

Briefing Paper

# “Falling through the cracks:

How the Israeli Occupation Breaks Palestinian Families”

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## Definitions

<b>Jerusalem Palestinians:</b>	These are Palestinian citizens who reside in the city of Jerusalem and who hold a Jerusalem identity document.
<b>West Bank Palestinians:</b>	These are Palestinian citizens who reside in the West Bank and who hold a Palestinian identity document.
<b>Gaza Strip Palestinians:</b>	These are Palestinian citizens who reside in the Gaza Strip and who hold a Palestinian identity document.
<b> Holders of Israeli citizenship:</b>	These are the Palestinians who obtained Israeli citizenship.
<b>Jerusalem identity card:</b>	This document authorizes its holder to reside in Jerusalem and inside the Green Line and grants rights and subjects the holder to obligations according to Israeli legislation.
<b>Palestinian identity card:</b>	this document is issued by the Palestinian Authority and authorizes the holder to reside in the West Bank or Gaza Strip but does not grant the holder the right to enter Jerusalem or inside the Green Line.
<b>Inside the Green Line:</b>	The Palestinian territories occupied in 1948.
<b>Families with different documents:</b>	families whose members (husband and wife) hold different documents (Jerusalem identity card, Palestinian identity card, Israeli citizenship).
<b>Separated families:</b>	Families whose members are separated by place of residence due to holding different identity documents or as a result of other measures employed by the Israeli authorities.
<b>Family reunification application:</b>	An application submitted to the Israeli Interior Ministry for a Jerusalem identity card following a marriage in which one party does not hold a Jerusalem identity card.
<b>Document:</b>	A personal card that proves the geographical place of residence of the holder and from which the rights of the individual are defined under Israeli laws, such as residency rights or health and education, or for the purpose of applying the authority of a court.

In 2011, the Center for Women's Legal Research and Consulting in the Gaza Strip (CWLRC), the Jerusalem Center for Women (JCW) and the Women's Centre for Legal Aid and Counselling (WCLAC), in cooperation with the UNDP and Open Society Foundation (FOSI), implemented a joint project to provide support and advocacy skills for Palestinian women whose rights are violated due to legislation and measures imposed by the Israeli occupation. Palestinian women require assistance to overcome obstacles faced in various fields, such as family rights, issues related to divorce or claiming rights stipulated in the marriage contract, child custody, and rights to residence, freedom of movement, health services, education and work.

These women's centers collaborated on a study entitled «Falling through the cracks: How the Israeli Occupation Breaks Palestinian Families». The study aimed to identify the problems facing families who are separated due to the policies and laws relating to Israeli citizenship and the different laws applied in various regions of the occupied Palestinian territories.

The study utilized various methodologies to gather information and data, including qualitative and quantitative research methods, a gradual critical approach that examines and presents the reality and the complex relationship between the occupier and the people under occupation, and effective research through participation. Focus groups were organized with professional women and specialists dealing with women from families who are separated due to their residency status. Intensive face-to-face interviews were conducted with women affected by the problem of residency/identity card/citizenship issues. A qualitative survey was conducted with these women via a questionnaire comprised of open and closed questions. Focus groups were organized with researchers to discuss the results and verify their validity.

## Introduction

The policy of different identification documents imposed by the Israeli occupation according to geographical region did not constitute a major obstacle to relations between Palestinians until Israel took further steps to detach Palestinians in Jerusalem and inside the Green Line from their natural links with Palestinians in the West Bank and Gaza Strip. Israel targets families whose members hold different documents with legislation that bans family reunification for those living outside the borders of the Green Line and prevents Palestinians holding a Palestinian identity card from obtaining an Israeli identity card or residency permit. Israel also enforces measures to withdraw identity cards from Jerusalemites who live with their families outside the borders of Jerusalem municipality and prevents members of the same family who carry Palestinian identity cards from staying with their relatives inside Jerusalem.

