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# Israel and the Occupied Territories Conflict, occupation and patriarchy

STOP  
VIOLENCE  
AGAINST  
WOMEN

AMNESTY  
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## Women carry the burden

### 1. Introduction

The spiraling violence and killings in Israel and the Occupied Territories in the past four and a half years has brought untold suffering to the Palestinian and Israeli civilian populations. More than 3,200 Palestinians, including more than 600 children and more than 150 women have been killed by Israeli forces, and more than 1,000 Israelis, including more than 100 children and some 300 women were killed by Palestinian armed groups. Most of the victims were unarmed civilians who were not taking part in any armed confrontations. Thousands more have been injured, many of them maimed for life. Amnesty International has repeatedly condemned and campaigned against the killings of civilians by both sides.<sup>1</sup>

Since the beginning of the *intifada* (the Palestinian uprising against Israeli occupation), there has been an increased militarization of the conflict. From the first days the Israeli army abandoned policing and law enforcement tactics and adopted military measures generally used in armed conflict, routinely using

excessive and disproportionate force against civilians, including frequent air-strikes and tank shelling in densely populated Palestinian residential areas, large-scale destruction of Palestinian homes, land and infrastructure, and the imposition of military blockades and prolonged curfews which kept the Palestinian population imprisoned in their homes. Armed Palestinian attacks against Israeli civilians, which were sporadic before the *intifada*, became a frequent occurrence, including suicide bombings, shootings and other attacks on buses, cafes and public places.

However, the endless cycle of killings is not the only human rights scandal. The increased militarization of the conflict has resulted in a dramatic deterioration of the human rights situation in the West Bank and Gaza Strip, with unprecedented levels of poverty, unemployment, and health problems. Palestinian women have borne the brunt of the suffering but their plight has been largely ignored. The multiple violations committed by Israeli forces in the Occupied Territories have had grave and long-term consequences for the Palestinian population and a particularly negative impact on women (as well as children and other vulnerable sectors of Palestinian society), compounding the pressures and constraints to which Palestinian women are subject in the traditional Palestinian patriarchal society.

<sup>1</sup> See notably Amnesty International: *Without distinction: Attacks on civilians by Palestinian armed groups*, July 2002 (AI Index: MDE 02/003/2002) and *Act now to stop the killing of children!*, 20 November 2004 (AI Index: MDE 02/002/2004), as well as other Amnesty International reports and press releases on <http://web.amnesty.org/library/eng-isr/index>

*"This is the point where two systems of subordination – occupation and patriarchy – converge in the Occupied Palestinian Territories: women in confronting the former submit to the latter".*

UN Special Rapporteur on violence against women, its causes and consequences, February 2005<sup>2</sup>

The large-scale destruction by the Israeli army of Palestinian homes, land and properties has made tens of thousands of Palestinians homeless and destitute; the imposition by the Israeli army of curfews and blockades throughout the Occupied Territories has impeded movement and restricted access for 3,500,000 Palestinians to work, education and medical facilities, and other crucial services; and the continuous expansion of Israeli settlements and related infrastructure on occupied Palestinian land has deprived Palestinians of key resources such as land and water.<sup>3</sup> As a result, the Palestinian economy has been virtually destroyed, unemployment and poverty have spiraled, and health and education have been negatively affected.

The resulting damage to the fabric of Palestinian society has deeply affected women, who have been at the receiving end of increased pressures and violence in the family and in society. They have faced increased demands as care-givers and providers while at the same time their freedom of movement and

action has been curtailed, and they have borne the brunt of the anger and frustration of male relatives who feel humiliated because they cannot fulfill their traditional role as providers. The escalation of violence and the deterioration of the situation in recent years have occurred in the context of Israel's 38-year military occupation of the West Bank and Gaza Strip, which has had a serious impact on many aspects of Palestinian women's lives.

*"... the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women."*

*"... the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women."*

Convention on the Elimination of All Forms of Discrimination against Women (Preamble, paras 10 and 11)<sup>4</sup>

Palestinian women in the West Bank and Gaza Strip have lived all or most of their lives under Israeli occupation and have been facing a triple challenge to establish their rights: as Palestinians living under Israeli military occupation which controls every aspect of their lives, as women living in a society governed by patriarchal customs, and as unequal members of society subject to discriminatory laws. Living under decades of Israeli occupation has dramatically curtailed development opportunities for the Palestinian population in general and has increased violence and discrimination against Palestinian women in particular.

*"An analogy can be drawn between the psychological experience of a nation under siege and that of a woman living in an abusive relationship.... This poses a potentially dangerous situation for women, who will fall victim to a three-tiered process of violation. At present, they are victimised by the political violence, living in perpetual fear for their safety and that of their families, while bearing the additional burdens imposed on them under harrowing conditions, such as the destruction of homes, the razing of agricultural property, the*

<sup>2</sup> Report of the UN Special Rapporteur on violence against women, its causes and consequences, Addendum: Mission to Occupied Palestinian Territories (E/CN.4/2005/72/Add.4), 2 February 2005.

<sup>3</sup> Since September 2000 the Israeli army has destroyed more than 4,000 Palestinian homes, large areas of agricultural land, hundreds of factories and commercial properties, and water, electricity, sewage and other infrastructures. Hundreds of Israeli army checkpoints, blockades, curfews and other stringent restrictions imposed on the movement of 3,500,000 Palestinian inhabitants of the West Bank and Gaza Strip have made it impossible for Palestinians to carry out ordinary everyday activities, restricting or preventing their access to their workplace and land and to education and medical facilities and other crucial services. See Amnesty International: *Israel and the Occupied Territories: Surviving under siege: The impact of movement restrictions on the right to work*, September 2003 (AI Index: MDE 15/001/2003) and *Israel and the Occupied Territories: Under the rubble: House demolition and destruction of land and property*, May 2004 (AI Index: MDE 15/033/2004).

<sup>4</sup> <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#intro>

*uprooting of trees and rampant unemployment. Additionally, they are victims of heightened violence within the home, but are unable to express any of their suffering or anxiety, as they are forced into silence for fear of being blamed at the public level for being selfish and inconsiderate given the national emergency the whole society is undergoing, and at the private level from being blamed for their own victimisation – a vicious circle.”*

Maha Abu-Dayyeh Shamas, Women's Centre for Legal Aid and Counselling (WCLAC)<sup>5</sup>

While the deterioration of the situation has increased societal pressures and violence against women in the family, institutional protection mechanisms have been further weakened by Israel's destruction of much of the Palestinian Authority (PA)'s security infrastructure and institutions. In the absence of functioning PA law enforcement institutions, armed groups and traditional and tribal structures have gained greater authority in Palestinian society, strengthening existing gender inequality and pressures on women to conform with certain interpretations of traditional or religious norms in order to preserve the family honour. Women who challenge or transgress these norms may be killed by their relatives for having tarnished the family's reputation. Victims of so-called "honour" killings include rape victims. The weakening of already inadequate protection mechanisms combined with the blockades and restrictions on movement imposed by the Israeli army have made it more difficult and often impossible for women and girls who are at risk of being killed or harmed by family members to escape to safety. In most cases men who commit "honour" crimes benefit from impunity, as the PA has been both unable and unwilling to confront and address such issues.

Palestinian women have also had to shoulder most of the burden of caring for tens of thousands of men and children who have been injured in the past four and a half years. Their task has been made more difficult due to the limits of Palestinian medical facilities, Israeli army blockades which hamper access for Palestinians to hospitals in the Occupied Territories and travel abroad, and increased poverty amongst Palestinians. Similar difficulties also affect the wives and mothers of thousands of Palestinians who have been killed or who are detained in Israeli prisons. In the absence of a social security system in

the Occupied Territories, thousands of women whose husbands have been killed or imprisoned are forced to depend on relatives and charity organizations for survival. In the current situation of widespread poverty and unemployment, such dependence leaves these women particularly vulnerable to pressures and control by the male relatives on whom they depend for their survival and the survival of their children.

This report deals with the impact of violence against women in the Occupied Territories in the context of conflict: violence committed by the Israeli state or its agents; the collapse of the rule of law within the Occupied Territories leading to a lack of implementation of existing laws; and the worsening effects of existing discrimination in both law and practice. Not all forms of harm suffered by women in a conflict necessarily fall under the definition of violence against women or constitute unlawful acts under international human rights or humanitarian law. For example, the killing of a woman combatant in the course of armed confrontation is not in itself unlawful, nor covered by the definition. Other acts of violence may be unlawful under international humanitarian law because they are indiscriminate and targeted at or disproportionately affect the civilian population. Many of the cases of violence are indiscriminate acts – such as house demolitions or the restriction of movement within the occupied territories or across borders. This report highlights the gender related impact of violations committed by the Israeli forces in the context of conflict. It then looks at gender-based violence within the family and the impact of the militarization of the conflict by both sides on Palestinian women living in the West Bank and Gaza Strip.

The report is part of the global Amnesty International campaign to Stop Violence Against Women. The campaign highlights the impact of gender-based and gender-related violence against women in conflict and in the family; and calls for states and communities to refrain from committing violence, prevent violence being committed by others and ensure that discrimination in law, custom and practice is ended. The report shows that the impact of the conflict on Palestinian women in the West Bank and Gaza Strip has led to widespread violations of their rights – both civil and political such as the right to life, liberty and security of the person as well as economic, social and cultural rights – such as the right to health, housing and education. It

<sup>5</sup><http://www.wclac.org/paper/Isocialpsychological%20impact.doc>

highlights some of the main violations to which women have been subjected in the context of increased political violence, combined with existing and heightened pressures they face in a patriarchal society.

## 2. Life under siege: The impact of military checkpoints, blockades and curfews on women

*"Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence."*

Article 12.1 of the International Covenant on Civil and Political Rights (ICCPR)

In recent years the Israeli army has increased to an unprecedented level the restrictions imposed on the movement of Palestinians within the Occupied Territories, depriving Palestinians not only of their freedom of movement but also of other fundamental human rights, including the right to work, to medical care and to education.

According to the UN Human Rights Committee: *"The application of the restrictions permissible under article 12, paragraph 3, needs to be consistent with the other rights guaranteed in the Covenant and with the fundamental principles of equality and non-discrimination. Thus, it would be a clear violation of the Covenant if the rights enshrined in article 12, paragraphs 1 and 2, were restricted by making distinctions of any kind, such as on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".*<sup>6</sup>

International humanitarian law requires states to respect the fundamental rights of the population of occupied territory. The core idea of the international rule of belligerent occupation is that occupation is transitional, for a limited period, and one of its key aims is to enable the inhabitants of an occupied territory to live as "normal" a life as possible.

Both in Israel and in the Occupied Territories, Israel is bound by international human rights law, notably the international human rights treaties to which Israel is a State Party, including the UN Convention on the Elimination of All Forms of Discrimination against Women (the Women's Convention), the International

Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Israel has consistently denied that it has the obligation to apply the UN human rights treaties which it has ratified in the West Bank and Gaza Strip and has also consistently rejected the applicability of the Fourth Geneva Convention. However, Israel stands alone in its contention. The applicability of both the Fourth Geneva Convention and international human rights treaties has been repeatedly reaffirmed by the relevant bodies and by the international community.

In 2003 the UN Committee on Economic, Social and Cultural Rights confirmed that: *"even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law. Moreover, the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2 (1) for the actions of its authorities."*<sup>7</sup>

The sweeping restrictions on the movement of Palestinians are disproportionate and discriminatory – they are imposed on all Palestinians because they are Palestinians, and not on Israeli settlers who live illegally in the Occupied Territories. Even though the Israeli authorities claim that such measures are always imposed to protect the security of Israelis, the restrictions imposed within the Occupied Territories do not target particular individuals who are believed to pose a threat. They are broad and indiscriminate in their application and as such are unlawful. They have a severe negative impact on the lives of millions of Palestinians who have not committed any offence.

An increasingly sophisticated system of closures – the term used to describe the prohibition of movement within and/or between towns and villages in the Occupied Territories by means of checkpoints and blockades – has confined some 3,500,000 Palestinian men, women and children to what is effectively a form of house/village/town arrest much of the time. Closures have been the main cause for the virtual destruction of the Palestinian economy, spiraling poverty and unemployment, as Palestinians have increasingly been cut off from their families, their

<sup>6</sup> Human Rights Committee General Comment 27, 2 November 1999, CCPR/C/21/Rev.1/Add.9, para 18.

<sup>7</sup> E/C.12/1/Add.90 (para 31), 23 May 2003.

land and their work, and from education and medical facilities and other crucial services.

The UN Committee on Economic, Social and Cultural Rights (CESCR) stated in May 2003: *"The Committee continues to be gravely concerned about the deplorable living conditions of the Palestinians in the occupied territories, who – as a result of the continuing occupation and subsequent measures of closures, extended curfews, roadblocks and security checkpoints – suffer from impingement of their enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to work, land, water, health care, education and food"*.<sup>8</sup>

**Women at Beit Iba checkpoint near Nablus, December 2004. © 1999-2004 Eyal Ofer**

Towns and villages in the Occupied Territories are cordoned off by hundreds of checkpoints and blockades which Palestinians need special permits from the Israeli army to cross. When at all possible, short trips of a few kilometers can take hours, as Palestinians are forced to make lengthy detours to avoid passing near Israeli settlements or roads used by Israeli settlers (so-called "bypass" roads). With the spread of Israeli settlements and settler's roads in the Occupied Territories, the areas prohibited to Palestinians have multiplied.<sup>9</sup> Since 2002 the 600-kilometer fence/wall, which Israel is building through the West Bank has further hindered the movement of

Palestinians in the affected areas. Although the Israeli authorities contend that the fence/wall is intended to stop potential Palestinian attackers from entering Israel from the West Bank, most of the fence/wall (over 80% of it) is being built well inside the West Bank – not between Israel and the West Bank. It encircles Palestinian towns and villages, cutting off communities and families from each other, separating farmers from their land and Palestinians from their places of work, education and health care facilities and other essential services.<sup>10</sup>

Such sweeping restrictions of movement have had disastrous consequences for the entire Palestinian population in the Occupied Territories.<sup>11</sup> There has been a sharp increase in unemployment and loss of income with more than half of the population now living below the poverty line and most having to rely on some form of aid or assistance.

Some aspects of the more direct or visible impact on women of the physical barriers which curtail access to work, health and education facilities are examined below. In addition, there are a multitude of other less visible consequences for women. The current situation has created new possibilities for men to increase the degree of control they exercise over women's movement, whether deliberately or as a result of a protective attitude. For example, men may take it upon themselves to do the shopping or other chores to spare their female relatives the long delays and discomfort of the detours around the blockades which surround towns and villages, or the potential exposure to Israeli soldiers shooting to enforce closures and curfews. The result, whether intentional or not, is that women have less opportunity to move outside the home or village/town.

