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Gender and Politics in Palestine: Discourse Analysis of the Palestinian Authority & Islamists

Nahda Y. Sh'hada*

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I. Introduction to the Thesis

I wrote this paper based on my personal experience, first as a trainer and then as chairperson of the Palestinian Model Parliament for Women and Legislation (MP) in Gaza. The MP was established in 1997 with the aim of proposing Palestinian laws and legislation based on equality and human rights.¹ The specific objective of the MP's campaign in Gaza was correcting the discriminatory nature of family law. The Islamist parties, who labelled the women's actions anti-Islamic,

* When I sit down to write the acknowledgement; innumerable faces come to my mind. My supervisor, Saskia Wieringa, motivated me to go beyond my capability, constantly stimulating to take up new challenges. Her sharp insights and comments enabled me to deepen my analysis. She gave me ample space to present my views, even at times of disagreement. Lynn Welchman, SOAS, University of London, helped me right from the formulation of the problem, and later, as my second reader. She strengthened my arguments, thanks to her vast knowledge in Islamic law, as well as her familiarity with the larger issues of Palestine. Lily Ling extended valuable help during the initial phase of writing the research design and readily provided feedback whenever necessary. Her competence in political science helped a lot to conceptualize the link between the gender questions and political analysis. Special appreciation goes to all the faculty members in W&D program for their genuine care and efforts. I would also like to thank all my friends at the ISS, who supported me throughout and made my stay enjoyable here. Each one of them by their profound friendship and love made me young and joyful. Finally, I would like to express appreciation to the light of my life, my children, Hani, Karam, and Diana. But I should admit, their phone calls and e-mails hardly helped bridge the distance between us.

¹ The MP project was the culmination of four years of work by the Women's Centre for Legal Aid and Counselling (WCLAC), which reviewed gender-based discriminatory laws and proposed and lobbied for amendments to them, in addition to raising the consciousness of women about their legal rights.

frequently intimidated the women participating in the project. That experience, together with my twenty years of political activity for the rights of Palestinians to their own homeland, stimulated me to look more deeply into the reasons for the positions taken on women's issues by the dominant forces in Palestine. Therefore, this paper is an attempt to analyze the Islamic and Nationalist reaction to the reform movement of family law in Palestine, and the factors determining that reaction.

The overall picture that emerges is that women's interests have been marginalized because of the fluctuating force relations that are part of the struggle for power in the region as well as between the Palestinian Authority (PA) and the Islamist parties. All three actors want to expand their boundaries. Women who want to change gender relations wish to break out of the limitations set by traditional paradigms such as the PA law, and the Islamist social sanctions. To do this, they rely on international human rights conventions and the Convention to Eliminate Discrimination Against Women. Despite the relative powerlessness of the PA in international relations, the women's campaign carries the threat of negative international reaction if force is used to stop them from raising their voices.

The Islamists want to extend their boundaries to strengthen their control over the minds and bodies of Palestinians and thus undermine the hegemony of the PA, as well as to break out of the political boundaries set by the PA. For this they rely on the hegemonic power of religion, using interpretations of the Qur'an that support their control.

In an extension of their role as 'defenders of the faith', the Islamists link any attempt to improve the lives of Palestinian women with a perceived international (Western) conspiracy against Islam.² The ever-present Israeli threat acts to their benefit because they are seen as the only force willing to stand up to the enemy. They use this in calling for the maintenance of 'Islamic traditions' such as the veil. Thus, they turn the bodies of women into a national treasure that needs to be protected by men, and over which women are allowed no control.

For its part, the PA wants to go beyond the limited options available to it as the guarantor of Israel's security under the Oslo agreement (this agreement is discussed further in section 1.3). Therefore, without alienating Israel, its internal policies are decided by negotiating with the Islamists without alienating Israel, and it is in this negotiation

² The study will show later that this is similar to the discourse of Islamists in Egypt, but will not analyze that similarity because of time and space limitations.

that women's interests suffer, as will be explained later in this study. The PA uses the relevant UN resolutions and conventions to make its case internationally for a speedy Israeli withdrawal from the occupied territories to ensure that a Palestinian homeland can become a reality. Internally, the PA obtains a certain degree of consent in various ways however, it also uses coercion and force to maintain its power.