Israeli policy on Palestinian family reunification prevents such families from living together as one unit in the same town or village; it also deprives relatives of maintaining relations with family members in the West Bank and Gaza Strip, who are not allowed to travel to visit their families. This has brought about the separation and disintegration of families. Palestinian families, particularly women, suffer considerably as a result of this Israeli policy, which also has socio-economic and psychological effects. Moreover, Israeli policy prevents migration into the Palestinian territories and encourages the emigration of Palestinians abroad to enable them to join family members.

The problems related to the different documents result from various laws in effect. Palestinians suffer from a legal reality unknown in other countries as they are subject to several laws according to the area in which they reside and based on the documents they hold. Existing Israeli laws prevent the movement of Palestinians and lead to the separation of Palestinian families whose members hold different documents.

The legislation applicable to Palestinians in the field of personal -status in Jerusalem differs from that in the West Bank and Gaza Strip. Even in Jerusalem, there are two laws applicable in two Sharia courts. These legislative inconsistencies lead to different provisions being applied to individuals and can lead to the loss of rights.

Families also face difficulties in enforcing court rulings as current procedures do not protect rights and fail to allow individuals to claim their rights, especially if the lender resides in the West Bank or Gaza Strip and the debt is owed by a resident of Jerusalem. There is no body to enforce court rulings if the court grants a parent visitation rights. In addition, rulings may not be enforced because of the different documents held by spouses; under such conditions, women prefer to maintain their status even if it means that they have to forgo their rights.

## Israel Violates International Resolutions

International law and resolutions state that the city of Jerusalem and the territories occupied in 1967 are occupied Palestinian territory. This is made clear in UN Security Council Resolutions 242 (1967) and 338 (1973), which call for the withdrawal of Israeli armed forces from occupied territory. Accordingly, the provisions of the Fourth Geneva Convention of 1949 apply to these territories. It was also clearly stated that Israeli measures that ignore international law are invalid; the UN General Assembly Resolution 2253 issued on July 4, 1967 called on the Israeli occupation to rescind all measures taken in Jerusalem and to desist from any action that might change the status of the city. This was reiterated in Resolution 2254 of 14 July 1967. This Resolution was followed by UN Security Council Resolution 252 of 21 May 1968, which considered “that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status”.

On July 7, 1980, the Israeli government issued the Basic Law declaring Jerusalem as the complete and united capital of Israel. In response, the UN Security Council issued Resolutions 476 and 478 in June and August 1980 condemning Israel for contravening international law and stating that this law shall not prevent the applicability of the Fourth Geneva Convention of 1949 to Jerusalem.

This stance was reaffirmed in the advisory opinion of the International Court of Justice (ICJ) on July 9, 2004 pertaining to the legal consequences of the construction of a Wall by Israel in the occupied Palestinian territory. International law and resolutions affirm that it is inadmissible to possess territory by force and that Jerusalem is an occupied city to which the rules and provisions of international humanitarian law apply, especially the Fourth Geneva Convention of 1949, which was ratified by Israel. Moreover, the city of Jerusalem is subject to the special annex of the Hague Convention of 1907.

The ruling of the ICJ affirmed the legal principle that the Palestinian territory is occupied territory, which means that international humanitarian law applies and that Palestinians are civilians under occupation. The Court also stressed the right of the Palestinian people to self-determination and the duty of Israel as the occupier to respect and apply the principles of international law on human rights (the Special Covenant on Civil and Political Rights, the Special Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child). It also reiterated the ban on the annexation of territory by force and the application of this principle to Israel in relation to the occupied Palestinian territories.<sup>11</sup>

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1 The legal status of the Palestinian population in Jerusalem – Wednesday, August 11, 2010. 20:57. author: Ziad Khashan. <http://www.alternativenews.org/arabic/index.php/blogs/2011-05-02-10-57-26/3159-2010-08-11-21-04>

## Israeli Policies Separate Palestinian Families

The suffering of Palestinian families extends beyond the expropriation of land, imprisonment of children and the killing of their fathers by the Israeli occupation to include the separation of Palestinian families as a result of Israeli measures. The Palestinian people are divided in terms of their rights, commitments and the legislation under which they live according to their place of residence: the Palestinians of 1948, Palestinians living in Jerusalem, West Bank and Gaza Strip Palestinians, and the Palestinian people in the Diaspora.