## 2.1 Restrictions on access to health care

According to Article 38(2) of the Fourth Geneva Convention, Israel, as the occupying power, has an obligation to ensure that Palestinians in the West Bank and Gaza Strip "receive medical attention and

<sup>8</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights; E/C.12/1/Add.90 (para 19); 23 May 2003.

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/b313a3503107f1e6c1256d33002cea38?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/b313a3503107f1e6c1256d33002cea38?Opendocument)

<sup>9</sup> For more details see Amnesty International: *Israel and the Occupied Territories: Surviving under siege: The impact of movement restrictions on the right to work*, September 2003 (AI Index: MDE 15/001/2003).

<sup>10</sup> For more details on the fence/wall see Amnesty International: *Israel and the Occupied Territories: The place of the fence/wall in international law*, February 2004 (AI Index: MDE 15/016/2004) and <http://www.un.org/unrwa/emergency/barrier/index.html>

<sup>11</sup> See for example the World Bank report: *Four Years – Intifada, Closures and Palestinian Economic crisis. An Assessment*, October 2004.

hospital treatment to the same extent” as do Israeli citizens.<sup>12</sup> The Convention also stipulates that Israel must:

- ensure the food and medical supplies of the occupied population (Article 55);
- ensure and maintain the medical services, public health and hygiene in the occupied territory, and ensure that medical personnel of all categories can carry out their duties (Article 56);
- treat the occupied population humanely at all times (Article 27).

Israel has not only consistently disregarded its duties in this respect, but in recent years has increasingly curtailed and prevented access for Palestinians to medical facilities, in many cases with fatal consequences.

### 2.1.1 Women forced to give birth at checkpoints

*“...pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.”*

*“The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect...”*

Articles 38(5) and 16, Fourth Geneva Convention

On 26 August 2003 **Rula Ashtiya** was forced to give birth on the ground, on a dirt road by the Beit Furik checkpoint after Israeli soldiers refused her passage. Her baby died a few minutes later. She was deeply traumatized and when Amnesty International visited her several weeks later she could hardly bring herself to talk about her ordeal. Twenty-nine-year-old Rula went into labour in her eighth month of pregnancy, in the early morning. Her husband Daoud called the ambulance and was told that he and Rula should go to the Beit Furik checkpoint, between their village and the town of Nablus, because the ambulance could not get past the checkpoint and would wait for them on the other side. Rula and Daoud set out for the checkpoint a few minutes from their village,

Salem. It was already light and given Rula’s obvious condition they did not expect problems crossing the checkpoint. However, the Israeli soldiers refused them passage.

Rula’s testimony: *“We took a taxi and got off before the checkpoint because cars are not allowed near the checkpoint and we walked the rest of the way; I was in pain. At the checkpoint there were several soldiers; they were drinking coffee or tea and ignored us. Daoud approached to speak to the soldiers and one of them threatened him with his weapon. Daoud spoke to them in Hebrew; I was in pain and felt I was going to give birth there and then; I told Daoud who translated what I said to the soldiers but they did not let us pass. I was lying on the ground in the dust and I crawled behind a concrete block by the checkpoint to have some privacy and gave birth there, in the dust, like an animal. I held the baby in my arms and she moved a little but after a few minutes she died in my arms”.*

Daoud’s testimony: *“I pleaded with the soldiers to let us pass; I spoke to them in Hebrew; I know Hebrew because I used to work in Israel; they understood what I was saying but did not let us pass. After the baby was born Rula screamed, then after a while she screamed that the baby died. She was crying. I burst into tears and ran toward the cars on the other side of the checkpoint, ignoring the soldiers; I brought a taxi and went back to Rula; I felt so bad to see her in such condition; she was holding the baby in her arms, covered in blood and the umbilical cord was on the ground, in the dust and still attached and I had to cut it with a stone; I didn’t have anything else to cut it with. Then I picked up Rula in my arms and she was holding the baby and I carried her to the car and we went to the hospital. Rula and I are still suffering a lot”.*

A week later 25-year-old **Suzanne Alan** found herself in a similar situation in a different area of the West Bank, near East Jerusalem. She, her husband Ashraf and their three children were visiting Ashraf’s parents in a village outside Jerusalem, when she went into labour early in the morning of 12 September. They set off to go to the hospital in Jerusalem and after being refused passage through the al-Ram checkpoint, they spent about three hours trying to get around the checkpoint. In the end Suzanne gave birth to a boy by the roadside in the back seat of a taxi. She was then picked up by an ambulance and taken to hospital. Luckily there were no complications for her or the baby.

<sup>12</sup> The Fourth Geneva Convention for the Protection of Civilian Persons in Time of War is the main body of international humanitarian law which Israel, as the occupying power in the West Bank and Gaza Strip, is obliged to abide by.

**This woman delivered a baby boy in an ambulance, after being refused passage through Qalandiya checkpoint, February 2005 © PRCS**

On two consecutive nights at the beginning of December 2004 two women ended up giving birth in ambulances at a checkpoint at the entrance of Nablus as they were on the way to Nablus hospital. **Randa Jabeeti**, from the village of Fundaq, near Qalqiliya, delivered the baby in the ambulance, after being delayed and searched at the checkpoint. **Bayan Hussein-Ali**, from al-Hatab, a village near Nablus, was also delayed at the checkpoint. The ambulance was not allowed to pass through the checkpoint and a second ambulance had to be called from Nablus to come to the checkpoint and Bayan had to be transferred to the second ambulance on the Nablus side of the checkpoint according to the so-called "back-to-back" procedure. This procedure, generally used for transporting merchandise through Israeli army checkpoints, is often the only way to get patients to and from hospitals when Israeli soldiers refuse to allow ambulances through the checkpoints. The soldiers also refused to allow her husband to accompany her, because they claimed that he did not have a permit to enter Nablus - only a few kilometres away. After she was transferred to the second ambulance on the Nablus side of the checkpoint Bayan gave birth in the ambulance by the checkpoint.

For 23-year-old **Maysoon Saleh Nayef al-Hayek** the 15-km trip from her home village to the hospital in Nablus to deliver her first baby turned into a tragedy. Israeli soldiers at the checkpoint shot at her car, killing her husband and injuring Maysoon and her father-in-law. When she eventually reached the hospital she gave birth in the lift. This is her testimony to Amnesty International:

*'It was 25 February 2002, not long after midnight, I started having contractions. I woke up Muhammad, my husband, and we went to his parents' house to call an ambulance. We couldn't get through, so my husband took his brother's car and we set off for the hospital in Nablus. My father-in-law came with us. We arrived at Huwara checkpoint at the entrance of Nablus after about 15 minutes and there we were stopped by Israeli soldiers. Muhammad was ordered out of the car and they checked his papers. Then my father-in-law and I had to step out as well and show our papers. Then the car was thoroughly searched. We told the soldiers I had to go to hospital to give birth as soon as possible, that I was in severe pain. They first refused, then told me to uncover my belly, so they could see I was telling the truth. After all this, which lasted about an hour, we were told to go ahead. We drove on and after a few hundreds of meters I heard shots. There was heavy gunfire coming from the front of the car. The car stopped, and I saw that my husband was hit and was lying on the steering wheel; he had been shot in the throat and upper body, and was bleeding heavily. My father-in-law, who was sitting in the front passenger seat, was hit in the upper body as well. I crouched on the floor at the rear of the car, and held the bag with baby clothes on my head for protection. I was injured in my shoulder by shrapnel and glass from the shattered window. The gunfire lasted about 5 minutes and after that, it was silent. I spoke to my husband and father-in-law, but neither answered. I realised the situation was serious and I was afraid and the contractions were faster and more painful. I was crying and started to scream. Soldiers came and pulled me out of the car. They made me take off all my clothes to examine me. Then they left me on the ground, bleeding from the wounds and in labour. I asked for something to cover myself with but they didn't give me anything. To this day, I feel shame and anger about this. They also examined my husband and father-in-law, and said they would have to bring him to a hospital in Israel. Then they called a Nablus ambulance for me.*

**Maysoon and Fida,**  
September 2004 ©AI

*After a while the ambulance came and took me and my father-in-law. When I reached Rafidiya hospital in Nablus, I gave birth in the elevator to a girl. I called her Fida; she is my first and only child. My mother, who happened to be in the hospital because my sister gave birth that same night, told me that my husband had died; my father-in-law, who was 66,*

*was severely wounded; he had bullets in his lungs and remained in a coma for 40 days. I stayed in hospital for 10 days and then went to my mother's house. I still live there with my daughter. I have not returned to my husband's family as they blame me for the death of their son".*

Some months after her ordeal, when she started to recover, Maysoon filed a complaint against the Israeli army via an Israeli human rights organization. She decided to file the complaint on the advice of a social worker in a Palestinian women's organization, who encouraged her to channel her anger and shame into constructive rather than self-destructive action.

Amnesty International considers that the practice by Israeli soldiers of delaying or denying passage to women in labour at checkpoints, effectively denying them medical treatment when it is clearly necessary and urgent, constitutes cruel, inhuman and degrading treatment.

### 2.1.2 Fear, anxiety and other consequences for pregnant women

The above cases are but a few examples. Scores of Palestinian women have experienced similar ordeals in the past four years. The prospect of having to go through such ordeals is terrifying for pregnant women. Health workers report that the fear of not being able to reach hospital in time to give birth has become a major source of anxiety and fear for Palestinian women throughout the Occupied Territories. The level of anxiety increases as the end of their pregnancy approaches.

*"Since September 2002, extensive curfews and closures resulted in a severe crisis of lack of access to medical facilities. Particularly vulnerable are pregnant women and women in labor. The situation has again changed the place of childbirth for some women to the home, although in this period it was frequently unplanned and not by choice, but rather imposed by the hundreds of checkpoints cutting off villages from the city and one city from the other. Some resorted once again to home birth, seeking out a birth attendant as best they could; some had horrific experiences trying to get through checkpoints, and some were able to reach maternity facilities. But, wherever they ended up having their babies, anxiety had become a major part of the birthing experience for the entire family..."<sup>13</sup>*

<sup>13</sup> *The Policies and Practices of Normal Childbirth in Maternity Facilities in the West Bank: Implications for*

The problem is particularly acute for women who live in villages and rural areas, because of the Israeli army checkpoints which separate the towns, where the hospitals are, and the surrounding villages. Even if a village is only a few kilometers from the town the journey can take hours and at night such a journey is outright impossible. During army incursions or when the army imposes a curfew getting to hospital is a problem and may be impossible even for those who live in town. In theory ambulances should be allowed to operate under curfew and to transport patients through checkpoints, but advance coordination with the Israeli army is needed and delays are routine. In some cases the army does not authorize passage at all, in other cases ambulances are forced to take long detours on secondary roads or are kept waiting, and often patients have to be transferred from one ambulance on one side of the checkpoints to another ambulance on the other side.

**Pregnant woman at Jubara checkpoint, near Tulkarem © MachsomWatch**  
([www.machsomwatch.org](http://www.machsomwatch.org))

In this situation, women are left with very little choice as to where they will give birth. Women who have relatives in town may try to go to stay with them ahead of the due date, so as to be near a hospital. However, this is not an option for most women, either because they do not have relatives in the city, or because they already have other children and cannot leave home for weeks or take them along. Also, in cases of premature births such advance arrangements do not provide a solution.

*Safe Childbirth*, Institute of Community and Public Health, Birzeit University, 2004.

During the night of 21 December 2003 Lamis Qassem, 25 years old, went into labour in the seventh month of pregnancy and was forced to give birth to twin girls in the ambulance on the way to hospital, after having been delayed by Israeli soldier at the Deir Ballut checkpoint in the freezing cold for over an hour. One of the babies died in the ambulance and the other died a few hours after reaching the hospital. According to doctors the twins, who weighed about 1,500 grams each, could have survived if they had been born in a hospital because the first minutes of treatment in such cases can be critical.<sup>14</sup>

Health workers are concerned that an increasing number of women who could give birth naturally resort to induced or caesarian delivery out of fear of not being able to reach a hospital if they go into labour at night or during a military incursion, a curfew or a closure. Before the increased tightening of closures and blockades in recent years, the overwhelming majority of Palestinian women gave birth in hospital. That remains the case today but the percentage of women delivering their babies at home has increased. While in the past some women chose to give birth at home, today women are less inclined to consider this option because they fear that if complications arise during the delivery they would not be able to reach a hospital quickly. Health workers who favoured promoting home delivery also feel that it is more difficult in the current circumstances.

According to Rita Giacaman, Associate Professor and Research and Program Coordinator at the Institute of Community and Public Health of Birzeit University: *'Giving birth should be a joyous prospect for a woman who is expecting a baby, but now women are no longer able to look forward to this moment. On the contrary they fear that something may go wrong and that they may lose their babies or their lives. They fear even minor complications which would not be an issue in normal circumstances. The result is a tendency towards over-medicalization of the process of giving birth, which is that women feel that they need to be able to control the time when they go into labour to ensure a safe delivery and see caesarean or induced delivery as the only way to do so. This situation of siege has further reduced choices for women in this respect; they have unnecessary caesarean surgery out of fear, are*

*no longer able to choose home delivery out of fear. And at the same time women give less attention to ante-natal and post-natal care; they cannot get to it because of the siege, or they are afraid because of the army's incursions, or they are just too stressed about the situation of increased poverty and danger for their families and themselves and do not put their health as a priority'*<sup>15</sup>

On 15 February 2005 UN Secretary-General Kofi Annan raised concern that *'Palestinian women are suffering massively from malnutrition, especially when they are pregnant and nursing'*. In his report to the Economic and Social Council's (ECOSOC) Commission on the Status of Women (CSW), he referred to the findings of the UN World Health Organization (WHO), according to which *'during a home visit programme in the period under review, October 2003 to September 2004, 69.7 per cent of 1,768 expectant women, within one month of delivery were found to be anaemic'*.<sup>16</sup>

### 2.1.3 Other concerns related to access to medical care

The above-mentioned concerns also apply to health issues other than those related to child-bearing. Many Palestinian women have increasingly neglected their health, due to increased poverty, because in the face of the hardship which surrounds them, they and/or those around them feel unable to give the necessary importance to their own personal condition and focus on the well-being of their children and other family members before their own.

In addition, restrictions on movement, refusal or delay of passage at checkpoints, closures and curfews, have caused a variety of complications for those in need of medical care, including women, and in some cases have even resulted in the death of patients.

*'The restrictions on freedom of movement Israel imposes on Palestinian residents of the occupied territories have gravely damaged their ability to access essential health services ... Since the eruption of the intifada in September 2000, the situation has further deteriorated and the violations of patients' rights have reached unprecedented dimensions.'*<sup>17</sup>

<sup>14</sup> See statement of Dr. Ilan Gal of the Lis Maternity Hospital in Tel Aviv, quoted by Gideon Levy in his article *And the twins died* in Ha'aretz, 8 January 2004.