This study consists of five chapters. Chapter One introduces the research topic against the historical and political background of Palestine. This chapter focuses on the history of the Israeli-Palestinian conflict and its relevance to the internal political power relations. The emphasis will be on the link between the geopolitical situation and control over women's sexuality. The chapter also outlines the research problem and its objectives, lists the main research questions and presents the conceptual framework, methodology, scope and limitations of the study and the data sources.

Chapter Two presents the main concepts and theories on which the research is based. The concepts will be defined and linked with the thesis topic and research problem. Chapter Three examines the MP experience with a view to using it as a basis for later analysis of the counter-campaign in response to it. The chapter also contains an analysis of the discriminatory nature of family law in Palestine.

Chapter Four presents the counter-campaign launched against the MP, using the concepts chosen in Chapter 2. It also examines the discourse of the PA and the Islamists in terms of their policies and practices. This analysis enables us to uncover the relation between, on the one hand, the PA's political weakness in the Middle East, and on the other, its policies towards the Islamists and its attitude towards the women's movement.³ It helps to analyze the gendered policies and practices of the PA and the Islamists. Finally, Chapter Five concludes the findings and outlines strategies that can be used by the women's movement in Palestine for greater effectiveness towards achieving a society built on democracy and equality.

This analysis is positioned in four contexts: international, because the lives of all the people in the Middle East are affected by what happens at that level; political, because Palestinians as a whole are

³ As will be explained in section 4.2, the Palestinian women's movement covers a wide political spectrum, from the extreme left to the Islamist women's organizations. In this study, the term is used to denote supporters of action to achieve gender equality. Thus, Islamist women's organizations are excluded.

affected by the political manoeuvring of regional and local actors; social, because in Palestinian women's subordination is based on socially constructed identity; and legal, because this study uses the reform of family law proposed by the MP to analyze the PA's and the Islamists' discourses.

A. The International Context

The Middle East is of high strategic value to major economic powers because of its vast reserves of energy. This has been an important reason for why international support is afforded to Israel, which in turn, has affected all the countries in the region. The main international player in the region following the break-up of the Soviet Union has been the United States of America. In this scenario, Palestinians and others who have little to contribute to the basic power structure in the region have no rights. Chomsky⁴ argues that the basic rules of world order remain as they have always been: "the rule of law for the weak [and] the rule of force for the strong." The Palestinians' only role, Chomsky adds, is as pawns in various struggles for power. However, this study does not fully agree with him. Through a combination of resistance and negotiation, Palestinians have up to a certain extent succeeded in convincing the international community that they are victims of Israeli aggression. Consequently, they have some power.

B. The Political Context

The 1993 Oslo agreement between the Palestinian Liberation Organization (PLO) and Israel was a landmark in the struggle of the Palestinian people for self-determination and statehood. The agreement was mediated on the basis of a severe imbalance of power between Israel and the PLO, where Israel always had the upper hand. The Oslo agreement "does not talk about the Palestinians as a nation, [or] as a people, ... does not recognize the existence of the refugees, ... does not deal with territory, with the land; [nor does it address that] the land is separated from the people."⁵ For most Palestinians, Bishara argues, the Oslo agreement is wholly an Israeli formula,⁶ for by its terms the PLO became the guardian of Israeli security rather than the security of

⁴ *Id.*

⁵ C. PARKER, RESIGNATION OR REVOLT? SOCIO-POLITICAL DEVELOPMENT AND THE CHALLENGES OF PEACE IN PALESTINE 69 (I. B. Tauris Publishers 1999).

⁶ G. Usher, Bantustanisation or Bi-nationalism? An interview with Azmi Bishara, 1995 *RACE AND CLASS* 43, 50 (1995).

Palestinians. On the other hand, the agreement enables the PA to “control the population without reference to sovereignty – specifically those rights over land, resources, and external relations... it allows an elite to assert a claim to political leadership without the need to legitimate itself through the articulation of a social agenda.”⁷

The Israeli occupation has a great impact on the Palestinian social structure. Palestinian internal politics such as alliance building and mediation of conflicts between the different political groups and institutions are affected by the Israel occupation. This reality had a direct impact on the women’s agenda in the occupied territories. Women played an active role in the national struggle against the occupier and the women were the immediate victims of Israeli policies such as expropriation of land, demolition of houses, and imprisonment of political activists. Their social position would therefore, have been expected to improve with the establishment of a geographical and political Palestinian entity. However, that has not happened, because of the structural patriarchal relations within Palestinian society, the powerlessness of the ‘leftist parties’, the weakness of the PA,⁸ and the strong popularity of the Islamist parties.