In 1948, Palestinians living inside the Green Line found themselves subjected to Israeli legislation. In 1967, the West Bank, Gaza Strip and Jerusalem were occupied. Laws and regulations that were effective in the West Bank and Gaza Strip continued in force, in addition to Israeli military orders. In Jerusalem, Palestinian citizens residing there were subjected to Israeli legislation. Upon the establishment of the Palestinian Authority (PA) in 1993 following the Oslo Accords, the legislation effective in the West Bank and Gaza Strip, dating from Ottoman rule, the British Mandate, Jordanian rule in the West Bank and Egyptian rule in the Gaza Strip and finally the Israeli occupation, all continued until they were amended. The split between Palestinians internally, which led to the paralysis of the Palestinian Legislative Council, consolidated the divisions between the Palestinian people by place of residence as plans to unify laws in the West Bank and Gaza Strip were halted.

The complexities of the issues faced by Palestinian families are numerous and relate to the different laws that govern the Palestinian territories. Any family whose members carry different documents faces risks, instability, uncertainty and fear of separation at any time. If the husband holds a Jerusalem identity card or an Israeli passport and the wife holds a Palestinian document from the West Bank or Gaza Strip, there are ramifications that extend to the rights of all members of the family. Normally, the marriage contract will either be subject to the law applicable to the document or place of residence of the man or to the wife's document and place of residence. However, if there is any disagreement later, conflict will erupt due to the different laws applicable and this can cause serious problems for both men and women.

In the same context, if the husband carries a Palestinian document from the Gaza Strip and the wife carries a Palestinian document from the West Bank, it is very complicated due to the geographical division, the restrictions imposed by Israel regarding the separation of the Gaza Strip from the West Bank and the relevant laws that deprive a Palestinian holding a Gaza Strip document from residing in the West Bank, the ban on Palestinians from the West Bank travelling to the Gaza Strip, and the ban on Gaza Strip Palestinians traveling to the West Bank.

## Family Reunification and Illegal Residence

The different documents held by Palestinians according to their place of residence gives rise to a situation where members of the same family in a marriage may not hold documents with the same status. However, such differences have not prevented Palestinians from interacting and marrying others from different regions.

Israel applies stringent restrictions and criteria to family reunification applications and many applications are rejected. As a result, applicants are not permitted to enter Jerusalem or regions inside the Green Line to visit relatives. Families are faced with the decision to choose between residence in the place in which the family reunification application has been made and not make any visits until a decision has been issued, with no guarantees that the application will be approved, or not to apply in the first place and move to an area inside the territories occupied in 1967 to stay with the spouse, risking the loss of residency rights in Jerusalem or inside the Green Line. Another option is to live with the family with an expired permit and face deportation if discovered.<sup>22</sup>

## Differences in Judicial Systems

Palestinian families are separated as a direct result of Israeli policies and laws that prevent the freedom of movement of Palestinians and restrict the reunification of Palestinian families. The situation is further exacerbated by the different judicial systems and numerous laws in effect in the Palestinian and Israeli territories, especially in cases of domestic problems that reach the courts, such as divorce, alimony and child custody.

The Palestinian people are subject to different judicial systems depending on the region where they live and courts in different areas have different authorities. This deprives individuals from attending an Israeli court because they hold a Palestinian document or vice versa. The situation also deprives individuals of rights in enforcing the judicial ruling.

There are also numerous courts in the same region. Courts in Jerusalem have parallel jurisdictions; if one spouse holds a Jerusalem document, they have the right to go to the Jordanian court in East Jerusalem, which applies the Personal Statute Law of 1976, or the Deir Yasin Court belonging to the Israeli Justice Ministry, which applies the Family Rights Law of 1917, or the Family Affairs Court that applies the Israeli Personal Statute Law of 1956. However, if the one of the spouses holds an Israeli passport, they cannot use the Jordanian court. Moreover, if one of the spouses takes the case to a specific court,

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2 MIFTAH, "Family Reunification", 6 August, 2007, Available at: <http://www.miftah.org/Display.cfm?DocId=14464&Category=4> (visited 20 September 2011).

the judicial system of that court will be the one applicable and no other court or judicial system has the right to examine the case.