<sup>15</sup> Amnesty International interview, May 2004.

<sup>16</sup> <http://www.un.org/apps/news/story.asp?NewsID=13358&Cr=&CrI=>

<sup>17</sup> See Physicians for Human Rights-Israel at: <http://www.phr.org.il/phr/article.asp?articleid=73&catid=45&pcat=45>

During the 37 years of Israeli occupation the development of the Palestinian health system has been severely limited. Palestinians needing certain kinds of treatment have to rely on hospitals in Israel or in other countries. For example, medical facilities in the Gaza Strip are unable to adequately diagnose and treat cancer patients, notably women suffering from breast cancer. According to Physicians for Human Rights-Israel, the rate of survival of breast cancer patients in the Gaza Strip is only 30-40%, compared to 70-75% in Israel.

With the increasing difficulties for Palestinian patients to obtain permits to enter Israel, more are forced to go to other countries. In both cases, patients need the permission of the Israeli army to leave the West Bank and Gaza Strip, but even those who are allowed to leave the Occupied Territories are often unable to do so because of closures imposed by Israel on the borders. Patients from the Gaza Strip have been facing particularly serious problems due to frequent and prolonged closures by Israel of the border between the Gaza Strip and Egypt, the only point of passage out of the Gaza Strip.

Testimony of N.A., a 38-year-old Palestinian woman from Khan Yunis, in the Gaza Strip, on 12 January 2005: "I traveled to Alexandria (Egypt), on 8 December 2004 seeking medical treatment. I finished all my medical treatment and want to go back to my family and city but unfortunately, the closure is preventing me from my very basic right of a normal return home. I have four children who are all in school and the youngest is 5 years old. It is the first time ever that I leave them. I am so worried and scared. All I want is to go back and be with my family".

Israel eventually reopened the border between Egypt and the Gaza Strip on 20 January 2005, but only for Palestinians returning to Gaza and not for travel out of Gaza.

## 2.2 Increased unemployment and poverty – a growing burden for women

"In no way may a people be deprived of its own means of subsistence."

Article 1(2), International Covenant on Economic, Social and Cultural Rights, (ICESCR)

Israel's obligations under Articles 6, 7 and 8 of the ICESCR include the right to work under fair conditions. However, hundreds of thousands of

Palestinians in the Occupied Territories are effectively deprived of their means of subsistence and of their right to work because they are prevented from reaching their land and their workplace or because their land and properties have been seized or destroyed by the Israeli army.

"The reality of life in the territories is one of strangulation of the economy, with consequent far-reaching social impacts. Poverty continues to grip Palestinian communities, relieved only by large-scale international assistance... At a time when the international community is set on halving the incidence of poverty by 2015, in the occupied territories poverty has tripled in percentage points in the space of five years".

The Director-General of the International Labour Office (ILO), June 2004.<sup>18</sup>

For some time Zuheira Murshad, a 72-year-old widow whose land is in one of the areas which have been cut off from the rest of the West Bank by the fence/wall built by the Israeli army,<sup>19</sup> has been prevented by the Israeli army from accessing her land near the West Bank village of Falame, north of Qalqiliya. In September 2004 the army notified her that the trees on her land would be cut down. The reason given by the army is that her land is near the home of Israel's Defence Minister, Shaul Mofaz, whose estate is in Kokhav Yair, which straddles the Green Line. She told Amnesty International:

"The army has fenced in my land and I have not been able to go to tend to it and now they want to cut down my trees, my livelihood. First the army said that I needed a permit to go to my land. The permit is difficult to obtain; to apply I have to go to the army base in the Israeli settlement of Kedumim and it is difficult and dangerous for me to get there. And if I get the permit it is only for me, but I cannot tend the land by myself and need people to help me but nobody else can get a permit

<sup>18</sup> "The situation of workers in the occupied Arab territories", Report of the Director-General of the International Labour Office (ILO) to the International Labour Conference, 92<sup>nd</sup> session, June 2004. <http://www.ilo.org/public/english/standards/reim/ilc/ilc92/pdf/rep-i-a-ax.pdf>

<sup>19</sup> For more details see: *New Orders in Barrier Enclaves: 11,400 Palestinians need permits to live in their homes*, B'Tselem, 2004, <http://www.btselem.org>; and UNRWA Reports on the West Bank Barrier, e.g. *Case Study: The Permit System: The Case of Jayyous and Falameh, Qalqiliya Governorate*, May 2004. [http://www.un.org/unrwa/emergency/barrier/case\\_studies/permits.pdf](http://www.un.org/unrwa/emergency/barrier/case_studies/permits.pdf)

*and so I have not been able to tend to my land. My own trees are going to waste and I now have to work on someone else's land to pick olives. I am an old woman, I don't cause any harm to the Israeli Defence Minister; but they have caused much harm to me, they have destroyed my life".* She appealed the army's decision to cut her trees to Israel's Supreme Court but in February 2005 the Court rejected her petition, giving the green light to the army to destroy the trees on her land and effectively depriving Zuheira Murshad of her source of income.

*"Women have historically played a major role in agriculture production for household economy in Palestine. As such when households lose land, women not only lose a vital source of income, but also lose their status as providers and income-generators for the household. This greatly increases the burden on women to provide for the family, while negatively affecting their status within the household and society."*<sup>20</sup>

The vast majority of Palestinian women are not engaged in paid employment outside the home. Historically, their participation in the labour force has been low and the constraints imposed on the Palestinian economy during decades of Israeli occupation have compounded the problem. However, before the *intifada* women's participation had risen to 15.8% of women aged over 25 years. This trend has since been reversed and women's participation has declined to around 10.5%.

According to the International Labour Office (ILO): "... women are concentrated in low-productivity occupations, in particular subsistence agriculture. Women are thus hit particularly hard by the manifold restrictions placed by the IDF on agricultural production (limiting access to water, destruction of land, orchards and olive trees) in both the West Bank and Gaza.... Nor should the particular harm to which women are exposed be underestimated, both in terms of hardship and indignity suffered at checkpoints and in the sense that their role as breadwinners as well as home-makers has become increasingly hard to play at a time when, because of the enforced absence of male family members, even small-scale or subsistence agricultural activities are rendered nearly impossible by the advent of the Wall and resulting deprivation of land, light and water".<sup>21</sup>

The sharp increase in unemployment and loss of income for the male workforce has put pressure on other family members – that is women and children –

to find paid work. The pressure on women to find work outside the home has come at the same time as employment opportunities have dwindled in fields traditionally considered acceptable for women in Palestinian society – that is professional jobs. As a result more women have been forced to take up jobs such as cleaners or labourers in unregulated sectors, where they are more at risk of being exploited or even abused, and which are not considered acceptable for women in Palestinian society. While some may argue that such developments may contribute to a positive "taboo breaking" about the role of women in society and/or the labour market, in reality such a situation is resented as being imposed by force of desperation rather than by choice, and is putting more pressure on the women concerned and those around them.

Waiting women at Huwara checkpoint, Nablus. © MachsomWatch ([www.machsomwatch.org](http://www.machsomwatch.org))

Women's rights advocates also note that the change from a situation in which most women have traditionally not been working outside the home, must be by choice and through a process which safeguards and promotes women's rights. The increased unemployment and poverty and the paralysis of the Palestinian economy over the past four and a half years have significantly undermined the benefits of awareness-raising campaigns and training and empowerment projects carried out in the 1990s.

*"In addition to the disruption of family life, the reversal of gender roles and the rise in domestic violence, women forced into the workforce also face exposure to exploitation by employers. Often unaware of their rights and unable to seek redress, these women are, once again, victimised."*

<sup>20</sup> "The impact of armed conflict on Palestinian women", by Eileen Kuttub and Riham Barghouti, 2002.

<sup>21</sup> See footnote 18.

Report by the Women's Centre for Legal Aid and Counselling (WCLAC)<sup>22</sup>

Women who are forced to work in such circumstances are more at risk of infringement of their rights by exploitative or abusive employers. They are also exposed to pressures or abuse at home by husbands or male relatives who resent women becoming the providers while they themselves are unemployed and unable to fulfill their main role as breadwinners for their families. In some cases women are even forced to take up jobs which can put them at risk.

A student from the Gaza Strip told Amnesty International:

*"My father used to work in Israel but has not been able to get a permit to get into Israel for some time and can't find work most of the time here in Gaza; so he only works occasionally and earns very little. My mother now works in an Israeli settlement here in Gaza, in agriculture. We have to keep this secret here in the community, because it is very badly perceived to work in Israeli settlements now; people see you as a traitor or a collaborator and so it is risky. But it is difficult to keep things secret here; everyone knows what everyone else is doing. For us it is also shameful; we had some land before, but in the last few years the Israeli army bulldozed our land and they also destroyed our home last January. Now we have nothing and my mother has to work for the Israelis who destroyed everything we had. It is really difficult; we don't talk about this, even with relatives; but I think some of them know; and some neighbors suspect this also; but we don't discuss this with people. Even at home with my father it is difficult; he cannot provide for the family any more and has to send his wife to work for the settlers while he is stuck at home with no work; it makes him very unhappy and causes tension at home. He worked in Israel, and had Israeli friends, but working for the settlers here in Gaza, especially now, is not acceptable. If I could get a good job I would stop studying and work to support my family, but there is no job for a young girl like me; I have to finish my studies. My mother will do anything so that my sisters and I finish our studies. It's very difficult, there are attacks and operations all the time and we worry that something will happen to her; I think she also worries but she doesn't say it."*

<sup>22</sup> "The Second Palestinian Intifada: Social and Psychological Implications for Palestinian Women Resulting from the Israeli Escalation of Violence", WCLAC, August 2001.  
<http://www.wclac.org/intifada/intifada.html>

Women who work outside the home also continue to bear most of the burden of running the house and taking care of children and family. The increased amount of time and energy they have to spend getting to and from work because of checkpoints, roadblocks and closures add an extra burden. For working mothers the fear of not being able to return home because of a closed checkpoint or a sudden curfew is a constant source of anxiety.

**Fatima**, a physician and mother of two young children, is a Jerusalem resident but has to live in Ramallah in the West Bank because her husband does not have a permit to live in Jerusalem, even though Fatima applied for family unification years ago. She works night shifts in a Jerusalem hospital and has to leave home early in the afternoon to make sure of getting through the long queues at the checkpoints to reach Jerusalem in time for work. She often cannot get to work or misses work because the checkpoints are closed or she gets stuck in Jerusalem, unable to return home. At times, when she finds the checkpoint closed and cannot go home, by the time she gets back to Jerusalem her friends have gone to work and she has to pay for a hotel room, all the time worrying about her children in Ramallah.

### 2.3 Education opportunities for girls curtailed

*"Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth."*<sup>23</sup>

Israeli army checkpoints, blockades and other restrictions on movement have severely hindered access to education for Palestinians. For students who come from outside the university towns the cost of studying has increased significantly due to the closures. Many now have to live in the town where they study, and pay for accommodation there, because the journey between home and university,

<sup>23</sup> General Comment 13 (1) of the Committee on Economic, Social and Cultural Rights, E/C.12/1999/10, 8 December 1999.

when at all possible, now takes hours and is no longer feasible on a daily basis. Transport costs have increased by up to 400 or 500 percent because the same journey now involves making long detours and taking several vehicles between the various checkpoints.<sup>24</sup>

**Schoolgirls held up by an Israeli soldier © Palestine Monitor ([www.palestinemonitor.org](http://www.palestinemonitor.org))**

The imposition of these restrictions and their consequences contradict the spirit of Article 13(1) of the ICESCR, which recognizes that everyone has the right to education, which must be accessible to everyone and within safe physical reach.

The increased cost for transport and campus accommodation, the increased length of the journeys and the risk that students may be unable to return home due to closures and curfews has affected female students more than their male counterparts for two reasons. Given the significant deterioration of the economic situation and increased poverty more families cannot afford to pay for several children to go to university and prioritize university education for the sons, as they are expected to be able to support a family when they marry.

Another reason is that some families, especially in rural or more conservative sectors of society, are unwilling to allow their daughters to live away from home or to be exposed to the potential dangers of

daily commuting to and from university, such as being stranded at a closed checkpoint and unable to return home at night – a fairly frequent occurrence for thousands of Palestinians.

*“...the closure policy and the deterioration of economic conditions have been affecting female students more than men, which has increased the percentage of drop-outs or even the inclination of leaving schools due to the daily difficulties and financial pressures especially of school girls in secondary classes or higher education institutions.”<sup>25</sup>*

University professors, student deans and staff members, as well as social workers and non-governmental organizations are often called upon to intervene on behalf of female students to find the necessary funding to allow them to continue their studies or to reassure and convince families to allow their daughters to attend university and live away from home.

Rajah Bawab of the Community Service Centre in Nablus: “All the students are experiencing increased problems in this situation, but for girls who live outside Nablus it is more difficult. For many families it is not acceptable for their daughter to live away from home with strangers, and there is also the financial problem. So we and others working in this field have to work very hard to ensure that there is a good environment for the female students, to reassure the families that their daughters are living in a safe place, and to help the students who live away from home to solve any problems they face, including financial problems. Some of the girls who live away from home often cannot go to visit their families for a long time because of the closures, or they go and then have difficulties coming back into Nablus. And families cannot visit their daughters here for the same reason. Sometimes a girl learns that something serious has happened in her family but she cannot go home because Nablus is under closure, or there is closure around her home village and if she leaves Nablus she will get stuck on the way. This happens all the time. Even the students who live in villages five kilometers from Nablus have problems coming into Nablus and going back home. They get stuck all the time and have to find somewhere to spend the night. For girls such situations are more difficult; some of them are married and have small children at home. Also, the Israeli army raids and bombs Nablus all the time and families worry about their children. This situation creates constant pressures on the students and on their families, especially for those who

<sup>24</sup> At al-Najah University in Nablus, one of the largest in the West Bank, most of the students are from outside Nablus. Whereas five years ago 90% of them lived at home and commuted to university daily, now more than 80% have to live in the town.

<sup>25</sup> *The Impact of Armed Conflict on Palestinian Women*, Eileen Kuttub and Riham Barghouti, in *Review of Women's Studies 2002*, published by the Institute of Women's Studies, Birzeit University.

*live away. In some cases students who are very successful in their studies give up because of this situation"*

Bilal Salameh and Sami Kilani, current and former Students' Dean at al-Najah University, Nablus, echo the same concerns. They point out that even though the overall percentage of female students at al-Najah University has not dropped in the past four years, in many cases girls who obtained good grades in high school and who under normal circumstances would have gone on to university, have not continued for the reasons mentioned above, and their places are filled by other students with lower grades.

## 2.4 Restrictions on travel abroad

Trips abroad, no matter how short they are intended to be, are often difficult and fraught with potential risks, and at times outright impossible.

