

The Integration of Women's Rights into the Euro-Mediterranean Partnership

**Women's Rights in Algeria, Egypt, Israel, Jordan,
Lebanon, Morocco, Palestine, Syria and Tunisia**

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Foreword

This report attempts to provide the context for understanding the dynamics that promote and impede women's rights in the Middle East and North Africa (MENA) region. It synthesises the existing information on discrimination and violence against women in the MENA region, highlights the national, regional, and international networks and women's initiatives that promote women's rights in the MENA and the Euro-Mediterranean Partnership (EMP), and finally it analyses the extent of gender mainstreaming into the EMP and recommends how women's rights could be better addressed by the EU and Partner States.

This report takes the stance that the promotion of women's rights is indivisible from human rights, democracy and development. For, how can women's rights advance, if the human rights dialogue does not apply equally to men and women? In the same vein, how can women's rights be promoted if fifty percent of the population is systematically marginalised from equal participation in society's decision-making processes? And how can there be real development if half the population does not share in the improvement of quality of life?

Participants in the Beijing Conference on women's rights in 1995 declared that there could be no human rights without women's rights, and no democracy without the full and equal participation of women. This declaration was reconfirmed in the Beijing +5 Conference in New York in 2000. Also, the UNDP 2002 report on Arab Human Development identified the status of women in the Arab world as one of the three main deficits in the region that hinders development (the lack of freedom and low level of knowledge being the two others).

However, the Barcelona Declaration does not explicitly acknowledge the relationship between human rights, democracy, development and women's rights, but only

refers to the importance of women's role in economic development, thus treating women's rights as an isolated issue.

Several barriers impede international engagement in the promotion of women's rights, despite the importance of women's rights to human rights, democracy and development. Most recently, the post-11 September context of increased global governmental discourse on security and terrorism is increasingly inhospitable to human rights obligations and has allowed governments in the South (and North) to violate human rights with even greater impunity. With the indivisibility of human rights and women's rights, the changed environment for human rights promotion has had a negative effect on the work of women's rights organisations.

There is also a tendency by governments in the MENA region as well as within the EU institutions to regard women's rights in the MENA as an issue of 'religious norms and cultural traditions' that thus should be treated as a domestic issue.

Furthermore, women from the MENA, and especially Muslim women, are often stereotyped in the North as being suppressed, weak, unable to change their situation, and stuck in a society that is perceived to be static. The perception is also that the Muslim tradition, particularly in regard to women is too different from – and thus irreconcilable with – "Western" culture.

This report finds much evidence to challenge these perceptions. In order to combat the legal and social norms that propagate discrimination and violence against women, the women's and human rights movements in the MENA region use international human rights conventions, especially the 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), to urge the MENA States to lift their reservations to this convention, and lobby the EU to compel these States to do so.

The report also identifies women's rights organisations and networks that exist in the MENA region and highlights their work in fighting discrimination and violence against women. It illustrates how these organisations have succeeded in opening discussions on women's rights in the region, established legal and psychological help centres for women survivors of violence, and initiated campaigns on, among other things, so-called honour crimes and raising the minimum ages of marriage for girls and women.

In this way, the report contributes to a more complex and sophisticated understanding of the Arab/Muslim world and to the promotion of greater understanding between cultures and societies in the region. The report also exposes the many violations of women's rights in the MENA region and calls on the EU and the Partner States to live up to their commitment to human rights as expressed in the Barcelona Declaration, various EU policies and international law.

Women's rights in the EMP

In November 1995, the European Union and 12 Mediterranean Partner countries¹ adopted the Barcelona Declaration, thereby agreeing to establish the EMP.

In the Barcelona Declaration, the parties undertook *'to act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law.'* They furthermore committed themselves to respect human rights and fundamental freedoms and to guarantee these freedoms without any discrimination on grounds of race, nationality, language, religion or sex.

The supposed goal of these lofty commitments by the EU and Partner States was to turn the Mediterranean basin into an area of peace, stability and prosperity based on strengthened democracy, respect for human rights, sustainable and balanced economic and social development, poverty reduction, and the promotion of greater intercultural understanding. In essence, with the creation of the Partnership, a new and important instrument was created recognising the indivisibility of political, economic, social, and cultural factors in development.



Women doing research on the internet in the newly opened library in Alexandria.

However, despite the EMP's commitment to human rights, women's rights issues have received little attention in the EMP. Specific reference to women's rights is only made in the economic and financial chapter of the Barcelona Declaration which states the need for overall improvement in the living and working conditions of the populations in the Euro-Mediterranean region. It was not until November 2001 that gender issues were mentioned in the final conclusions of a Euro-Mediterranean Partnership Summit. Furthermore, the Partnership's work programme has only marginally acknowledged the importance of women's rights and these rights are only inconsistently addressed in the Euro-Mediterranean National Strategy papers and the National Indicative Programmes.²

In analysing women's rights initiatives within the EMP, this report stresses the need for gender mainstreaming of all policies and programmes within all three baskets of the EMP,³ as well as for affirmative action and specific programs targeted at women.

The EMHRN and Women's Rights

The Euro-Mediterranean Human Rights Network (EMHRN) was established in January 1997 as a civil society response to the establishment in 1995 of the Euro-Mediterranean Partnership and the Barcelona Declaration. Its objective has been to promote and protect human rights.

Acknowledging the importance of women's rights in realising the objectives of the human rights dimension of the EMP – and in the development of society – the EMHRN identified women's rights as one of its key thematic issues. It has worked to promote women's rights awareness by:

- Highlighting women's rights issues in the Mediterranean region;
- Strengthening NGO work in the area of women's rights;
- Advocating for the prioritisation of women's rights issues in the EMP

This report aims to map the 'state of affairs' of women's rights in the MENA region, identify women's rights organisations and networks, and analyse initiatives within the EMP aimed at promoting women's rights.

We hope that the report and its recommendations will be a useful tool for governments, EU institutions, as well as women's and human rights activists in their relentless work to promote women's rights in the MENA region.

Footnotes

- ¹ Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Palestinian National Authority, Syria, Tunisia, and Turkey.
- ² See 'The Human Rights Implications of the MEDA Programmes', report by Iain Byrne and Charles Shamas, published by the EMHRN, Copenhagen, September 2002.
- ³ The three baskets are Political and Security Partnership, Economic and Financial Partnership, and Partnership in Social, Cultural and Human Affairs.

About the Report

In January 2002, the EMHRN asked Rabéa Naciri, of Morocco, and Isis Nusair, a Palestinian from Israel, both women's rights activists and researchers, to carry out a study and write a report on women's rights in the MENA region. The two-women team exchanged ideas with the EMHRN and agreed on an outline of the report in February 2002. Hereafter field research was carried out in March and April 2002 in the Euro-Mediterranean region, particularly in Egypt, Israel, Jordan, Lebanon, Morocco, Palestine and Tunisia. The research included interviews with women's rights organisations, activists and local academics as well as consultation of written sources. The team also met with representatives of the Euro-Mediterranean Partnership institutions during a visit to Brussels in February 2002.

The main findings of the research were presented and discussed at a workshop on women's rights during the Valencia Euro-Mediterranean Civil Forum in April 2002.

Two months later in Athens, a draft report was presented for discussion at an EMHRN seminar entitled "Women's Rights in the Euro-Mediterranean Region: What Partnership?" which took place in conjunction with the EMHRN 5th General Assembly. EMHRN members as well as representatives of key women's rights organisations and women's rights experts from the Euro-Mediterranean region, a total of 85 delegates, participated in the discussion and commented on the report. The comments from the seminar were then incorporated into the report.

In another session of discussion of the report, in Malta in October 2002, the EMHRN working group on Human Rights Education made suggestions on how this report could be used to raise awareness on women's rights in the region.

This report deals with nine countries in the Middle East and North Africa (MENA) that are Partners in the Euro-Mediterranean Partnership: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria and Tunisia. The report does not aim to evaluate the

performance of each country, but to provide the context for understanding the dynamics that hinder and help the promotion of women's rights.

Three EMP Partner countries are not evaluated in this report. While a short note has been included comparing Turkey with the other countries, women's rights in Turkey, including the situation of the Kurds, have not been addressed in detail. Neither have the situations of women in Cyprus or Malta been included. Furthermore, the situations of women from cultural and religious minorities such as Copts and Berber, as well as of refugee women are not addressed.

Finally, it should be mentioned, some developments have taken place after this report was written. The first female judge was appointed to the Supreme Constitutional Court in Egypt in January 2003, and a royal decree was issued in Jordan in February 2003 approving the Cabinet's decision to create six new parliamentary seats for women in the upcoming election⁴ – to mention two examples. Also within the EMP, the European Commission is in the process of evaluating the EU's policies of gender mainstreaming of women's rights. This report should thus be seen as a glimpse of the dynamic process of promoting women's rights within the EMP.

The report has been generously supported by the Heinrich Böll Foundation and the European Commission.

The EMHRN wish to thank all those who contributed to making the publication of this report possible. Special thanks must be given to the women's rights activists and researchers in the MENA region who persist in their struggle against discrimination and violence against women.

EMHRN April 2003

⁴ A Royal Commission – The Women's Parliamentary Quota Committee – had proposed eight parliamentary seats for women, though the Jordanian Cabinet decided upon six seats. Jordan Times, '6 parliamentary seat quota not enough' say women activists,' February 14-15, 2003.

Executive Summary

This report examines women's rights in the Middle East and North Africa (MENA) region, specifically, in Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria, and Tunisia within the context of the Euro-Mediterranean Partnership (EMP). Part I identifies common laws and practices that violate women's human rights in the MENA region. Part II highlights the local social and civil initiatives that are working to promote women's status in the region, and also describes the resistance the women's rights movement encounters. Finally, Part III evaluates women's rights in the Euro-Mediterranean Partnership process, concentrating on the extent of gender mainstreaming in the EMP and making concrete recommendations on how the EMP can better contribute to the promotion of women's rights in the MENA region.

Part I: Violations of Women's Rights in the MENA Region

Discrimination against Women in the Personal Status Law

The inferior legal status of women in the MENA region is rooted in the Family Laws, also called the Personal Status Codes (PSC), of the MENA countries. The PSC govern what typically is seen as belonging to the private sphere - marriage, divorce, maintenance, child custody and inheritance - but has an equal effect on women's public lives, acting as a potent control mechanism over women's economic, political, social, civic and cultural activities.

Central to the functioning of the PSCs is the idea of female guardianship; women must exist under the legal guardianship of their husbands, fathers, or other male member of their families or tribes and their civil 'rights' are placed under control of these guardians. Therefore, women are not legally entitled to make basic decisions for themselves.

For example, according to the PSC, a woman has no power of contract in a marriage nor

can a woman supervise the marriage of another woman; therefore, a woman must legally be 'given away' by a male relative in order to marry. A woman is also not legally entitled to seek divorce; instead she must seek authorisation from a judge under very limited conditions, though husbands are accorded the right to repudiate their wives without even naming a reason. Inheritance laws in the PSC also allow women to inherit only half of what men may inherit.

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Therefore, while the PSC are 'only' family law, they form the basis for discrimination against women in all aspects of their lives, in the private as well as public spheres.

Discrimination against Women in Penal, Nationality, and Other Laws

Penal laws

In penal codes in the region, such as in Syria, the man's physical and moral honour and integrity take priority over those of the woman. Husbands who murder, beat or cause injury to their allegedly adulterous wives can claim extenuating circumstances before the law, whilst the legislation does not provide the same option for wives. Crimes of 'honour' benefit from legal laxity in several countries while in others, like Morocco, the law forbids wives to bring independent legal action

against their abusive husbands without prior authorisation from the court.

Nationality laws

Nationality codes in all the MENA countries violate all the international conventions dealing with nationality. The children of women married to foreigners do not automatically adopt the nationality of their mothers, even if the children were born and live in their mothers' country; in consequence these children's access to health care, and educational services is severely restricted. Furthermore, women in the MENA are not allowed to pass on their nationality to their foreign husbands. Yet these restrictions do not apply to men married to and having children with foreign women.

Freedom of movement

In certain countries, such as in Egypt, and until recently in Jordan, women require their husband's permission to obtain a passport. In others, such as Morocco and Lebanon, the husband has the unilateral right to force his wife to return to the marital home.

Discrimination against Women in Education and Employment

Gender inequality in education

Female illiteracy in the region, although varying widely from country to country, is still extremely high and on average is 42% (with the exception of Israel and Turkey), while the average male illiteracy rate in the region is 21%.

Gender inequality in economic activity

While official female economic activity is progressing in the MENA countries party to the Euro-Mediterranean process, at an average of 29% it still counts among the weakest in the world. However, traditional women's work in the MENA, domestic and agricultural, is not counted as part of the GDP, thereby distorting women's true contribution to their respective economies and reinforcing their inferior status in society.

Also, because of the high unemployment in many of the MENA countries, States have been reluctant to take any initiatives to guarantee women's equal access to employment as men are given priority in paid employment.

However, the issue of women's employment is complex – simply having a higher rate of female employment does not necessarily reflect a higher degree of female development. It is critical to analyse the *type* and *context* of women's employment to better understand the reasons why they are allowed, able or forced to work.

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Discrimination against Women in Political Representation

The constitutions of the MENA countries in principal guarantee equal political rights for men and women. Yet, in practice the participation of women in political decision-making processes in the MENA is among the lowest in the world. Affirmative action for female parliamentary members, as introduced in Morocco and Jordan, could be a positive step; however, due to State repression of free political expression, the presence of women in State institutions does not in itself constitute an improvement of women's status.

Violence against Women

Violence against women in the MENA is legalised and institutionalised within marital and family relations. For example, legally, a husband can never rape his wife because he has absolute right over her body. He also has the right to beat her (if only lightly!) if she disobeys him. Also, the practice of female circumcision, honour crimes and trafficking of women into prostitution and domestic work continues.

Violence Against Women during Conflict

Women, due to discrimination and their inferior social status, are especially vulnerable to violence in times of conflict. Murder, rape, illegal confinement of women and young

girls, and forced marriage has been the fate of thousands of women in the MENA region during periods of conflict, as was the case in Algeria.

Rape of women is often used as a weapon of war aimed to humiliate men, as women are considered the bearer of the family honour. These women have generally great difficulty reintegrating into their families and communities since the social environment tends not to consider them as victims but as bearers of their families' shame.

Compliance with International Women's Rights Instruments

All States in the MENA region have signed and ratified international pacts and conventions relating to women's rights, particularly CEDAW, but have added reservations that go against the spirit and the letter of those conventions. States often resort to 'cultural and religious explanations' for not implementing the provisions of these international conventions.

Furthermore, international human rights obligations are not well-integrated into national legislation. While the constitutions of Lebanon and Algeria accord international conventions priority over national law, the constitution of most other countries do not contain specific clauses on the integration and enforcement of international conventions into the national legal systems.

Part II: Civic Initiatives Promoting Gender Equality in the MENA Region

Civic Initiatives

The Women's Rights Movement in the MENA Region

The women's rights movements originally were linked to their respective national liberation movements, and today there is a strong link between the 'internationalist' women's rights movement and the movement for human rights and democracy.

The women's movement in the region also includes some Islamist groups, or, what is increasingly being termed "Islamic feminism." These Islamist groups argue that



A young couple meeting.

the definition of equality, as expressed in the Universal Declaration of Human Rights is not 'fair' as it does not respect the differences between and inherently complementary nature of men and women and their corresponding roles. However, by arguing for 'fairness' over equality, such groups argue to maintain the power structure that oppresses women and do not address the root causes of gender inequality.

Networks Promoting Women's Rights in the MENA Region

In both the Maghreb and Mashrek, 'internationalist' women's organisations are active. By the early 1990s these organisations began building regional networks such as 'Le Collectif 95 Maghreb Égalité, Aisha, Court of Arab Women, Maghreb/Mashrek Network for Information and Training on Gender, SIGI, along with many other unofficial networks. These networks are involved in different activities, such as campaigning on specific issues, like 'honour crimes' or violence against women, or more generally informing women about their rights and providing legal aid and counselling.

The Response of State and Non-State Actors to Gender Equality Initiatives

The Response of States

Governments in the MENA attempt to limit, curb and exercise total control over civic initiatives through legislation on public and associative freedoms. For example, in Syria,

Lebanon and Egypt organisations require government authorisation in order to be registered and operate officially. Governments also use government-controlled commissions, committees or organisations presenting themselves as autonomous NGOs or networks.

The Response of Non-State Actors

Various Islamic groups in the region are firm opponents to the women's rights movement. Such groups claim that international human rights instruments are the tools of a vast conspiracy against Islam and the Arab countries, and thus oppose women's organisations which use universal human rights and international legal arguments in their work.

Because the Islamists argue from an 'Arab-Muslim' cultural and religious standpoint, their arguments are perceived internationally and regionally as somehow being more legitimate and in tune with the traditions and cultures of the MENA countries. In response, while some women's rights activists work to disseminate knowledge of international women's rights instruments and lobby for the end to reservations to CEDAW, others use a progressive interpretation and historical reading of the religious texts, also within an Arab-Muslim framework, to counter these Islamist groups.

Part III: Women's Rights in the Euro-Mediterranean Partnership Process

Women, particularly women from the MENA region, were absent from the decision making process that led to the establishment of the political, institutional and financial instruments of the EMP in 1995. However, many women's organisations still view the EMP as a way to open their societies to universal values that recognise women's rights.

The Neglect of Women's Rights in the Implementation of the Euro-Mediterranean Partnership

Neither the Barcelona Declaration nor the Association Agreements which govern the EMP explicitly recognises the indivisibility of

women's rights, human rights and democracy. The only reference to women in the Barcelona Declaration occurs in chapter II, relating to economic and financial cooperation. The Association Agreements include a general human rights clause, but women are not specifically mentioned at all.

However, all parties to the EMP have positive obligations to implement gender mainstreaming into all aspects of the EMP, according to the 1995, Beijing Platform for Action, various EU policies and commitments to women's rights, and to basic international legal obligations to the UN Charter, the Universal Declaration of Human Rights, CEDAW, and other international instruments. By neglecting to mainstream gender into the EMP, Partner States contravene their pre-existing obligations.

A Few Initiatives to Promote Women's Rights in the EMP

Women's rights have been confined to the social and economic spheres of the EMP. However, resolutions in the European Parliament and especially the report on the European Union's policy *vis-à-vis* the Mediterranean countries' promotion of women's rights of February 2002 have highlighted the issue of women's fundamental rights and the discrimination suffered by women in the MENA region. Furthermore, the Belgian presidency in 2001 emphasised women's rights in the EMP by inviting the European Commission to start evaluating the EMP programmes from a gender equity perspective in order to assess whether the programmes involve women's rights projects and how they effect women's lives. The first regional programme aimed at promoting the role of women in economic life was adopted by the November 2001 Euro-Mediterranean ministerial meeting and the European Commission is expected to launch it very shortly.

An Evaluation of Gender Mainstreaming in the EMP

The principal explanation given within the European institutions for not dealing more forcefully with women's rights in the EMP, or gender mainstreaming the EMP is that women's rights in the MENA region

constitute a cultural and religious matter and thus are a domestic issue that should be dealt with internally. However, by invoking cultural and religious constraints policy-makers can excuse themselves from committing sufficient resources to gender mainstream EU policies and programmes and allow political and economic interests to trump the commitment to women's rights.

Lack of Attention to Gender Dynamics in the MENA Region

There is a need for integrating and increasing the knowledge within the European Institutions about women's lives and the social dynamics that cause gender inequality in the MENA region. Very few studies or statistics are available in the framework of the EMP on women in the region; instead, stereotypes portraying South Mediterranean women as being uniform and resigned to their situations continue to persist. The abilities and expertise of women from the South remain uninvestigated and unknown; as a result, women are scarcely involved in the development and follow-up of the Partnership's programmes and projects.

Qualitative and quantitative studies on women and on gender in the region are necessary to advance gender mainstreaming in the EMP.

EU Funding for Women's Rights Projects in the MENA Region

As a result of the scant mention of women in the Barcelona Declaration and Association Agreements, women's rights projects have not been well funded through the MEDA programmes. The advocated principle of gender mainstreaming of all EMP policies, programmes, and projects, both at the bilateral and the multilateral Euro-Mediterranean level is a positive development. Furthermore, both MEDA I and MEDA II have allocated funds for specific projects promoting women; and projects submitted for funding from the European Initiative for Democracy and Human Rights (EIDHR), in accordance with the overall EU policy of integrating gender in all EU programs including the EMP, have had to indicate the extent to which they integrate women. Ultimately, however, EU projects have always been limited to the social and

economic spheres; and even then the funding has not been secure. Furthermore, to this day the MEDA programmes have not funded and successfully implemented a single regional programme based exclusively on women's rights.

Women, particularly women from the MENA region, were absent from the decision making process that led to the establishment of the political, institutional and financial instruments of the EMP in 1995.

