types of occupations and handicrafts, which men have monopolised, so long as she has the ability to perform them.
3. The Palestinian Authority shall abide by taking all legislative and executive measures that ensure protection of the working woman against all forms of violence and sexual harassment, to which she is subject at the workplace.
4. The Palestinian woman shall have the right to enjoy treatment that is equal to men within the work environment, as well as the right to enjoy paid leave, pension entitlements and insured social guarantees against unemployment, illness or senility or other causes of the inability to work.
5. The Palestinian woman shall have the right to enjoy financial independence to ensure that she carries out her household and commercial tasks in an independent manner and to safeguard her right to obtain all financial subsidies and insurance that are also granted to men, in addition to full equality between her and the man in all banking transactions.
6. The Palestinian Authority shall be committed to recognising the significance of the rural

woman's work, admitting her contribution to the welfare of her family and to the national economy, ensuring her involvement in the preparation and improvement of development planning, and taking all necessary measures to develop her social, cultural and economic capacities.

7. Women at any age may not be employed overnight in any public or private industrial installation. Excluded from this shall be the installations in which no persons other than members of the same family work. The Palestinian legislature shall abide by regulating night working hours, taking account of respective international charters and conventions.
8. Each employer in the installations in which women work shall be committed to preparing a nursing house, either alone or in partnership with other installations, on the condition that the Palestinian legislature adheres to defining the conditions of the establishment, specifications and order of the nursing house.
9. The working woman shall have the right to obtain a fully paid leave before and after delivery for a period to be set forth by the Palestinian national legislation, observing provisions of relevant international conventions and customary practice and without prejudice to her right to promotion, seniority and regular increments. The married woman shall also have the right to be granted a paid sick leave, especially in the case of an illness resulting from pregnancy or delivery. The Palestinian legislature shall be responsible for setting the maximum limit of such period. This leave shall be excluded from the account of the legally prescribed sick leaves.
10. The working woman shall have the right to discontinue her work in the event she presents a medical certificate, stating that delivery is probable within a period of time that the Palestinian legislature determines. The employer may not demand that she work during this period, nor may he dismiss her or impose financial penalties on her.
11. The woman who breastfeeds her child shall have the right to obtain two periods of rest, the duration of each shall not be less than

half an hour, every day during her working hours so that she can breastfeed her child. The period of such discontinuance shall be counted as paid working hours.

12. The woman shall have the right to obtain maternity, infancy and family organisation services which render her capable of the smooth management of her family in line with her educational role in the family.
13. Either spouse shall have the right to obtain an unpaid leave in order to accompany the other in case he or she moves to a workplace other than his or her original place of work, either inside or outside the state. The Palestinian legislature shall set the maximum limit authorised for such type of leave, without discrimination between men and women.
14. The working woman shall have the right to obtain an unpaid leave to raise her children in accordance with conditions that the Palestinian legislature sets forth, on stipulation that the woman maintains her employment during this period.
15. Either the man or the woman shall have the right to combine their pensions with the pension of his or her spouse without diminishment upon death on grounds of the separate financial liability of both. This right shall extend to the working woman's children as to receive the pensions of their parents without diminishment at one time upon their death.
16. All family members shall be entitled to benefit from the woman's health insurance benefits. The working woman shall also benefit from family financial grants in case she supports her children.
17. The working woman shall have the right to obtain all of her financial entitlements, including the severance pay and pension and any other financial entitlements, without discrimination from men.
18. The woman shall have the right to education at all phases. This shall include enrolment at all educational institutions of all types, equality in educational curricula and qualifications required to work in the field of teaching for both sexes, and equality in opportunities to receive scholarships, study

grants and educational information, on grounds of the rule of equal opportunities between both sexes.

19. The woman shall have the right to attend all educational and cultural programmes of literacy and eradication of ignorance within the society. She shall be equal to the man in the opportunities of participation in sports and physical educational activities.
20. The woman shall have the right to obtain all medical information that helps her make a decision by herself, as well as to respectful treatment during the period of health care. She shall also have the right to have the confidentiality and privacy of her treatment respected.
21. The woman shall have the right to receive comprehensive health care free of charge. The female child may not be exploited in any work that causes damage to her safety, health or right to tuition-free education.
22. The Palestinian legislature shall work towards protecting the female child against assault and cruel treatment either by her family or by strangers. The legally prescribed penalty shall be aggravated against each person who injures, batters or assaults her rights, which are intertwined with her nature and age.
23. The provisions of the Labour Law shall be applicable to domestic workers and relatives of the employer from the first and second degrees.
24. Social security shall be provided to working and non-working women against poverty and unemployment.
25. The gap between the rights of women working in the civil service and of women working in the private sector shall be bridged.
26. Women's participation in the union activity shall be promoted. At least thirty (30) percent of the seats in the leading bodies of the unions shall be designated for women.