Bishara observes that since 1971, the PLO’s nationalism has been in transition from a policy of liberation to one of statehood.⁹ Several significant events and factors can be identified in the PLO’s quest for statehood: the PLO’s military defeat in Lebanon; the rise of the national movement, especially the Intifada,¹⁰ in the occupied territories; and the collapse of the Soviet Union. The Gulf war was another

⁷ Parker, *supra* note 18.

⁸ The PLO established the Palestinian Authority to govern the areas from which Israel withdrew after the Oslo agreement in 1993. The PLO continues to exist as an organization representing Palestinians as a whole.

⁹ Usher, *supra* note 19.

¹⁰ Intifada (meaning “uprising”) was a mass protest over the Israeli occupation of the West Bank and Gaza. It started in December 1987 and continued until the beginning of the so-called “peace process” initiated by the U.S. after the Iraqi defeat in the second Gulf war of 1991. Its main activities changed from mass-based actions to prolonged and institutionalized actions. The main objective of the uprising was to exhaust the occupying power rather than to evict it through a combination of local and international pressure. The most remarkable features of the Intifada were not only the participation of Palestinians from all sectors and classes, but also the ease with which mobilization was carried out and the support structure built within few months after its eruption. J. HILTERMANN, *BEHIND THE INTIFADA* (Princeton University Press 1991).

watershed because it changed the international and regional balance of power, putting the PLO in danger of being reduced to nothing more than a disintegrating bureaucracy located in Tunis, without funds. Its only aim was survival and its only claim to legitimacy was that it represented Palestinians. However, its support among Palestinians was declining as the Intifada gained momentum. All these factors made it possible for the Israelis to recognize the PLO and led to the signing of the Oslo agreement on September 13, 1993. For Bishara, the agreement originated a process which sustained Israel's historical position of neither full withdrawal from, nor annexation of, all the occupied territories. It addressed the problem of no *status quo ante*¹¹ by making the PLO responsible for Israel's security from Palestinian attacks without allowing Palestinians the right to self-determination.¹²

The PA's poor performance opens the door to further criticism from all sectors of the political spectrum,¹³ particularly with regard to the autocratic and authoritarian style of its head. The rising popularity of the Islamists is one expression of this criticism. Hamas, the largest Islamist party, is primarily a creation of the Israeli occupation.¹⁴ Hasan contends that Israel nurtured and allowed Hamas to act without interference for a long time¹⁵. One indication of this was that until the killings inside

¹¹ Usher, *supra* note 19.

¹² See Noam Chomsky, *The Israel-Arafat Agreement*, Z MAGAZINE, Oct. 1993; Noam Chomsky, *Middle East Diplomacy: Continuities and Changes*, Z MAGAZINE, Nov. 1991; M. Rabbani, *Palestinian Authority, Israeli Rule: From Transitional to Permanent Arrangement*, MIDDLE EAST RESEARCH AND INFORMATION PROJECT, 1996; G. USHER, *DISPATCHES FROM PALESTINE; THE RISE AND FALL OF THE OSLO PEACE PROCESS*, (Pluto Press 1999) (discussing in detail the shortcomings of the Oslo Agreement).

¹³ J. Hilal, *The PLO: Crisis in Legitimacy*, RACE AND CLASS (1991).

¹⁴ Palestinian activists of the Muslim Brotherhood (a pan-Islamic political movement founded in Egypt in 1937) founded Hamas (the Islamic resistance movement) in February 1988, two months after the eruption of the Intifada. Hiltermann, *supra* note 23. The Palestinian branch of the Muslim Brotherhood had emerged in the occupied territories in the 1970s as a "cultural and social movement whose primary aim was the founding of the Islamic personality ... this entails an abstention from all forms of anti-occupation activity, prioritizing instead a cultural struggle against the PLO's atheist commitment to secular nationalism." G. Usher, *What Kind of Nation? The Rise of Hamas in the Occupied Territories*, RACE AND CLASS (1995).