Furthermore, given the many constraints against them, women's rights organisations – particularly south-based ones – often lack information on EU procedures and structures, making any EU funding difficult to access.

Programmes targeted specifically at women are still needed, as supposedly gender-neutral programs will not automatically and



Some women from the swimming team of Alexandria preparing for a contest.

equitably benefit women as much as men given that women are not usually equally able to seize such opportunities due to the discrimination against them. Therefore, gender mainstreaming and affirmative action should be used as complementary strategies to ensure that women and men achieve their full potential, using gender disparities as a main indicator of policy performance.

Appropriate funding opportunities should be made available for national and regional women's rights projects in the MENA with the aim of fighting discrimination and violence against women in all areas of life, not only the social and economic field.

Civil Society Initiatives to Promote Women's Rights in the MENA

The Barcelona Process opened up a debate on economics as well as on citizenship, democracy, and human rights in the region. As a result, various citizens' networks have sprung up some of which have benefited from the MEDA- Democracy programme and other EMP budget headings, including the Euro-Mediterranean Human Rights Network and the Istituto per il Mediterraneo.

Conclusions

Women in the MENA region are faced with discrimination affecting nearly every aspect of their lives. At the same time many women's rights organisations and networks exist in the region. While the Barcelona Process still has to prove itself as an engine for promoting women's rights in the MENA, some positive developments, especially in recent years, can be noted, such as the gender mainstreaming approach and the establishment of the program on women in economic development. However, the EMP Partner States and the EU must implement their previous commitments to gender mainstreaming. The gender mainstreaming approach should be incorporated into all three baskets of the EMP, i.e. political and security cooperation, economic as well as cultural and human exchange. Gender analysis should guide all development activities, programs and projects at all stages, and a follow-up mechanism should be established to assess the implementation of gender-sensitive policies within the EMP.

Despite its shortcomings, the Barcelona Process has provided a framework for addressing women's rights in the Euro-Mediterranean region. All EMP Partner States must uphold their commitments to women's rights and gender mainstreaming, and firmly support the struggle against discrimination and violence against women in the MENA.

Recommendations

In General

1. Partner States in the Barcelona Process (hereafter Partner States) should lift reservations to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and ratify CEDAW's optional protocol.
2. The EU and Partner States should fight all forms of discrimination against women in the MENA region within the overall framework of human rights and democratisation, respect the universality of human rights, and cease treating women's rights as primarily an issue of 'religious norms and cultural traditions'.
3. The EU and Partner States should integrate concern about and competency in women's issues in the MENA region in their policies, programmes and projects.
4. Gender mainstreaming should be integrated into all EU and EMP policies, programmes, and projects and at the same time affirmative action and specific programs targeted at women should be put in place.

Human Rights Mechanisms and Political Dialogue

5. The EU and its Partner States should integrate women's rights into their human rights dialogues (at the regional ministerial conferences, at the Association Councils and at the Association Committee meetings) based on the human rights clause in Article 2 of the Association Agreements.
6. A transparent monitoring mechanism of the 'human rights clause' that takes into account women's rights should be set up. In this regard the EU and Partner States should design concrete gender-specific human rights indicators and criteria to be examined at the multilateral and bilateral political levels.

7. Regular consultation with civil society on the implementation and evaluation of the Association Agreements from a gender perspective should be closely associated with this dialogue and include representation of relevant independent women's rights organisations.
8. Working groups on human rights should facilitate the dialogue and the monitoring mechanism and be established under each Association Agreement. These working groups should be composed of representatives nominated by European Union and Partner countries. They should consult with civil society and integrate its views in its dealings.
9. The European Commission should establish a task force specialising in women's rights in the Euro-Mediterranean region (see below).
10. The European Commission should include a specific chapter on gender in its Annual MEDA report.
11. The future Euro-Parliamentary Assembly, expected to be created in early 2004, should establish mechanisms for the promotion of women's rights in the MENA region, and should set up a special human rights committee which will have the task to push for the integration of women's rights in the EMP.

On Mainstreaming and Affirmative Action

12. The EMP should gender mainstream all political dialogues, policies, programs and projects, from the planning to the evaluation stage and set up a follow-up mechanism to monitor progress on women's rights.
13. In addition, the EU should design affirmative action programmes within the EMP aimed at increasing the

participation of women in all main areas of activities and support them by appropriate financial and technical resources.

14. The European Commission should reserve a horizontal budget line for the prevention of discrimination and violence against women in the MENA region in the MEDA programmes as well as in the EIDHR.
15. The European institutions should ensure sufficient gender-sensitive expertise within their staff at central level as well as in their representations and delegations in the Partner States. Gender specialists should be appointed at the policy level, in technical services, and at the operational level. In addition, training on women's rights should be organised widely in order to facilitate mainstreaming.

MEDA Programmes

16. The European Commission should ensure an impact assessment of the EMP policies, including the MEDA programmes on human rights that systematically include gender. A pilot project could be established to start such an evaluation.
17. The EU should define an overall strategy within the programming and projects for the protection and promotion of women's rights in the MENA region. This implies:
 - encouraging and supporting revision of the existing political and legal framework to sensitise it to gender issues, and eliminate the barriers limiting women's participation in public life;
 - gender mainstreaming all three baskets of the EMP to include women's rights and equal opportunity issues in all areas of activity, not merely those traditionally deemed to concern women;
 - integrating national gender profiles and regional gender strategies into the national and regional strategy papers and indicative programmes;
- using reduced gender disparities as an indicator to the success of legal reform and practice in the countries' development policies and strategies;
- acknowledging the importance of gender in the functioning of the economy, thus linking micro and macro level policies to ensure that gender disparities are properly tackled during the implementation and evaluation of all MEDA programmes;
- promoting women's involvement in public life and seeking to improve women's productive and earning powers;
- supporting the involvement of more women in negotiations and implementation of the EMP at multilateral and bilateral levels.
18. The European Commission's regional program to promote the role of women in economic life is a first positive step, which should be considered a pilot project from which other women's rights programs should be developed in consultation with women's rights organisations. The regional program should be immediately implemented and consolidated by the following measures:
 - a) ensure consultation with relevant civil society representatives, including women's NGOs in all phases of the project, i.e. programming, implementation, evaluation and follow-up;
 - b) ensure that additional resources are allocated to match means and goals;
 - c) define broad terms of reference to ensure sufficient flexibility to adapt activities to suit the needs of local actors;
 - d) establish from the outset follow-up mechanisms and evaluation in order to ensure that the set objectives are achieved.

On Civil Society

19. The European Commission should strengthen information and consultation with NGOs on the human rights dimension of the EMP with the aim to

reinforce pluralism in the Partner countries. Quotas should be reserved for the participation of women's rights organisations in these consultations between the EU and NGOs. The regional consultation initiated by the European Initiatives for Democracy and Human Rights (EIDHR) could be taken as an example if institutionalised on a regular basis.

20. The MEDA programmes as well as the European Initiative for Democracy and Human Rights (EIDHR) should strengthen synergies on questions relating to civil society and women's rights.
21. The EU should reserve specific budget headings within MEDA and the EIDHR to finance regional women's networks and organisations as well as work on women's rights both within the MENA region and between the two Mediterranean shores.
22. The EU should make more funding possibilities available to women's rights organisations and design them specifically to match the needs of these organisations and networks taking into account their varying capacities.
23. The EU should be firm with Partner governments on the right of independent associations to receive funds, including MEDA funds, in order to reinforce civil society's capacity and activities as part of a democratic society.

On the Task Force

24. The European Commission should establish a TASK FORCE specialising in women's rights in the Mediterranean region to facilitate implementation of the recommendations. The task force should be composed of representatives from the European Commission, other European institutions, as well as experts from civil society and the academic world. It should ensure that:
 - a) studies on specific issues pertaining to women's human rights in the MENA region are developed and progress made on the subject evaluated;
 - b) The EU and the EMP elaborate specific programmes for women and that such

programmes are established and implemented;

- c) The European Union and the Partner countries mainstream gender at all levels of the political dialogue and MEDA programmes, i.e. programming, implementation and evaluation;
- d) Contact between the governments, civil society and women's rights NGOs to promote regular consultation are established.

Introduction

The adoption of the Barcelona Declaration and the birth of the Euro-Mediterranean Partnership in 1995 brought hope that the two neighbouring shores of the Mediterranean would be brought closer together, and a region would be created in which men and women could share their experiences and prosper.

However, while humanity possesses more knowledge and riches than ever before, the gap between the rich countries of the north Mediterranean and their southern neighbours is growing ever wider, further exacerbating pre-existing tensions and conflicts in the region and exploitation of these tensions and conflicts by undemocratic leaders in order to control social and political activists. Due to the widespread discrimination and violence against them, women are the first to be negatively affected by the disregard of human rights, the lack of democracy, and underdevelopment in this region.

In this context, the purpose of this report is to contribute to the debate on women's rights in the Middle East and North Africa (MENA) and in the Euro-Mediterranean Partnership.

The report is written in three parts. Part I, entitled *Violations of Women's Rights in the MENA Region*, documents the common laws and practices that form the basis for the violations of women's rights in all aspects of their lives.

Part II, entitled *Civic Initiatives Promoting Gender Equality in the MENA Region*, highlights the active women's movement in both the Maghreb and the Mashrek and describes the challenges the movement faces from State and non-State actors.

Part III, entitled *Women's Rights in the Euro-Mediterranean Partnership Process*, evaluates the integration of women's rights and gender into the EMP and recommends that the EU and Partner States gender mainstream all three baskets of the EMP, in accordance with EU policy and international legal norms.



Women protesting against the Moroccan Government's decision in 2000 not to adopt the Action Plan for the integration of women in development (ADFM).

The report strives to be a useful resource for officials and civil society activists in all the Partner States, informing them of the situation of women's rights and why women's rights should be taken into account in the Euro-Mediterranean Partnership. The report also details the steps that must be taken to improve the status of women in the MENA region. As such, the report highlights how the EMP can contribute to the emergence of nascent and already promising solidarities between peoples, and especially women, from the two shores.

Violations of Women's Rights in the MENA Region

1.1 Discrimination against Women in Personal Status Law⁵

While there are many different religions practiced in the MENA region,⁶ principally Christianity, Islam and Judaism, each country's family law in the region – also called Personal Status Code (PSC) – is derived from traditional family law, which in turn is derived from various religious texts and is influenced by human interpretation. Therefore, though all other laws in the MENA countries are generally secular, religion and human interpretation of religious texts constitute the principal source for codifying women's legal status.

The PSC, though 'only' family law, is a complete and legal manifestation of the particular roles and status society imposes on women. It governs what typically is seen as belonging to the private sphere - marriage, divorce, maintenance, child custody and inheritance⁷ - but has an equal effect on women's public lives, acting as a potent

control mechanism over women's economic, political, social, civic and cultural activities.⁸

While varying in form from country to country, the basis for discrimination against women in the PSCs across the region is the idea of female guardianship; women must exist under the legal guardianship of their husbands, fathers, or other male member of their families or tribes and their civil 'rights' are placed under control of these guardians. This hierarchy of rights, prioritising men over women, and its effects on all aspects of women's lives, constitutes an egregious breach of the rights and freedoms of women. Illiteracy, weak participation in civic, economic and political life, restricted freedom of movement and daily violence form the reality for the millions of women living under PSCs in the MENA countries.

The effects of this second-class citizenship are even more damaging for the poorest women: women in rural areas, women from minority groups and those living under occupation,

Gender and human development indicators in the MENA region

HDI Classification	Gender-Related Development Index		Difference in HDI and GDI Classification
	Classification	Value	
22 - Israel	22	0.891	0
75 - Lebanon	69	0.739	-4
85 - Turkey	71	0.734	1
97 - Tunisia	81	0.709	0
99 - Jordan	84	0.701	-1
106 - Algeria	90	0.679	-2
108 - Syria	92	0.669	-2
115 - Egypt	99	0.628	-2
123 - Morocco	102	0.585	0

Source: World Human Development Report, UNPD, 2002

such as Palestinian women. In essence, the PSCs can even have the effect of giving women's male relatives the right to choose for women, directly or indirectly, in matters that relate to life and death.⁹

Marriage

The Personal Status Codes in the MENA countries systematically permit marriage at a young age for women, while the age for men everywhere is fixed at 18.¹⁰ A judge can choose to authorise marriage for a girl even younger than the legal age (as young as 13 years in Syria and 15 years in Morocco) if he fears for the young girl's 'morals and reputation.'

This latter clause has been retained in spite of the fact that each of these countries has ratified the Convention on the Rights of the Child, and in spite of the constant objection from the women's rights movement that consent to marriage is meaningless if the girl is a minor.¹¹ Marriage at a young age is, in fact, a thinly-veiled form of forced marriage which breaches the human rights of these young girls, hinders their education and endangers their mental and physical well being.¹²

That matrimony must be supervised for women (Wilaya) is another discriminatory clause stipulated by Personal Status Codes (PSC) in the MENA countries. It is based on

the principle that a woman cannot contract to marriage herself,¹³ nor can a woman supervise the marriage contract of another woman (her pupil if she is the testamentary guardian); a woman must be represented by a man to contract the marriage in her name or in the name of her pupil. Women's male relatives are increasingly being allowed to act as matrimonial supervisors on condition that the men are not minors and godly. Muslim women in the region cannot marry non-Muslims, though this restriction does not apply to men.

With the exception of Tunisia and Turkey, clauses in these countries' family codes¹⁴ authorise polygamy. Though it is becoming a social rarity in the vast majority of countries in the region, polygamy (up to 4 wives at a time) still poses a great threat to women since it undermines their dignity, above all, and puts them in a vulnerable situation of having to either agree to their husbands' marriage or face divorce.

The man is the head of the household in all MENA countries, including Tunisia, a country which, alongside Turkey, employs the most liberal family code in the region. Article 23 of the Tunisian *Majella* (PSC) stipulates that the father is the head of the household. In Jordan, Article 34 of the family code provides that if the father is deceased, absent or has renounced his nationality while his wife/wives and children have kept theirs, the

The particular situation in Turkey

Turkish women gained equality in the areas of divorce, inheritance and child custody in 1926 with the introduction of the Civil Code, largely inspired by the Swiss Civil Code. Polygamy was also outlawed. However, the husband remained the head of the family and the legal guardian of children, and it was up to him to make the most important decisions. Certain forms of discrimination against women persisted in law and, above all, in practice.

For example, until 1992, women needed their husbands' permission to go out to work. Honour crimes, marriage at an early age, forced marriage, marital rape, control over women's virginity, sexual coercion, violence, and the imposition of a regulatory dress code were the many breaches and violations of women's rights in Turkey.

Thanks to mobilisation and lobbying from women's organisations, a new Civil Code was promulgated in Turkey in November 2001. With the new code the family is now considered as a union based upon the equal partnership of husband and wife. Furthermore, new rights for women were promulgated, notably in relation to children, the marital home and property ownership.

Tunisia, a country apart in the Arab world

- 1956:** Promulgation of the Personal Status Code abolishing polygamy, repudiation, the institution of the matrimonial supervisor, marital constraint, introduction of the free and full consent of intended spouses, and legal divorce.
- 1958:** Recognition of full adoption (with affiliation).
- 1959:** Introduction of the right of succession for paternal grandchildren, including female grandchildren, giving them the right to succeed the father or grandfather in preference to certain descendants of the same line (uncles). Recognition of the widow's right to succeed her husband. Increase in widow's share of inheritance if she is childless and in the absence of any other heirs.
- 1966:** Modification to custody rights, introducing the notion of taking the interests of the child into consideration when judges award custody.
- 1981:** Legal guardianship awarded to the mother in cases where the father is deceased.
- 1993:** Creation of a guarantee fund for alimony and abolition of the duty to obey.
- 1998:** Optional marriage settlement based on spouses' joint ownership of property. Paternity actions introduced in the case of abandoned children or children of unknown relation.

Source: *Second Periodic Tunisia Report to the CEDAW Committee, 1995*

first wife or the eldest child becomes the head of the household.

The husband's duty to support his wife, and the wife's obligation to obey her husband, constitutes the basis for gender discrimination in the MENA region. With very few exceptions,¹⁵ the wife is obliged to obey her husband and respect his family. By virtue of this clause, the husband can forbid her to visit her relatives, go out to work, or even go out at all. For example, in Syria (Articles 73 and 74 of the PSC) and in Jordan (Article 68 of the PSC), a wife who disobeys her husband or who goes out to work without his permission loses her right to be supported (*Nafaqa*).¹⁶

Husbands are accorded the right to repudiation – the unilateral breakdown of the marital bond without naming a reason for the decision (*Talak*); while women need to seek authorisation from a judge to divorce under very limited conditions (*Tatlik*) or must financially compensate their husbands so that they agree to a divorce (*Al Khôl*).¹⁷

The principle of *Al Khôl*, requiring the women to pay their husbands for a divorce, remains similar even if variations on the

theme have been introduced in different countries. *Al Khôl* is generally only obtained in the majority of countries in the region with the consent of the husband, although Muslim law did not originally stipulate that this was obligatory. Although *Al Khôl* humiliates the woman by forcing her to buy her freedom, the procedure can also offer benefits: it takes less time than the judicial divorce procedure, offers women the liberty, if restricted, to initiate and gain divorce, and relieves pressure on legal systems in the region, which are overloaded with unprocessed requests for divorce from women. It is this very law, recently partially revised in Egypt¹⁸ and Jordan¹⁹ after many months of polarised argument between its defenders and opponents, that is being presented as an important legal right for women.

The PSC law in the region makes no provision at all for divorced women who have no right to support during the short period of *Idda* (official withdrawal from society of the woman following divorce or widowhood). Thus, within a matter of a day, a married woman who has been a housewife for decades could find herself repudiated and

Different forms of breakdown of the marital bond in Muslim law

Talak(repudiation): the unilateral dissolution of marriage by the husband, by legal ruling, or by the wife if the husband has allowed her to stipulate such in her marriage contract.

Tatlik: a legal divorce initiated by a woman which must take place in court and is granted only in well-defined and restricted cases that apply to women exclusively.

Al Khôl: divorce by compensation. The wife is awarded the right to divorce in return for compensating the husband financially.

totally deprived of any means of support. The law also makes no provision for couples whose divorces are pending. As the woman is not yet divorced she belongs to her husband and he continues to have all rights over the woman. Painfully slow judicial divorce procedures mean that women can be forced to live in this state of uncertainty for years, while due to legally authorised polygamy, men awaiting divorce are able to remarry. Moreover, the absence of sanctions means that men can escape the few legal obligations in marriage and divorce that accompany their privileges, for example, by abandoning their families and not paying child maintenance.

Mothers, who are revered and highly valued within the cultures of all the countries in the region, are not exempt from such

discrimination. Despite small changes entering into the legislation of certain countries (Turkey and Tunisia, for example), the mother is regarded as a child-minder and never as the legal guardian of her children, except where the father has died or in other very restricted cases.²⁰ As carer of the children she has no right to exercise any control over their affairs; the father is always the legal guardian. In all the Arab MENA countries, divorced women and carers of minors have no right to remarry without facing the penalty of losing their children,²¹ while the father's remarriage entails no such consequences. This latter clause thereby reveals that the PSCs regard children as being the descendants only of the father, and guarantees that after divorce the children remain within the male lineage.

Religious laws in Israel

The amendment in March, 2000, of the "Law on equal rights for women" (1951) applies to all spheres except the private and family relations sphere, which mainly continues to be controlled by religious courts (Jewish, Muslim, Christian or Druze). Women do not have the same rights as men before these courts, for example, with regard to access to divorce.

In certain cases, Israeli civil law allows women to choose which court (civil or religious) they want to go to with their requests relating to child care, property rights and alimony. But this choice is not given to all women: Arab-Muslim women, who are Israeli citizens, can only go to religious courts. However, no religious courts in Israel, Jewish, Muslim, Christian or Druze, permit women to sit as judges.

Civil marriage does not exist in Israel. Couples who opt for civil marriages or mixed religion couples are obliged to marry outside Israel. In the case of dissolution of a civil marriage, the decision goes before the president of the Supreme Court, who has to decide which jurisdiction applies. This is a long and costly procedure.

Source: The Working Group on the status of Palestinian Women in Israel: The Status of Palestinian Women Citizens of Israel; NGO Report on CEDAW, 1997.

Moreover, a divorced mother and carer of minors has no right to the family home except in very rare cases; meanwhile poverty, the low participation of women in paid employment and the post-divorce housing crisis all worsen the dramatic social consequences of this law.²²

The inequality between men and women in the MENA region is also reinforced by inheritance laws. The principle is that even if women and men have the same relationship to the deceased, women inherit only half of what men inherit.²³ Furthermore, according to the *Taasib* principle, in cases where the deceased has no male descendants, males descended from a different line can compete for the inheritance with the female descendants of the deceased.²⁴ For this reason, families favour boys, who are capable of safeguarding the family patrimony. Moreover, throughout the countries in the region, non-Muslim women do not have the right to inherit from their Muslim husbands.