Testimony of A. from Gaza City: *"I left Gaza on 8 December 2004 to go to France to attend a family event. I was planning to go back home after six days but the closure of the borders with Gaza imposed by the Israeli Occupation Forces prevented me from returning back home. I am a wife and a mother of four children who works for the Women's Affairs Center that deals with women and human rights issues. I am being hosted by friends in Cairo and don't know how long this will last for ... I want to go back to my family as I am dreadfully needed there as well as at my job. My husband works as a journalist and his work demands from him to be away from the house most of the time. As a result my children are all alone at home during this very dangerous situation in Gaza..."*

The Rafah crossing from the Gaza Strip into Egypt is the only point of exit/entry for some 1,500,000 Palestinians who live in the Gaza Strip. In recent years the Israeli authorities have frequently closed the Rafah crossing for days and weeks at a time, leaving thousands of Palestinians stranded at the border, prevented from returning home or from travelling abroad. The prospect of being stranded at the border for days or weeks, unable to return home and forced to endure discomfort and to incur extra expenses, discourages many Palestinians from travelling abroad altogether. Women are more affected, especially if they have children.

Mona Shawwa, head of the Women's Unit at the Palestinian Centre for Human Rights (PCHR) in Gaza notes that: *"Women are particularly discouraged from travelling by the prospect that their children may get sick or*

*have an accident while they are abroad and can't get back home because the Rafah crossing is closed for however long. I have little children and I understand that; it is a horrible prospect and a very real one; the likelihood of getting stuck at the border is very high; it happens frequently; and with the frequent Israeli air strikes and shelling the risk of something happening to your children is also very real; so one just doesn't want to be far from them if one can help it. Going to a two-day conference abroad takes six or seven days in the best case scenario; even when there is no problem, getting through Rafah crossing takes a whole day each way, and if the Israelis close the crossing, one is stuck at the border for days or even weeks. At the same time, travelling with children in such conditions is also very difficult. So people in general travel much less, and women even less..."*

## 2.5 Increased isolation

When husband and wife are from different towns/villages, women traditionally go to join their husbands upon marriage. The restrictions which have made movement between different parts of the Occupied Territories difficult or impossible have increasingly isolated women from their own families and deprived them of their support networks.

Souad from Jenin lives in Gaza with her husband and three-year-old child and has not seen her parents and relatives for over four years: *"I miss my parents and my brothers very much; I have not seen them since the beginning of 2001. I have not been able to go to Jenin to visit them and they have not been able to visit me in Gaza. They only know my son through the pictures and by telephone. My husband and I are very happy together and I would live with him anywhere, but I am sad that I can never see my family. I would like to see them and spend time with them, to share happy moments with them and also to help them when they need it, and they would like to do the same. In the first years of my marriage I visited them from time to time but for the last four years it has been impossible. It is extremely difficult to get a permit, and when full closures are imposed permits are not valid anyway, and even if I manage to go if something happens I could get stuck there for a long time. It's just impossible"*.

K., a resident of East Jerusalem is married to a woman from Tulkarem: *"My wife's parents cannot visit us and she visits them rarely because it is so difficult. I am not allowed to enter Tulkarem and so I take her to the checkpoint and have to leave her there with the children and pick her up again when she comes out. Since she is now a Jerusalem resident the soldiers at the checkpoint may let her pass or may refuse; one never knows. So I am now cut off from my wife's family and my wife also sees her parents much more rarely because of these*

*difficulties. We would just like to be together as a family from time to time, me and my wife with our children and her parents; is that too much to ask?"*

Such mobility restrictions have increased the sense of isolation of women who live away from their families, especially at times of pregnancy, illness or other difficult circumstances. Help from a mother, sister or other relatives is often the main source of material and moral support and can make a crucial difference in coping with challenging situations. Being cut off from their families and support networks has also been particularly detrimental for women who are facing difficulties in their relationship with their husbands and/or with their husbands' family. Such forced isolation can be a determining factor in perpetuating situations of family violence.

### 3. Impact of a new discriminatory law preventing family unification

In July 2003 the Israeli parliament passed a law banning family unification for Israeli citizens married to Palestinians from the Occupied Territories.<sup>26</sup> The law institutionalized a practice which had been applied formally since early 2002 and informally for much longer. The law explicitly discriminates against Palestinians and against Palestinian citizens and residents of Israel, for it is them who marry Palestinians from the Occupied Territories. The UN Committee on the Elimination of Racial Discrimination (CERD) has condemned the law and has called for it to be repealed.<sup>27</sup>

*Samira, from Nablus, has been married for three years to a resident of East Jerusalem but has not been able to obtain a family reunification permit and has been living with her husband in Jerusalem illegally: "I used to work as a teacher but since I got married I have not been able to work because I don't have a permit. I can't go anywhere and can't do anything. Often I am too afraid to even leave the house because I am afraid that if I come across a police patrol and they ask for my papers they will arrest and expel me. I can't visit my parents at all because they are in Nablus and I cannot go in and out of Jerusalem and they cannot visit me because they have no permit either. I am very*

*happy with my husband but I miss my family and I miss working and I am lonely; and I wonder if I will have to live like this for the rest of my life?"*

Palestinian women who have been refused family unification and who are living with their Israeli or Jerusalemite spouses "illegally" are confined to their homes, too afraid to go out in case they are arrested and expelled back to the Occupied Territories and thus get separated from their husbands and children.

Those who are in an abusive marriage are often reluctant to leave their husbands because if they do they would have to go back to the Occupied Territories and be separated from their children. One example of what can happen if they do is provided by the case of *Nadia*, a Palestinian woman from the West Bank who divorced her abusive husband, a resident of Jerusalem. Even though she has shared custody of her son, she has not been able to see him for over a year because she has not been able to obtain a permit from the Israeli authorities to enter Jerusalem, and her husband refuses to take the child to the West Bank to visit her.<sup>28</sup>

Her Israeli lawyer told Amnesty International: "Since the Israeli authorities have been ignoring the PA in recent years, cooperation between the two sides on such cases has virtually ceased. Husbands who do not pay alimony to their divorced Palestinian wives or who do not honour the shared child custody agreements get away with it because their wives are stuck in the Occupied Territories and are not able to pursue the case with the Israeli authorities and the latter do not follow through on the cases. One of my clients could not get a permit to enter Jerusalem and eventually managed to sneak into Jerusalem illegally, just to see her child outside the school. Her husband refused to let her spend any time with the child even though she has the right to according to the divorce settlement. Such cases are very complicated and the authorities are not enforcing the

<sup>26</sup> Citizenship and Entry into Israel Law (Temporary Order) 5763 – 2003, passed on 31 July 2003.

<sup>27</sup> See Decision 2-63 and 2-65 of the Committee on the Elimination of Racial Discrimination, 22 August 2003 and 20 August 2004.

<sup>28</sup> In its General Comment 28, the Human Rights Committee held that "[t]he obligation to ensure to all individuals the rights recognized in the Covenant, established in articles 2 and 3 of the Covenant, requires that States parties take all necessary steps to enable every person to enjoy those rights. These steps include the removal of obstacles to the equal enjoyment of such rights, [...], and the adjustment of domestic legislation so as to give effect to the undertakings set forth in the Covenant." Human Rights Committee General Comment No. 28 (The equality of Rights between Men and Women), 29 March 2000. In line with this requirement, the Israeli authorities should give effect to their obligation to uphold custody arrangements.

*law as they should and so many women stay married to men who abuse them just to avoid facing such problems”.*

#### 4. Ill-treatment of Palestinian women in Israeli detention centres

Some women have been arrested, threatened and ill-treated to put pressure on their husbands to give themselves up or to sign confessions. Such violations contravene Israel's obligations under both international human rights and humanitarian law, notably the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the International Covenant on Civil and Political Rights, which stipulates in its Article 7 that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment...”, and the Fourth Geneva Convention, which forbids in its Article 3(1)(c): “outrages upon personal dignity, in particular humiliating and degrading treatment”

Firyal, a mother of seven, was arrested in April 2002, a few days after her husband's arrest. She was first summoned to the Ofer military base for questioning but when she went there she was not questioned. Instead she was photographed sitting in a car next to an Israeli military officer. She was later taken to the Moskobiya detention centre in Jerusalem, where her husband was detained under interrogation. There she was shown a photograph of her husband with his hands tied to the back of a chair and was told that he would be sentenced to 20 years' imprisonment. She was then again photographed and then her husband was brought outside her cell and made to look at her through the keyhole. Later he was shown her photographs and was told that she had been in detention for a week and had been beaten, even though this was not true. He was also told that their children would be brought in for interrogation. Firyal was released the same evening and her husband was released several months later, having been tried and acquitted.

Several other Palestinian women have told Amnesty International that during interrogation they have been beaten, slapped or punched, tied to a chair in uncomfortable positions, and threatened, and that male interrogators sat very close to them, brushing against them, and that they felt that this was clearly intended to intimidate them and make them feel uncomfortable. The most common threats made by the interrogators are that the detainees' family homes

will be destroyed, that they will be sentenced to long prison terms, and that members of their families will be arrested, notably elderly parents and young siblings. In many cases the women were eventually released without charge. A female officer is usually present when female detainees are interrogated, but the questioning is carried out by male officers.

Yara, a 19-year-old student from al-Bireh told Amnesty International that when she was arrested in March 2004, she was threatened and ill-treated; “It began when the soldiers came to my family home; they trashed my room. Then they took me to the interrogation centre and the female soldier did not come in the jeep, even though I asked her to; I was alone in the jeep with male soldiers and they kept swearing loudly and using obscene language, which make me feel uncomfortable. At the interrogation centre one of the interrogator sat opposite me, very close to me, with his knees around my knees; I felt very uncomfortable. He shouted very loudly into my ears and thumped me on my legs, my shoulders and on my head; it was painful and made me feel disoriented. They also threatened to blow up my family's house, to kill my parents and to arrest my four-year-old brother. The female officer was present during the interrogation sessions but she did not do anything or say anything to the men to make them stop treating me in this way”.

#### 5. The impact of house demolition and destruction of property on women

More than 4,000 homes, hundreds of public buildings and private commercial properties, and vast areas of agricultural land have been destroyed by the Israeli army in the Occupied Territories in the past four and a half years. Tens of thousands of people, most of them women and children, have been made homeless and destitute. The victims are often amongst the poorest and most disadvantaged in Palestinian society.<sup>29</sup> Thousands of other houses have been damaged, many beyond repair, and thousands more are under threat of demolition, their occupants living in fear of the army's bulldozers.

<sup>29</sup> Most of the houses destroyed by the Israeli army were the homes of refugee families who were expelled by Israeli forces or who fled in the war that followed the creation of Israel in 1948.

**Palestinian women looking on as an Israeli armored bulldozer demolishes a house in Rafah refugee camp, next to the border with Egypt, 14 May 2004 © AP Photo/Khalil Hamra**

House demolitions are usually carried out without warning, often at night, and the occupants are given little or no time to leave their homes, sometimes just a few minutes. In most cases the justification given by the Israeli authorities for the destruction is "military/security needs" while in other cases the demolition is imposed as a form of collective punishment on the families of Palestinians who are known or suspected to have been involved in attacks against Israelis. In other cases still, the reason is the lack of building permits.<sup>30</sup> In several cases women were injured while fleeing their homes as the Israeli army began to destroy them and in at least two cases women were killed when the army brought down their homes on top of them.<sup>31</sup>

<sup>30</sup> See Amnesty International: *Israel and the Occupied Territories: Under the rubble: House demolition and destruction of land and property*, May 2004 (AI Index: MDE 15/033/2004).

<sup>31</sup> Noha Maqadmeh, a mother of 10 children who was nine months pregnant, was killed when her home collapsed as Israeli soldiers blew up a neighbouring house on 3 March 2003 in a refugee camp in the Gaza Strip. On 6 April 2002, Nabila al-Shu'bi, who was seven months pregnant, her three young children and her husband and two of his sisters and his father were left to die under the rubble of their home, demolished by the Israeli army in Nablus. Her elderly aunt and uncle survived trapped under the rubble for a week and were found alive by rescue workers.

In the third week of May 2004 the family home of **Manal Awad**, Director of the Women's Empowerment Project of the Gaza Community Mental Health Programme was destroyed in one of the biggest waves of destruction carried out by the Israeli army in Rafah, in the south of the Gaza Strip. Some 200 homes were destroyed in the space of three days and as many were rendered uninhabitable. A few days later Manal told Amnesty International: "Our house was about 800 meters from the area where the Israeli army has been destroying a lot of houses and we did not think that it was at risk of destruction. On the morning of the destruction I was at work in Gaza City and my mother, who is 65 years old, was at home with my sister and our aunt who is 85 years old and who also lives in the house. My mother told me on the phone that they could not get out of the house because the army bulldozer were right in front of the house and it was too dangerous to try to get out by the front door. The bulldozer was starting to hit the house and she was terrified. I was beside myself with worry. I could not go to Rafah because the Israeli army had closed the road between Gaza City and Rafah. A neighbour tried to smash a hole in the back wall and eventually they managed to climb out of the house from the back; my aunt couldn't manage and they had to pull her. It was a terrible experience and we were all very badly affected; my mother couldn't eat for days; the whole family is in a bad situation. In my work here in the programme (counselling, rehabilitation and support for women in difficulties) I have to be strong to try to help other women and at the same time I was also affected by what happened to my family."

The majority of the tens of thousands of people who have been made homeless by the destruction of their homes are women and children, mostly refugees. All those whose homes have been destroyed have been affected, individually and as families, as they are forced to make adjustments and live in conditions which often place additional strains on their family relations. Most Palestinian women do not work outside the home, which is the space which they feel is their own. Men spend more time outside the house for work and social activities, and children go to school and play outside, whereas for most women the running of the house is mainly their responsibility or their primary activity. Whether they work outside the house or not, women devote a significant amount of their time and energy in unremunerated and often overlooked work in the home, and are therefore particularly affected by the destruction of their homes. When homes are demolished and families are made homeless, women bear the brunt of rebuilding family life.

In most cases the families whose homes have been demolished cannot afford to pay for alternative accommodation and have been forced to move in with relatives, who often do not have sufficient space to accommodate an additional family. Since women spend more time in the house it is they who are more affected by the discomfort of living in someone else's space, where they can no longer take responsibility for the administration of the family space and activities. In addition to the practical problems, the loss of privacy and space often puts strain on the relationships between family members. Mothers often feel undermined in their role as a source of authority and emotional and material support for their children.