Recently, the Israeli courts have started to apply the rule of “appropriate judicial council” which means that the judge may deem that the appropriate judicial body to examine an alimony case filed by a woman residing in the PA territories is the Sharia court in the region where she resides i.e. the Palestinian courts. The judge may raise this matter on his own because the principle is closer to jurisdiction related to subject matter than jurisdiction related to location. This can result in several problems, such as the amount of money that a woman can obtain from the Palestinian courts and the enforcement of the sentence itself.

## Different Applicable Laws

The majority of family laws are similar in their provisions and content in relation to their terms of reference. In the West Bank, the Jordanian Personal Statute Law of 1976 is applied in the Sharia courts that belong to the PA. In the Gaza Strip, the Family Rights Law issued by the Egyptian administration of the Gaza Strip in Order No. 303 of 1954 is applied in the Sharia courts of the PA; this law differs in some instances from the law applied in the West Bank. In Jerusalem, the Jordanian Personal Statute Law, with some amendments introduced to it, is applied in the Sharia courts belonging to the Islamic Waqf administration of the Jordanian government. Another law is applied in Jerusalem: the Israeli Personal Statute Law of 1956. The provisions, articles and reference of the majority of these laws come from Islamic jurisprudence, especially the Hanafi doctrine of Sunni Muslims.

Each geographical area has its own procedures for enforcement: if a woman obtains a ruling from an Israeli court in Jerusalem or inside the Green Line, it is difficult for the Israeli authorities to enforce it in a Palestinian court. It is also difficult to enforce the sentence in the Palestinian courts by filing a case whose ruling was in a foreign court.

## Major Differences Between Applicable Laws

### ▪ Polygamy

Marriage to several women at the same time is legal under Sharia law in the West Bank and Gaza Strip. In the Israeli regular courts, polygamy is a criminal offense and the husband is sentenced to five years in prison unless there are exceptional conditions.

Anyone who commits polygamy is fined and must pay financial compensation for the moral damage caused to his spouse due to this marriage.

A man holding Israeli citizenship or a Jerusalem identity card and wishing to marry more than one wife may attempt to circumvent the law by divorcing the wife in the Israeli court, re-marrying her in the Jordanian courts and then taking a second wife in the Jordanian courts. In this, he exploits the contradictions and discrepancies between the laws. Moreover, the man exploits the status of a woman who does not hold a Jerusalem identity card because under Israeli law the presence of this woman in Jerusalem is illegitimate. She therefore remains silent about her husband's second marriage because if she files a case before the Israeli courts, she will be deported from Jerusalem and will be unable to live with her children.

#### ▪ **Age of Marriage**

The age at which marriage is permissible differs depending on the place of residence. While Israeli legislation bans marriage for a “woman who has not completed 17 years of age”, the legislation effective in the West Bank allows the marriage of a male of 16 years of age to a woman who is at least 15 years of age. The Family Rights Law effective in the Gaza Strip permits the marriage of a male from the age of 18 years to a woman aged over 17 years of age. The exception for the marriage of minors is based on a judicial circular amending the age of marriage to 14 years and seven months for a female and 15 years and seven months for a male.

Since the Israeli Family Affairs Court does not permit the marriage of minors, people sign the marriage contract in the Jordanian court and go to the Israeli Sharia court to confirm the marriage.

#### ▪ **Alimony**

Israeli courts award wives and children higher alimony than Palestinian courts. The judge takes into consideration the place of residence of the wife and children, so if they live in the PA territories the judge imposes a lower sum on the husband than if the place of residence is in Jerusalem or inside the Green Line where the cost of living is higher.

#### ▪ **Custody**

The Hanafi doctrine of Sunni Muslim scholars, which is considered as the terms of reference for all personal statute laws, defines the age of custody as nine years for girls and seven years for boys. The Family Affairs Law enforced in the normal Israeli courts and the decisions of the

Israeli Justice Court give the mother custody until the child reaches the age of six years, and after that the criteria is whatever is in the best interests of the child. The Sharia court judge must then transfer the case to the social affairs department to examine the best interests of the child.