1.2 Discrimination against Women in Penal, Nationality and Other Laws

After the MENA countries gained independence, modern legislation reinforced the discriminatory clauses of the PSCs in other legal texts such as the Employment Code, Penal Code, Code of Commerce, and Nationality Code. Discriminatory laws similarly aimed at restricting the principle of equality and the freedom of women were also introduced.

Employment Code

As the legal head of the household, the husband is the one who decides on the rules in the marital home.²⁵ As such, the right of women to go out to work, which is guaranteed by these countries' constitutions, is under constant strain. Paid employment for wives is the main subject of negotiation and conflict between spouses²⁶ in light of the clauses of the PSCs and the constraints resulting from the unequal division of housework between couples.

Penal Code

Several clauses of the penal codes in countries in the region reinforce the customary thought that the man's physical and moral

honour and integrity take priority over the woman's rights. Husbands who are convicted of murdering, beating or causing injury to their allegedly adulterous wives and partners are granted extenuating circumstances before the law and thus lenient sentencing. However, legislation does not grant the same extenuating circumstances for wives.²⁷ The same inequality exists regarding the punishment of adultery. In Syria, for example, a woman convicted of adultery can spend three months to two years in prison, while a husband in the same situation is given one month to a year.

... in cases where the deceased has no male descendants, males descended from a different line can compete for the inheritance with the female descendants of the deceased.

In several countries in the region, 'honour crimes'²⁸ are given unduly lenient sentences, influenced by inadequate collection of evidence by the police, and by social acceptance of murder as a salve for violated honour. In some countries, the law forbids wives to bring independent legal action against their husbands without prior authorisation from the court²⁹. In addition, penal legislation authorises the office of the public prosecution to bring a woman to justice who conducts an adulterous relationship which is 'common knowledge' while her husband is abroad; meanwhile the legislation does not make any provision for the reverse situation.

Nationality Code

The children of women married to foreigners do not automatically adopt the nationality of their mothers, even if the children were born and live in their mothers' country³⁰; the same is not the case when men are married to and have children with

foreigners. Nationality³¹ codes in the MENA countries violate all of the international conventions such as the the Convention on the Rights of the Child (CRC) and the International Covenant on Civil and Political Rights (ICCPR) and in particular, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).³²

In Jordan, women's organisations proposed an amendment to the Nationality Code in 2001 giving the council of ministers the power to grant Jordanian nationality on humanitarian grounds to children of Jordanian women married to non-nationals as these children have difficulty in gaining access to education and employment. The supreme council on education ruled in 1996 that children who have the official civil family document have the right to go to university. Jordanian women married to foreigners are allowed to have the official family document, but children who take their father's nationality cannot be added on.³³

The children of women married to foreigners do not automatically adopt the nationality of their mothers, even if the children were born and live in their mothers' country...

In Egypt, because of the discrimination against women in the transfer of nationality to children, the economic and social rights of children who were born and reside in Egypt and whose fathers are foreign are flouted (residence permits, access to education and employment).³⁴ The Egyptian Centre for Women's Right's estimates that thousands of women married to foreigners and at least a million children continue to suffer the effects of this law.³⁵ While the process of naturalisation is fairly swift and easy for the wives of Egyptian men, husbands of Egyptian women are rarely allowed to take Egyptian nationality.

In Israel, the law on nationality continues to discriminate against approximately one thousand women of Palestinian origin - Israeli citizens who married Palestinians from the Occupied Territories between the years 1967 and 1990. These women were required to sign a document giving up their Israeli nationality while married to and residing with Palestinians from the Occupied Territories. The women signed the documents without understanding the implications; some of them were minors at the time when they signed. The children of these women were thus born stateless and without nationality. Divorcees or widows wishing to recover their Israeli nationality, to return to Israel or at least to gain permanent residency are often refused. They continue to live in Israel as refugees and face deportation if discovered. They cannot obtain work permits, medical insurance or social security for themselves or their children, and their children have no right to education services. Following a petition from the Association for Civil Rights in Israel in 1998, which was addressed to the Supreme Court, the Minister of the Interior promised to restore nationality to these women and their children. To this day, however, these promises have come to nothing.

Abortion

Abortion, for other than medical reasons, is forbidden, although it is practiced clandestinely and constitutes a source of revenue for doctors and even charlatans. The high price of terminating a pregnancy means that only better-off women have access to abortions under adequate conditions.

Women are denied the ability to control their own fertility by States, which only consider birth control a tool for population control. If the availability of contraceptives is free and strongly encouraged in several countries in the region in order to suit the State population policies, complementary legal clauses are instituted limiting women's reproductive freedom to ensure the success of the States' population policies. For example, a wife must have her husband's permission to be sterilised, and the distribution and sale of contraception is controlled for unmarried women, who are required to show proof of their marital status (as in Algeria).

Discriminatory practices and the effects of the laws in the MENA countries

Across the MENA region, laws seldom apply equally to women as to men. Legal reform is obviously of vital importance as women are denied their rights on a daily basis, oppressed by traditions and customs which run counter to the few non-discriminatory laws in place.

Exclusion from inheritance, forced marriage, marriage at a young age, crimes of honour which are tolerated in practice even if they are not always legal, and domestic violence constitute the daily fate of women, especially the most disadvantaged and the poorest.

In several countries in the region, young unmarried women can be forced to take virginity test simply at the request of parents or at the request of their future husbands and their relatives. In Turkey, in spite of the 1999 governmental decree regulating this test, stipulating that it could only be used for criminal investigations, families still widely continue the practice, using crimes of honour as an excuse. The State itself can demand the test, for example in young women's rehabilitations centres. Pre-marital sex, pregnancy out of wedlock and social control drive many women in the MENA countries to commit suicide, abandon their children or turn to prostitution.

In addition, there is a lack of knowledge about the rare legal clauses which are favourable to women, as women are not generally informed about their rights. All helping to reinforce the negative social impacts of the laws in force are contradictory and complex legal procedures, a social and judicial environment which is unfavourable to women – such as the reluctance of judges to refer to international conventions despite them having been ratified and published by their countries, the absence of women within the magistracy of some countries, even where the law does not forbid their participation, as in Egypt, and the ban – without any legal basis – on female magistrates delivering verdicts on matters of Personal Status (Morocco, Jordan and Israel).

Freedom of Movement

Women's freedom of movement is restricted both by law³⁶ and by the tradition viewing the public space as exclusively belonging to men.

In certain MENA countries, women do not have the right to travel alone or accompanied by any man who is not their legal relatives. In Saudi Arabia, where this rule is strictly applied, it means that no Muslim women can perform the pilgrimage without being accompanied by a male relative at all times. In Jordan, a married woman needed her husband's permission to gain a passport until very recently, a clause that was declared unconstitutional by the Egyptian Supreme Constitutional Court in 2000 and was abolished in Morocco³⁷ and Lebanon (1974). In addition, Jordanian law obliges the woman to go wherever her

husband goes, except for when he cannot guarantee her safety.³⁸

The husband can also go to court to make his wife return to the marital home against her will and in spite of the reasons which led her to leave in the first place. To roughly illustrate the extent of this practice, in Morocco, 167 of 5400 cases processed solely by the county court of Casablanca in 1993 related to women returning to the marital home.³⁹

Sexual Harassment

Women's rights activists in Morocco and Lebanon as well in Egypt, Palestine and Israel have been calling for the establishment of laws protecting women from sexual harassment. Although such laws exist in Israel, they are not fully enforced. Some conservatives use the growing phenomenon of sexual harassment as an excuse to push for

segregation of the sexes in the workplace and in all public spaces. However, even in absence of such policies, segregation of the sexes in society is still widespread, as the tradition of viewing the public space as belonging to men, especially after nightfall, seriously limits women's freedom and their ability to participate in public life.

1.3 Discrimination against Women in Education and Employment⁴⁰

Gender inequality in education

After independence, the States in the MENA region decided to put great efforts into education to raise the generally low levels of education and wipe out the legacy of colonisation.

However, statistics for 1998 shows that several countries in the region are still recording high rates of female illiteracy. The average rate of illiteracy among women in the MENA region (with the exception of Israel and Turkey) is 42% (21% for men).⁴¹ Of course, this average masks great discrepancies in the area of female illiteracy: 64% for Morocco, and 16% for Jordan.

Schooling rates across the entire education system (primary, secondary and higher) while revealing information about the efforts made to educate young women, also reveal the discrepancies which still exist between the average levels of schooling for men and

women across the region, between men and women from countries with comparable revenues,⁴² and between women in the region. The average schooling rate for the countries in the region (Algeria, Egypt, Jordan, Lebanon, Morocco and Tunisia) is 63.8% for females and 69.5% for males; yet for countries with comparable revenues it is 67.3% and 83.3% respectively. Discrepancies in the schooling of girls is enormous among the countries cited: 77% for Lebanon, 68% for Tunisia and 42% for Morocco.

Furthermore, given the current economic difficulty in the region, many families will tend to favour their sons over their daughters in matters of education. Therefore, the negative effects on education of a difficult economic climate are generally much worse for women than for men.

Gender Inequality in Economic Activity

Scant data on the economic participation of women in the Arab MENA countries, and the fact that, with very few exceptions, statistics are not broken down by sex, means that the precise degree to which women work in the paid job market is not known.

Furthermore, statistics on female unemployment are unreliable in the sense that they may consider a housewife as someone who is not seeking employment, and who therefore does not count as being unemployed.

Gender Inequality in Education in the MENA

HDI Classification	Adult Female illiteracy		Female enrolment in Primary education		Female enrolment Secondary education		Enrolment of women in higher education	
	Rate (%) 2000	As % of Male Rate 2000	Rate (%) 1998	As % of Male Rate 1998	Rate (%) 1998	As % of Male Rate 1998	Rate (%) 1998	As % of Male Rate 1998
22 - Israel	92,4	95	95	100	85	101	57	142
75 - Lebanon	80,3	87	77	97	79	109	39	102
85 - Turkey	76,5	82	96	92	...	...	18	165
97 - Tunisia	60,6	74	96	97	56	103	17	97
99 - Jordan	83,9	88	65	102	62	107	...	...
106 - Algeria	57,1	75	92	95	59	101	...	...
108 - Syria	60,5	68	89	92	36	92	...	...
115 - Egypt	43,8	66	89	94	...	...	...	...
123 - Morocco	36,1	58	73	86	...	...	8	75

Source: World Human Development Report, 2002

While female activity is progressing in the MENA countries party to the Euro-Mediterranean process,⁴³ it still counts among the weakest in the world.⁴⁴ The average female participation in the workforce in the region peaks at 29%, though it is 39% for countries with comparable revenues. Among the Arab MENA countries, Morocco is in the lead, followed by Tunisia, with Jordan recording the lowest level of women's economic participation. However, the issue of women's employment is complex – simply having a higher rate of female employment does not necessarily reflect a higher degree of women's development. In countries with lower revenues, female employment reaches 41%.⁴⁵ Therefore, it is critical to analyse the *type* and *context* of women's employment to better understand the reasons why they are allowed, able or forced to work.⁴⁶

Statistics on education and the participation of women in the job market allow us to draw two conclusions:

- The discrepancy between those involved in education and the job market shows that women are not generally putting their diplomas and qualifications to use in the job market; in a reverse of this situation, in countries where women make up a significant part of the workforce, such as Morocco and Egypt, a significant proportion of female wage-

earners is characterised by illiteracy and under-qualification.

- There is a strong gender division of employment in the region: women are mostly employed in public administration, education, health, agriculture and social services

Privatisation of the public sector is contributing to an increase in female unemployment because it is not accompanied by suitable structural changes in training and the job market.

Other factors also restrict women's participation in public economic life. Women face:

- Discrimination in gaining access to paid employment;
- Unequal pay compared to men;
- Many more domestic constraints (childcare and looking after other dependents) than men
- Sexual harassment in the workplace, and very few, in any, legal instruments exist to combat it;
- Discrimination in job promotion. It is much harder for a woman to become an executive or director even if she is as well qualified as a man. Such discrimination is widespread, and even justified by the myth of the kept woman

Gender inequality in economic activity

HDI Classification	Rate of economic activity			Rate of activity by economic sector						Contributing family workers	
	Females			agriculture		industry		services		F	M
	Rate % 2000	Index (base 100 = 1990) 2000	As % of Male Rate 2000	F	M	F	M	F	M	F	M
22 - Israel	48.4	113	67	1	3	12	35	86	61	77	23
75 - Lebanon	29.6	122	39	-	-	-	-	-	-	-	-
85 - Turkey	49.9	114	61	72	34	10	25	18	41	-	-
99 - Jordan	26.6	157	34	-	-	-	-	-	-	-	-
97 - Tunisia	36.9	112	47	-	-	-	-	-	-	-	-
108 - Syria	28.6	121	37	-	-	-	-	-	-	-	-
106 - Algeria	29.5	154	39	-	-	-	-	-	-	-	-
115 - Egypt	35.0	115	44	35	28	9	25	56	46	36	64
123 - Morocco	41.4	107	52	6	6	40	32	54	63	-	-

Source: UNPD World Human Development Report, 2002

and by the legal silence, especially in the PSCs, on the question of education and employment rights for women.⁴⁷

- In spite of the discrepancies recorded between different countries in women's access to paid employment, paid work for women everywhere remains relative to each family's negotiation of the issue, as legally the husband is the guardian of the wife.

1.4 Discrimination against Women in Political Representation

Since independence, the constitutions of the MENA countries have guaranteed equal political rights for men and women. Certain statutory clauses have recently been abolished, such as the one in Algeria permitting the husband to vote in the place of his wife and sister (1995).

However, in practice, the participation of women in political power and decision-making, as in paid employment, is among the lowest in the world. Arab women's representation in the national parliaments does not exceed 3.5%.⁴⁸

The traditional division of gender roles and the restriction of women from the public sphere, both justified by cultural or religious arguments also restrict women's contributions in the official public sector and in decision-making centres.

Other factors, such as the lack of democracy, the lack of transparency surrounding consultation, and voting methods based on tribal, ethnic or religious representation, as in Jordan and Lebanon, further exclude women from participating in the political process, or else render their contributions a mere formality.

In order to correct the problem of low female participation in official political life, some governments and political parties have established particular affirmative action, by requiring a percentage of candidates to be women, or reserving a certain number of seats for women in their national parliaments.

The regimes in Algeria, Syria, Egypt and Tunisia have adopted affirmative action and it has been proposed very recently in Jordan⁴⁹. However, in countries where there is hardly any or no democracy, the practice of affirmative action does not constitute a serious alternative to the absence of women in representative institutions. For example, Tunisia with 11.6% women deputies in parliament, leads the Maghreb countries, and Syria and Jordan lead the Mashrek countries. Yet, women's development in these countries is among the lowest in the region. However, in Morocco, which is far more democratic and is relatively liberal by regional standards in matters of freedom of expression and association, the proportion of women in the two chambers of parliament does not exceed

Women's Participation in Political Life

HDI Classification	Index of women's participation		Date women obtained right		Date elected (E) or appointed (A) to Parliament	Women in Government % (1999)	Members of Parliament %
	Class.	Value	Vote	Candidature			
22 - Israel	22	0,596	1948	1948	1949 E	6,1	13,3
75 - Lebanon	...	...	1952	1952	1991 A	0,0	2,3
85 - Turkey	63	0312	1930	1934	1935 A	0,0	4,2
97 - Tunisia	...	...	1974	1974	1989 A	10,0	11,5
99 - Jordan	...	...	1974	1974	1989 A	0,0	1,3
106 - Algeria	...	...	1962	1962	1962 A	0,0	3,4
108 - Syria	...	...	1949, 1953	1953	1973 E	11,1	10,4
115 - Egypt	65	0,260	1956	1956	1957 E	6,1	2,4
123 - Morocco	...	...	1963	1963	1993 E	4,9	0,6

In Jordan, Algeria and Morocco, women in the upper house or senate constitute 7.5, 5.6 and 0.4% respectively.
Source: *World Development Report 2001 and 2002*.

0.5%.⁵⁰ Therefore, the mere presence of women in politics does not necessarily have a direct relationship with the amount of democracy in a country.

For the vast majority of countries in the region, democratic processes are ignored by private interests and powerful groups who are used to acting outside democratic rules and influencing or bribing electors. Therefore, in the vast majority of cases, consultation within the government is just a show aimed at boosting the image of governments in the eyes of the international community. This being the case, voters become disenchanted, and it is not only women, poorly integrated within these networks, who are becoming estranged from the political process; so too are the elites and young people.

Throughout the MENA countries with very few exceptions, women members of parliament and others in positions of responsibility who are designated or co-opted through affirmative action have usually gained their positions because of their proximity to the ruling powers. Far from defending the interests of women, women politicians sometimes become feminists' greatest enemies, as they feel threatened by feminist opposition. Meanwhile, as some female parliamentarians are elected without having truly gained the approval of the voters and because of the system of reserving seats, it is difficult for them to express disagreement over the laws and policies pursued.

For the vast majority of countries in the region, democratic processes are ignored by private interests and powerful groups who are used to acting outside democratic rules and influencing or bribing electors.

In a great many MENA countries, women's contribution to the associative and civic field has "compensated" for their exclusion from the official political sphere. In Maghreb, for example, the women's movement is very active and effective within civil society, contributing to public debate on the social, economic and political questions in their respective countries.⁵¹ Such participation carries weight, when the context for freedom of expression and association is favourable, as it has been during the past few years in Morocco.

1.5 Violence against Women

Until very recently, violence against women was a taboo subject; it was carried out in silence, accepted and even socially justified by PSCs, which legitimise violence against women by preserving their inferior status. However, due to the actions and support of associations promoting women's rights in all the MENA countries, the silence surrounding this subject is now being broken and the issue is gradually being brought out of the private sphere into the social and political field.

The lack of quantitative and qualitative statistics on the extent, forms and manifestations of such violence, particularly domestic violence (a virtually non-existent notion in the MENA region)⁵² perpetuates the myth of a god-fearing society based on sacred family bonds. The few statistics that do exist on the topic are fragmentary and the result of work undertaken mainly by women's NGOs⁵³. The fact that the violence women are subjected to daily remains essentially invisible enables States in the region to deny that it exists and to shun their responsibility, for example, in taking the necessary measures and set up support centres for victims, and to train and appoint qualified doctors, police and magistrates.

Violence against women in this part of the world is legalised and institutionalised by criminal law, within marital and family relations. Legally, a husband can never rape his wife because he has absolute right over her body. He also has the right to beat her (lightly) if she disobeys him.

In Algeria, according to statistics gathered in a single Algiers hospital,⁵⁴ some 9,000 battered wives arrive at the hospital every

Prevalence of violence against women by an intimate partner

Country	Year	Adult women assaulted by intimate partner (%)
Egypt	1995 - 1996	34.4
Turkey	1998	57.9

Source: *Progress of the World's Women, 2000, UNIFEM, Biennial Report, p 97.*

Only the two countries which appear in the table have (more or less reliable) statistics on the prevalence of violence against women by an intimate partner.

year to have their injuries tended.⁵⁵ Three out of four attacks take place in the victims' homes and the perpetrator is most often the husband. Three out of four perpetrators have never been sentenced by the courts, even though most of them were repeat offenders. At the Help and Counselling Centre for Women Victims of Violence in Tunisia (Centre d'écoute et d'orientation des femmes victimes de violence) more than 64.4% of the cases in 1998 related to domestic violence.⁵⁶

In several countries in the region, traditions are viewed as sacred norms and precepts. Female circumcision is still a widespread practice in certain countries in the region, notably in Egypt⁵⁷ but also in the European countries to which people from the MENA region migrate. Mutilation of the genitals of young girls, which has no religious or legal basis whatsoever, is largely accepted and almost institutionalised in that it can be carried out with total impunity. According to the Egyptian National Security report (1995), 97% of women aged between 15 and 45 have undergone genital mutilation and only 10% of these cases were carried out under medical supervision.

In Jordan, Syria, Egypt, Lebanon, Palestine and Israel⁵⁸ crimes of 'honour' claim several victims each year, indulged by laws and the people who enforce them, even though this practice has no basis in religion whatsoever. In an honour crime, a man murders a young girl or woman (usually a relative) to preserve his/the family's 'honour' in the name of religion, political interests or matters motivated by jealousy or inheritance disputes.

In Turkey, such crimes committed by relatives are estimated to claim the lives of 200 young women each year.⁵⁹ In 2001, judges' rulings on the majority of these cases reduced the sentences of the criminals, using the excuse that the victims had provoked their murderers by breaking the society's code of

conduct imposed on women. In certain cases, male minors in the family are arranged to commit these crimes because the punishments are lighter for minors.

Violence against women in this part of the world is legalised and institutionalised by criminal law, within marital and family relations.