*"That was the beginning of a new type of suffering. Staying in my parents' old house has robbed me of my freedom – I have to take their feelings constantly into account, and I do not want to become a burden. I also have to keep the house spotless; it is not our home so we have to be considerate. I am missing out on spending time with my husband because I'm so preoccupied with taking care of the children. I feel constantly tense, desperately needing a private place for my family; even a small room with mice would be fine for us! I want my children to be able to move around as they wish and to play freely with their toys. I want us to feel that we are still a family. I have become so depressed that I cannot eat, and this depression has had an effect on my husband and children."*

Testimony of a woman whose home was demolished, to the Women's Centre for Legal Aid and Counselling (WCLAC)

*"Women suffer immensely from forced eviction. ... Domestic violence is higher in the precarious and often stressful situation of inadequate housing, especially before and during a forced eviction."*

Centre on Housing Rights and Evictions, COHRE<sup>32</sup>

Palestinian women have been particularly affected by house demolitions and by the increased tensions which often develop within the affected families as a result, including an increase in family violence. Moreover, women whose families have been made homeless as a result of the demolition of their homes feel even less able to complain and seek redress for family violence, both because they feel that in the face of the loss of the family home their grievances are not seen as a priority and because the additional practical and financial difficulties caused by the

destruction of the family home make it more difficult to find a solution to their individual problem.

## 6. Occupation, conflict and patriarchy: Increased pressures and violence against women

*"Women not only bear the combined burdens of occupation and patriarchy but due to the former their capacity to transform the unequal gender structures of the latter is curtailed".*

UN Special Rapporteur on violence against women, its causes and consequences, February 2005<sup>33</sup>

Palestinian women and human rights organizations, community and social workers, counsellors, physicians and other professionals, are concerned that violence against women in the family has increased in the past four and a half years, as the deterioration of the security and economic situation has exacerbated existing problems of gender inequality and control of women in Palestinian society. Women's rights advocates note that during the first *intifada* (1987 to 1993), the increased level of violence which Palestinians were subjected to by the Israeli army was accompanied by an increase in violence and threats of violence against women within Palestinian society and in the home, and that the same trend has developed since the outbreak of the current *intifada* in 2000.

The increased militarization of the Israeli-Palestinian confrontation in the past four and a half years has raised the threshold of violence to an unprecedented level. Whereas in the first *intifada* women actively participated as a civil society movement, the current *intifada* has seen a more prominent role for armed groups. Women have little or no opportunity to challenge or participate in the decision-making process for the conduct of the *intifada*, which has far-reaching consequences on so many aspects of their lives. The breakdown of the economic and security situation caused by the conflict has imposed increased pressures and restrictions on women, and at the same time it has further curtailed women's ability to control their own lives.

<sup>32</sup> Submission to the 59th session of the UN Commission on Human Rights, March 2003.

<sup>33</sup> Report of the UN Special Rapporteur on violence against women, its causes and consequences, Addendum: Mission to Occupied Palestinian Territories (E/CN.4/2005/72/Add.4), 2 February 2005.

The extent of the restrictions and confinement imposed in recent years by Israel on the entire Palestinian population and the resulting poverty and unemployment have caused untold humiliation, anger and frustration to Palestinians throughout the Occupied Territories. Referring to the result of a national poverty assessment in the Occupied Territories in 2001-2002, Penny Johnson and Eileen Kuttub refer to "An underlying and urgent theme, voiced over and over again, by poor men and women as they describe the reasons and conditions of their impoverishment and vulnerability, is a profound crisis in the ability of male breadwinners to support their families". They note that "The crisis of the male breadwinner is a gendered crisis and a family crisis.... This places enormous stress on gender roles".<sup>34</sup>

One of the consequences has been an increase in the level of violence within Palestinian society and within the family, worsening the situation of women who have long been subject to inequality, control and violence by male relatives.

*"With tighter restrictions on the movement of men, many women are forced out of their protected domestic cocoons to seek employment to sustain their families, while their unemployed husbands stay at home. This sudden and involuntary reversal of gender roles disturbs the stability of intra-family relationships, and puts women in a perilous position. Many men resort to violent means to assert their control over the family, feeling insecure about their status in the family, and frustrated by feelings of helplessness and powerlessness. Not surprisingly, male frustration and insecurity have a consequent adverse impact on women, who become victims of increased rates of domestic violence."*

The Women's Centre for Legal Aid and Counselling (WCLAC)<sup>35</sup>

Restrictions on movement and curfews which confine people to their homes for prolonged periods, and increased unemployment, poverty and insecurity, which have forced men to spend more time at home, as well as the increase in crowded conditions in the home, have contributed to the increase in violence

against women, including sexual abuse, within the family.

A study by the Women's Empowerment Project in Gaza, which indicates that some 60% of the participants were subjected to physical or verbal violence in the home, shows that the majority of abused women who used to live in their husband's extended family home stopped being abused after they moved to a home with only their husband and children.<sup>36</sup> However, in the past four years many more women have been forced to live with their husband's family because of increased financial hardship and because thousands of families have had their homes destroyed by Israeli forces.

*"Women's responsibilities within households had expanded due to the death, imprisonment or unemployment of male members of households. Many women were placed in the position of being a primary household provider, caregiver and the main strategist for coping financially, mentally and physically with the new situation".<sup>37</sup>*

While they are facing increased pressures and violence, Palestinian women have less safety mechanisms at their disposal. The greater the external threat, the less opportunity there is to raise and confront domestic issues, especially those considered controversial or sensitive within Palestinian society, such as gender issues and the patriarchal system. In addition, harmful practices which may amount to institutionalized forms of violence in the family such as forced and early marriages, wife inheritance and polygamy are more likely to occur.

Victims of spousal or family violence feel even less able to complain when their relatives and others around them are suffering from violations which they themselves often consider to be worse, such as assassinations, imprisonment, house demolition, extreme poverty, etc. Increased poverty and unemployment have made it more difficult for women to get out of abusive marriages. These factors are also reported to have resulted in an increase in early marriages for girls, which in turn increases the potential for marital tension and the likelihood that

<sup>34</sup> *Gender and the Intifada*, by Penny Johnson and Eileen Kuttub, in the 2002 Review of Women's Studies, published by the Institute of Women's Studies of Birzeit University, West Bank.

<sup>35</sup> *The Second Palestinian Intifada: Social and Psychological Implications for Palestinian Women Resulting from the Israeli Escalation of Violence*, by Maha Abu-Dayyeh Shamas, August 2001.

<sup>36</sup> *Family: Violence Against Women*, Women's Empowerment Project, January 2001.

<sup>37</sup> *Situation of and assistance to Palestinian Women*, Report of the UN Secretary-General to the Economic and Social Council, Commission on the Status of Women, March 2004, E/CN.6/2004/4.

the young bride may be subjected to abuse. The same reason is also reported to account for an increase in the number of women who accept polygamous marriages.<sup>38</sup>

The UN Human Rights Committee and CEDAW have both condemned polygamy as a practice which contravenes a woman's right to equality with men.<sup>39</sup> The UN Committee on the Rights of the Child has addressed child marriage as a "harmful traditional practice" in its concluding observations on states parties' reports and commented on the influence on the perpetuation of this practice played by customary law. It has found that "large age differences between spouses tend to reinforce gender stereotypes" and that "lower marriageable age for girls constitutes gender discrimination".<sup>40</sup>

Women whose husbands have been killed in the conflict are often under pressure to marry their husband's brother, especially if they have children. When a man dies, his children are traditionally considered the responsibility of his family. Due to the current economic hardship, women's families are often unable or unwilling to support the children of their widowed daughters. Hence, women are often under pressure to marry their deceased husband's brother in order not to be separated from their children. The same reason also discourages women from divorcing, although the main reason why most women try to avoid divorce is the stigma attached to being a divorcee.

Existing laws do not afford sufficient protection to women victims of family violence and in some cases encourage such abuses; even the provisions which offer limited protection to women victims are not enforced and there is a lack of institutional

mechanisms to enforce the law and protect women's rights.

## 7. Legal situation: Background

The legal situation in the Occupied Territories is complex. Since Israel's occupation in 1967 of the West Bank and Gaza Strip, Israel, as the occupying power, has ruled these areas through military orders dealing with so-called "security" issues, which in reality included crucial Palestinian civil affairs (expropriation and use of land, closure of educational institutions, etc.).

At the same time, pre-1967 laws and legal systems – ancient Ottoman laws from the time of the Ottoman Empire, British laws from the time of the British Mandate in Palestine (1918 to 1948), Jordanian laws in the West Bank and Egyptian laws in the Gaza Strip – have remained in force alongside Israeli military laws.<sup>41</sup> Since 1967 Palestinian courts have continued to deal with internal Palestinian affairs according to these laws, with family and personal status issues (such as marriage, divorce, children's custody, alimony, etc.) being handled by religious courts, and crimes such as assault, rape or killing being handled by criminal courts.<sup>42</sup> However, the Palestinian population tended to mistrust these courts whose judges were appointed by Israel, poorly paid, often inexperienced and allegedly corrupt.<sup>43</sup> Hence, Palestinian society tended to rely more on traditional and tribal mechanisms to settle their disputes than on a formal justice system under Israeli control.

When the Palestinian Authority (PA) was established in 1994, it took over responsibility for internal civil affairs in most areas of the Occupied Territories and for some internal security matters in certain areas only. At the same time Israeli military courts have remained in use to the present day and continue to have jurisdiction over the entire Palestinian

<sup>38</sup> Palestinian Muslim men are allowed to have four wives. Polygamy remains relatively rare in Palestinian society and available information indicates that in most known cases of polygamy men have two wives.

<sup>39</sup> Human Rights Committee, General Comment 28, *Equality of Rights between Men and Women*, para. 23 and Committee on the Elimination of Discrimination against Women, *General Recommendation 21: Equality in Marriage and Family Relations*, UN Doc. A/47/38, 4 February 1994, paras. 36 and 38.

<sup>40</sup> The Center for Reproductive Rights and University of Toronto International Programme on Reproductive and Sexual Health Law, *Bringing Rights to Bear – An Analysis of the Work of the UN treaty monitoring bodies on reproductive and sexual rights*, 2002, p. 40.

<sup>41</sup> According to Article 64 of the Fourth Geneva Convention: "The penal laws of the occupied territory shall remain in force... the tribunals of the occupied territory shall continue to function...".

<sup>42</sup> Muslim and Christian courts.

<sup>43</sup> See for example: *Palestinian Lawyers and Israeli Rule: Law and Disorder in the West Bank*, George Emile Bisharat, published in 1989 by the University of Texas Press. And *Occupier's Law: Israel and the West Bank*, Raja Shehadeh, published in 1985 (revised in 1988) by the Institute for Palestine Studies, Washington DC.

population in the West Bank and Gaza Strip for security-related matters.<sup>44</sup> The newly-established PA inherited the above-mentioned mix of Ottoman, British, Jordanian and Egyptian laws and legal systems which had little credibility amongst the Palestinian population, and was faced with the challenge of reforming the legal system and institutions.

With the establishment of the PA the Palestinians did not achieve independence and their lives remained to a great extent under Israeli control. However, after the 1996 elections the Palestinians had the opportunity for the first time to start changing the laws and legal systems which govern some aspects of their lives, and a number of initiatives were undertaken by the PA, the new Palestinian parliament and civil society organizations with a view to making such changes.

However, strengthening women's rights and confronting gender discrimination in the family has not been a priority, neither for the PA nor for the parliament.

*"There are 29 laws that were approved by the Palestinian Legislative Council. No law was discussed in relation to Palestinian family and women's need, with the exception of the Palestinian Labor law, approved in May 2000 (where a special chapter was allocated to women's labor) and another item related to maternity leave in the civil service law."*

United Nation Development Fund for Women, UNIFEM<sup>45</sup>

<sup>44</sup> According to a series of agreements, known as the Oslo Accords, between Israel and the Palestine Liberation Organization (PLO), the PA was established in 1994. The Oslo II Accord established three zones in the West Bank. In Area A, the PA was to be responsible for internal security and civil affairs – for example, health and education – and Israel for external security. In Area B, the PA was to be responsible for civil affairs and public order, while Israel had overriding responsibility for security. In Area C, Israel was responsible for both civil affairs and security. In the Gaza Strip a similar arrangement was put in place but instead of Areas A, B and C, the division is by Yellow, White and Pink areas. A separate arrangement was made for Hebron, dividing the city into two areas, H1 and H2.

<sup>45</sup> *Evaluating the Status of Palestinian Women in light of the Beijing Platform for Action*, UNIFEM, Arab State Regional Office, 2002.

Palestinian women were largely excluded from the peace negotiations in the early 1990s which led to the Oslo Accords and from the ensuing institution-building process. Subsequent attempts to restart negotiations, in the framework of the "Road Map" peace plan in 2003, and more recently after the death of the late President Arafat have also failed to include women.

With regard to international human rights law, it is well-established that Israel, as the occupying power, is legally responsible for the implementation within the Occupied Territories of the human rights treaties to which it is a State Party. The prevention of family violence and the obligation to respect, protect and fulfil the right of women to live without risk of gender-based violence is a part of the multiple treaty obligations against discrimination on gender grounds.<sup>46</sup> However, it is acknowledged that policing violence against women, notably violence in the family, requires that women have absolute confidence in the authorities they approach for help.<sup>47</sup> After 37 years of Israeli military occupation of the West Bank and Gaza Strip it has been clearly established that Palestinian women and girls do not have this confidence in the Israeli authorities.

The PA cannot sign and ratify international human rights treaties because it is not an independent, sovereign state, but it has unilaterally committed itself to abide by international law. Article 10 of the Amended Basic Law stipulates that: "Basic human rights and freedoms shall be binding and respected" (1) and that: "The Palestinian National Authority shall work without delay to join regional and international declarations and covenants which protect human rights" (2), and Article 9 of the same stipulates that: "All Palestinians are equal under the law and judiciary, without discrimination because of race, sex, color, religion, political views, or disability".<sup>48</sup>

<sup>46</sup> See notably, General Recommendation 19 of CEDAW General recommendation 19, A/47/38, 29 January 1992; General Recommendation 28 of the Human Rights Committee General Comment No. 28, 29 March 2000. Also see: Amnesty International's report: *Making rights a reality: The duty of states to address violence against women*, June 2004 (AI Index: ACT 77/049/2004).

<sup>47</sup> *Rights Talk and the Experience of Law: Implementing Women's Human Rights to Protection from Violence*, Sally Engle Merry, Human Rights Quarterly Volume 25, Number 2, May 2003.

<sup>48</sup> The Amended Basic Law was published in the Palestinian Official Gazette on 19 March 2003.

In the current situation, and in spite of the difficulties they face, the PA and its institutions and the Palestinian Legislative Council (PLC) are best placed to take the necessary measures to ensure that the rights of Palestinian women are respected and promoted. These developments are dependent on the PA demonstrating the commitment to human rights and the rule of law which it has lacked in the past; a fundamental change in Israeli policy in the Occupied Territories to ensure that the rights of the Palestinian population are respected; and the assistance and the vigilance of the international community, both to ensure that the PA has the necessary resources to carry out the needed reforms and that the PA and Israel fulfill their commitments and respect their obligations.