¹⁵ M. Hasan, *On Fundamentalism in Our Land*, WOMEN LIVING UNDER MUSLIM LAWS (Grabels 1993).

Israel increased, the number of Hamas prisoners in relation to the size of the organization was lower than that of prisoners from other organizations. Usher makes a similar observation, that despite its propaganda against Jews, "Hamas" relation with the occupation authorities remained essentially quietest, with the [Israeli] army never interfering with Hamas strike days."¹⁶ Hamas is financed by Saudi Arabia, the most conservative country in the Arab world. Usher notes that, "[l]ubricated by Saudi money, in Gaza especially [Hamas] built an impressive social infrastructure, by 1986 controlling 40% of Gaza's mosques and its single Islamic university, which with 7,000 students, was the largest in the territories."¹⁷

As Hilal observes,

[T]he polarization of political forces between the 'nationalist secular Right' (represented by the biggest movement in the PLO, Fatah, allied to a locally based bourgeoisie) and the Islamists . . . has tended to marginalize the Palestinian Left. Thus, a sizeable sector of Palestinian society (committed to democracy, political, cultural and religious pluralism, equality and social justice) remains without a platform and a unifying organizational framework.¹⁸

The political vacuum in Palestinian politics due to the weakness of the Left has been filled by two alternatives. One is the revival of the traditional social structures encouraged by the PA, and the second is the increased popularity of the Islamic parties. In both cases, the big losers are Palestinian society, particularly Palestinian women. The reform and renewal of national institutions and the democratisation of the political and social process remain the most urgent problems facing Palestinians. It is necessary to articulate a clear conception of a democratic Palestinian state and the rights and duties of its citizens, as well as the State's responsibilities to the citizens, in a framework encompassing all Palestinians, men and women.

¹⁶Usher, *supra* note 27, at 65-80.

¹⁷ *Id.*

¹⁸ M. Klein, *Quo Vadis? Palestinian Authority Building Dilemmas Since 1993*, 1997 MIDDLE EASTERN STUDIES 383 (analyzing the dilemma that shared by all the Palestinian political parties after the signing of the Oslo agreement).

C. The Social Context

Part of the land on which the state of Israel was established in 1948 was Palestinian. Thus, the creation of Israel transformed the Palestinian people into a refugee nation, affecting the social and physical life of a people of essentially peasant origin. The social fabric of the refugee Palestinians continued to be based on patriarchal relations. This may be seen as evidence of the sense of security and solidarity that such relations provided to the refugee groups. In 1967, Israeli military forces occupied the remnants of Palestinian land. The occupation and its brutal treatment of the people gave rise to local self-help organizations forged as forms of resistance. A national liberation movement with a developed infrastructure of institutions – student groups, labour unions, women's committees, agricultural and medical relief associations, and other voluntary works organizations¹⁹ – took away power from traditional landowners and began building popular institutions which had a great influence in the political arena and which Israel found impossible to eliminate.

Although there was substantial political development of Palestinian society, gender relations, social stratification and “traditions” were not transformed much. Palestinian political organizations developed within an environment that endorsed tensions between two opposing discourses: on the one hand, the social relations of patronage²⁰ and personal power and authority,²¹ and on the other, the discourse of national struggle, liberation, national rights, citizens' responsibility, and political values.²² The confrontation between the two continued until

¹⁹ Hiltermann, *supra* note 23; L. Taraki, *Al-Mujtama' Al-Filistini Waki Wa-Twajhat Maasira*, RAMMALLA BIRZEIT UNIVERSITY, 1997.

²⁰ R. Brynen, *The Dynamics of Palestinian Elite Formation*, *JOURNAL OF PALESTINE STUDIES* XXIV(3), (1995); R. Brynen, *The Neopatrimonial Dimension of Palestinian Politics*, *JOURNAL OF PALESTINE STUDIES* XXV(1) (1995).