Custody is given to the mother who devotes herself to raising her children until they become adults according to the Personal Statute Law of 1976. In the Gaza Strip, the age of custody is nine years for a girl, which may be extended to 11 years, while for a boy the age is seven and can be extended to age nine if the judge deems it in the best interests of the child. The child does not have the right to choose if the father should have custody, but a boy has the right to choose if the custody occurs after he is 15 years of age.

### ▪ **Arbitrary Divorce**

Compensation can be requested for the divorce of a woman without her knowledge at the Israeli Family Affairs Court; compensation can total large amounts. The penal code punishes the husband who divorces his wife without her consent by imprisonment and a fine.

In the West Bank, if the husband divorces his wife in an arbitrary manner, such as divorce without a reasonable cause, and the wife requests compensation, the judge orders that the husband pay compensation as he deems appropriate on condition that it does not exceed the amount of alimony for one year and this compensation is paid in one amount or in payments according to the circumstances. The financial situation of the husband has to be taken into consideration and this shall not prejudice all other marital rights of the divorced woman, including the alimony of the iddah.<sup>33</sup> (In Islam, this is the period a woman must observe after the death or divorce of her spouse during which she may not marry another man). In the Gaza Strip, there is no compensation for arbitrary divorce.

## **Human and social ramifications of different laws**

### ▪ **Fear of Taking Cases to Court**

A woman with a Palestinian identity document or foreign passport married to a man holding a Jerusalem identity card or Israeli passport, or vice versa, faces several problems. The woman has two options: either to proceed with the legal residency procedures and apply for family reunification, or to refrain from applying for family reunification and reside outside Jerusalem or the areas within the Green Line.

If the woman wishes to apply for family reunification, the holder of the Jerusalem identity

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3 3 Article 134.

card or Israeli passport applies to the relevant bodies and undertakes a long process of complicated procedures. If the holder does not wish to do this, the spouse has no right to apply independently. If the holder cooperates and makes the application, approval may be granted and the applicant will have the right to reside in Jerusalem or inside the Green Line, although rights relating to movement across checkpoints, work, health insurance and education remain incomplete. If the application is rejected, the spouse faces two options: either to stay illegally or to leave the family home. Staying illegally prevents the exercise of rights to movement, education, work and medical insurance and involves the risk of imprisonment or deportation if discovered. If the spouse leaves the family home, she/he loses the right to a normal married family life or the other spouse must join them in a residence that violates the conditions of “citizenship” outside the borders of Jerusalem or the Green Line and may lose their right to keep their identity card and residency rights.

### **Feelings of Inferiority**

Despite the fact that the majority of women in this study confirmed that their spouses demonstrated sympathy and offered the necessary support to obtain family reunification, some women in these situations are not given support from their spouse and undergo oppression during family reunification procedures, including lack of awareness and respect by their spouse.

The ramifications that result from such situations have contributed towards a trend against marriages of this type. There are also serious psychological and social effects on people who avoid marrying their children to people with documents of a different status.

Women in such marriages face serious choices which may have a legal, social and psychological impact, along with the problems of family reunification procedures. The woman faces a very difficult situation, especially in enforcing the sentences of courts in different regions and the loss of rights to custody, visitation and alimony.

The illegal status of the woman leads to feelings of insecurity and fear of arrest and deportation. Even when the woman applies for family reunification, she remains afraid that she may be removed from her children. All these factors strengthen worries about appealing to Israeli courts if problems arise with the spouse.

### **Depriving the Mother of Custody or Visitation Rights**

Some of the most significant problems that arise between a husband and wife are related to the legal ramifications of ending the marriage. Most of the provisions of divorce, child custody, alimony or visits with children, or whatever rights the mother may have upon ending the marriage, clash with opposing family laws due to the different documents, as discussed above.

All the family laws discussed above do not permit a woman to end a marriage except on the basis of justifications defined in these laws, which may be difficult to prove. Resort to the courts exerts a heavy price on women on economic, psychological and social levels, and even at the expense of their personal security. In every case where different documents exist there are complications.