## 8. Discrimination and lack of protection in law and in practice

Existing laws do not offer sufficient protection to women victims of violence or abuse in the family and some laws are discriminatory and conducive to abuses of women's rights. These laws implicate the PA in directly enforcing gender-based violence, as well as providing impunity for violence committed by family members. For example:

- Article 340 of the Jordanian Penal Code (Law No 16 of 1960 – in force in the West Bank) which deals with crimes committed on grounds of “family honour”, grants exemption from prosecution or reduced penalties to husbands or male blood relatives who kill or assault wives or female relatives on grounds of “family honour”.
- Article 308 of the same law provides for dropping legal proceedings against a rapist who marries his victim.
- Articles 285 and 286 of the same law stipulate that if a girl wants to file a complaint for violence or abuse the complaint must be filed by a male relative.

International human rights bodies agree that laws which perpetuate impunity for acts of violence against women on the grounds of “honour”, custom, tradition or religious considerations should not be invoked to avoid the obligation to eliminate violence against women, nor should such considerations be used to justify violations of women's right to equality

before the law and to equal enjoyment of human rights.<sup>49</sup>

PA law enforcement and judicial institutions have often been unwilling or unable to enforce existing laws. The failures have been both at the level of individual officials and of institutions. The PA institutions have only existed for 10 years and for the latter half of that period they have been increasingly dysfunctional, partly due to Israel's actions but also due to the PA's lack of commitment to protecting and promoting women's rights, as well as to inadequate resources, infrastructure and capacity.

Since September 2000 the Israeli army has destroyed much of the PA security installations and other institutions and has prevented PA security forces from operating in much of the Occupied Territories. When PA police stations, security forces headquarters and prisons were destroyed or damaged by repeated Israeli air strikes, detainees walked free from prisons and records were destroyed. Frequent curfews and blockades imposed by the Israeli army have hindered the functioning of institutions, as judges, parliamentarians and civil servants have often been unable to reach their workplace. The situation has made it impossible for PA security forces to function, and at the same time it also provided a plausible pretext for inaction by PA security forces and other institutions, even in cases where they could have acted. The involvement of some members of PA security forces in attacks against Israeli civilians and in armed confrontations with Israeli forces also provided a pretext for Israel's wholesale destruction of the PA security infrastructure.

Issues concerning family and “honour” are considered a private matter in Palestinian society and have traditionally been dealt with more through tribal and family mediation mechanisms than through police complaints and legal proceedings. The extent

<sup>49</sup> The UN Commission on Human Rights has addressed “honour killings” in the context of the right to life and called on States to “investigate promptly and thoroughly all killings committed in the name of passion or in the name of honour ... and to bring those responsible to justice before a competent, independent and impartial judiciary, and to ensure that such killings, including those committed by ... private forces, are neither condoned nor sanctioned by government officials or personnel. *Report to the Social and Economic Council, Resolution 2004/37 Extrajudicial, summary or arbitrary executions*, 20 April 2004; E/CN.4/2004/L.11/Add.4.

to which such mechanisms can help to solve problems varies, depending on the degree of sympathy or support for the woman's plight. However, since the aim tends to be to avoid family break-ups and scandals or gossip, women are usually encouraged or even put under pressure to remain in abusive relationships, or to refrain from exposing the perpetrators, who are therefore not held accountable. Women face violence and discrimination within the family, compounded by discrimination and the risk of further violence, including a threat to their lives by their relatives.

All available information indicates that in the overwhelming majority of cases violence against women occurs within the family, including sexual harassment, abuse or rape. However, lodging a police complaint or filing a legal action against a husband or relatives is frowned upon in Palestinian society and any exposure of such cases outside the family ultimately hurts the victim more than anyone else. Victims of family violence rarely complain to the police, usually only if they intend to divorce or if the abuse is extremely serious or life-threatening. While an analysis of discriminatory family laws is outside the scope of this report, it seems likely that some women may report violence in order to establish grounds for a divorce rather than with any serious expectation that they will be able to access justice.

Even in the most serious cases which reach the police and where the abusive partners are arrested, prosecutions are very rare and most perpetrators walk free. In some cases police officers who receive complaints from abused women encourage them not to press charges and to resolve the problem within the family, effectively sending them back into situations where they are at risk of further abuse.

*"...dealing with these problems, even by police as well as the judiciary courts, is carried out to cover the scandal that would affect the whole family, believing that they are protecting the family and the victims from dispersion and loss. ... The manner of their intervention is a new crisis to the victim and the family and it may lead to killing the victim in order to keep the family's honor intact. The policemen try to play the role of the tribal arbitrator in these cases, thinking that the only solution*

*to cover up the scandal is dropping the complaint before it reaches the court.*"<sup>50</sup>

At the same time, due to the prevailing attitude within society towards victims of rape or sexual abuse, in some cases prosecuting the perpetrator is not an option which the victim is prepared to consider as the case would become known and she would be stigmatized.

Nadera Shalhoub-Kevorkian, a criminologist and women's rights advocate who has carried out extensive research on violence against women and specifically on "honour" killings, which she has called femicide to highlight the gender-based nature of the violence, notes that: "*Cases of femicide are heavily loaded with undeniable moral and ethical dilemmas. The fact that the rapist does not receive his due legal punishment can lead to an impression that one can commit a rape, enter therapy, and be exonerated. However, on the other hand, taking the matter through judicial or legal avenues can lead to the 'social murder' of the victim and the family*".<sup>51</sup>

According to Khayat Falak, who heads the Association for the Defence of the Family (ADF) and the women's shelter in Nablus: "*In trying to assist women and children victims of violence in the family we must act on different fronts. We must strive to bring about change in the attitude of society, so that the victims of abuses won't be stigmatized and blamed, and in the meantime we have to find the best way to protect the victims, by working with the families to remove the threat and build up support for the victim within the family, and where this is not possible, to provide protection for the victims outside the family. Good cooperation between civil society organizations and official institutions creates the best chance of success*".<sup>52</sup>

In the overwhelming majority of cases sexual abuse and rape is committed by family members. Given that for women to report family abuses to the police is quite a major step, if the police is perceived as being unwilling or unable to act in their best interest and protect them, the victims are discouraged from

<sup>50</sup> Violence against Women. An Analytical Study, Ibrahim al-Masri, Palestinian Working Women Society for Development (PWWSD).

<sup>51</sup> Mapping and analyzing the landscape of femicide in Palestinian society, by Nadera Shalhoub-Kevorkian, published in 2004 by the Women's Centre for Legal Aid and Counselling (WCLAC) with the support of the United Nations Development Fund for Women (UNIFEM).

<sup>52</sup> Amnesty International interview, September 2004.

seeking legal recourse. Prior to the outbreak of the *intifada* the level of confidence in the newly established PA security forces' ability to deal with such cases was low. Since 2000 it has been further eroded due both to Israel's debilitating actions and to increasing lawlessness, factional in-fighting and alleged corruption in PA institutions.

In the words of a West Bank human rights activist: *"The Israeli army has destroyed police stations and prisons and killed so many policemen and they have no power; they can't go anywhere and can't do anything. You can just stand in the centre of Ramallah, Nablus, Jenin or wherever else and you can see that whenever members of PA security forces hear an Israeli F16 in the sky or see Israeli army jeeps coming in they run away because they are afraid that the Israelis will bomb them or shoot them. It happens all the time; do you think the PA police could stop them? They hide; what else can they do. The same also happens with the al-Aqsa Brigades, Hamas or other armed groups who go around armed to the teeth. How can PA policemen, who are not even allowed to carry guns, stop them? With their bare hands? The fact is that the police can't even protect themselves, let alone protecting others"*.

No comprehensive figures are available, but all available information indicates that the number of complaints of violence against women registered with the police is extremely low. According to figures provided to Amnesty International by the Ramallah Police, five complaints were registered in the "Family Violence" category in Ramallah between 2000 and mid-2004. Complaints registered in other categories are similarly low.<sup>53</sup>

A Head of Palestinian Police Investigations in a West Bank town told Amnesty International: *"How can we arrest and detain people when our forces are not allowed to carry weapons or to move around freely, and our police stations and prisons have been bombed and destroyed? We don't have prisons anymore. The Israeli army comes into the town every day, killing and abducting people, destroying houses and so on. And we, the police cannot stop them. My officers often cannot even go to villages; they are not allowed past the Israeli army checkpoint. So how can we help people there? People see that our security forces are not allowed to function and feel that there is no benefit in lodging complaints with us. When cases reach us, we try to solve the problems, to mediate. Often the women do not want to press charges, they only want us to talk to their husbands and warn them not to abuse them. Some cases are*

*referred to us by hospitals because the injuries show that the woman was beaten and did not fall like she says. In such cases we contact the women, but even if I know that a man abuses his wife, if she doesn't want to prosecute I can't force her to. In most cases women don't want to make an official complaint; only in very serious cases, when they are prepared to divorce. If there are allegations of rape, sexual abuse, beating or other situations which put the woman at risk we always offer the woman shelter to give her protection but it depends if she accepts. In most cases mediation and trying to solve the problem within the family is the best option in the long term because the girls do not want to be ostracized by their family and by society and they have nowhere to go. So we end up doing social work, to reason with the families. We do this in cooperation with the Social Affairs Ministry and organizations that also take care of these cases"*.

Even before the *intifada*, when the PA security forces could operate and move more freely, arrests, prosecutions and convictions of men accused of abusing their wives or female relatives were rare. However, Palestinian women's NGOs, social workers and lawyers managed to develop contacts with a network of sympathetic PA security force officers and other officials on whom they could count for help to deal with cases of women at risk. There remain many committed individuals in the PA security forces and other institutions who are willing to help women at risk, but the deterioration of the situation and the operational restrictions which have resulted from that, have made the task of protecting women at risk more difficult and often impossible. The case below is but one example.

On the night of 28-29 September 2004, 21-year-old Maha was forced to drink poison by her father who had discovered that she was pregnant. The father had previously discovered her relationship with a young man and hasty arrangements had been made for the wedding to take place three days later, on 1 October. However, when the father discovered that she was pregnant he forced her drink a lethal substance. Maha telephoned the Women's Affairs Technical Committee (WATC), a women's NGO in Gaza City, to seek help but it was impossible to reach Beit Hanoun, where the girl lived, because the Israeli army had just launched a major operation and had completely sealed the area.<sup>54</sup> Nadia Abu Nahleh,

<sup>53</sup> Honour killings: 3; Attempted Honour Killings: 2; Rape: 7; Attempted Rape: 4; Sexual Harassment: 6; Suicide: 2; Suicide Attempts: 46; Female Abductions: 5.

<sup>54</sup> The area remained under Israeli military siege for several days. During the incursion the Israeli army killed scores of Palestinians and injured hundreds of others.

Head of WATC told Amnesty International *"When Maha contacted us the Israeli army had just invaded Beit Hanoun and nobody could reach the area, even though it is barely 10 kilometers away, because the army had closed the road and put the area under siege. We eventually managed to enlist the help of some people in Beit Hanoun to get Maha to a local hospital. In spite of the difficult situation in the midst of a large Israeli army incursion we had good cooperation. The head of the PA female police sent two officers to guard Maha, so that her father could not go and kill her in hospital. The hospital made arrangements to free a room for her, so that she could be properly protected by the police officers, even though they were swamped by hundreds of injured from the Israeli army incursion who could not go to other hospitals in Gaza because the area was still under siege. However it was too late for Maha and she died on 1 October, the day she should have got married. She could have been saved if it had been possible to get her to hospital as soon as she contacted us."*

For women/girls who are at risk of being killed by their families, leaving their homes and immediate surroundings, even for a short period, is often the only effective solution. An NGO worker stressed that: *"In some cases, in order to save her life a girl must be able to leave her hometown/village and go somewhere else quickly to have an abortion before her family finds out, or to hide her pregnancy and give birth, or to have her hymen repaired. If the family knows or suspects something and plans to take her for a medical examination or to kill her, time is even more crucial; a delay of only a few hours can mean death. In the past few years getting to the victims and getting the victims out of the danger area has been very difficult and at times totally impossible. These military blockades, curfews and checkpoints have caused the death of some women who could have easily been saved"*.

## 9. "Honour" killings

In international human rights law, "honour crimes" are recognized as a form of violence against women in the family or community. They violate, amongst other rights, the right to life and security of the person; to freedom from torture and cruel, inhuman and degrading treatment; and the right to equality before the law and to equal protection from the law. They also deprive women of rights assured by the UN Women's Convention, for example the rights to choose a marriage partner, to enter into marriage freely, to enjoy freedom from discrimination, and to be treated as a human being with dignity and equal rights to men.

There are no reliable statistics for the number of women and girls who have been the victim of family killings, or so-called "honour" killings, in the Occupied Territories. Cases are often not reported and some cases reported as accidental deaths or suicides are believed to be in fact family killings.<sup>55</sup>

Such killings are often the last of many violations to which the victims have been subjected before being killed. In some cases rumours or suspicions that a daughter or a sister behaved in a manner deemed to have tarnished the family honour – even if this was not the case in reality – have been enough for the woman to be killed. Other women and girls have been killed when family members discovered that they had been raped by other relatives. In some cases those who killed them had long been aware of the abuse, or had themselves been responsible for the abuse, and killed the victim when they learned that she was pregnant in order to hide their crime. In most cases such murders are committed by men, but women have also committed "honour" killings.

In January 2003 Amira Qaoud, a 43-year-old woman from the West Bank village of Abu Qash, murdered one of her nine children on grounds of "family honour", despite her husband's opposition. Her 17-year-old daughter Rufayda had been repeatedly raped by two of her brothers, aged 20 and 22. In November 2002 Rufayda broke her leg and was taken to hospital, where doctors discovered that she was eight months pregnant and informed her family. The Palestinian Health and Social Affairs Ministries, fearing that Rufayda was at risk of being killed by her family, moved her to a safe place in Bethlehem, where at the end of December she gave birth to a boy, who was subsequently adopted. Since Rufayda wanted to return home to her family, the Governor of Ramallah asked Rufayda's family and the village elders to pledge in writing that they would not harm her. The family promised not to harm her but the Mayor of the village expressed concern that it could not be guaranteed that she would be safe with her family. Eventually Rufayda returned home without notifying anyone but soon afterwards she contacted the Women's Centre for Legal Aid and Counseling (WCLAC) saying that she was in danger from her family. WCLAC asked the police in Ramallah to

<sup>55</sup> Police sources quoted in 2003 referred to 31 cases of women and girls victims of "honour" killings the previous year, but it was not clear to which period the figure referred.

intervene but the police could not get to the village on time due to Israeli army checkpoints. In the meantime, while her husband was absent, Amira Qaoud killed her daughter by wrapping a bag around her head, slitting her wrists, and hitting her on the head. She reportedly took advantage of her husband's absence because he objected to her killing their daughter. She was arrested and detained for a few months but was then released pending her trial and remained at liberty at the time of writing, two years after the killing. In a media interview Rufayda's mother maintained that she had to kill her daughter to protect her family's honour and states that before killing her daughter she had tried to force her to commit suicide but the girl refused.<sup>56</sup> Both Rufayda's brothers were sentenced to 10 years imprisonment for rape. There are conflicting reports as to whether the two brothers are still in prison or have been released.