²¹ In this context, Sharabi is an important source for analysis of the distortions in Arab “neo-patriarchal society.” H. SHARABI, *NEOPATRIARCHY, A THEORY OF DISTORTED CHANGE IN ARAB SOCIETY* (Oxford Press 1988). Referring to the patronage system in the Arab world, which could equally easily be applied to Palestinian society and Palestinian politics, Sharabi notes that “society actually is only subject to the will of the rich and powerful, a will delimited only by material capacity and institutionalized ethical injunction.” *Id.* at 47. In sum, all social arrangements in neo-patriarchal society are based on this powerful-powerless relation.

²² Taraki, *supra* note 32.

1993, when political changes culminated with the signing of the Oslo agreement. As a result of these opposing discourses, when we investigate the legacy of the Palestinian national movement, we find several layers.

At the political level, PLO institutions succeeded in shaping the parameters of political institutions and grassroots organizations in the occupied territories. To confront the occupiers' power, the PLO developed a strategy consisting of three elements: assailing the occupiers' power and its institution; outadminstrating the enemy by setting up parallel hierarchies; and creating a new hegemony of resistance.²³ This strategy contributed successfully to mobilizing broad sectors of society into mainstream politics, even those that had traditionally been kept out of formal politics. Thus, a promising local leadership emerged in the 1970s and a new generation of activists became involved in mass organization.²⁴ The Israeli occupation, which affects every aspect of the people's lives and the discourse of resistance applied by the PLO and its constituting organizations, began the process through which politics became a part of everyday life in Palestine. Therefore, it is not surprising that the world of politics has been separated from its narrow-elite base practice.²⁵

Palestinian women were part of this process, forming women's mass-based committees²⁶ in an effort to respond to the needs and aspirations of Palestinian women under occupation.²⁷ These committees were organized in villages, refugee camps and towns. The political participation of Palestinian women within the PLO organizations did not

²³ Hiltermann, *supra* note 23.

²⁴ Taraki, *supra* note 32; I. Jad, *Claiming Feminism, Claiming Nationalism: Women's Activism in the Occupied Territories*, in *THE CHALLENGE OF LOCAL FEMINISMS* 226 (Amrita Basu ed. 1995).

²⁵ Taraki, *supra* note 32.

²⁶ According to Jad, the first women's committee was formed on International Women's Day in 1978. Jad, *supra* note 37. Its purpose was to reach the majority of Palestinian women living in villages and in the refugee camps of the West Bank and Gaza. *Id.* The activists in the committee "were also seeking an alternative to the charitable societies, whose leaders excluded them in order to preserve their own position and power." *Id.* at 232.

²⁷ The author suggests women's status in Palestinian society is marked by contradictory features. On the one hand, women participate actively in political life and their educational level has improved considerably; on the other, they are still constrained from equality and participation in the public arena. Such constraints are evident in the high fertility rate, relatively low participation in the labor market and legal discrimination against women, especially in family law.

imply a feminist consciousness or the promotion of a feminist agenda, since every activity had to be under the political banner of the PLO organizations. Thus, the public has perceived the women's movement as an extension of the political parties rather than as a "feminist movement." Several researchers have observed that the women's movement, while not differing in philosophy from faction to faction, lacked coherent goals and strategies, and was unable to speak with one voice.²⁸ Joseph says that the women's movement within the national struggle has carefully avoided challenging patriarchal structures, thus deflecting the emergence of feminist consciousness.²⁹

The discourse of resistance attracted every Palestinian to participate and shape the future of Palestine, regardless of his region (village or refugee camp), gender or age. Mayer³⁰ refers to the paradoxes created by the occupation in the lives of Palestinians. For instance, children were actively encouraged to confront, and rewarded for confronting, the occupation forces with what might be termed undisciplined behaviour; however, at the same time fathers expected those same children to obey their authority unquestioningly. Hiltermann³¹ refers to the fact that women's participation in the Intifada was a clear manifestation of "casting off the yoke of gender oppression."³²

Developing in such an environment, the Palestinian political and organizational structure has remained conventional on the social level. The structure has found expression in a nationalist discourse which gives significance to an idealization of the past and "tradition" in a way that is similar to that of other nationalist movements. The repression of

²⁸ M. Mayer, *Development and Human Rights in the Gaza Strip and West Bank. Defending the Rights of the Poor* (1997) (on file with the Center for Economic and Social Rights, New York).

²⁹ S. Joseph, *Women and Politics in the Middle East*, 16 MIDDLE EAST REPORT 1, 3-8 (1986).