In cases which end in divorce, whether initiated by the man or the woman, women engage in bitter legal battles because of the different laws and procedures that apply in different areas. Once a woman marries a man who holds a Jerusalem identity document, she is required to apply for the same document, termed family reunification in Israeli law. If the woman fails to do so, she cannot apply for any other right in Jerusalem and is considered as an illegal resident in Israeli law.

This is particularly problematic in issues of child custody in divorce cases. The law pertaining to family affairs applied in Jerusalem grants the custody of children to the mother as long as she does not marry another man after divorce. However, as the children were born in Jerusalem, they are automatically registered in the document of the father and are given a Jerusalem document. This means that the mother becomes an outsider since the father and children hold papers that differ from hers. In this case, the mother must apply to the Sharia court in Jerusalem, which applies a different law in relation to child custody.

In cases where divorce takes place and the mother does not have the same document as the husband, she is forced to return to the place of residence of her family, which is most often in the West Bank. It is then impossible for the mother to return or enter Jerusalem in most cases; the mother has to apply to the military governor of the West Bank region to obtain a permit to enter Jerusalem and the request is often denied under different pretexts. Women are forced to hire an attorney from Jerusalem to pursue their case in the courts. Taking into consideration the differences in living costs and income between the various areas, women face the burden of high financial outlay in order to obtain child custody or alimony.

In the face of different laws in operation depending on the identification document held by the husband, women are restricted from attaining their rights to child custody. Although the law applied in Jerusalem allows women to obtain child custody, the Family Rights Law of 1917 grants women custody if the children are under seven years of age for boys and nine years for girls. The Israeli court rulings require that every request by a woman for child custody must be transferred to the Social Affairs Ministry to examine the best interests of the child. The relevant court to examine the case and the request for child custody filed by the woman depends entirely on the report of the Israeli Social Affairs Ministry. In most cases, the report deprives the mother of child custody, especially if the mother resides in the West Bank and would require her to take the children to live with her outside Jerusalem. This does not serve the best interests of the child, according to the report, and so the woman's request for child custody is denied. The mother has to proceed with another legal battle to obtain rights simply to visit her children.

## Geographic Division of the West Bank and Gaza Strip and Different Laws Consolidate Violations of Women's Rights

Under normal conditions, a woman moves to live in the place of residence of the husband. If they separate, the woman returns to live with her family. Personal status laws grant women child custody rights, but the laws in the Gaza Strip and the West Bank do not permit women to leave the place of residence and take the children with her without the father's consent.

If the mother holds a Palestinian document and comes from the West Bank or Gaza Strip and she separates from the husband residing in Jerusalem, even if she is granted child custody, the woman cannot leave the area where her husband resides and return to her family because in most cases the husband will not allow her to take the kids due to the restrictions on movement to the West Bank and Gaza Strip. As the mother cannot live alone in the area where her husband resides after separation, she is deprived of child custody because of the geographical divisions imposed by the Israeli occupation.

## Violation of Women's Rights Due to Different Laws and Procedures

The right to citizenship is a basic right granted in international covenants on human rights. Violations of this right not only threaten an individual but the entire family and all aspects of daily life, including the right to residence, the right to freedom of movement and the right to housing. When these rights are violated, the impact is severe on the entire family and its cohesion.

If one family member is deprived of the right to citizenship in the Palestinian territories (West Bank, Gaza Strip, Jerusalem and inside the Green Line), this leads to the entire family being deprived of movement as a unit inside the homeland. In cases relating to family reunification, the freedom of movement of women is restricted. If a woman does not have the right to apply for family reunification, she cannot claim all her basic rights and is unable to reside legally in the Holy City; such a situation can be detrimental to the woman's health as she lives continually under stress, especially if her husband exploits her status and does not respect her role as a mother and family member.

Israel ratified the Citizenship Law in 2003. The law aims to prevent residency rights or citizenship being granted to any person coming from the territories occupied in 1967 who is married to an Israeli citizen, whether this citizen holds an Israeli passport or a Jerusalem identity card. The Citizenship Law bans Palestinian men and women from entering Jerusalem and areas inside the Green Line. It makes it difficult for women to live with their husbands who hold a Jerusalem identity card or an Israeli passport. If the woman holds a Jerusalem identity card and she moves to live with her husband who holds a Palestinian document, she faces the risk of losing her Jerusalem card and her rights to health insurance and education.