A social worker told Amnesty International about the case of a young man who stabbed his sister to death because he suspected her of having had a relationship with a man. He then claimed that his sister had been collaborating with the Israeli army, and was never prosecuted.

## 10. Fighting violence against women and promoting women's rights

Palestinian women's rights advocates have long campaigned for an end to violence against women. Women and human rights organizations as well as health and community workers and lawyers have played a very important role in raising awareness, promoting and protecting women's rights. The role of women's organizations and activists has been crucial. They have saved lives by direct and concrete interventions, and have at times put their own lives at risk to help the victims. Several women's organizations have hotlines which provide help, advice and counselling for women and they and other human rights organizations and community and medical centers also provide legal advice and representation as well as practical help, such as therapy, mediation with families, referrals to medical facilities, etc. Women's rights organizations have also

<sup>56</sup> *Mother kills raped daughter to restore 'honor'*, by Soraya Sarhaddi Nelson, Knight Ridder Newspapers, 17 November 2003.

carried out research studies and provided training, including to members of the security forces and judges.

PA institutions and officials cooperate with women's organizations at different levels to assist and protect women victims of violence, including the Ministry of Social Affairs and, despite the shortcomings noted earlier, the police and other security forces, the courts, Governorates and Municipalities. In late 2003 a Ministry for Women's Affairs was created to set policies and ensure the mainstreaming of women's rights in PA institutions.

There is a shelter for women in the West Bank and a juvenile reformatory is also used at times as a shelter for minors, but they have limited capacity, and a new shelter is currently being set up by WCLAC in cooperation with the Ministry of Social Affairs. The police have at times temporarily sheltered women in detention centers but in the past four and a half years this has been mostly impossible because the frequent air strikes by the Israeli army on Palestinian police stations and detention centers have destroyed many of them and made such places generally unsafe.

In addition to their activities to combat violence against women, Palestinian women's rights advocates and NGOs have been campaigning to raise awareness of women's rights and to promote changes both in the law and in practices. Some of their activities have provoked lively debates in many sectors of Palestinian society, including within the PA, in parliament, in universities and in judicial, political and religious circles. They have worked to promote reforms to empower women and increase their participation in decision-making on political and economic matters and have lobbied for changes to personal status laws and to certain provisions of the penal code. Campaigning activities by Palestinian women's rights organizations have included conferences, training workshops, research projects and several high profile campaigning activities, including the Women's Charter of 1994, the women's campaign in 1995 for the election of the first Palestinian Legislative Council (PLC),<sup>57</sup> and the model parliament of 1998, which aimed to discuss, draft and symbolically vote on Palestinian legislation ensuring equality and human rights for women, as well as their participation in

<sup>57</sup> In January 1996 five women were elected to the PLC, a number considered disappointingly low by women activists.

building a civil society based on justice, equality, respect for human rights and the rule of law.<sup>58</sup>

However, since the outbreak of the *intifada* in September 2000, these initiatives have suffered a major setback due to the dramatic deterioration of the situation. The spiraling violence, destruction, restrictions on movement, and poverty have forced people to focus their energies on daily survival and have pushed aside longer-term plans for legislative and social reforms. In the face of external aggression society has tended to fold inwards, clinging to conservative values and making it more difficult to challenge certain traditional practices and religious interpretations of the role and rights of women in the family and in society.

Women's rights advocates are concerned that as long as the dire situation of the past few years prevails, it will be very difficult to take forward the debate on women's rights and to achieve significant results. Looking to the future, they identify the following amongst the key challenges ahead:

- the continued Israeli occupation and the resulting violations and tensions;
- the need to reform the legal system and to establish mechanisms to ensure proper administration of justice, law enforcement and accountability;
- growing support within Palestinian society for conservative/religious political forces which do not support advancing women's rights.

## 11. Palestinian women as perpetrators of violations

Several Palestinian women have committed or been involved in attacks against Israeli civilians and soldiers. Seven of them have carried out suicide bombings and others were arrested before they could carry out attacks or gave themselves up to Israeli security forces.

Three women who have carried out extensive research into these cases and interviewed Palestinian women who have been involved in such attacks, have

<sup>58</sup> *Women's Rights and Islamic Family Law: Perspectives on Reform*, Zed Books, 2004, Chapter 9: *Agents for reform: the women's movement, social politics and family law reform*, by Penny Johnson.

concluded that most of the Palestinian women involved in suicide and other attacks had faced problems related to family "honour" or other societal pressures, and that some were manipulated or forced to carry out such attacks by family members or other men close to them.

Journalist Barbara Victor published a book about Palestinian women suicide bombers based on interviews with imprisoned women and relatives and friends of female suicide bombers.<sup>59</sup> She concludes that most of the women were encouraged or forced into such actions by men who exploited their family problems, their unhappiness or their love. According to one of the women interviewed, her involvement in a suicide bombing, for which she is serving a life sentence, was a way to rehabilitate herself after the man she loved left her pregnant and she had to give up her baby and remain locked up in her parents' home with no future prospect.

Anat Berko, a recently-retired lieutenant colonel in the Israeli army and a criminologist at Herzliya's International Policy Institute for Counter-Terrorism interviewed several detained Palestinian would-be suicide bombers, men and women.<sup>60</sup> She also concluded that unlike the men, the women had been pushed to suicide by despair at their problematic family situations, such as not being allowed to decide their future, and/or by family members in order to restore the family honour after an illicit relationship.<sup>61</sup>

Some Palestinian women's rights activists have expressed reservations about some of these conclusions. They have, for example, dismissed as gender-biased propaganda allegations that the woman who carried out a suicide attack at the Erez crossing in January 2004 was forced to do so by her husband after he discovered that she had had an extramarital relationship.<sup>62</sup>

Palestinian sources have tended to attribute the women's motives to a desire for revenge against

<sup>59</sup> *Army of Roses: Inside the world of Palestinian women suicide bombers*, published by Robinson, 2004.

<sup>60</sup> *The Path to the Garden of Eden* (in Hebrew only) and Interview with Amnesty International.

<sup>61</sup> Also see the account of interviews with detained Palestinian women by Israeli journalist Manuela Dviri in the UK daily *The Guardian* of 7 February 2005.

<sup>62</sup> Twenty-two-year-old Reem Riyashi, mother of two small children, blew herself up at the Erez crossing on 14 January 2004, killing four Israeli security officers.

Israelis for the killings of loved ones. However, the actions of Palestinians women and girls who were arrested at checkpoints with knives and accused of intending to stab Israeli soldiers, have often been attributed to a desire to flee repressive families or to "redeem" the family's name tarnished by allegations that the father or brother had "collaborated" with the Israeli intelligence services.

Amnesty International's requests to visit and interview Palestinian women detained in Israeli prisons were denied by the Israeli authorities.<sup>63</sup> On the strength of available information, there are reasons to be concerned that in some cases women who have carried out or been involved in suicide bombings or other attacks did so as a result of the pressure they faced because of their gender within their families and community.

## RECOMMENDATIONS

Palestinian women in the West Bank and Gaza Strip are victims of multiple violations as a result of the escalation of the conflict, Israel's policies, and a system of norms, traditions and laws which treat women as unequal members of society. These violations are closely interlinked and cannot be effectively addressed in isolation from each other. Determined and concerted action by all parties concerned – Israel, the PA and the international community – is needed to address the root causes of these violations.

### To Israel

- To put an end to the regime of curfews and internal closures as currently imposed in the Occupied Territories and refrain in all circumstances from imposing closures, curfews and other restrictions on movement which constitute collective punishment;
- To ensure that pregnant women and others in need of medical care are allowed prompt passage

<sup>63</sup> Amnesty International requested access to Palestinian women detainees on two occasions, in May 2003 and in September 2004. On both occasions the Israeli prison authorities refused the organization's request. In 1999 Amnesty International was allowed access to foreign sex workers victims of trafficking who were detained in Israeli jails.

and access to adequate medical facilities at all times without delay and everywhere in the Occupied Territories;

- To put an end to the construction of the fence/wall in the West Bank or other permanent structures in the Occupied Territories which constitute or result in permanent restrictions on the right to free movement of Palestinians within the Occupied Territory or in the arbitrary destruction or seizure of their property, and to dismantle any existing such structures;
- To put an immediate end to the destruction of Palestinian homes and properties in the Occupied Territories, and provide reparation to those whose homes have been destroyed;
- To repeal the Citizenship and Entry into Israel Law, which bans family unification for Palestinian spouses;
- To do everything in its power to restore and ensure public order and safety for Palestinians living in the West Bank and the Gaza Strip;
- To initiate a full, thorough, transparent and impartial investigation into all allegations of violations against women, bring to justice those alleged to have committed such violations, and ensure prompt and adequate compensation and reparation for victims of such violations;
- To take measures to ensure that female detainees are not subject to threats or ill-treatment, especially ensuring prompt access by doctors, lawyers and independent human rights organizations;
- To ratify all human rights treaties, including the Optional Protocol to the ICCPR and the Optional Protocol to CEDAW, or make appropriate declarations, to allow the right of individual petition to human rights treaty bodies, so that individual women who are victims of human rights violations can bring complaints to the international human rights treaty bodies;
- To cooperate with international human rights treaty bodies and special mechanisms of the Commission on Human Rights, by reporting promptly on their compliance with human rights treaties in the Occupied Territories, as required by international law.

### To the Palestinian Authority

- To commit publicly and at every opportunity to taking measures to eradicate violence against women and to exercise due diligence in preventing, investigating, and punishing acts of all forms of violence against women;
- To review all legislation discriminating against women, including penal, personal status and nationality law, and repeal or amend any provision which discriminates against women;
- To ensure that "honour crimes" and violence in the family are treated as serious criminal offences. This requires immediate action to be taken in order to repeal or amend, amongst others, articles of the Penal Code which provide for lenient punishment for a man who kills or assaults a female relative on grounds of "honour", and for a rapist if he marries the victim, as well as the article which requires that only male relatives may complain on behalf of a girl for violence or abuse;
- To involve women's rights organizations in the reform of the judicial system, in particular to strengthen women's rights and equality in law;
- To take all steps necessary to ensure that complaints by women of violence in any form, whether by private individuals or by officials acting in a private or public capacity, be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. When there is sufficient admissible evidence, suspects should be prosecuted. Complainants, witnesses and others at risk during such investigations and prosecutions should always be protected from intimidation and reprisals;
- To provide training in gender issues to police officers, prosecutors, judges and other officials in the criminal justice system to ensure that women are encouraged to report violence in the family, and receive appropriate care, medical attention and support; and to monitor the effectiveness of the training in effecting changes in the criminal justice system to protect the rights of women;
- To investigate promptly, impartially and thoroughly all murders, attempted murders and apparent suicides of women, with a view to bringing to justice all those responsible for acts

of violence against women, including members of the family;

- To ensure that all those who, after a fair trial, are found to have committed violence against women are given sentences commensurate with the gravity of the crime;
- To ensure that all women who have been subjected to violence are provided with access to redress and reparation, including compensation;
- To encourage and support the establishment of shelters and other services and facilities for women survivors of violence, in consultation with women's rights organizations;
- To fund and support measures that will promote the right of all women to live a life free from violence, such as programs of civic education; legal literacy education for women and girls; training and systems to support and protect victims of violence and women's human rights defenders;
- To collect comprehensive data throughout the West Bank and Gaza Strip that systematically measure the nature and extent of violence against women;
- To regularly assess the effectiveness of the measures taken, in consultation with women survivors of violence and women's rights organizations.

### To the international community

Governments, notably the US and EU governments should:

- Ensure that human rights and women's rights are central in peace negotiations and should encourage the participation of Palestinian and Israeli women in peace negotiations;
- Ensure that Israel's obligations under international human rights and humanitarian law are met, most specifically its obligations as an occupying power under the Fourth Geneva Convention and notably the obligations mentioned in this report;
- Set up an international monitoring presence in the Occupied Territories with a strong human



rights component, for the security of Israelis and Palestinians.

Amnesty International's Stop Violence Against Women campaign calls on world leaders, states, organizations, including the UN, the European Union, the Arab League and other international and regional organizations and individuals to:

- \* Publicly pledge to make the Universal Declaration of Human Rights – which promised equal rights and equal protection for all – a reality for all women;
- \* Develop action plans to end violence against women, and set up mechanisms to monitor their implementation;
- \* Fully and speedily implement all international and regional treaties, declarations, resolutions and recommendations aimed at condemning, prohibiting and preventing all acts of violence against women, investigating all cases of violence and bringing perpetrators to justice in accordance with international standards of fair trial, as well as providing reparations for victims;
- \* Support and encourage initiatives to provide training and exchange of information for judicial personnel and lawyers who act on behalf of women who have experienced violence;
- \* Support and encourage initiatives for the prevention of violence and the protection of women at both the governmental and the NGO level.

## Appendix 1: Israeli and Palestinian women as victims of armed attacks

Amnesty International has long campaigned against the killing by both sides of unarmed civilians who have no part in armed confrontations or attacks and has condemned such attacks as crimes against humanity and war crimes.<sup>64</sup> This appendix highlights the cases of some of the Israeli and Palestinian women who have been killed in recent years.

### Israeli women victims of Palestinian attacks

Some 300 Israeli women have been killed by Palestinian armed groups and hundreds of others have been injured in deliberate and indiscriminate attacks. Suicide bombings in buses, cafes, restaurants, shopping malls and other public places, roadside bombings and shootings have caused most of the fatalities and casualties. In recent months, mortar and rocket attacks from the Gaza Strip have also killed Israeli women and children in or near their homes both inside Israel and in Israeli settlements in the Occupied Territories.

Women and girls make up a high percentage – more than a quarter – of more than 750 Israeli civilians killed in attacks carried out by Palestinian armed groups. These groups have not indicated that they specifically target female, as opposed to male, Israelis. On the contrary they have made it clear that they consider all Israelis as legitimate targets and have repeatedly threatened and pledged to continue attacks against Israeli civilians, knowing that women and children are certain to be killed in such attacks. Women, children, elderly people and those from the most disadvantaged sectors of society are more likely to be travelling by bus and are therefore more at risk from attacks.