In Jordan, such honour crimes generally claim between 25 and 30 victims each year.⁶⁰ A proposal to abolish Article 340 of the Penal Code - which grants extenuating circumstances to the perpetrator of an honour crime in the case of a close relative who succeeds in demonstrating that he was acting to restore family honour - was rejected by the lower house of parliament after being presented twice by the Jordanian government (in 1999 and 2000). To prevent this proposal from becoming law, Islamic members of parliament campaigned that banning "honour crimes" would result in debauchery and moral decline. In 2000, the upper chamber of parliament took up the initiative again for a new amendment to Article 340 and submitted it to the lower house, but as the Jordanian parliament has been dissolved since 2001 the proposal is still pending.

Women who are targeted for an honour crime have also been victimised by the State; in order to protect women from the threat of an honour crime, governments have sometimes incarcerated the women, instead of the suspected perpetrator. Essentially, women are imprisoned while those who

threaten them go free. According to official statistics, in Jordan 50 to 60 women annually are placed in preventive detention centres for periods lasting from several months to more than three years.

In Israel, according to police statistics, in 2001, the murders of 20 women were classified as occurring on 'romantic grounds'. According to the association *Al Badeel* (Coalition against 'crimes of honour'), many of these crimes went unsolved because of the complicity of the community and because of the attitude of the police and the judges, who continue to consider such crimes private affairs linked to the cultural traditions of Palestinian society.⁶¹

In Syria, the Penal Code (Art. 548.1) stipulates that:

'anyone who catches his wife, one of his female ascendants or descendants, or his sister committing adultery or engaging in illegitimate sexual relations with another person and who, without intending to do so, murders, beats or injures his relative and her accomplice, is exempt from punishment'. Article 548.2 of the same code stipulates that 'punishment provided for by the law will be reduced for anyone who catches his wife, one of his female ascendants or descendants, or his sister in a suspicious situation with a man and commits murder or battery or inflicts injury'.

By social convention sex should only occur within marriage. Yet, despite the continuing taboo surrounding the subject of sex, social

and economic developments have led to women marrying at an older age and an increase in sexual relations outside marriage.

Often those women who become unmarried mothers are young and come from the most underprivileged populations who, for example, cannot resort to expensive clandestine abortions and have no access to information on contraception.⁶² These mothers and their children are the main victims of the combination of discriminatory laws and social tradition, which is being reinforced by the wave of Islamic fundamentalism in the region.

If NGOs and the women's rights movement have helped to lift the shame surrounding unmarried mothers, the legal obstacles to fathers acknowledging their children born out of wedlock⁶³ encourages men to behave irresponsibly. Faced with this situation, women often abandon their children soon after birth in the maternity wards, or more often in the streets.

Poverty and the absence of social welfare make women from minority groups, unmarried mothers, domestic servants and young girls from rural areas especially vulnerable to exploitation by human trafficking networks.

Trafficking of women

There are no statistics on the trafficking of women but it is evident that the phenomenon is growing from the consolidation of trafficking routes that take the poorest women from the South Mediterranean and South and South-East

The law on rape in the MENA region

Criminal law in the overwhelming majority of MENA countries (including Turkey) considers rape to be an attack on public modesty/decency and not a crime against the person. This classification reflects the patriarchal notion that women's bodies and female sexuality should be regarded as issues relating to public order and the family.

The notion of marital rape does not exist in any of the Arab MENA countries as the body of a married woman is considered to belong to her husband.

In Morocco and Lebanon the penal code allows proceedings against a rapist to be automatically halted if he agrees to marry his minor-age victim. This humiliating and degrading clause is often defended on the pretext that it is the best way of safeguarding the girl's honour and that of her family.

Asia to Europe and the oil-producing countries of the Gulf and the Middle East.

According to an American Department of State report (2001) Israel and Lebanon are considered to have the worst practices in human trafficking in the MENA. The authorities in these countries fail to fight or, in some cases, to even acknowledge trafficking as human rights abuse and do not properly prohibit or punish trafficking, let alone make sustained efforts to eliminate the phenomenon.⁶⁴ In Israel, while a law was introduced prohibiting trafficking that exploits people sexually in 2000, the government has failed to guarantee legal protection for victims of trafficking brought into Israel to do domestic, agricultural and construction work.

Traffickers continue to find new methods of deceiving airport surveillance and succeed in bringing in women to Israel for prostitution across the Sinai desert. According to the Toda'ah Institute,⁶⁵ at least 3,000 women annually are brought into Israel via trafficking networks. The complicity of the State - and corruption - play an important role in perpetuating this trafficking. According to a study recently undertaken by the Hotline for Migrant Workers, 55% of the 29 women who were brought in to Israel for enforced prostitution stated that members of the security forces were their main clients.

Most countries in the MENA region have no laws on trafficking, and third country nationals are usually excluded from the country's labour code, as in the case of Lebanon, and therefore are not offered legal protection. Trafficked persons are often treated as illegal aliens or criminals or both and face prosecution rather than compensation for the abuses⁶⁶ that they have suffered. These abuses often include rape, beatings, threats, unlawful confinement, slavery, debt bondage and forced unpaid labour.

In Morocco, a middle-ranking country according to the classification by the American State Report, the press regularly reports on the dismantling of prostitution networks that dispatch minor females to European countries, in particular Spain and Italy. These networks take advantage of the restrictions on the movement of people between the two shores of the

Mediterranean, luring the young girls with promises of job contracts in the North. New European legislation on prostitution, notably in the Netherlands, provides sex workers with better working conditions and an opportunity to report violence and abuse, but does not address the underlying issue of the right of non-European Union citizens to work in the EU. Illegal sex workers are thus likely to be driven underground for fear of prosecution or deportation⁶⁷.

Murder, rape, illegal confinement of women and young girls, and forced marriage has been the fate of thousands of women in the MENA region during periods of conflict.

Every day, thousands of young domestic servants from Asia, Africa and the Mediterranean are enslaved⁶⁸ in Europe. According to statistics by the centres of the Committee against Modern Slavery in France (Comité Contre l'Esclavage Moderne, CCEM, 2001) of 76% of trafficking and slavery victims, women from West Africa constitute (36.9%), Maghreb (8.5%), and more specifically Morocco (7.7%). In addition, 26.7% of the women were recruited by agencies and 6.5% by intermediaries; 73.3% of the women have never been paid any money; 95% have had their identity papers taken away (passport, travel pass, birth certificate) - indeed 8 out of 10 victims had an unclear legal status at the time the statistics were compiled.

Violence against Women in Conflict Situations

In the MENA region discrimination combined with inferior status make women especially vulnerable to violence in times of conflict. Murder, rape, illegal confinement of women and young girls, and forced marriage has been the fate of thousands of women in the MENA region during periods of conflict.

Palestinian women continue to suffer from the curfews, check points and severe restrictions on freedom of movement imposed by Israel in most of the Occupied Palestinian Territories. In June 2001, the United Nations Relief and Work Agency in Palestine (UNRWA) reported that Palestinian women who were on the point of giving birth had great difficulty gaining access to maternity wards. In July 2001, a Palestinian woman from Gaza gave birth at the military control post, her child died soon afterwards due to complications and the lack of medical care. The Union of Palestinian Medical Relief Committees (UPMRC) has documented more than 52 cases of women unable to gain access to maternity wards and post-natal care since the beginning of the second *intifada* in September 2000.

In Algeria, murder, rape, illegal confinement and forced marriage has been the fate of thousands of Algerian women and young girls in times of conflict between armed groups and the State.⁶⁹ Claimed as spoils of the war, women have been forced to carry out domestic tasks and sexual services by isolated armed groups who seized the climate of conflict and the impunity that accompanied it. Perpetrators used different pretexts for their violence towards women, ranging from a woman's allegedly loose morals, non-'Islamic' dress, or simply because their husbands, brothers or sons belonged to an opposing group. The government itself was also implicated in violence against women through its security forces, which attacked and even killed Islamist activists and their wives to extract information or as retaliation. In 1997 a policy change acknowledged the prevalence of rape⁷⁰ and offered legal abortion for rape victims.

Quantitative and qualitative statistics on these cases of violence are neither known nor available, but in 2000 the security forces stated that 2029 women in Algeria were survivors of rape by armed groups. To this day, in spite of demands from the women's movement and medical associations that the rapists be officially identified as war criminals, the rapists have gone unpunished.

The fact that the perpetrators of rape and sexual violence, in Algeria and around the world, are not considered war criminals by the public authorities, are not investigated,

brought before the courts or punished, all helps create a climate of impunity favouring violence against women.

Rape of women is used as a weapon of war and aims to humiliate men by attacking the heart of their virility, to demonstrate the strength of the aggressors and the powerlessness of their adversaries to protect their women. Thus, ultimately, rape is used to challenge a central pillar of the male⁷¹ social code of honour in the region.

... women survivors of rape in the region generally have great difficulty reintegrating into their families and communities, given that their societies tend not to consider them as victims but as bearers of their families' dishonour...

Moreover, women survivors of rape in the region generally have great difficulty reintegrating into their families and communities, given that their societies tend not to consider them as victims but as bearers of their families' dishonour; they receive essentially no State assistance for medical or psychological help, and thus must rely on what is offered by civil society organisations.⁷²

The conflict in Algeria has also highlighted and compounded women's inferior legal status in matters of government assistance, inheritance, and child custody. Without their husbands' death certificates women whose husbands have disappeared are legally denied governmental assistance as well as their inheritance of their marital property; the husband's family may also, on the same basis, refuse the mother custody of the children. Yet, death certificates are extremely difficult or impossible to obtain in cases of disappearances leaving many women who were caught in the war in an extremely difficult and uncertain situation.⁷³

1.6 The Compliance of MENA Countries with the International Instruments on Women's Rights

Although the governments of each MENA country have ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)⁷⁴ and many have ratified various other international pacts or conventions, the integration of international women's and human rights obligations into the national legal systems has been problematic.

A major obstacle to the effective integration of international obligations into the region's domestic legal structures has been that governments ratified international pacts and conventions relating to women's rights only after adding reservations, which has enabled the governments to shirk responsibility in combating discrimination and violence against women. Nearly all the Arab States which have ratified the CEDAW have taken up reservations on Articles 2, 9 (paragraph 2), 15 (paragraph 4) and 16.⁷⁵ In fact, CEDAW has the highest systematic demand for reservations of all international pacts or conventions. Furthermore, to this day none of the MENA countries, except for Turkey, has signed the CEDAW Optional Protocol from 1999. In spite of effort of the women's rights movement to lift the reservations to CEDAW, most reservations have remained in place.

These reservations not only render CEDAW and the other international conventions⁷⁶ ineffective, they also *de facto* preclude any future or further discussion on how to improve the various existing international human rights and women's rights conventions.⁷⁷

Yet even if international norms had been accepted without reservations, their implementation could not be guaranteed. While the Algerian and Lebanese constitutions accord international conventions priority over domestic laws, other countries in the region remain ambiguous on the issue. Thus, by remaining silent and not specifying whether international or domestic laws take priority, as in the revised Moroccan constitutions of 1992 and 1996⁷⁸, there is no mechanism to ensure that international obligations are respected.

Even the constitutional recognition, in some of the MENA countries, of the principle of equality comes with reservations. Equality of the sexes is rarely mentioned explicitly in any of the laws of the region, and if so, only in matters of economic, social and political rights, not in matters of family law, which are governed by the discriminatory Personal Status Codes.

... governments ratified international pacts and conventions relating to women's rights only after adding reservations, which has enabled the governments to shirk responsibility in combating discrimination and violence against women

Part I: Summary

Much of the discrimination against women in the MENA region is codified into each country's laws. Across the region, family laws, also called Personal Status Codes, systematically violate women's fundamental rights by placing women under the legal guardianship of their husbands or a male relative. Discrimination in various other laws, including penal and nationality laws, severely restrict women's rights as specified by international legal obligations.

In education, levels of female illiteracy are consistently higher than levels of male illiteracy, though there is much variation between countries on levels of female education. Women in the region also have very low participation levels in paid employment, as there are many social and legal obstacles for women wanting to work. However, when analysing women's participation in the job market, it is necessary to note the context of female employment in order to understand the reasons why women are allowed, able or forced to work.

Women's participation in political decision making is also among the lowest in the world. Although Algeria, Egypt, Jordan and Tunisia have introduced affirmative action for women parliamentarians, women's mere presence in politics does not necessarily mean that women are participating in decision-making, given the tight control governments in the region exercise over political expression.

Women in the MENA are also confronted by multiple types of violence, including domestic violence, female circumcision, honour crimes and trafficking into prostitution and domestic service. During times of conflict women are particularly vulnerable to violence. And though each of the MENA countries has signed the Convention on the Elimination of All Forms of Discrimination Against Women, they have only done so after adding reservations that contravene the spirit and letter of the Convention. Governments in the region must invest all efforts necessary to ensure that the systematic discrimination and violence against women is halted.

Footnotes

- ⁵ For more details on the different dispositions relating to Personal Status laws, see Appendix II of this report.
- ⁶ For the purpose of this report, the term 'MENA region' refers only to those countries party to the Euro-Mediterranean Partnership that are analysed in this report: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria and Tunisia. The report has a brief mention of the situation of women's rights in Turkey. For further information, see section titled 'About the Report'.
- ⁷ See Moghadam, Valentine, 1994: *Modernizing Women: Gender and Social Change in the Middle East*, American University in Cairo, pp. 144. and ADRI/IEREM, February 1993: *Actes du Colloque: Le status personnel dans les pays du pourtour de la Méditerranée*.
- ⁸ Hijab, Nadia, 2001: *Laws, Regulation and Practices Impeding Women's Economic Participation in the MENA Region*, shadow report, submitted to the World Bank, April 2001.
- ⁹ See Appendix II of this report.
- ¹⁰ See Annex II of this report.
- ¹¹ In Palestine, 35% of girls' marriages take place between the ages of 12 and 17.
- ¹² The average age of women entering their first marriages continues to rise in all the MENA countries, and is currently 27,6 years in Algeria, 26,7 years in Morocco and 29 years in Tunisia.
- ¹³ This clause was partially adjusted in Morocco with the 1993 reform of the PSC and following the mobilisation of the women's rights movement. Hereafter, women of age whose fathers have died have the right to conclude their marriage contracts themselves.
- ¹⁴ See Appendix II of this report. However, the Christian Family Law in Lebanon prohibits polygamy.
- ¹⁵ Tunisia abolished the duty of obedience, replacing it with the duty of mutual respect in 1993.
- ¹⁶ In Morocco, the new draft employment Code, which will be examined by Parliament, suggest abolishing the need for wives to gain their husbands' permission to work outside the house.
- ¹⁷ See Appendix II on the different forms of divorce in the MENA countries. The Christian Family Law grants women the right to seek divorce through the Christian religious courts.
- ¹⁸ In Egypt, according to article 20 of Law n° 1 of 2000 on procedure in personal matters, the two spouses may agree on Al-Khòl. If not, the court can grant the wife a divorce after she has returned the dowry to her husband and after she has abandoned her right to financial maintenance during the period of 'idda
- ¹⁹ Amendments to the Jordanian Divorce Law were introduced in 2002 whereby a woman no longer needs her husband's approval to seek divorce. She is no longer obliged to provide a justification for her decision, and should the judge's efforts to reconcile the couple fail, the judge must grant the woman a divorce. The amendment still needs to be approved by Parliament – until then, it remains a temporary measure.
- ²⁰ Legal incapacity of the father, stateless father, unknown father.
- ²¹ Except if the new husband is a close relative to the child or the child's legal guardian.
- ²² In Tunisia, the father has the duty to provide a home for the child and the person who has custody over the child if that person is homeless. However, according to an inquiry carried out by the Association of Tunisian Women for Research and Development (l'Association des Femmes Tunisiennes pour la Recherche et le Développement, AFTURD, 2000), less than one divorced woman in four is granted the family home.
- ²³ With the exception of grandparents who inherit equal shares. In Christian Family law as applied in Lebanon, men and women inherit equal shares.
- ²⁴ If the deceased has an only daughter, her share of the inheritance is half; if he has more than one daughter but no sons; the share is two thirds, to be split amongst the daughters. In Tunisia *Taasib* does not apply and an only daughter can universally inherit without any intervention from males descended from a different line.
- ²⁵ See Appendix II of this report.
- ²⁶ See for example the findings of two surveys: *le Degré d'adhésion des marocains et marocaines aux valeurs égalitaires au Maroc* (ADFM, 1999) et *en Algérie* (Collectif 95 Maghreb Egalité, 2000) with the support of UNIFEM.
- ²⁷ In Tunisia, this clause was repealed by the 1993 reform. In Morocco, the draft amendment to the penal code, recently presented by the Ministry of Justice, abolishes Article 418 of the same code granting extenuating circumstances for husbands who murder, beat and cause injury to their adulterous wives or partners. In Jordan, amendments to article 340 of the penal code, introduced in 2001, retained reductions for men, while also entitling women to benefit from reduced penalties if they murder an adulterous husband.
- ²⁸ Whereby a man can, with total impunity, kill one of his female relatives (mother, sister, aunt etc.) in order to 'cleanse his honour'.
- ²⁹ The draft code of penal procedure, recently adopted in Morocco (July, 2002), foresees the abolition of Article 336 of the code of penal procedure requiring authorisation from the judge.
- ³⁰ See Appendix III for laws on nationality in the MENA.
- ³¹ Without the status of a national or citizen, a person is deprived of the right to vote, own property, have access to health care, send one's children to school, work, travel within or outside one's country of residence.
- ³² A revision has recently been implemented in Article 14 of the 1993 Tunisian Nationality Code allowing children to take the mother's nationality on the basis of a joint declaration from both parents.

- ³³ In November 2002 a temporary Citizenship Law was passed whereby women married to non-Jordanians will be able to pass their nationality to their children – however, it is still conditioned on the approval by the Council of Ministers, and this temporary law is still subject to approval by the Lower House of Parliament.
- ³⁴ A ruling by the education ministry in 1994 permitted a reduction in schooling costs for these children.
- ³⁵ Human Rights Watch, World Report, 2001.
- ³⁶ See Appendix IV for more information on laws relating to freedom of movement in certain MENA countries
- ³⁷ It was not until 1994 and after mobilisation from the women's rights movement in Morocco that wives were no longer required to seek their husband's permission to gain a passport.
- ³⁸ See Appendix IV of the report.
- ³⁹ Findings of an inquiry undertaken by the Moroccan Association of Women's Rights (l'Association marocaine des droits des femmes, AMDF): Violence against Women, What Protection? (in Arabic), Casablanca, 1997.
- ⁴⁰ For more information on the economic rights of women from the MENA region, see the report by Nadia Hijab, 2001; *ibid*.
- ⁴¹ The data relates to the average rate of illiteracy of the following countries: Algeria, Egypt, Jordan, Lebanon, Morocco, Syria, and Tunisia. World Bank, <http://genderstats.worldbank.org>
- ⁴² Entering The 21st Century, World Development Report, 1999/2000, World Bank. The World Bank has divided countries into three main categories: Low income countries (LICs), Middle Income countries (MICs) and High Income countries (HICs). The average Gross National Index (GNI) per capita for the three categories is 410 USD, 1970 USD and 27680 USD respectively. Comparable revenues refer to countries within the same category.
- ⁴³ Data is available for Algeria, Egypt, Jordan, Lebanon, Morocco, and Tunisia.
- ⁴⁴ The first report on human development in the Arab world (UNPD, 2002) indicates that the Arab region records the lowest level of female participation in the job market.
- ⁴⁵ World Bank: <http://genderstats.worldbank.org>
- ⁴⁶ The UNDP Arab Human Development Report 2002 calls for reversing the feminisation of unemployment by removing gender bias including gender-based occupational segregation and wage differentials and addressing gender gaps in the quality and relevance of education and skill training programs. It also identifies the need to give priority to women entrepreneurs when strengthening local capacity to deliver micro-finance services beyond the less than 2% of poor households that currently have access to financial services.
- ⁴⁷ Hijab, N., 2001, *ibid*.
- ⁴⁸ UNDP Report on Human Development in the Arab world, 2002 (in Arabic and English), available at: <http://www.undp.org/rbas/ahdr/english.html>.
- ⁴⁹ In January 2003 a Royal Commission – The Women's Parliamentary Quota Committee issued recommendations for the introduction of a temporary quota that allocates a certain percentage of seats for women in the Lower House of Parliament.
- ⁵⁰ At the Parliamentary elections in September 2002, 35 women were elected following an agreement between the political parties to reserve 30 seats for women on the national list. The current percentage of women in the Chamber of Deputies amounts thus to 10% (30 women being elected on the nationals list and 5 on the regional lists). Hereby the percentage of women in the two chambers has risen to 11%.
- ⁵¹ See Part II of this report.
- ⁵² In Tunisia, when the Penal Code was reformed in 1993, the marital bond became an aggravating obstacle to punishing violence inflicted by one spouse onto the other spouse, as the notion of domestic violence is not recognised in the law.
- ⁵³ Very recently in Morocco, the initiatives of some ministerial departments, especially the Ministry of Justice, to establish statistics on the violence against women on the basis of cases brought before the Casablanca courts constitutes a very positive step forward.
- ⁵⁴ A report on violence against women, its causes, and consequences, prepared by the International Federation of Human Rights (FIDH) addressed to the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, see <http://www.fidh.org/femmes/rapport/2001/etat2811f.htm>
- ⁵⁵ Estimated from the number of women who presented themselves at the Mustapha Hospital in the first nine months of 2001 where 960 women were examined.
- ⁵⁶ Association Tunisienne des Femmes Démocrates (ATFD, 2001).
- ⁵⁷ The Egyptian Council of State asserted "from now on it was forbidden to practice circumcision even if the girl and her parents give their consent". (December 1997).
- ⁵⁸ According to Al-Badeel, the Coalition Against Crimes of Family Honour, 67 women were killed in Israel between 1990-1999, while the Women's Center for Legal Aid and Counselling documented 12 cases in the West Bank and 26 cases in Gaza from 1996-1999.
- ⁵⁹ Human Rights Watch, World Report 2000.
- ⁶⁰ Human Rights Watch report, 2000.
- ⁶¹ World Organisation Against Torture (OMCT), 2001.
- ⁶² According to a study by the NGO 'Terre des Hommes' in Casablanca (Morocco, 1996), the vast majority of unmarried mothers are domestic servants.
- ⁶³ In Tunisia, legal affiliation can be established if the father is acknowledged.
- ⁶⁴ The American Department of State annual Trafficking in Persons Report (2001) put the following non-Mediterranean Arab states at the top of the list of countries with the worst practices of