Third: Criminal Rights

1. The Palestinian woman shall have the right to enjoy equal rights to life, freedom and personal safety, as does the man.

2. The Palestinian legislature shall adhere to working towards eliminating all provisions of the penal laws that imply discrimination against women, especially the provisions of 'honour' and adultery cases, in a manner that makes visible equality between women and men in the regulation of such legislation.
3. The woman's testimony in the crimes of adultery shall be taken in a manner that is equal to that of the man inasmuch as they are equal in the conditions of legal capacity.
4. The Palestinian legislature shall work towards aggravating the penalty against each person who commits the offence of providing an abortion to a pregnant woman against her will. A significant extent of legal flexibility shall be provided in relation to the causes that drive a pregnant woman to abort her foetus by choice, inasmuch as she is the person most concerned with his safety and life.
5. Penal sanctions prescribed for the crimes of rape and assault on decency shall be aggravated in a manner that brings about general deterrence for every person who commits them. The Palestinian legislature shall criminalise intercourse initiated by the husband against his wife's will, inasmuch as it is a form of domestic violence that affects her.
6. The Palestinian legislature shall criminalise all forms of physical, sexual and psychological violence which might affect the woman inside the family, including battering, sexual assault of the family's female children, violence associated with spousal rape, and other traditional practices that might affect the woman inside the family.
7. The woman shall have the right to be safe from torture or cruel, inhuman or degrading treatment or punishment in society.
8. The Palestinian Authority shall be committed to combating all customary practices, traditions and religious beliefs that permit violence against women and to prescribe deterrent legal penalties against each person who commits such acts. It shall also indemnify her for the damage and harm that is caused her, guarantee her rehabilitation and help her heal from the material and

psychological consequences of such violence. Aid and facilities shall be offered to civil society organisations in order to eliminate the phenomenon of violence against women within Palestinian society.

9. The woman shall have the right to lodge complaints in cases pertaining to rape and assault on decency.

Fourth: Rights Relating to Civil Capacity and Personal Status

1. The woman, once she reaches eighteen (18) years of age, shall have the right to marry and establish a family without any restriction on the grounds of race, nationality or religion. She shall be equal to the man in all rights concerning marriage, during its existence and upon its dissolution.
2. Marriage shall not be concluded except with the full, coercion-free consent of its two parties, as well as with their personal expression thereof, without coercing the woman thereto.
3. The Palestinian legislature shall adhere to considering that the minimum age of marriage for girls is eighteen (18) Gregorian Calendar years since such age is consistent with the age of legal capacity, which the Civil Law considers to be necessary to commence legal dispositions.
4. Formality shall be a condition precedent to the documentation of the contract of marriage in order to safeguard the woman's right in case the marriage bond is dissolved. A medical examination shall be required to be conducted by both spouses a short period before the marriage. Such an examination shall be a condition precedent to the validity of the marriage contract.
5. Oneness and sustainability are the established norm in the contract of marriage. However, the judge may exceptionally allow the man to marry another woman, on condition that he states necessary and urgent causes and provided that he demonstrates his capability of maintenance and justice. In addition, it shall be a condition precedent that the first wife knows about this right and the second wife is aware of the presence of the first wife.

6. The woman shall have the right to receive compensation for an abusive divorce. She shall be granted the right to request judicial separation once a relevant justification is in place, such as the man's impotence, chronic illness, inability to commence his matrimonial life, multiple wives, desertion of his wife or any reasons that justify the unfeasible continuance of the marital bond.
7. The Palestinian legislature shall work towards invigorating the role of the Alimony Fund in order to sustain the women who do not receive their alimony due to the absence of the husband adjudged thereof, or due to his financial inability to pay the amount of such alimony.
8. The Palestinian legislature shall not issue a law or decision stating that a woman should be under the supervision [of her *Mahram*], ensuring that she is not deprived of her alimony. It shall also work towards establishing the mother's right to custodianship.
9. The woman shall have the right to full equality with the man in all aspects of the Civil Law, such as equality in the right to ownership and inheritance and her right to conclude special contracts for her personal right.
10. The woman shall have the right to choose her permanent place of residence and house. Such a place may not be determined based on the man's sole desire without taking account of the woman's status and willingness.
11. The woman shall be equal to the man in all the rights pertaining to children and management of the family's house. She shall also have the right to guardianship and custodianship over the children as is prescribed for their interest, not for consideration of their gender.
12. The woman shall have the right to own and possess the household's properties, as well as to dispose of them, on an equal footing with the man.
13. The woman shall be fully eligible to exercise commercial activities in her own name and for her interest.
14. The woman shall have the right to maintain her name, nickname and name of her family after marriage.
15. The woman shall have the absolute right to apply for and receive all documents and official papers without a need to obtain permission from any person.
16. The woman shall be entitled to the freedom of movement, travel and work without stipulation of obtaining permission from any person, once she attains the legal capacity required to do so and without discrimination from men.