Due to the Israeli policies enforced in the West Bank in terms of closures, checkpoints, the building of the Apartheid Wall and the total isolation of Gaza Strip, many restrictions are imposed on freedom of movement. Israel controls all ground crossings and controls the movement of Palestinians, making it difficult for West Bank residents to reach Jerusalem and see family members. This causes additional suffering to women married to men who hold a Jerusalem identity card or Israeli passport.

This policy by the Israeli occupier aims to ban Palestinian residents from entering areas inside the Green Line or Jerusalem. Palestinian women who stay in Jerusalem without residency right faces the risk of deportation to the West Bank or Gaza Strip if the application for family reunification is rejected. In such cases, women are forced to stay in the home and this is like a prison sentence and deprives women of leading a normal life.

Women residing illegally in Jerusalem or inside the Green Line are also restricted from seeking assistance from organizations and lack awareness of their legal rights.

Thus, women are subjected to dual discrimination against them as Palestinians and as women. The Palestinian woman who holds a Jerusalem identity card or Israeli citizenship loses her residency rights if she marries a man without the same documents. The right of a woman from Jerusalem or holding Israeli citizenship to obtain residency rights for her husband and children is restricted and requires long arduous procedures to be completed. This endangers the rights of children to citizenship or education and health services since the mother cannot obtain medical cover for her children or register them in school due to the residency issue.

The Citizenship Law is unjust and, accompanied by the measures imposed by the Israeli occupation, violates all international covenants and human rights to the most important and basic principle to live a decent life in a united family. The Citizenship Law is contrary to international standards.

## **Enforcement of Court Rulings**

A ruling issued by an Israeli court may be enforced by the execution department. The law provides for many procedures to exert pressure on a debtor. If the debtor husband holds a Palestinian identity document, the measures that may be taken against him are limited to obtaining an order to prevent him from traveling, or a prison sentence if he has a permit to enter Israel.

The husband or wife holding a Jerusalem identity card or Israeli passport residing in areas under the Israeli authorities, if they have children for whom the mother has custody, may ask the national insurance institute, which is responsible for social welfare in Israel, and if the ruling has not been adhered to, they may ask the execution department.

However, the Israeli national insurance institute stalls in giving approval to pay alimony and this puts the wife under financial and psychological pressure. The husband might move to the PA territories in order to prevent the wife from executing alimony decisions.

Some people call on the Israeli police to enforce rulings, such as handing over children, clothes

or personal belongings of the wife, and also with regard to protection or banning the husband from entering the house. If the husband lives in an area behind the Wall, even if that area is under Israeli control, the Israeli police do not enforce rulings and the wife is transferred to the DCO. In many cases, the Palestinian authorities refuse to execute decisions issued by Israeli courts.

In the PA territories, the execution department is specialized in enforcing rulings issued by the Sharia courts and Palestinian regular courts. Once a woman obtains an alimony ruling, she goes to the execution department at the Court of First Instance and opens a file to follow up the collection of the money and the husband must be notified. If the husband is in Zone B or C, it is difficult to inform him because security in those areas is run by the Israelis. If the woman does not receive the sum stated in the ruling, she may ask the alimony fund to collect the money after obtaining a statement from the execution department. The problem arises here because the fund cannot cover all sums requested due to a shortage of finance.

The judicial police are specialized in executing rulings of the Sharia court through the execution department at the Court of First Instance in cases of custody and handing over children and clothes. If the wife holds a Palestinian document and the husband holds a Jerusalem identity card or Israeli passport, or vice versa, enforcement becomes impossible.

Several factors can interfere in the execution of rulings issued by Israeli courts. In child custody rulings for a mother who holds a Palestinian document, the best interests of the child to reside in Jerusalem might interfere in the mother's attempts to obtain a custody order if the mother cannot reside in Jerusalem. As a result, the mother is unable to enforce the order because if the children live with their mother outside the borders of Jerusalem, they will lose their residency rights in Jerusalem and their social and medical insurance rights.