- human trafficking: Bahrain, Saudi Arabia, United Arab Emirates, and Qatar.
- ⁶⁵ The Toda'ah Institute is an Israeli organisation affiliated with the World Coalition against the Trafficking of Women.
- ⁶⁶ According to statistics from the Committee Against Modern Slavery (Comité Contre l'Esclavage Moderne, CCEM, 2001), 88.5% of the victims at the Committee's centres in France had been submitted to psychological violence (and 100% of the minors), 44.3% to physical violence (58% of the minors), 17.6% to sexual violence (24.7% of the minors) and 6.4% had been tortured.
- ⁶⁷ For more information, see the European Network for HIV/STD Prevention in Prostitution, at http://www.europap.net/final/eu_policy.htm.
- ⁶⁸ See the Slavery Convention at <http://193.194.138.190/html/menu3/b/f2sc.htm> for a definition of slavery. If a person has agreed to perform labour or other services, the arrangement may qualify as a practice similar to slavery if the terms and conditions of the agreement have not been adequately defined or if the person loses the liberty to change his/her status. For further information on the international legal standards for trafficking in women, see <http://hrw.org/reports/2000/japan/5-int-stand.htm>
- ⁶⁹ See the report by FIDH on violence against women in Algeria, *iop. cit.*
- ⁷⁰ The newspaper El Khabar on 4.9.1998 stated that 2084 women were raped during 1993-97 (see: Bouatta, Ch,1999' De quelques violences à l'égard des femmes'; in: Les Algériennes citoyennes en devenir, IMED.
- ⁷¹ Bouatta, C:'De quelques violences à l'égard des femmes', *ibid.*
- ⁷² Women's rights organisations have denounced time and again the lack of support services for women survivors of rape.
- ⁷³ The situation is further complicated by the fact that in cases where the government has been involved in the disappearance, women are made to sign a fabricated death certificate stating that the armed groups were responsible for the death. For further information, contact the Collectif des Familles de Disparus en Algérie.
- ⁷⁴ For the text of the convention and information on CEDAW, see <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>
- ⁷⁵ See Appendix III of this report.
- ⁷⁶ These conventions include Article 19, paragraph c of the Vienna Convention on Treaty Law.
- ⁷⁷ A State formulating a reservation can plan a transition period during which it will take the measures necessary to bring its legislation in line with the convention. It can be a long or a short transition period but it cannot go on indefinitely, and in cases where it does, the State must explain the measures being taken to bring guaranteed human rights into effect (FIDH, public hearing on the promotion of women's rights and equal opportunities in the Euro-Mediterranean Partner-
- ship, held in the European Parliament, November 2001).
- ⁷⁸ The preamble of the revised constitutions of 1992 and 1996 simply stipulates that the Kingdom of Morocco reaffirms its commitment to human rights as they are internationally acknowledged.

Part II

Civic Initiatives Promoting Gender Equality in the MENA Region

2.1 Civic Initiatives

Many of the civic initiatives in the region face great challenges to their work. States often directly attempt to control civil society's activities, through restrictions on their funding and on their freedom of expression and association. Furthermore, women's rights organisations face opposition from non-State actors, particularly some Islamists who deny the legitimacy of universal human rights standards. Yet, despite such difficulties, the women's rights movements and other associated civil society groups have persisted.

2.1.1 The Women's Rights Movement in the MENA Region

Women's rights movements were initially linked to national liberation movements in Mashrek and Maghreb. Today, they are part of a larger movement for human rights and democracy in the MENA region. The main goals of the women's movement has been to work for changes in the laws that discriminate against women, fight against institutional, social and domestic violence against women and struggle to bring about democratic States which recognise the full rights of women.

The women's movement has benefited from the practical knowledge and experiences that the various women's groups acquired in the national liberation movements, political groups and trades unions, as well as from participating in international conferences on women's rights. Such conferences highlighted the concerns of women's rights activists and

organisations and facilitated local, regional and international advocacy on women's rights in the MENA region. These conferences also encouraged mobilisation on initiatives of the current women's movement such as raising the minimum age for marriage, outlawing 'honour' crimes and lifting reservations to CEDAW.

NGOs promoting women's rights in the MENA region have also gained from joining regional coalitions and networks in the Maghreb, Mashreq, Mediterranean countries as well as on the international level.

The Women's Rights Movement in the Maghreb

In Algeria women were very active in the national liberation struggle as well as after independence. Women mobilised particularly after the promulgation of the Personal Status Code in 1984 to fight for amendments to the Family Code. However, the atmosphere of heightened politicisation and the violent conflict following the cancellation of the electoral process in January 1992 had a serious and negative impact on the expansion and consolidation of the women's rights movement.⁷⁹

Armed conflict, insecurity and the challenge simply of managing daily life in a climate of economic and political chaos posed very serious challenges to the women's rights movement. However, the women's movement managed still to emerge as one of the most bitter opponents of terrorism and the lack of democracy, and received significant support from the international women's movement, particularly from North

Mediterranean countries, including France, Italy and Spain.

Beginning in 1997, women's rights organisations again began demanding revision of the PSC. A co-ordinated group of 14 associations launched a national petition seeking one million signatures in favour of 22 amendments to the Family Code. The petition 'a million signatures for women's rights within the family' enabled the women's rights movement to unite and take up women's rights issues, having been almost entirely limited to anti-terrorism activities during the armed conflict between 1992-1997.

In Morocco the women's movement is currently one of the country's most active and dynamic civil society organisations and has benefited from forging alliances with other political and civil groups in society. Women's rights activists seized upon the opportunity offered by the change in government in 1998 bringing Prime Minister El-Yousoufi to power, and the succession of Mohammed VI to the monarchy in 1999, to exert pressure for change in laws and practices that discriminate against women.

In spite of opposition, some of it from the Islamist groups, the women's movement has become even more pro-active and its activities have multiplied in recent years. In 1997 the movement was involved in the publication of a report on the national implementation of CEDAW. In 2000, thousands of women united in a march denouncing the government's decision not to adopt the Action Plan for the Integration of Women in Development; in 2002, many more protests were held outside of the national parliament. Additionally, women's rights organisations have organised campaigns and disseminated information on discrimination and violence against women and established centres for legal and psychological counselling for women survivors of violence.

Part of the success of the women's rights movement in Morocco is due to its strategy of coalition-building with other civil society groups. Through coalitions and networks, the women's movement has been able to exert more pressure on the government than it could otherwise, as it did in 1999 by uniting more than 200 NGOs across the country in a network to support the above-mentioned

Action Plan for the Integration of Women in Development. In the spring of 2001, nine women's rights NGOs united to create the network 'Springtime for Equality (Printemps de l'Égalité, 2001) seeking to follow up on the efforts of the government commission established to reform the *Moudawwana* (PSC).

In spite of opposition, some of it from the Islamist groups, the women's movement has become even more pro-active and its activities have multiplied in recent years.

In Tunisia the creation of two principal independent women's rights groups - the Association of Tunisian Women for Research and Development (l'Association des Femmes Tunisiennes pour la Recherche en Développement, AFTURD) and the Tunisian Association of Women Democrats (l'Association Tunisienne des Femmes Démocrates, ATFD) - at the end of the 1980s marked an important moment in the history of the associative movement. These two independent women's rights groups challenged a political regime that was hostile to the establishment of associations that were not in some manner directly allied to or subtly co-opted by the government.⁸⁰ The political regime created and encouraged associations to serve its own purposes and suppressed independent associations' activities through administrative red tape and police harassment.

Although Tunisia is one of the more liberal countries in the MENA region concerning women's rights, its current government has a long and stern tradition of repression of freedom of association and expression. Nevertheless, such repressive policies did not prevent women's NGOs in Tunisia from becoming a forceful voice of opposition to the government's perpetual attacks on freedom of association and expression.

Therefore, and within this political context, women's NGOs work on two fronts: in promoting women's rights (particularly in combating violence against women and discrimination against women in inheritance laws) and in promoting democracy and human rights.

The Women's Rights Movements in the Mashreq

In Egypt the women's rights movement has a long history and is among one of the oldest in the Arab world.⁸¹ In the 1920s the Egyptian movement inaugurated an era of open and organised feminism – it was indigenous, crossed class lines, and maintained independence from the State.

The feminist movement, however, has not gone unopposed and is currently beleaguered due to new legislation restricting freedom of association.⁸² Furthermore, despite the fact that Egyptian feminism tends to be grounded in both Islam and nationalism,⁸³ it does actively challenge patriarchy and as such has gained opposition from conservatives and Islamists as well as from the government. Despite this antagonism, women rights activists and organisations have continued their work; but the unfavourable climate has led to a level of fragmentation that has affected their ability to form coalitions and achieve change in laws and practices. Successful initiatives, such as a short-lived reform to the Egyptian Personal Status Code led by Jihan Sadat,⁸⁴ have usually been the result of initiatives led by individual women from within the circle of power.

With the increased restrictions facing the NGOs due to the recent changes in the Egyptian association law mentioned above, feminist discourse has turned to focus on women's right to education and the necessity of reforming laws and practices that discriminate against women in the name of Islam. At the same time, women's rights activists have continued their fight to change the PSC. In January 2000, the Egyptian parliament passed a new law on divorce - the *Khôl* law which allows, for the first time, for women unilaterally to request divorce on grounds of incompatibility. However, the law also requires the women in these cases to forgo alimony and to repay their husbands

any dowry.⁸⁵ Many women's rights activists agree that the new law has facilitated women's access to divorce, but have noted that more studies are needed to assess its full impact.

In Israel, women's rights activists have been organising since the 1960s and 1970s to combat discrimination and violence against women. They established shelters for battered women in the 1970s and mobilised campaigns for law reform on abortion and employment. Women's rights organisation continue to combat trafficking in women and sexual harassment and despite some success in legal reform on these issues, implementation of the laws by the authorities as well social attitudes towards the status of women in society remain a challenge.⁸⁶

The feminist movement, however, has not gone unopposed and is currently beleaguered due to new legislation restricting freedom of association.

In the late 1980s and early 1990s, Palestinian women inside Israel started forming their own independent organisations to address discrimination and violence against women. They designed public awareness campaigns on "honour crimes," established hotlines, and opened shelters for battered women. In 2002, and after seven years of persistent lobbying in parliament and public awareness campaigns, they succeeded in introducing a law that allows for Palestinian women, Muslim, Christian or Druze, to choose between civil or religious courts in cases of divorce. Women's rights activists are still pressuring the authorities to enforce the laws that prohibit polygamy and under-age marriage.

In Jordan, the women's rights movement benefited from the liberalised atmosphere of the 1950s and established in 1954 the Arab Women's Federation. The Federation called for improving women's status and the right

of women to vote. However, the termination of the democratisation process in 1957 with the ban on all political parties, led to the dissolving of the Federation and an end to the early period of women's public activism. During the 1960s and 1970s, while the country was under martial law, State-sponsored women's organisations dominated the scene and served as conduits for the government's policies on women. This period left a legacy of fear and women's public activism only recovered after 1989.⁸⁷

Despite restrictions on freedoms, financial and political constraints, and human resources shortages, the Jordanian women's rights movement has since then managed to be active in promoting equality and fighting violence against women. For example, in 1999 women's rights activists gained the support of the Jordanian royal family in mobilising a nation-wide campaign against honour crimes, thereby raising national and international public awareness on this brutal practice. As a part of this campaign, women's organisations began a massive petition demanding an end to the law that allows a reduction in, or even exemption from punishment for perpetrators of honour crimes.

Though the Jordanian parliament refused to change the law, adding to the two previous times in 1999 and 2000 that the Jordanian Lower House also refused to reform the law, in 2002 King Abdullah II changed the law in question by royal decree. Women's rights activists have since raised questions about mechanisms for enforcement of this decree; and since King Abdullah dissolved the Lower House of Parliament in 2001, before issuing the decree, the parliament could still reject the change when it reconvenes. Therefore, the women's rights activists must wait before knowing whether this particular battle in combating honour crimes has been won.

In Lebanon, the women's movement was prompted by the presence of liberal European and American educational institutions. However, the emergence of an organised women's movement⁸⁸ was delayed by the prolonged civil war. Initiated by progressive presidents of the Lebanese republic, the right of women to vote was introduced in 1953 and the inheritance law for non-Muslim sects in 1959.

Only recently have women begun to organise across sectarian lines to fight discrimination against women regardless of religious adherence. The network 'The Lebanese Council to Resist Violence Against Women' (LECORVAW),⁸⁹ composed of dozens of NGOs is a perfect example of the new feminist consciousness that is emerging.

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In Palestine, women began organising in the 1970s in student, labour and other unions, and started slowly to gain political independence and establish their own women's rights organisations. Women were very active during the first *Intifada* (1987-1991) in community management and in operating income generating projects for women. In the early 1990s, women rights organisations initiated public information campaigns and established hotlines and legal aid and counselling centres for women survivors of violence.

In 1998, NGOs seized upon the opportunity presented by the establishment of the Palestinian Authority to found a coalition called 'Model Parliament, Women and Legislation'. The Model Parliament campaign resulted from a series of workshops that analysed discrimination against women in Palestinian legislation (which consists of contemporary Jordanian and Egyptian Laws, as well as Ottoman laws and laws from the British Mandate period). The coalition held symbolic parliamentary sessions where women and men were given equal representation in addressing the laws and

practices that discriminate against women. At the mock parliament the coalition recommended the Palestinian Legislative Council to adopt a unified Palestinian family law based on equality between men and women and respect for women's rights – recommendations for which women's rights activists continue to fight. Despite fierce opposition from Islamists groups to the Model Parliament, women's rights activists managed to put the issue of discrimination against women in family law on the national agenda, and to link women's rights to human rights generally.

Following the Model Parliament campaign, the NGO *Mashriqiatt* (based in Gaza) carried out a comparative analysis of personal status laws and international conventions. Based on its findings, *Mashriqiatt* called for equality within a Muslim frame of reference. Opposition from Islamic groups was again virulent and the Palestinian authorities used this opposition and the difficulties associated with the occupation and the conflict with Israel as pretence not to register the demands of the women's movement. Therefore, ironically, although the women's rights movement was initially rooted in the national liberation movement, it is currently being challenged by the preponderance of the national liberation struggle.⁹⁰

The Israeli occupation also has a direct and extremely negative effect on the Palestinian women's movement's ability to implement its programs, mobilise and grow. Due to restrictions on freedom of movement, members of women's rights organisations have extreme difficulty travelling between and even within Gaza and the West Bank. Furthermore, due to severe international travel restrictions, Palestinian women have great difficulty participating in regional and international conferences that are critical for their training and ability to disseminate information about the status of women in the Palestinian Occupied Territories and under the Palestinian Authority. Yet, despite these difficulties women are continuing their struggle to defend women's rights.⁹¹

2.1.2 Networks Promoting Women's Rights in the MENA Region

Since the beginning of the 1990s, aiming to improve the effectiveness of their work,

women's rights organisations have started to look beyond their national frontiers to develop regional and international solidarities, and to use United Nations legal instruments to disseminate information about discrimination and violence against women.

The Maghreb Equality 95 Collective (Le Collectif 95 Maghreb Egalité), set up in 1991/1992 and still in existence today, was the first network of independent women's rights associations created in the region. Despite the difficulties associated with the political situation in Algeria and Tunisia, the Maghreb Equality 95 Collective has been able to continue to grow, in part because of its flexible organisational structure and its decision making procedures built on consensus. Its action plan for 2001-2006 includes writing parallel reports to the CEDAW on Algeria and Tunisia's compliance with the convention, as well as a comprehensive study on Maghreb societies' acceptance of values of equality.⁹²

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Aisha, another prominent network in the region, established in 1993, is comprised of independent women's organisations from Algeria, Egypt, Jordan, Lebanon, Morocco, Palestine, Sudan, and Tunisia. While some women's networks have predominantly been internationally oriented, *Aisha* has focused on developing a regional feminist agenda which challenges discriminatory laws and practices while being attuned to the unique experiences of Arab women. The network has worked on monitoring Arab countries' compliance with their international obligations; documenting abuses against women; supporting the independence of women's rights organisations from

governments and political parties; mobilising for women's rights campaigns; supporting the establishment of women in decision-making positions; and examining the representation of women and girls in textbooks and in the media.

The *Court of Arab Women* (Le Tribunal des Femmes Arabes) was established in 1996 in Lebanon by NGOs from several Arab countries. It works to fight violence against women in both legislation and in practice and aims to take the problem of violence against women out of the private sphere and bring it into the public sphere. The network has also pressured governments in the region to take measures to protect and support women survivors of violence. In 1999 the Court of Arab Women launched a campaign calling for gender equality, especially in access to divorce.

Sisterhood is Global Institute (SIGI) was established in Jordan in 1998. The Institute is the first technology and communication training centre in the region, providing courses on the use of computers and the Internet for research and advocacy on women's human rights, as well as training in basic interactive teaching and learning skills. The Institute recently launched its website: www.amanjordan.org as well as a resource centre on violence against women.

The *Maghreb/Mashrek Network for Information and Training On Gender* (Réseau Maghreb/Machreq d'Information et de Formation sur le Genre) unites Egypt, Lebanon, Morocco, Syria, Tunisia, Yemen, and, very recently, Algeria. Established in 2000, this network provides a forum for debate, learning, and exchange of information on women, gender, and development. In March 2002 the network launched a regional campaign on nationality laws and the right of women who are married to foreigners to transfer their nationality to their children.

Other networks function unofficially in the region such as the centres for legal aid and counselling for survivors of violence against women in the Maghreb countries, which meet regularly to exchange ideas and consolidate their experiences in listening to and helping women victims of violence.

Electronic networks have also sprung up over recent years, facilitated by modern

communication. Electronic networks have been developed in the Mashreq in particular; though the Maghreb is not as well advanced in this area due partially to poorer technological infrastructures (especially in Algeria) and to stricter State controls on communication (as in Tunisia).

With their civic commitment, activists promoting the human rights of women are involved in an ongoing fight for the democratisation of their respective societies. In addition to the difficulties of maintaining human and material support for their projects, gaining and preserving independence both in their work and in their actual organisations is a daily struggle for women's rights organisations in the region.

2.2 The Response of the State and Non-State Actors to Gender Equality Initiatives

With its demands for gender equality in both the public and private spheres, rooted in a human rights and democratic dialogue, the women's rights movement threatens to essentially alter the established political, social, and cultural power structures in society.

Due to its powerful message in regard to the elimination of discrimination and violence against women, the women's rights movement has both been targeted for co-optation by the State's political elites, as well as for vehement opposition by non-State actors, particularly Islamist groups.⁹³

2.2.1 The Response of States

Governments in the region, in their vehement attempt to control all aspects and functions of the State, have adopted various methods to hamper, if not completely halt, autonomous forms of civic expression, particularly by independent non-governmental organisations.

In several MENA countries, States have used legislation on public and associative freedoms to limit, curb or exercise total control over civic initiatives. In Syria, Lebanon and Egypt, for example, instead of simply having to declare their existence as in more open countries, civic organisations require government authorisation in order to be

registered – a process that can drag on for years. In Tunisia, NGOs are classified according to their activities and objectives as stipulated in law 1992 on association,⁹⁴ in Syria, according to the Private Association and Institutions Act no. 93 the (official) Union of Syrian women is stated to represent all Syrian women and therefore it is forbidden to set up any new women's rights associations. Therefore, by using a variety of legislation and deciding which organisations will be able to operate legally, the governments in these States can control not only the actors and the nature of the activities of civil society.