Palestinian armed groups which have claimed responsibility for suicide bombings, shootings and mortar attacks which have killed Israeli women and other civilians include the armed wings of *Hamas* and *Islamic Jihad*, and the *al-Aqsa* Martyrs' Brigades, an offshoot of the *Fatah* party, the Popular Front for the Liberation of Palestine (PFLP), and the Popular

Resistance Committee, an umbrella group of various organizations' armed groups.

**Tali Hatuel**, a 35-year-old social worker and her four daughters **Hila**, **Hadar**, **Roni** and **Meirav**, aged 11, nine, seven and two, were killed by Palestinian gunmen on 2 May 2004 as they were travelling by car in the Gaza Strip. Tali, who was eight months pregnant, and her daughters were travelling on a road which links the Israeli settlement block of Gush Katif in the Gaza Strip, where Tali and her family lived, to Israel, when Palestinian gunmen shot at their vehicle and caused it to career off the road. Rescue workers said the victims had bullet wounds to the head, indicating that the gunmen shot them at close range after the car had crashed off the road. The gunmen also fired on another car but the driver was able to reverse to safety, suffering light wounds only. The two Palestinian gunmen who killed Tali and her children were then killed in a gun battle by Israeli soldiers, two of whom were wounded in the exchange of fire. Tali was a social worker for the Gaza Coast Regional Council where she worked with the families of victims of Palestinian attacks. The Palestinian armed group *Islamic Jihad* and the Popular Resistance Committees, claimed responsibility for the killing of Tali and her daughters.

**Miri Amitai**, a 35-year-old teacher and mother of four, was killed in a Palestinian roadside bomb attack on 20 November 2000, as she was travelling by bus with other teachers and schoolchildren in the Gaza Strip. The bus was travelling from the Israeli settlement of Kfar Darom, where Miri and her family lived, to the nearby Gush Katif settlement block when a bomb planted by a Palestinian armed group detonated near the bus. Another teacher was killed and nine others, most of them children, were wounded, some of them seriously.

On 1 June 2001, in the bloodiest attack by Palestinian armed groups on Israeli civilians for several years, 12 Israeli teenage girls were killed when a Palestinian suicide bomber blew himself up near a group of youngsters outside the Dolohinarium night club in Tel Aviv. The attack claimed the lives of 16 Israelis and injured some 120 others. The *Izz al-Din al-Qassam* Brigades, the armed wing of the Palestinian Islamist group *Hamas*, claimed responsibility for the attack two days later in a statement faxed to foreign media. The suicide bomber was named as 20-year-old Said Hutari, originally from Qalqilya, resident in Jordan. The statement expressed pride for the attack

<sup>64</sup> See Amnesty International: reports and press releases on <http://web.amnesty.org/library/eng-isr/index>.

and pledged to carry out further attacks. By choosing to target such a place, the entrance to a night club on a Friday evening, the attacker meant to kill and harm as many civilians as possible and must have anticipated that many children would be among the victims. The victims included: **Raisa Namirovsky**, 15, and her neighbour and friend **Maria Tagilchev**, 14; **Katherine Kastanada Talker**, 15; **Yulia Nelimov**, 16, and her 18-year-old sister **Yelena**; **Irina Nepomneschi**, 16; **Anya Kazachkov** and her friend **Mariana Medvedenko**, both aged 16; **Marina Berkovski** who was celebrating her 17th birthday; **Liana Sakiyan**, 16; **Simona Rodin**, 18; **Irena Usdachi**, 18; and **Yevgenia Keren Dorfman**, 15, who sustained serious brain damage in the explosion and died after 18 days.

Such deliberate and indiscriminate attacks against Israeli civilians continued with increased frequency. On 31 August 2004 twelve women were among the 16 people who were killed in a double suicide bombing in the southern Israeli town of Beersheva. Two Palestinians blew themselves up within minutes of each other on two buses in Beersheva's main street at about 3pm. A three-year-old child and three men, including the husband of one of the women killed, were also killed and some 100 other people were injured in the attacks. The Palestinian armed group *Hamas* claimed responsibility for the attacks. The victims included: **Raisa Forer**, 55, **Denise Hadad**, 50, and **Rosita Lehman**, 45, caregivers for the elderly; 64-year-old **Shoshana Amos**, an aide in the municipal social welfare department in Beersheva; **Margarita Sokolov**, 57, who worked in a laundry; **Tatiana Kortchenko**, 49, who worked as a cleaner; **Karine Malka**, 23, a student in industrial management who also worked as an educator in a centre for new Ethiopian immigrants; **Tiroayent Takala**, 33, a mother of 6, who had recently immigrated from Ethiopia; **Tamara Dibrashvilli**, 70; **Larisa Gomanenko**, 48; and **Nargiz Ostrovsky**, 54, whose husband was also killed in the same attack. Most of the women had immigrated to Israel from the former Soviet Union in the past 15 years. They were on their way home from work or from shopping when they were killed.

In the summer of 2004 for the first time Israeli civilians were killed in their homes by mortars launched by Palestinian armed groups from the Gaza Strip. Palestinian armed groups have been launching mortars into Israeli settlements in the Gaza Strip

frequently in the past four and a half years and in the past two years also into the nearby Israeli town of Sderot. These mortars generally fell in open spaces and only exceptionally caused some damage to houses or other properties, but not to people. On 28 June 2004 a Palestinian mortar attack on Sderot hit three-year-old **Afik Zahavi** and his mother **Ruth** as they were standing on the sidewalk waiting to cross the street to the school. The child was killed and his mother was injured in the legs and neck. A man who was sitting on a nearby bench was also killed and more than 10 other people were wounded. Since then, such attacks have continued and several other people have been killed, including 17-year-old **Ella Abukasis**, who was gravely wounded in the head by mortar shrapnel on 15 January 2005 and died a week later. When she was hit she was on her way home with her 10-year-old brother, who was also injured but survived.

#### **Palestinian women victims of attacks by the Israeli army**

Some 160 Palestinian women are among more than 3,200 Palestinians killed by the Israeli army and security forces in the Occupied Territories in the past four and a half years. Most of the victims were killed unlawfully in reckless shooting, tank shelling and air-strikes from gunship helicopters and F16 fighter-jets into densely populated Palestinian residential areas in the Occupied Territories. Tens of thousands of other Palestinians have been injured. Palestinian women and girls have been killed or injured in such attacks in or near their homes, or while moving in or between town and villages. In some cases women and children died under the rubble of their homes when the Israeli army destroyed their homes on top of them. Several girls were killed by Israeli forces inside their classrooms.

The Israeli authorities claim that soldiers only target Palestinian attackers who pose a threat to their lives, that soldiers only return fire when they can accurately identify the source of Palestinian fire, and that they make every effort to avoid civilian casualties. However, the behaviour of the Israeli army in the West Bank and Gaza Strip observed by Amnesty International delegates and by representative of other international NGOs, UN agencies, foreign journalists and other observers, is evidence of a very different policy. Unprovoked and reckless fire by Israeli soldiers has been a frequent occurrence, as is the

practice of randomly spraying bullets into wide areas of densely populated civilian residential locations. The Israeli army has also launched frequent air-strikes to assassinate Palestinians in cars or houses in densely populated towns at busy times, knowing that women and children were in or near the cars or houses and would be killed in the attacks. The persistence of such attacks over the past four and a half years, in spite of the high number of civilian deaths and casualties caused, is evidence of the utter disregard at the highest level of the Israeli army and government for the loss of lives of Palestinian women, children and other uninvolved bystanders. The impunity granted to members of the army and security forces responsible for such crimes is further evidence of the same pattern.

In the space of a few weeks four Palestinian girls were killed by the Israeli army in their school or on their way to school in the Gaza Strip. On the morning of 7 September 2004, 10-year-old **Raghda Adnan al-Assar** was struck in the head by an Israeli bullet while sitting at her desk in UN Relief and Works Agency's (UNRWA) Elementary C Girls School in Khan Yunis refugee camp. The firing came from an Israeli army position in the Gush Katif Settlement block, west of Khan Yunis. Raghda never regained consciousness and died on 22 September. On 13 October 2004, nine-year-old **Ghadeer Jaber Mukhaymar**, a fifth grade pupil at the UNRWA Co-Ed Elementary D School in Khan Yunis refugee camp died of a live bullet wound to the stomach she sustained the day before from a gunshot, which again came from an Israeli military position inside the Israeli settlement block of Gush Katif. Eight-year-old **Rania Iyad Aram** was shot dead by Israeli soldiers as she was walking to school on 29 October 2004. Soldiers fired from a military base inside the Israeli settlement block of Gush Katif towards Khan Yunis refugee camp. Israeli army officials were quoted as saying the soldiers had opened "warning fire" in the direction of areas from which Palestinians regularly fire mortars. On the morning of 5 October 2004, thirteen-year-old **Iman al-Hams** was killed near her school in the Tal al-Sultan neighbourhood of the southern Gaza Strip town of Rafah. She was walking in the vicinity of an Israeli army observation tower and when Israeli soldiers opened fire she dropped her school bag and started to run away, but the soldiers shot her dead. Her body was left on the ground for more than an hour before the Israeli army allowed an ambulance to approach her. According to

medical sources, she had at least 15 bullet wounds in the upper part of her body, including several in the head. The Israeli army claimed that she was suspected of carrying explosives in her school bag, but later admitted that the bag only contained her school books. After some of the soldiers present reported that their company commander repeatedly shot the child from close range after she had been hit and was lying on the ground, the Israeli army initiated an investigation. On 15 October, the commander was suspended by the chief of staff for a "failure of leadership" but the army claimed that no proof was found to substantiate the soldiers' allegations that the company commander had repeatedly shot the child at close range. However, a military police investigation was opened and the soldier was arrested on 26 October and remains under investigation. Although investigations into killings of Palestinians by Israeli soldiers are rare and convictions of those responsible for the killings are even rarer, this case is exceptional in that Israeli soldiers present at the scene testified against their commander and their allegations were provided to the media.

**Ibriza Dhargham Dib al-Minawi** was on the roof-terrace of her family home in Irsad street, in the Jabal al-Shimali neighbourhood of Nablus when she was shot dead on 17 September 2004. Twenty-year-old Ibriza, a first year student in Business Administration at al-Najah University in Nablus, was one of 10 children. Her mother, Amal, told Amnesty International: "*It was early evening, around 7pm, and Ibriza was on the roof-terrace with her aunt, her two nieces and her three-year-old nephew. It was a quiet day, there was no shooting or clashes at all in the area, and we were not worried at all. She had been studying all afternoon and earlier on she had thought of going out to buy a notepad, but in the end she stayed at home*".

Her aunt Samar, who was on the roof-terrace with Ibriza and the children: "*We saw an army patrol of two jeeps on the road down below, by the intersection with Nasirin Street. One jeep had been there a while and then a second came; then a soldier got out of a jeep and shot up. Ibriza was by the edge of the terrace drinking Coca Cola; she was holding her glass in her left hand. She was shot through the left wrist and the bullet went in her heart. She fell to the ground, said 'my hand', and died immediately*".

Seventeen-year-old **Hikmat al-Malalha**, her mother **Nasra** and cousin **Salmiya** were killed in their sleep in the evening of 9 June 2001, when a flechette shell launched by Israeli soldiers hit their tent in Sheikh

'Ajlin, a Bedouin village near Gaza City. Hikmat's grandmother and two other family members were also injured in the same attack. Flechette shells are shells filled with up to 5,000 potentially lethal five-centimetre-long steel darts – known as flechettes. Upon explosion the shells spray flechettes in a large radius. Amnesty International delegates examined the post-mortem records and the photographs of the three women, whose bodies had been lacerated by scores of flechettes. They also inspected the place of the attack, where scores of flechettes were lodged in trees and structures across an area of several hundreds of square meters. Israeli army officials, who had initially said that troops were returning fire from the area, confirmed the next day that the shelling had been a mistake and said there would be an inquiry. However, to date no judicial investigation is known to have been opened and none of the eyewitnesses and survivors of the attack had even been contacted by the Israeli authorities to give testimony. In October 2002, the Israeli NGO Physicians for Human Rights (PHR) and the Palestinian Centre for Human Rights (PCHR) petitioned the Israeli Supreme Court seeking a ban on the use of flechettes in the Gaza Strip – one of the most densely populated places in the world. The petition was rejected in mid-2003. Amnesty International believes that such weapons should never be used in populated areas.

In another incident of heavy shelling by the Israeli army in Khan Yunis in the Gaza Strip on 7 May 2001 four-month-old **Iman Hejju** was killed and her mother, grandmother and 11 other civilians, including seven children, were wounded. At about 11am artillery shells and heavy and medium calibre bullets were fired from an Israeli army base inside the Gush Katif settlement block into several areas of nearby Khan Yunis. At the time of the shelling 20-year-old **Suzanne Hejju** was visiting her mother in Hay al-Amal with her baby Iman. As they stepped out of the house a shell landed and exploded on the doorstep. Baby Iman was hit by a large piece of shrapnel which entered her stomach and went through her back, disembowelling her. Suzanne Hejju and her 38-year-old mother **Samia** were seriously injured by large pieces of shrapnel throughout the body and remained in hospital for several months. Two of Samia's children were also seriously injured by shrapnel.

Dozens of women and children have been killed in air-strikes launched by the Israeli army to assassinate

Palestinians known or suspected to have been involved in attacks against Israel. In some cases the intended targets of the assassination managed to flee while bystanders were killed or injured. On 22 July 2002, just before midnight, the Israeli army dropped a one-ton bomb from an F-16 fighter-jet on a densely populated neighborhood of Gaza city killing 17 people, including three women and nine children, and injuring 70 others, including many women and children. The target of the air-strike was the house of leading *Hamas* activist **Salah Shehada**, who was among those killed, along with his wife, **Leila**, aged 45 and their 15-year-old daughter **Iman**. Two other houses were completely destroyed, and four homes left uninhabitable. The inhabitants who perished in the attack were mostly women and children: 25-year-old **Iman Ibrahim Hassan Matar** and her three children (a five-year-old girl and two boys aged 18 months and three years), **Muna Fahmi al-Hweiti**, aged 30, and her two children (two boys aged four and six) and three other girls, two-month-old **Dina**, 10-year-old **'Alaa** and 17-year-old **Maryam**. The Israeli authorities accused Salah Shehada of having been involved in organizing a number of suicide attacks.

**Islam 'Abdullah Taha**, aged 25 and seven months pregnant, and her 18-month-old daughter, **Khawla**, were killed on 12 June 2003 when an Israeli helicopter gunship launched several rockets at the car in which they were travelling in a busy street in the centre of Gaza City in the middle of the afternoon. The target of the Israeli air-strike was Yasser Mohammed 'Ali Taha, the husband of Islam, who was also killed. Four other bystanders were also killed and some 20 others were wounded, including several children.