In alimony cases in Israeli courts, the sums of money may be very high; in the Palestinian courts, the amounts are much lower. Therefore, when a woman wants to execute an alimony order from an Israeli court, the Palestinian judge reduces the amount in order to make it more compatible with the rulings of Palestinian courts.

It is also difficult to execute a ruling allowing a mother visitation rights with her children. The mother is not allowed to enter Jerusalem and areas inside the Green Line without a permit, but she has no right to such a permit so the ruling cannot be enforced.

Another problem facing a woman holding a Palestinian document and married to a man carrying a Jerusalem document or Israeli citizenship is illegal residency and the ramifications of that if a woman wants the police to enforce a ruling. Since her presence in Jerusalem is illegal, she risks deportation from Jerusalem or areas inside the Green Line and living far from her children and family.

As regards the issue of custody, parents must reside in the same country because one partner has custody and the other partner has the right to see the children. In the Palestinian context, Israel is considered as a state and the PA territories are considered as another state in the security sense. In light of the weak role of the DCO, it is difficult to enforce rulings related to custody.

## Conclusion and Recommendations

Due to the complex issues faced by women from different laws and procedures that result from the continuation of Israeli occupation in the Palestinian territories, women are separated from their families without any action by the international community or relevant international organizations.

If the current situation continues and the occupying authorities impose additional measures and racist legal policies, the bitter reality of racial discrimination and human rights violations will be entrenched. All relevant parties must act and take responsibility for Palestinians under occupation via a series of steps that acknowledge the humanitarian needs of Palestinian citizens. In this respect, we recommend the following:

### **By the UN and Security Council:**

- The Israeli occupier must be forced to apply international human rights law and international humanitarian law to all Palestinian territories occupied in 1967 and apply all international conventions pertaining to human rights and women's rights, especially Security Council Resolutions relevant to the Palestinian cause.
- The special rapporteurs of the UN must fulfill their role of monitoring and inspecting violations committed by the Israeli state against Palestinian citizens and present them to the UN Secretary General in order to take appropriate measures.
- The Human Rights Council and special committees on international agreements pertaining to human rights must fulfill their responsibilities towards Palestinian citizens and hold the occupying state accountable.
- The contracting parties to the Geneva Conventions must fulfill their obligations and force the Israeli state to respect the Geneva Conventions, especially the Fourth Geneva Convention, and respect and apply the criteria as stated in international human rights conventions.
- Israel must be forced to apply military occupation law that stipulates that it should not change laws and legislation pertaining to the lives of civilians under occupation.
- The UN and all its organizations must call on the Israeli state to annul all racist laws and measures, including military orders, against the Palestinian population in the occupied Palestinian territories and allow Palestinians to move freely and travel between the occupied

Palestinian territories. They should also exert pressure on Israel to cancel the so-called Citizenship Law which consolidates racial discrimination against Palestinians and should permit Palestinians to exercise their rights to residency.

#### **By the Local and international advocacy:**

- To demand from the Israeli state to assume its responsibilities as an occupying state according to international law and allow women to obtain the same documents as their spouse, or vice versa, without legal obstacles or linking the issue to the consent of the husband or to age.
- To demand from the Israeli authorities to enable women to practice their right to see their children and have custody without reference to the place of residency of the wife and to enable women to move freely between geographical areas without obstacles.
- To demand from the occupying authorities the enforcement of rulings obtained by women in all areas without obstacles and assist in overcoming all obstacles faced by women in the enforcement of rulings.

#### **By the PNA:**

- To end the Palestinian internal divisions between the two parts of the homeland.
- To unify laws in the PA territories and between the Gaza Strip and the West Bank and take into consideration the geographical reality imposed by the Israeli occupation.
- To document and monitor violations committed by Israel against Palestinians and offer assistance to the victims of Israeli violations.
- To implement special measures and health insurance for women, especially those who reside in Jerusalem and do not have health insurance, and sign contracts with hospitals in Jerusalem to allow these women to receive health services that they are deprived of due to the measures and laws implemented by the Israeli occupation.
- To execute rulings obtained by women from Jerusalem courts in all areas without obstacles and assist in overcoming all obstacles faced by women in enforcing these rulings.

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