In a further example of the use of legislation to repress civic activity, in Egypt, the State passed in 1999 the law on Non-Governmental Organisations (Law 153, also known as the Law on Civil Associations and Institutions). The law particularly restricts the independence of NGOs by requiring foreign funding to be approved by the State. Law 153 was declared unconstitutional by the Supreme Constitutional Court in June 2000 and replaced by a new NGO law in June 2002, however, the restrictions have remained.

As a further regime survival strategy, governments will grant small concessions to Islamists and other conservative groups in society in order to co-opt these powerful political interests. By accommodating some of their demands, the governing regime is able to placate these groups without actually conceding its grip on power.

However, often the demands of the Islamists and other conservative groups have a direct and negative effect on women and the women's rights movement, and when the government bargains with these groups women and women's rights organisations are made to suffer the consequences of the regime's survival strategy. Since the women's rights movement in the region is not as strong politically and thus not as threatening as are Islamist movements, governments often prefer to bargain with the Islamist groups to retain political control.

For example, despite mobilisation by women's rights and liberal groups for the adoption of a progressive Family Code in 1984, the Algerian government adopted a code that bore the hallmark of social conservatism instead of equality for all

citizens in society. The Code allowed men to be legally empowered over women and was perceived by many as a gesture by the State to appease religious leaders. In the following decade, different governments all put the revision of the PSC on the agenda on a regular basis in order to assure the support of democrats and women's rights groups, however, a revision was never implemented because of the governments' fear that changes to the PSC would turn the Islamists against them. In 1997, the head of government set up an inter-ministerial commission, which proposed amendments to the Code that were submitted to parliament. In 2002, further proposals for reform of the PSC were put forward. However, to this day, the draft amendments have not made any progress.⁹⁵

... the (official) Union of Syrian women is stated to represent all Syrian women and therefore it is forbidden to set up any new women's rights associations.

In another example, in Morocco, during debates around the Plan for the Integration of Women in Development⁹⁶ (1999/2000), the El-Yousoufi government ultimately abandoned the feminist and human rights organisations with which it had collaborated to create the Plan. The government did so in order to avoid a politically costly conflict with the official Islamic movement (Party of Justice and Development), which otherwise supported the El-Yousoufi government and had significant political power and constituency.

Governments in the region also use government-controlled commissions, committees or organisations presenting themselves as autonomous NGOs or networks – so-called Government Organised Non-Governmental Organisations (GONGOs) – to control independent civic expression. GONGOs can be found operating within and obstructing the women's rights movement in

all the MENA countries. For example, the Egyptian government created the National Women's Committee (*Majliss*) just preceding the Beijing Conference (1995), aiming to control and monitor all the initiatives demanding equality and promoting women's rights. In Egypt, Jordan, Tunisia, Syria and Lebanon, autonomous women's NGOs have much difficulty existing and carrying out independent projects and activities, while GONGOs receive political and financial support that allow them to expand their activities. Aside from receiving financial support from the State, funds are further aggregated in GONGOs: as financiers tend to favour organisations presenting themselves as national networks (for example, uniting the whole women's movement), as GONGOs often claim to do. Certain States and financing institutions will only dispense funds to organisations that are acknowledged by the State, while autonomous NGOs sometimes are unable to gain official acknowledgement.

In an interesting twist on GONGOs, some well-connected women's rights organisations, national associations or commissions manage to gain official patronage by first ladies, princesses or other figureheads tightly linked with the political powers or monarchies. By having official patronage that is limited to a symbolic capacity, some of these organisations are able to work without State interference due to the internal conflicts and embarrassment it would cause the government to shut down a State or royally-supported organisation.

However, in the aftermath of September 11th, States have intensified the crack down on human rights activists, further restricting freedom of expression and association and thus further challenging women's rights organisations' fight against discrimination and violence.

2.2.2 The Response of Non-State Actors

Along with the "universalist" feminists described above, and which this report focuses on, part of the women's movement in the region includes the Islamists, or, what is increasingly being termed "Islamic feminism". Throughout the region various Islamist groups view international legal instruments,

particularly CEDAW and the Beijing Platform for Action, as tools of a vast conspiracy concocted by the West against Islam and the Arab countries. According to these groups, Zionists and Imperialists, using the guise of universalism and modernism, seek to destroy the Arab/Islamic identity in order for the West to establish domination over Islamic countries and exploit their resources.⁹⁷

For some Islamists, women from the women's rights movement are traitors that have been corrupted by the West.

These Islamist groups further argue that the United Nations' definition of equality, as expressed in the Universal Declaration of Human Rights and as championed by universalist women's rights activists, does not take into account the notion of 'fairness,' which, they argue, respects the differences between and inherently complementary nature of men and women and their corresponding roles. Therefore, while Islamists call for equal rights for women in education, employment, and political participation, these calls remain within a religious framework that preserves the traditional gendered division of labour between men and women.⁹⁸

As such, the Islamist groups are fiercely opposed to the women's rights movement, which uses universal human rights and international legal arguments to fight for the attainment of equality for women in society. For some Islamists, women from the women's rights movement are traitors that have been corrupted by the West. They disparage women's activists religious beliefs and morals, accusing them, for example, of misappropriating funds from donors for personal gain. In the most extreme cases, legal proceedings are taken against women's activists, as in the case of Toujan Faisal,⁹⁹ a former Jordanian Member of Parliament and Nawal Saadawi from Egypt who was recently tried in court on a charge of apostasy brought by an individual allegedly linked to an Islamist group.¹⁰⁰

Since many Islamist groups present their arguments from an Arab-Muslim' cultural and religious standpoint, their arguments are perceived internationally and regionally as somehow being more authentic, and more in tune with the tradition and culture of the MENA countries.¹⁰¹ Therefore, the Islamists gain legitimacy and public support by claiming that the situation of women in the MENA countries relates to religious norms and cultural traditions, while the women's rights movement's promotion of freedom and equality for women is perceived to be wholly outside Arab-Muslim' cultural traditions.

The Islamist's argument contradicts the core of the women's rights movement. Universal human rights obligations provide the legal basis for the promotion and protection of women's basic rights, and the principles expressed in the Universal Declaration form the foundation that legitimise the women's movement. Thus, to argue for the notion of 'fairness' over equality is to argue for maintaining the power structure that oppresses women and not addressing the root causes of gender inequality.

In reaction to this cultural-religious argument, certain feminist groups and individuals¹⁰² have turned to the Qur'an and the Hadith, giving these founding religious texts a progressive interpretation and a historical reading to support their arguments for equality and their denunciations of patriarchy. However, there is no clear consensus among feminists from the MENA region on the best strategy to advance women's rights, particularly concerning the above strategy of using the religious texts to counter the conservatives and the Islamist groups. The debate on feminism in the MENA region and the best strategy to achieve women's rights is vigorous and alive among academics and activists alike.¹⁰³

The suppression of and the clash with the women's rights movement by State and non-State actors alike exists in stark juxtaposition with the region's push for political and economic modernisation. Neither States nor non-State actors are willing to relinquish their grip on power and adopt economic, legal, and social changes required to achieve full rights for women in society.

Part II: Summary

As the women's rights movement works within the framework of universal human rights and international legal obligations, civic initiatives promoting gender equality in the region tend to be closely linked to the human rights and democracy movements that are also active in the region.

Various women's rights organisations are active across the Maghreb and the Mashrek, and in the last decade such organisations have developed regional women's networks, creating solidarity in and increasing the effectiveness of the movement.

However, women's rights activists face opposition both from State and non-State actors. States in the region, seeking to control civil society, have used various methods to hamper the work of independent non-governmental organisations, including repressive legislation, accommodation of conservative and Islamist interests, and the creation of Government Operated Non-Governmental Organisations (GONGOS).

Non-State Actors, particularly Islamist groups, also oppose the work of women's rights organisations. Such groups claim that feminists using universal human rights standards and international legal norms to advance women's rights fail to recognise the inherent differences between men and women.

Thus, while the women's rights movement is active across the region, it must work facing the serious challenges posed by State and non-State interests.

Footnotes

- ⁷⁹ See Section I of this report.
- ⁸⁰ See Collectif 95 Maghreb Egalité: Violations flagrantes des droits et violences à l'égard des femmes au Maghreb, Annual Report 1996/97.
- ⁸¹ Badran, M., 1993, 'Independent women: More than a century of feminism in Egypt', in Judith Tucker (ed.): *Arab Women: Old Boundaries, New Frontiers*.
- ⁸² See Section 2.2.2 of this report.
- ⁸³ Badran, M, 1991, 'Competing agenda: feminists, Islam and the state in 19th and 20th century Egypt,' in Kandiyoti, Deniz. (ed): *Women, Islam and the State*, Macmillan, London.
- ⁸⁴ Jihan Sadat, the wife of president Anwar Sadat (president of Egypt from 1970-1981), attempted to bring about Personal Status reform in Egypt in 1979. However, this reform was short-lived because the law was declared unconstitutional (on procedural grounds) by the Supreme Constitutional Court in 1985.
- ⁸⁵ See Section 1.1 of this report.
- ⁸⁶ For further information on the women's movement in Israel, see Swirsky, B., Safir, M.,(eds.) 1991: *Calling the Equality Bluff: Women in Israel*, New York, Pergamon Press.
- ⁸⁷ For more information on the Jordan women's movement, see 'Amawi, A., 2001: *Against All Odds: Jordanian Women, Elections and Political Empowerment*, Al-Kutbah Institute of Human Development and Konrad Adenauer Foundation.
- ⁸⁸ For further information on the women's movement in Lebanon, see Shahadeh, L.R., 1999: *Women and War in Lebanon*, University Press of Florida.
- ⁸⁹ See Appendix VII for more information on this network and other networks in the MENA region.
- ⁹⁰ For further information, see Labadi, F., Johnson, P., Hammami, R., Welchmann, L.: *Islamic Family Law and the Transition to Palestinian Statehood: Constraints and Opportunities for Legal Reform*, at <http://www.law.emory.edu/IFL/index2.html>
- ⁹¹ For further information, see the Report on the Status of Palestinian Women according to CEDAW, published in Arabic in 2001 by the Women's Center for Legal Aid and Counselling and the United Nations Development Program.
- ⁹² For more information on the Collectif 95 Maghreb Égalité, see http://www.cospe.it/retedonne/Associazioni/col_rabat.htm
- ⁹³ In this report, Islamist is used to refer to certain political activist groups whose primary wish is to govern and be governed only by Islamic principles as they define them. However, these groups are very diverse; while some see in Islam a monolithic religious-political construct to countervail competing Western ideologies, others include political activists being engaged in modernist interpretations of Islamic scripture and the Shari'a. (See Afsaruddin, Asma (ed), 1999: *Hermeneutics and Honor: Negotiating Female "Public" Space in Islamic Societies*.)
- ⁹⁴ See Chekir, H.: *Le statut des femmes entre les textes et les résistances, Le cas de la Tunisie*, Ed. Chama, Tunis.
- ⁹⁵ For further information, see Lazreg, M, 1994: *The Eloquence of Silence. Algerian Women in Question*. London, Routledge.
- ⁹⁶ The Action Plan for the Integration of Women in Development is a strategy plan worked out by the Moroccan government in 1998 in partnership with feminist and human rights organisations. It has been the subject of unprecedented debate in Morocco, polarising progressive and modernising movements on the one side and conservative and Islamic movements on the other.
- ⁹⁷ Naciri, R, *Les Femmes Arabes et l'Intersection entre Patriarcat, Racismes et Intolérance*. Communication to the UNIFEM panel, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, Sept 2001.
- ⁹⁸ In Morocco, the spokesperson for the Islamic movement (Al Adl Wa Ihsane) and the daughter of the leader of the movement call for a reading of women's rights within a Muslim frame of reference.
- ⁹⁹ Following the publication on an Internet site of an open letter to the prime minister, accusing him of having profited financially from the decision to double the insurance tariff for cars, Toujan Faisal was arrested on 29 March 2002, and sentenced by the State Security Court to eighteen months in prison, the maximum legal penalty. In June 2002. Faisal staged a hunger strike and was finally released on humanitarian grounds after appeals by several human rights organisations.
- ¹⁰⁰ Now aged 70, Nawal Saadawi is an Egyptian psychiatrist and feminist writer well known for her national and international commitment to the defence of women's fundamental rights. In April 2001 an Islamic lawyer took her to court demanding that her marriage be annulled for heresy, which entailed apostasy. In 2002, a judgement was delivered in her favour ruling there were no grounds for prosecution. For further information, see http://news.bbc.co.uk/2/hi/middle_east/1430497.stm
- ¹⁰¹ Naciri, R., 2001, *Les Femmes Arabes et l'Intersection entre Patriarcat, Racismes et Intolérance*, *ibid*.
- ¹⁰² See e.g. Mernissi, F., 1991: *Women and Islam: An Historical and Theological Enquiry*, Basil Blackwell, Oxford; and Ahmed, L., 1992, *Women and Gender in Islam: Historical Roots of a Modern Debate*, Yale University Press;
- ¹⁰³ For further information, see Lucas, M.H., *Stratégies des femmes et des mouvements de femmes dans le Monde Musulman par Rapport aux fondamentalismes de l'Entrisme à l'Internationalisme*, Women Living Under Muslim Laws, Document no 2, 1990; Kandiyoti, D. (ed), 1991, *Women, Islam and the State*, Macmillan, London; Kandiyoti, D., 1991, 'Islam and patriarchy: a comparative perspective, in Keddie, N. and Baron, B. (eds): *Women in Middle Eastern History: Shifting Boundaries in Sex and Gender*, Yale University Press; Women Living Under Muslim Laws, 1991, Dossier 7/8, Badran, M., 1991, 'Competing agenda: feminists, Islam and the state in 19th and 20th century Egypt,' in Kandiyoti, D. (ed), 1991, *Women, Islam and the State*, Macmillan, London.

Part III

Women's Rights in the Euro-Mediterranean Partnership Process

In November 1995 in Barcelona, the Foreign Affairs Ministers of the 15 EU countries and the 12 Mediterranean Partner countries gathered for the Euro-Mediterranean Ministerial Conference and officially launched the Euro-Mediterranean Partnership (EMP). At the Barcelona Conference, each of the 27 countries adopted the Barcelona Declaration as well as the process of setting up bilateral Association Agreements between the single Mediterranean Partner countries and the EU. With the Barcelona Declaration, each of the signatories agreed to the three baskets of the Partnership: the Political and Security Partnership, the Economic and Financial Partnership and the Social, Cultural and Human Partnership. They furthermore committed themselves to 'act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law, in particular those arising out of regional and international instruments to which they are party.' This commitment to respect human rights is repeated in Article 2 of the Association Agreement.

Women's rights activists and organisations in the MENA region that had closely followed the process of establishing the EMP welcomed the Partnership's potential in promoting women's rights. However, the establishment of the political, institutional and financial instruments of the EMP at the Barcelona Conference took place without representation of women's interests and without significant participation of women - particularly women from the southern shore of the Mediterranean. This lack of

representation of women at the foundation of the EMP is, in turn, reflected in the lack of representation of women's issues within both the Declaration and within the Association Agreements.

Seven years since the establishment of the EMP, the overwhelming majority of feminists and women's rights organisations are still not involved in the Partnership and have witnessed very little progress in the incorporation of women's rights into the EMP. Yet, many of these same feminists and women's rights organisations regard the Partnership as a way to open up their respective societies to universal human rights values, which encompass women's rights, as a basis for building a just democratic society.

3.1 The Neglect of Women's Rights in the Implementation of the Euro-Mediterranean Partnership

The implementation of the Partnership, as well as dialogue within the Partnership, takes place on a multilateral and a bilateral level. On the multilateral level, the EMP promotes regional co-operation between the EU and all 27 signatory States on a variety of issues, based on the Barcelona Declaration.

Multilateral cooperation on women's issues, as defined in the Barcelona Declaration, is weak. The only reference to women in the Barcelona Declaration occurs in basket II, relating to economic and financial co-operation, whereby the participants recognised

'the key role of women in development, and undertake to promote their active

participation in economic and social life and creation of employment.'

By marginally referring to women, and solely within an economic and financial context, the EMP Partners failed to acknowledge that women's rights are indivisible from human rights and democratisation. Instead, reference to women is 'added on,' and the status of women is treated as an isolated social issue, like poverty, illiteracy, training or job creation.

The Association Agreements, which form the bilateral level of cooperation between the individual Partner States and the EU, also fail to address women's rights in the context of human rights and democracy. While the Association Agreements, which mainly deal with trade arrangements and liberalisation, contain a general human rights clause specifying that respect for democratic principles and basic human rights is an 'essential element' of the agreements, there is no specific mention of respect for women's rights within this clause.

This negligible mention of women's rights remains a far cry from the objective of gender mainstreaming¹⁰⁴ to which the European Union and EMP Partner States have already committed themselves. Specifically, the lack of gender mainstreaming within the EMP contradicts EU policies, and also contravenes EMP Member States' obligations according to international law.

The EU has committed itself to gender mainstreaming in several areas, including in development cooperation, as stipulated in several key EU documents.¹⁰⁵ Moreover, the Council of Ministers decided that each Presidency should integrate gender and equality issues in at least two Councils aside from the Employment and Social Affairs Council, which is normally charged with the issue of gender. (This commitment introduced by the Council of Ministers was implemented for the first time under the French Presidency during the second half of 2000, followed by the Swedish Presidency during the first half of 2001.)

The neglect of women in the EMP also contravenes EMP Partner States' international obligations. According to the Beijing Declaration,¹⁰⁶ the EU and the Partner States which have already adopted the

Declaration, have a positive obligation to include a gendered analysis into the design, implementation, monitoring and evaluation of all policies and programmes to ensure that they aim to, and in practice achieve, outcomes that are non-discriminatory and work towards gender equality generally.

This negligible mention of women's rights remains a far cry from the objective of gender mainstreaming to which the European Union and EMP Partner States have already committed themselves.

Each Partner has also adopted the Charter of the United Nations and the Universal Declaration of Human Rights, both of which condemn discrimination on the basis of gender. Furthermore, the Barcelona Declaration itself stipulates that signatories must act in accordance with the Charter and the Universal Declaration, develop the rule of law and democracy in their political systems, respect human rights and fundamental freedoms.

Therefore, despite the scant mention of women's rights in founding documents of the EMP, the EU and Partner States are obligated not only to adopt gender mainstreaming, but also to lift their reservations to the CEDAW treaty in order to ensure equality.¹⁰⁷

3.1.1 A few Initiatives to Promote Women's Rights in the EMP

Some limited positive initiatives to integrate women's rights in the EMP have taken place over the last years. After a recommendation by the Euro-Mediterranean Foreign Affairs Ministers Meeting in November 2001 to take into account the principles of equal opportunities in all areas of the Partnership, the topic of equal opportunities was for the first time inscribed on the agenda of the EU-Morocco Association Committee in March

2002. The EU and Morocco agreed to integrate equal opportunities and the specific needs of women into the EU-Morocco dialogue in all aspects of their co-operation, including MEDA¹⁰⁸ projects. It would be a very positive step if this initiative became standard with all the Mediterranean countries that have signed Association Agreements with the EU.

The Belgian Presidency in 2001 played an important role in highlighting the issue of women's rights in the Partnership beyond the economic sphere. The Belgian Presidency stressed that a gender mainstreaming approach must be integrated into all three baskets of the Euro-Mediterranean Partnership by stating

'the necessity of all three baskets of the EMP to develop an approach formulated along the lines of gender and equality'.¹⁰⁹

Gender mainstreaming within bilateral co-operation in the EMP was also stressed. Under the Belgian Presidency the European Commission was asked to evaluate the Euro-Mediterranean Partnership programmes from the point of view of equality in order to measure the extent to which they involve women's projects and the effect the undertaken activities have had on women's lives – that is, to take a gender mainstreaming analysis of the EMP programmes.

The Belgian Presidency also presented the first Euro-Med Regional Programme on Enhancing the Role of Women in Economic Life. This regional programme was approved at the November 2001 Euro-Mediterranean Foreign Affairs Ministers Meeting and is to be implemented by the European Commission through the MEDA programmes starting in 2004. The European Commission also finances a few women's rights programmes and projects on the bilateral level.

The European Parliament has also highlighted women's rights and gender discrimination in the MENA region by adopting in 2002 a report on women's rights and equal opportunities in Mediterranean countries that clearly asserted women's fundamental and civil rights and addressed in particular the issue of discrimination against women in the Personal Status Code.¹¹⁰ The Parliament asked the

European Commission to follow up on the recommendations of the report.

The European Parliament further asked the European Commission to carry out a gender evaluation of the different programmes initiated within the Partnership, with the aim of evaluating the extent to which women's rights projects were integrated in activities as a whole.¹¹¹

Another initiative took place in 1999 with the establishment of the Euro-Mediterranean Forum of women parliamentarians. The Forum has since called for the creation of a specific working group on women's rights under the general Euro-Mediterranean Parliamentary Forum. The third meeting of the Euro-Med forum of women parliamentarians took place in Madrid in October 2002.¹¹²

3.1.2 An Evaluation of Gender Mainstreaming in the EMP

Despite the few positive steps outlined above, a reluctance to mainstream women's rights into the EMP still permeates the political dialogue between the EMP Partners and within the EMP bodies.

