

**Mandate of the Working Group on the issue of discrimination against women in law and in practice**

REFERENCE: OL  
ISR 5/2015:

30 July 2015

Excellency,

I have the honour to address you in my capacity as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice pursuant to Human Rights Council resolution 23/7.

According to the information received, under Article 51(a) of the British Mandatory Law of 1922, which is still applicable today, all recognised religious communities in Israel have their own religious legal courts: the Rabbinical courts for Jewish citizens, and Muslim, Christian and Druze courts for Arab citizens. An individual's religious community determines which religious court has jurisdiction over her/his personal status and family law matters. The rabbinical courts and the Shari'a courts and almost all the Christian denominations courts have only male judges.

The Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 5713-1953 cedes jurisdiction over marriage and divorce of Jewish women to the rabbinical courts which adjudicate in accordance with religious Jewish law, which discriminates against women in various ways. Most importantly, refusal of a husband to divorce his wife, whatever the grounds she has for claiming for a divorce, deprives a woman of any way of obtaining a divorce and remarrying. Furthermore, in the absence of a divorce, should she have a relationship with another man, she will be permanently prevented from marrying him, even if a divorce is eventually granted; if she has a child from another man the child will be a mamzer, a personal status which prevents him or her from marrying in a Jewish marriage ceremony. These incapacities are not symmetrically imposed on men whose wives refuse to accept a divorce.

According to the information received, the Shari'a courts adjudicate in accordance with Muslim religious law and there is discrimination against women as regards ease of divorce for women as compared with men; possible deprivation of the custody of children after widowhood or divorce if the woman remarries as a result

of Shari'a interpretation of the good of the child as being with the father's family in such circumstances; women's entitlement under Shari'a to only half the share of inheritance that a man is entitled to receive; and the practice of polygamy, which although prohibited is not prevented in practice in some communities.

In this regard, the Working Group wishes to recall CEDAW's Concluding Observations on Israel (CEDAW/C/ISR/CO/5), in which the CEDAW Committee urged Israel to withdraw its reservations to article 7 (b) and especially to article 16 of the Convention in order to eliminate discrimination against women in matters relating to marriage and family relations. As well, the Committee called upon Israel to introduce an optional system of civil marriage and divorce available to all, and to harmonize religious laws currently governing marriage and divorce with the Convention, inter alia by prohibiting the man's unilateral power to grant the "get" and by limiting the scope of rabbinical courts' jurisdiction to matters of marriage and divorce alone.

The Working Group would also like to recall the recommendation made in the context of the Universal Periodic Review of Israel, which enjoys the support of the Government of Israel in part and which recommends introducing an alternative civil legal framework for marriage and divorce as an equally accessible option for everyone (see recommendations 136.2 and 136.23 in A/HRC/25/15).

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

In order to clarify the measures being taken by your Excellency's Government to repeal the discriminatory legislative provisions on divorce, the Working Group would be grateful if you could address the following matters:

1. Please provide any additional information on the current status of the relevant laws and practices with regard to discrimination against women of the Jewish, Muslim and Christian communities in their marital status.
2. Please provide information on any measures that your Excellency's Government has taken or intend to take in order to implement the recommendations by UN human rights mechanisms, referred to above, and to bring its legislation into compliance with international human rights law.

The Working Group would appreciate a response within 60 days and remains available for any type of technical advice on legislative reform that your Excellency's Government may require.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

This communication and your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Eleonora Zielinska  
Chairperson-Rapporteur of the Working Group on the issue of discrimination against  
women in law and in practice