While the EU commitment to gender mainstreaming and the few timid initiatives within the EMP to promote women's rights are positive first steps that should be encouraged, these commitments and initiatives must be implemented if they are not to amount to empty promises. If the European Union wants to advance women's rights in its work and fundamentally amend discrimination against women, the EU needs to commit the necessary political and material resources to implement its commitments.

Since the Barcelona Conference, Foreign Affairs Ministers from the 27 partner countries have periodically met - in Malta (1997), Palermo (1998 informal meeting), Stuttgart (1999), Lisbon (2000, informal meeting), Brussels (2001), and in Valencia (2002). In addition, several sector-based ministerial meetings have taken place. However, the issue of integrating women's rights into the EMP has only occasionally been addressed during these meetings, and only ever in relation to co-operation in the social and economic sphere.

While the November 2001 Euro-Mediterranean Ministerial meeting approved the Euro-Med Regional Programme on Enhancing the Role of Women in Economic Life, participants emphasised the need to implement the programme with *respect for religious and cultural values*. This added reservation contradicts the Beijing Declaration – which all Partner States have adopted – which stipulates that, while it is advisable not to lose sight of the importance of national and regional differences and historical, cultural and religious diversity, it is the duty of States, whatever their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms. Thus, while the regional programme will address (one) relevant area of women's lives, it will not challenge the 'religious and cultural' structures that propagate gender inequality.

In a further example of reluctance to challenge the status quo, in a speech at the Regional Euro-Mediterranean Forum on the role of women in economic development Louis Michel, Deputy Prime Minister and Belgian Foreign Affairs Minister, spoke of the need *'not to aim too high, and not to aim too low. Proposals must be in line with what society understands and accepts.'*¹¹³

According to this 'cultural and religious' explanation for not dealing with women's rights more forcefully in the EMP, women's rights constitute a cultural or religious matter and thus are a domestic issue that should be dealt with internally.

Ultimately, however, by invoking cultural and religious constraints, policy-makers from the North and South Mediterranean countries are providing excuses for not addressing gender inequality. As a result the underpinning ideas and practices that cause women's subordinate status in society remain unchallenged. Yet, in Morocco, for instance, more women – including older women – than men are demanding to learn to read and write, providing one example that poverty, and lack of political will and opportunity prevent progress, not cultural and traditional norms.

Also, some of the political and economic reforms prescribed by the EMP have negative effects on women's rights in the MENA region; however, by using the excuse of

respecting 'cultural and religious' values different countries on both sides of the Mediterranean continue to advance their political and economic interests at the expense of women. Therefore, the sensitivity surrounding the issue of women's rights is being used as a pretext to view women not as citizens in their own right but as belonging to the private sphere.

... by invoking cultural and religious constraints, policy-makers from the North and South Mediterranean countries are providing excuses for not addressing gender inequality

As a result, those projects which have been created within the EMP to promote women's rights are conceptualised on a small scale seeking to bring only specific and limited solutions to particular problems, and in areas that are seen as being particularly female, such as literacy, hygiene, housekeeping, agriculture, and income generating activities. Any initiatives to promote women's rights within the EMP should be grounded in a concerted attempt to correct the fundamental social structures that perpetuate discrimination and violence against women, or which prevent women from realising all their fundamental human rights.

Women's projects generally, in lieu of gender mainstreaming, have particularly stressed women's economic role. However, this approach fails to appreciate that women already participate extensively in their countries' economies and to call for an increase in their participation would serve mostly to increase their already numerous domestic responsibilities. In addition, such projects often target women entrepreneurs as their beneficiaries, who are not necessarily the neediest women.

Furthermore, insisting solely on income generating projects and micro-enterprise

often imposes more work on the poorest women in society, who are already responsible largely, if not entirely, for household maintenance and child rearing. Even when women manage to overcome obstacles to participate in such projects or programmes, they are vulnerable to having their gains exploited by their male relatives or intermediaries due to their limited legal rights, lack of independence, and social rules regarding access to their income and control over their property.

The problem is not that women do not participate enough in the economy, but that their contributions are usually within the private sphere, where their contributions are not fully or officially recognised. Numerous legal and political constraints prevent women from controlling and valuing their own contributions and by looking into the private sphere one can begin to understand what causes the exclusion, sometimes self-imposed, of women from professional activities and decision-making in the public sphere. Women are unable to participate fully in public life because laws and relations that regulate the private sphere are based on a structure that demand their obedience and maintain their subordination. This as a result, significantly limits their individual and collective choices.

Thus, in crafting policy, gender is often not properly taken into account. It is often assumed that policies and programmes are 'neutral' and will automatically and equitably benefit women as much as men. Furthermore, it is also assumed that programmes specifically targeted at women will be readily accessible to women. Yet this is not always the case, given that men and women face different opportunities and constraints. Development policies and programmes have not intentionally been created just to benefit men or to be difficult for women to access, but when formulated without statistics or knowledge about the context of the intended beneficiaries, they tend to benefit mostly those social groups with the capacity to seize such opportunities - in practice often giving men an advantage. The services and incentives provided by 'gender neutral' programmes, such as credit, access to markets, and training, being often less available to women than men, may even further increase the already existing inequalities. Therefore, decision-makers must

go beyond the mere provision of services, equipment and infrastructure and from a gendered perspective assess local capacities and needs to ensure that programmes are truly benefiting the target group equitably.

Gender mainstreaming in all of the EMP initiatives will remain limited as long as the underlying social discrimination against women remains unchallenged. Therefore there is a need to go beyond isolated and limited gender initiatives and for the EU and its Partner States to commit the political will necessary to improve women's status. This entails integrating gender mainstreaming into all EU and EMP policies, programmes, and projects while at the same time putting in place affirmative action and specific programs targeted at women.

... in crafting policy, gender is often not properly taken into account. It is often assumed that policies and programmes are 'neutral' and will automatically and equitably benefit women as much as men.

Lack of Attention to Gender Dynamics in the MENA Region

The lack of attention paid to the differences between men and women's roles, interests, needs and statuses in planning Partnership programmes results in a partial and sometimes mistaken view of women's lives in the MENA countries.

Very few studies or statistics are available in the framework of the EMP on women in the MENA region seven years after the birth of the Partnership process. Instead, stereotypes portraying women from the Southern shore of the Mediterranean as being uniform and resigned to their situations continue to persist. The abilities and expertise of women from the South remain uninvestigated and

unused and as a result, women are scarcely involved in the development and follow-up of the Partnership's programmes and projects.

Furthermore, the European Commission's communications and the annual MEDA reports on the Partnership have not yet succeeded in integrating any evaluation of women's rights at the bilateral or at the multilateral level, due both to the lack of statistics about women (gender indicators), as well as to the lack of procedures for gender analysis.¹¹⁴ This absence of a gendered analysis prevents an understanding of the effects and effectiveness of the MEDA programmes, including those specifically aimed at supporting women in economic and social activity.

The integration of more qualitative and quantitative studies on women in the MENA is needed in order to establish a more dynamic picture of the socio-economic and political contexts in which women in the region lead their lives. Such studies should utilise the expertise of researchers and women's rights NGOs in the MENA region, and they should be widely used and disseminated in order to evaluate - and change - EMP policies and programmes dealing with gender inequality.

Integrating a gendered perspective into development programmes will require more than a simple breaking down of statistics by sex; it requires that the concepts, definitions, classifications and methodologies used for collecting information be able to translate the diversity of what is actually being experienced on the ground. It also entails developing new indicators capable of responding to questions such as how to eliminate domestic violence, influence decision-making, and affect a re-division of resources between different household members.

The gender-mainstreaming approach, supported by greater knowledge and statistics concerning women and gender, would help shed light in a dynamic way on women's opportunities and constraints. It also would expose the systematic exclusion of women in society by different individuals and groups using varying rules and norms. When macro-economic policies - notably structural adjustment and trade policies - are worked

out and implemented, special emphasis should be given to their impact on men and women. In addition, special emphasis should be given to the interdependence between the roles of men and women in production as well as reproduction, access to opportunities and control of resources.

Integrating a gendered perspective into development programmes will require more than a simple breaking down of statistics by sex

Evaluation of EU Funding for Women's Rights Projects in the MENA Region

The EU established the MEDA I and MEDA II programmes¹¹⁵ in order to implement the bilateral and multilateral levels of co-operation in the EMP. The MEDA programmes are the principle financial instruments of the European Union responsible for distributing bilateral and regional grants supporting implementation of the Association Agreements and the Barcelona Declaration, respectively. MEDA I (from 1995-1999) concentrated on four areas: structural adjustment (9% of total budget), economic transition and private sector development (38%), classic development projects (42%) and regional programmes (11%).¹¹⁶ It was followed by MEDA II (from 2000-2006) which covers approximately the same priority areas,¹¹⁷ which are outlined and defined in regional and national strategy papers and indicative programmes.¹¹⁸

As a result of the scant mention of women in the Barcelona Declaration and Association Agreements, women's rights projects have not been well funded through the MEDA programmes. Although both MEDA I and MEDA II have allocated funds for specific projects to promote women's rights, these projects have always been limited to the social and economic spheres; and even then the funding has not been secure. Furthermore, to this day the MEDA programmes have not funded and successfully implemented a single regional



A regional workshop on Violence against Women, 20-22 October 2001 (SIGI).

programme based exclusively on women's rights.

While the MEDA regional programme on Enhancing the Role of Women in Economic Life, which is expected to start in 2004, is a positive step that should be welcomed, it only targets women in economic life and the amount allocated is very low (only €5 million). The terms of reference of this programme should be broadly designed to allow for a wide range of projects to be included. Moreover it should be followed and complemented by further more ambitious programmes.

In 2001 the worldwide European Initiative for Democracy and Human rights (EIDHR)¹¹⁹ replaced the regional programme MEDA-Democracy, which was set up in 1996 to support and complete the political dialogue and co-operation in the EMP basket on democracy and human rights. The EIDHR programme has prioritised certain countries in the region (Algeria, Israel, Palestine, Tunisia and Turkey) as well as certain themes, such as the reinforcement of democratisation, good governance and the rule of law.¹²⁰ Discrimination and violence against women in the MENA region were not identified as priority themes within the EIDHR programme.

Projects submitted for funding from the EIDHR have to indicate the extent to which they integrate women. EIDHR has also made several attempts over the past few years to integrate gender issues into its projects. However, whether projects integrate gender issues or not is not a criteria for deciding which projects are selected.¹²¹

Funding opportunities for women's rights projects are limited for several reasons. First of all, EIDHR funding is large-project-oriented and therefore inflexible and inaccessible for many south-based women's organisations. In addition, funds must be used for specific projects and rarely can be used simply to build the capacities of the organisation in terms of, for example, staffing, equipment or training. And, while the EIDHR recently introduced Micro Project Schemes, which should become functional in 2003, only three countries in the MENA region – Algeria, Tunisia and Turkey – are among the 15 EIDHR focus countries for 2002-2004. Furthermore, given the many constraints against them, women's rights organisations – particularly south-based ones – often are institutionally weak and lack information on EU procedures and structures, making any EU funding difficult to access. In addition to the lack of MEDA and EIDHR funding, none of the loans allocated for Partner States through the European Investment Bank (1996-2000)¹²² have funded women's projects.

3.2 Civil Society Initiatives to Promote Women's Rights in the MENA

The Barcelona Process opened up a debate on economics as well as on citizenship, democracy, and human rights in the MENA region. As a result, various citizens' networks have sprung up some of which have benefited from the MEDA- Democracy programme and other EMP budget headings.

One such network is the Euro-Mediterranean Human Rights Network (EMHRN)¹²³ that comprises approximately 70 human rights NGOs and individual experts and activists in the EU and MENA countries. Women's rights are among its key thematic priorities.

Another such network is coordinated by the Mediterranean Institute (Istituto per il Mediterraneo, IMED, Italy)¹²⁴ that includes associations and unions in Algeria, Morocco, and Tunisia. The IMED project started as an informal network carrying out studies on the citizens' rights of women on both sides of the Mediterranean and has now established the project 'Positive Action for the Citizens' Rights of Women and Equal Opportunities in the Maghreb Countries (2001-2004),

supported by the European Commission.

However, not all initiatives have endured; some network initiatives have been set up and then aborted and others still need to show their viability. Generally, the major NGO networks in Europe are not engaged in the south Mediterranean, and Southern NGOs, lacking knowledge about EU funding as well as experience in international cooperation, have sometimes been confined to carrying out projects initiated and submitted for funding by NGOs in the North that deal with the region. Furthermore, the women's rights movement in the MENA is generally not well informed about the Barcelona Process.¹²⁵ Also, NGOs are sometimes limited in their ability to gain funding for joint projects, as lack of democracy in certain MENA countries, combined with legislation regulating funding, gives some States control over all financial dealings with foreign donor agencies.

While EU delegations placed in the MENA countries could play an important role in strengthening the capacities of women's rights NGOs and their involvement in the EMP, they are not always financially, logistically or diplomatically equipped to support NGOs which are often subjected to harassment from their respective governments. Such was the case with the Women's Citizens' Rights Centre in Tunisia (Attanassouf), which was funded by the European Commission through the EIDHR but did not receive any assistance in the field from the local EU delegation when pressured by the Tunisian government to halt its activities. To remedy this, the European institutions should ensure sufficient gender-sensitive expertise within their staff at central level as well as in their representations and delegations in the Partner States. Gender specialists should be appointed at the policy level, in technical services, and at the operational level.

The Euro-Mediterranean Civil Forum, an official meeting of civil society in the region, is sponsored by the European Commission and the government of the country in which it is held, and takes place in conjunction with Euro-Mediterranean ministerial meetings. The Civil Forums have promoted solidarity among civil society organisations from the two sides of the Mediterranean. Civil Forums

have been held periodically since the founding of the EMP in Barcelona and have provided activists and civil society organisations with the opportunity to meet and present recommendations to the official Partnership.

EU delegations ... are not always financially, logistically or diplomatically equipped to support NGOs which are often subjected to harassment from their respective governments.

At the first Civil Forum in Barcelona in 1995, neither human rights nor women's rights were on the agenda. These issues were first addressed at the Stuttgart Civil Forum in April 1999, where a human rights workshop was organised dealing specifically with women's rights in the MENA region.

The outbreak of the second *Intifada* and the boycott by Palestinian organisations of the Marseille Civil Forum in 2000 meant that the focus at the Marseille Civil Forum was on the conflict in the Middle East. However, the issue of women's rights came up in a workshop session on the rule of law and democracy.

At the Valencia Civil Forum in April 2002 a workshop on women's rights made a certain number of proposals for the promotion of women's rights in the MENA region, but the Forum did not succeed in being fully representative of the women's rights movements in the region. In fact, organisational problems and the way of selecting NGO participants have meant that these Forums have not always been effective in achieving broad representation of civil society or in impacting the EMP process.¹²⁶ Nevertheless, since the Stuttgart and Marseille Forums, the issue of human rights, democracy and women's rights has come out of the shadows and is now assuming an important place in these forums' debates.

Part III: Summary

Progress on promoting women's rights initiatives within the EMP has been slow and marred with challenges. Women, and especially women from the MENA region, were absent from the establishment of the Partnership; reference to women's rights in the Barcelona Declaration is only made in relation to women's role in economic development, and no specific mention of women's rights is made in the Association Agreements. There is still a tendency within the EMP and the EU institutions to regard women's rights as a cultural and religious matter, and treat the issue as a domestic problem, and consequently neglect women's rights in the political dialogue of the EMP. Aggravating the lack of gender sensitivity in the EMP is the fact that there is a lack of attention to the social dynamics that cause gender inequality in the MENA region. The programmes that address women's rights tend to be isolated and take a top-down approach to gender issues, thereby not addressing the roots of gender inequality.

EMP Partner States should fulfil their international legal obligations concerning women's rights by adopting an effective gender mainstreaming policy. Furthermore, in addition to gender mainstreaming within all three baskets of the EMP, affirmative action and specific programs targeted at women should be put in place. The EU should also make more funding possibilities available to women's rights organisations and design them specifically to match the needs of these organisations and networks taking into account their varying capacities. Civil society in the MENA region is active in the area of democracy, human rights and women's rights; the EU and its Partners States should also fulfil their international obligations in further supporting the work of civil society to realise equality across the EMP.

Footnotes

- ¹⁰⁴ This is defined in the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Towards a Community Framework Strategy on Gender Equality (2001-2005) - COM (2000) 335 of June 7 2000 as: on integrating gender issues in development cooperation as: *Gender mainstreaming involves not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising all general policies and measures for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situation of men and women (gender perspective). This means systematically examining measures and policies and taking into account possible effects when defining and implementing them.*
- ¹⁰⁵ The inclusion of the gender in EU policies have been laid down in the following documents: The European Commission Communication COM (1995) 423 of 18.9.1995 on integrating gender issues in development cooperation; the European Commission Communication COM (1996) 67 of 21.2.1996 on incorporating equal opportunities for women and men in all Community policies and activities; the European Commission Communication COM (2000) 335 of 7.6.2000: Towards a Community Framework Strategy on Gender Equality; European Council Regulation of December 1995 on 'Integrating gender issues in development co-operation', and the Council Regulation of December 1998 relating to 'Integrating gender and equality issues in development co-operation'.
- ¹⁰⁶ The Beijing Declaration was adopted in 1995 at the Fourth World Conference on Women.
- ¹⁰⁷ See Appendix V for further information about the number of states in the MENA region that had ratified CEDAW, and Appendix VI for their reservations at the time of ratification.
- ¹⁰⁸ See footnote 115 for information on the MEDA programmes.
- ¹⁰⁹ See the speech by Ms Onkelinx, Belgian Deputy Prime Minister and Minister of Employment and Equal Opportunities at the Euro-Mediterranean Ministerial Conference, 20 November 2001 (in French) at: http://europa.eu.int/comm/employment_social/intcoop/news/speech_onkelinx.pdf
- ¹¹⁰ Report by MP Rodi Kratsa-Tsagaropoulou, 'EU Policy Towards Mediterranean Countries in Relation to the Promotion of Women's Rights and Equal Opportunities in these Countries, February 2002.
- ¹¹¹ Ibid.
- ¹¹² For further information, see <http://www.europarl.eu.int/meetdocs/delegations/EMED/20021017/emed20021017.htm>
- ¹¹³ Forum held in Brussels, 13.7.2001.
- ¹¹⁴ Report by Rodi Kratsa-Tsagaropoulou, 2002, *op. cit.*
- ¹¹⁵ MEDA is a French abbreviation for *MEsures D'Accompagnement*. Policy issues and programming of the European Commission's aid are the responsibility of External Relations DG, while on the basis of the programme documents of the DG, EuropeAid Co-operation Office is managing the projects from identification to evaluation.
- ¹¹⁶ See Council Regulation no 1488/96.
- ¹¹⁷ See http://www.europa.eu.int/comm/external_relations/euomed/meda/meda2_obj.htm
- ¹¹⁸ See Council Regulation no 2698/2000. For more information on the MEDA programmes, see http://europa.eu.int/comm/europeaid/projects/med/fw_medin_en.htm
- ¹¹⁹ The budget for this programme amounts to 100 million Euros per year.
- ¹²⁰ For the EIDHR programming document for 2002-2004, see http://www.europa.eu.int/comm/external_relations/human_rights/doc/eidhr02_04.htm
- ¹²¹ For further information, see Memorandum EuropeAid F3: Integration of gender in the European Initiative for Democracy and Human Rights (EIDHR) 2001-2001, at http://www.europa.eu.int/comm/europeaid/projects/eidhr/pdf/gender_eidhr-2002.pdf
- ¹²² In the framework of the Euro-Mediterranean Partnership, the European Union funds three kinds of European Investment Bank activities under MEDA. For further information, see http://europa.eu.int/comm/europeaid/projects/med/regional/eib_en.htm.
- ¹²³ For more information on the EMHRN, see: www.euomedrights.net.
- ¹²⁴ For more information on the IMED and the project, see: www.imednet.it.
- ¹²⁵ While conducting fieldwork in preparation of writing this report, we asked directors of women's rights organisations as well as various women's rights activists in the MENA region about their knowledge of the EMP and found out that while the majority expressed interest in the EMP, they lacked basic knowledge about its structure, policy and activities.
- ¹²⁶ A Non-Governmental Platform for the Euro-Mediterranean Civil Forum was established in February 2003 to reform the Civil Forum format and to make the Forums more effective, see http://www.euomedrights.net/english/barcelona-process/civil_society/HR_activities/civilforum.htm

General Conclusion

On a daily basis women from the Middle East and North Africa face systematic discrimination and violence which violate their fundamental human rights. Many organisations in the region actively fight for the promotion of women's rights, and have had a positive impact in spreading awareness of the issue of women's rights and lobbying for legal changes. However, such organisations must deal with strong opposition both from State and non-State actors. In this context, the Euro-Mediterranean Partnership, established in 1995, presented an important opportunity to advance women's rights, human rights and democracy in the MENA region.

The EMP, however, has not lived up to the expectations of many women's rights organisations which witnessed the creation of the Partnership. And though the EU has taken some positive steps in introducing greater gender sensitivity in its work in the EMP, currently the Partnership is far from integrating full gender mainstreaming into all three baskets of the Barcelona Declaration, in all aspects of the design, implementation, monitoring and evaluation of Partnership programmes and initiatives.

Nevertheless, the EMP could contribute to a vast improvement of women's rights in the MENA if it begins to enforce, without prevarication or exception, women's rights within the context of universal human rights as accepted by all parties to the Partnership in the Barcelona Declaration. In order to do so, the current and future processes and programmes of the Partnership must be harmonised with international standards governing the respect and promotion of women's human rights. Most importantly, the EMP must take further steps to de-legitimise the 'cultural and religious' excuses which are used to justify the discrimination and violence against women in the MENA countries and which prevent the realisation of women's rights.

Throughout the harmonisation process, civil society must play a central role; specifically, women must be systematically consulted and included in all three baskets of the Euro-Mediterranean Partnership.

Decisive political will from the Partner States and the EU will be critical in determining whether the Partnership, with the support from civil society, can become a mechanism for improving the lives of women and men in the region.

Thus, this report calls upon all members of the Euro-Mediterranean Partnership to actively support the integration of human rights and democracy in the Partnership, recognising that gender equality forms an integral part of any human rights, democracy and development dialogue.

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Appendices

Appendix I: Glossary

<i>Fatwa:</i>	Opinion on a point of law.
<i>Fiqh:</i>	Technical term referring to understanding of Muslim law, complete understanding of Islamic jurisprudence.
<i>Habous or Waqf:</i>	Religious endowment [biens de main-morte].
<i>Hadith:</i>	Oral tradition reporting the actions and sayings of the prophet. Not all sayings reported are accepted. Sayings deemed authentic are based on original sources.
<i>Idda:</i>	Legally prescribed period of waiting following widowhood or dissolution of marriage during which the woman cannot remarry.
<i>Ijtihad:</i>	Literally, effort. In Muslim law, a technical term referring to individual reasoning.
<i>Jebr:</i>	Marital constraint.
<i>Al Khôl:</i>	Divorce initiated by the wife effected through compensation to the husband.
<i>Nafaqa:</i>	Maintenance allowance.
<i>Shari'a:</i>	The word of god. Divine commandments. Absolute laws.
<i>Talaq:</i>	Repudiation.
<i>Tatliq:</i>	Legal divorce initiated by the wife.
<i>Wali:</i>	Representative, guardian, matrimonial guardian.
<i>Wassiya Wajiba:</i>	Obligatory testament.
<i>Wilaya:</i>	Guardianship, authority.

Appendix II: Personal Status Codes in the MENA Region¹²⁷

ALGERIA	PSC Law of 1984
Marriage: age, guardianship and consent	Men, age 21 Women, age 18 <i>Art. 11:</i> Matrimonial supervision is compulsory. The legal supervisor is the father or closest male relation. <i>Art. 9:</i> Consent of both parties to the marriage is compulsory. Marriage is only valid if the dowry is paid.
Polygamy	<i>Art. 8:</i> Marriage to more than one wife is permitted.
Divorce	<i>Art. 49:</i> Divorce can only be ruled by the court after an attempt at reconciliation. The court can act upon the decision of the husband, or with the mutual consent of both parties, or at the wife's request under certain conditions fixed by Art. 53 (see table below). <i>Art. 54:</i> The wife can ask for a divorce effected through compensation to her husband (Al Khôl). In case of a dispute between spouses regarding the amount of compensation, the judge can decide but it must not exceed the equivalent of the dowry.
Guardianship of children	<i>Art. 87:</i> The mother is given the right to be the legal guardian of children if the father is deceased.
Other Dispositions	<i>Art. 39 Para. 1:</i> The wife must obey her husband. <i>Art. 52:</i> If the judge considers the husband's request for repudiation to be unreasonable, he can order compensation for harm suffered by the wife. <i>Art. 66:</i> The female guardian of a child who contracts to marriage with anyone other than a close relation loses her right to guardianship.
EGYPT	PSC Law No. 25 of 1925, amended by Law No. 25 of 1929, and Law No. 100 of 1985
Marriage: age, guardianship and consent	Men, age 18. Women, age 16.
Divorce	The husband has the right to divorce at will and without having to justify his decision. The wife can ask for a divorce under very restricted conditions. In all cases, she must show evidence of harm suffered and the judge makes the final decision. Personal Status Law No. 1 of 2000, <i>Art. 20:</i> Spouses must agree on the Khôl. In case of dispute, and if the wife goes before the court, renounces all her financial rights and returns the dowry, the judge can grant her a divorce.
Guardianship of children	Boys can remain under the guardianship of their mothers until the age of 10; for girls the age is 12 (the judge can extend the age to 15 or until the girl marries). A divorced mother who has guardianship of children loses her right to guardianship if she remarries.

¹²⁷ Various information is drawn from the report by Hijab, N., *ibid*

ISRAEL	The different religious communities have their own personal status laws in accordance with Art. 51 a) of the law of 1922 of the British mandate, which is still applied, and of the Women's Equal Rights Law of 1951 and 2000, stipulating that the dispositions of this law do not apply to the spheres of marriage and divorce.
JORDAN	Personal Status Law (Law of 1976)
Marriage: age, guardianship and consent	Men, age 18. Women, age 18. ¹²⁸ Art. 9/10: The matrimonial supervisor is the future wife's godly male Muslim relative. Art. 19: The wife can require in the marriage contract that her husband does not oblige her to leave the country and that he will not take a second wife. She can also demand the right to ask for a divorce.
Polygamy	Art. 40: A man with more than one wife must ensure absolute equality and fairness in his dealings with his wives and must not oblige them to live in the same house without their consent.
Divorce	Art. 87: The husband can assign repudiation to another person and, in writing; he can assign this right to his wife. Under certain conditions (Art. 113 - 116, 120, 123, 125, 126, 127, 131, 132), the wife has the right to ask for a divorce if she shows evidence of harm/ill-treatment suffered: the judge decides whether to grant the request. Art. 134: In case of arbitrary divorce, the judge grants compensation to the wife not exceeding the equivalent of one year's maintenance.
Guardianship of children	Art. 154: The husband is the legal guardian of the children. The wife merely looks after them.
Other Dispositions	Art. 167: The husband is responsible for supporting his wife/wives. Art. 37: The married woman must obey her husband and live with him. She is obliged to follow her husband wherever he goes unless he is unable to guarantee her safety. Otherwise, she loses her right to be supported (Nafaqa). Art. 39: The husband must support his wife and treat her well. She has the duty to obey him. Art. 68: The wife who goes out to work without her husband's consent loses her right to be supported. Act No. 34: The father is head of the household. If the father is deceased or loses his nationality whilst his wife/wives and children are nationals, the head of the household is the first wife or the eldest child.
LEBANON	The different religious communities each have their own personal status laws.
MOROCCO	PSC Law (Mudawwana) Law of 1957/58, amended in 1993
Marriage: age, guardianship and consent	Men, age 18. Women, age 15. Art. 12: Matrimonial supervision is the woman's right. A woman older than 21 whose father is deceased can dispense with the matrimonial supervisor.
Polygamy	To be polygamous, the husband must inform his first and future wives. A wife can stipulate in her marriage contract that her husband remains monogamous.

¹²⁸ An amendment to the law in December 2001 lifted the age of marriage from 15 to 18 for women and from 16 to 18 for men. However, in January 2002, the Chief Islamic Justice Department listed five exceptions to the rule, which would allow a judge to perform underage marriages.

Divorce	<p>Art. 30: The first wife can go to the judge to ask for a divorce if she feels wronged by her husband's remarriage.</p> <p>Art. 48, Para.1: The husband has the right to repudiate his wife without having to justify his decision</p> <p>Art. 48: Repudiation can be recorded with the presence of both spouses and after authorisation from the judge. The wife can ask the court for a divorce under the same very restricted conditions as in other MENA countries.</p>
Guardianship of children	<p>Art. 102: In case of divorce, the mother is granted priority for custody of girls: 15 years and younger and boys, 12 years and younger.</p> <p>Art. 99: After these ages, the children can decide which of the two parents they want to live with</p> <p>Art 148: The legal guardian is the father. If he is deceased or has lost his civil capacity, the adult mother can become the guardian but she cannot alienate a minor from his belongings without permission from the judge.</p>
Other Dispositions	<p>Art. 36: The wife must obey her husband. In case of divorce, even if she has been repudiated, the wife is only granted means of subsistence during the short period of Idda. After this period, if she doesn't work (which is usually the case), she can find herself homeless and without any means of subsistence</p> <p>Art 105: The child-minding mother who remarries someone other than a close relative of the child loses her right to guardianship.</p>
PALESTINE	
Laws applied: Gaza: Egyptian Personal Status Code West Bank: Jordanian Personal Status Code	
SYRIA	
PSC (Law No. 34 of 1975)	
Marriage: age, guardianship and consent	<p>Men, age 18. Women, age 16.</p> <p>Art. 21: The matrimonial supervisor is only compulsory for women</p> <p>Art. 18.2: The judge can allow the boy to marry at 15 years and the girl at 12 years</p> <p>Art. 48.2: The Muslim woman cannot marry a non-Muslim man but a Muslim man can marry a non-Muslim woman.</p>
Polygamy	Art 17: Polygamy (up to 4 wives) is authorised
Divorce	<p>Art. 91: The husband has the right to repudiation (unilateral and unconditional right to dissolve the marriage.)</p> <p>Art. 105-115: The wife may ask the judge to grant her a divorce under very restricted conditions.</p>
Guardianship of children	<p>Art. 74: The wife must obey her husband in return for being supported</p> <p>Art. 73 and 74: If she goes out to work without her husband's permission, she loses her right to be supported</p>
TUNISIA	
PSC Law (Majella) amended in 1993	
Marriage: age, guardianship and consent	<p>Men, age 20. Women, age 17.</p> <p>Art. 6: The marriage of a minor is subject to the consent of the guardian and the mother.</p>
Polygamy	Art 18: Polygamy is forbidden.
Divorce	<p>Art. 30: There is only legal divorce.</p> <p>Art. 31: Divorce occurs 1) by mutual consent, 2) at the request of one of the spouses on grounds of harm suffered, 3) at the request of the husband or the wife.</p>

	Art 32: Divorce is declared after an attempt at reconciliation on the part of the family judge.
Guardianship of children	Art. 57 and 60: Parental co-responsibility for children during the marriage. Section 67: In case of divorce or death, guardianship of the child is granted to one of the parents, taking the interests of the child into account. Art. 154: The father is the guardian of minors; if deceased or incapable, the mother is the children's legal guardian.
Other Dispositions	Art. 23: Spouses have a duty of mutual respect and co-operation in family affairs and educating children. Head of the family, the husband is obliged to support his wife and children. The wife must contribute to the family expenses if she is of means.
TURKEY	Civil Code 1926, amended in 1992 and 2001.
Marriage: age, guardianship and consent	Both sexes, age 18. Art. 88: Boys can marry at 17 and girls can marry at 15 with the consent of the parents and if a judge deems that there are reasonable grounds.
Other Dispositions	Art. 302: If, at birth, the father declares that the mother is of bad morals, the baby is not recognised by the father, and he is not bound to provide for the child

- *In all the countries where more than one religious law is applied, marriage between people from two different religions is impossible. In Muslim countries, Muslim women are not allowed to marry non-Muslim men, whereas Muslim men can marry non-Muslim women.*
- *In the countries where Muslim laws are applied, the divorced mother who holds custody over the children loses her custodial right if she marries a man who is not a close relative of the children.*
- *In the countries where Muslim laws are applied, the woman only has the right to ask for a divorce if she initiates (sometimes very long) legal proceedings and if she shows evidence of harm suffered. Harm is defined by law, among other things, as: failure to provide, disability prior to consummation of the marriage, refusal of the husband to fulfil his conjugal duties, imprisonment of the husband for more than 1 year, unjustified absence lasting more than 1 year.*
- *In all the MENA countries using Muslim law as a source of codification, inheritance law is unequal between men and women. The principle is that when men and women have the same relationship to the deceased, women inherit only half of what men inherit.*

Appendix III: Gender and Nationality in the MENA Countries

ALGERIA	Nationality Code 1970
Married women's nationality	A woman married to a foreigner retains her nationality. The husband cannot oblige her to take his.
Transfer of nationality between spouses	The wife does not transmit nationality to her foreign husband.
Transfer of nationality to children	Art. 6 and 7: Children can acquire Algerian nationality if born to: an Algerian father; an Algerian mother and an unknown or stateless father; an Algerian mother in Algeria and a foreign father who was also born in Algeria, except if the child renounces his/her nationality in the year before he comes of age.
EGYPT	Law 26/1975
Transfer of nationality between spouses	The wife does not transmit nationality to her foreign husband.
Transfer of nationality to children	Art. 2: Children can acquire Egyptian nationality if born to an Egyptian father; in Egypt to an Egyptian mother and a unknown or stateless father; outside Egypt to an Egyptian mother and unknown or stateless father, children have the right to apply for nationality one year before they come of age.
JORDAN	Jordanian Nationality Code
Married women's nationality	Act No. 6/1954: A Jordanian woman can keep her nationality if she marries a foreigner.
Transfer of nationality between spouses	Since the 1996 amendment to the civil register and the procedure for obtaining a passport, the Jordanian wife of a foreigner can obtain an independent family document as head of the family on which her husband's nationality must be recorded. But children can only be added onto the father's register.
Transfer of nationality to children	Children can acquire Jordanian nationality if born to a Jordanian father.
LEBANON	
Married women's nationality	The Law of 11/1/1960 gives the woman the choice of keeping her nationality or taking that of her husband.

Transfer of nationality between spouses	The foreign wife of a Lebanese man has the right to obtain his nationality but not vice-versa.
Transfer of nationality to children	Decree No. 15 (1925): A Lebanese mother does not have the right to transmit nationality to her children unless the child is illegitimate or the foreign father is deceased.
MOROCCO	
Married women's nationality	Dahir 1958 A woman keeps her nationality if she marries a foreigner.
Transfer of nationality between spouses	The foreign wife of a Moroccan man can acquire her husband's nationality. The Moroccan wife does not have the same right automatically: her husband must live in Morocco, speak Arabic and apply for naturalisation.
Transfer of nationality to children	The child can only take the nationality of the mother if born in Morocco to an unknown or stateless father, or if the child lives in Morocco and declares to continue to do so 2 years before he/she comes of age.
SYRIA	
Married women's nationality	Nationality Code (Law No. 276 1969) A woman keeps her nationality if she marries a foreigner.
Transfer of nationality between spouses	The wife does not transmit her nationality to her husband.
Transfer of nationality to children	Art. 3: only a Syrian father can transmit nationality to his children.
TUNISIA	
Transfer of nationality between spouses	Law No. 63 (1963), amended by Law No. 93-62 (1993) Art. 13: The foreign wife of a Tunisian man takes on his nationality at the time of the wedding if she forfeits her nationality of origin. Art. 14: A foreign wife married to a Tunisian man can apply for his nationality in the two years following the marriage. Art. 21: A foreigner who has married a Tunisian woman can be naturalised if he has lived in the country for 5 years.
Transfer of nationality to children	Art. 6: Children can acquire Tunisian nationality if born to: a Tunisian father; a Tunisian mother and a stateless or unknown father; in Tunisia to a Tunisian mother and a foreign father and if the child declares the wish to continue living in Tunisia the year before he comes of age. Before age 19, the applicant can become Tunisian on a joint declaration by both parents. Art. 18: The minor foreigner adopted by a person with Tunisian nationality acquires nationality on the date of the adoption on condition that the adopted minor is unmarried.

Appendix IV: Women's Freedom of Movement in Certain MENA Countries

Country	Passport (legal provisions)	Practices	Law on Residence	Other
ALGERIA				<i>Art. 66:</i> A woman who has custody of her children and remarries someone who is not a close relative of the children forfeits custody. This can be renounced as long as it does not compromise the interests of the child
EGYPT	Husband's/father's authorisation to obtain a passport is compulsory.	Even with their husband's/father's permission, it is difficult for women to travel alone with their children; and upon a request from the husband/father to the relevant authority, the women can be prevented from travelling.		
JORDAN	<i>Art.2:</i> The husband's permission to obtain a passport is compulsory. ¹²⁹		The wife must live in the marital home with her husband and follow him wherever he goes if he can guarantee her safety.	

Country	Passport (legal provisions)	Practices	Law on Residence	Other
LEBANON	Though Law 11/68 relating to passports does not discriminate between the two sexes, the authorities were known still to ask for the husband's permission. A circular in 1974 put a stop to this practice	Children can be added on to the passport of one of the parents with the consent of the other parent. In practice, only the father's consent is required. The wife does not need her husband's permission to travel.	Muslim Law authorises the husband to force his wife to return to the marital home, called the 'house of obedience'	
MOROCCO	In 1994, circular No. 3035, from 1990, which require the husband's permission to obtain a passport, was abolished. A new circular authorises the husband to object to his wife travelling abroad by writing to the relevant authority.		PSC Art. 35: The husband has the right to decide the site of the marital home. The husband can go to court to make his wife return to the marital home. Art 107: A mother who has the custody of the children must live where the husband (legal guardian of the children) lives; if not, she can lose her custodial right.	Art. 105: The child-minding mother who remarries someone other than a close relative of the child or the legal guardian loses her right to guardianship unless she herself is the legal guardian or the sole breast-feeder that the child accepts
TUNISIA	There are no restrictions on women's freedom of movement in the different Tunisian laws.			Art. 58: A woman who has custody of the children cannot remarry without losing the custody rights unless the judge deems otherwise in the interests of the child or if the new husband is a close relative or the guardian of the child.

¹²⁹ The government passed legislation in November 2002 allowing women to obtain a passport without the husband's written permission.

Appendix V: The MENA Countries and the CEDAW (as of March 2002)

Country	Date of Ratification	Reservations and Declarations ¹³⁰
Algeria	1996	Articles 2; 9 (2) Article 15 (4), 16, and 29 (1) Eight States have objected to these reservations.
Egypt	1981	Articles 2, 9 (2), 16 and 29 (1) Four States have objected to these reservations.
Israel	1991	Articles 7 (b), 16 and 29 (1)
Jordan	1992	Articles 9 (2), 15 (4), and 16 (1) (c), (d), (g) One State has objected to these reservations
Lebanon	1997	Articles 9 (2), 16 (1) (c), (d), (f), (g) and 29 (1) Four States have objected to these reservations
Morocco	1993	Articles 2, 9 (2), 15 (4), 16 and 29(1) One State has objected to these reservations
Palestine		
Syria	NR ¹³¹	Articles 2, 9 (2), 15, 16 (1) (c), (d), (f), (g), 16 (2), 29 (1)
Tunisia	1985	Articles 9 (2), 15 (4), 16 (c), (d), (f), (g), (h), and 29 (1) Three States have objected to these reservations
Turkey*	1985	Articles 9 (1) and 29 (1)

* Turkey, in September 2000, became the only MENA country to have signed up to the CEDAW optional protocol, and ratified it 29 October 2002.

NR: Not ratified

¹³⁰ For more details, see: <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty10.asp#N16>

¹³¹ On 28 March 2003, Syria began the accession process to the CEDAW.

Appendix VI: CEDAW Articles that have been Subject to Reservations by MENA Countries

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 7 (b)

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

Article 9 (2)

States Parties shall grant women equal rights with men with respect to the nationality of their children.

Article 15 (4)

States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as

parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Article 29. para 1.

Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organisation of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

Appendix VII: Women's Rights Networks in the MENA region

Arab Regional Resource Centre on Violence
Against Women (a SIGI program)
www.amanjordan.org

Arab Women Connect (UNIFEM Arab States
regional office project
www.arabwomenconnect.org)

Arab Women's Forum (AISHA)
www.nisaa.org

Arab Women Media Centre, Jordan
www.ayamm.org

Centre of Arab Women for Training and
Research (CAWTAR, Tunis)
www.cawtar.org.tn

Collectif 95 – Maghreb Égalité
E-mail: cme95@fusion.net.ma

Machreq/Maghreb Gender Linking
Information Project (MACMAG GLIP)
www.macmag-glip.org

International Electronic Discussion Network:
H-Gender-MidEast (a project of the
American University of Cairo)
www.aucegypt.edu/academicligws

Sisterhood Is Global (SIGI)
www.sigijordan.org

Women Living under Muslims law.
International Solidarity Network)
wluml.org