³⁰ Mayer, *supra* note 41.

³¹ Hiltermann, *supra* note 23.

³² By their active participation in the Intifada, Palestinian women broke the red line of the public/private dichotomy. *Id.* The striking images of women marching in the streets, throwing stones at Israeli soldiers, carrying baskets of stones to supply younger demonstrators, arguing and tussling with soldiers to win the release of an arrested demonstrator, originated the idea that the Intifada was not only about " 'shaking off' of military rule, but ... a social revolution in its own right." *Id.*

occupation had a significant impact on Palestinian life that makes traditional practices a meaningful way of expressing identity.³³

Moreover, the family is the basic and most important unit of Arab society. The extended family is still important despite the fact that Palestinian society has moved towards a nuclear family structure over the last thirty years. Marriage, as an institution, is of unmatched importance for obtaining recognition in the adult community, especially among the poor and refugees.³⁴ Marriage is often not simply a bonding between individuals, but also a bond between families.³⁵ Therefore, it strengthens and consolidates patriarchal relations based on clans and tribes and has contributed to the maintenance of traditional practices.

Sharabi convincingly argues that "the dominance of the father (patriarch), the centre around which the nation as well as the 'family' are organized," is as much a psychological feature of Palestinian society as it is of Arab society; "[t]hus, between the ruler and the ruled, the father and child, there exist only vertical relations: in both settings the paternal will is the absolute will, mediated by a forced consensus based on ritual and coercion."³⁶

In the nationalist discourse, women are the symbolic "container" of Palestinian identity. The glorification of women's fertility, the recognition of their bodies as the most important part of national resources, and the encouragement to bear more children as part of the national struggle against the Israelis was an explicit expression in the Palestinian national discourse. Yasser Arafat has said, "[t]he wombs of Palestinian women are bombs in the confrontation with the Israelis." Therefore, "in the context of Intifada ... Palestinian men are interested in increasing the Palestinian population, and the Israeli occupiers are interested in limiting it, women's bodies [are] the site of the battle with little control left to them over their own bodies."³⁷

³³ Mayer, *supra* note 41.

³⁴ R. Hammami, *Women in Palestinian Society in Palestinian Society in Gaza, West Bank and Arab Jerusalem: a Survey of Living Conditions* 283 (FAFO Publications, 1993) (analyzes attitudes towards marriage in Palestinian society).

³⁵ Mayer, *supra* note 41.

³⁶ Sharabi, *supra* note 34.

³⁷ J. Massad, *Conceiving the Masculine: Gender and Palestinian Nationalism*, 49 *THE MIDDLE EAST JOURNAL* 467 (1995).

D. The Legal Context

In the twentieth century, Palestinian women and men have been subject to a succession of overlapping legal systems of non-Palestinian origin. For example, the framework delineating the formal legal status of Palestinian women in terms of their personal rights was shaped during the Ottoman period (before the First World War). Later, during British colonial rule over Palestine, in spite of critical questions raised by women concerning their social and legal status, they were excluded from decision-making, power, and governance. The marginalization of Palestinian women continued during the national struggle, when the national movement's priority was liberation: social, economic and legal issues facing the society were sidelined, in particular those deeply affecting the Palestinian women who were also part of the national struggle. The elections for the first Palestinian Council in 1996 presented new opportunities for Palestinian men and women to debate the laws and policies that would direct their social affairs. The Palestinian Model Parliament for Women and Legislation was launched in 1997 as part of a comprehensive effort to highlight the discriminatory nature of the inherited legislation in general and family law in particular. The project initiated the study of women's status under the current laws, specifically under family law, and the best approach to improving their legal status under this law.

E. Indication of the Problem

The MP (MP) project conducted its advocacy campaign in 1997-98, addressing modification of family law as its main objective in Gaza Strip, while in the West Bank its objective was to review all the current laws in Palestine. In Gaza, the project was based on the recognition that family law is a crucial determinant of women's legal, social, economic and political status. The campaign came at a crucial time in Palestine's political evolution towards statehood, and it tried to address a complex range of legal issues in order to propose effective gender-sensitive laws and policies.

The MP's campaign and activities elicited different responses from the gendered male-dominated political institutions. This thesis will analyze the politics of these institutions and the way in which they arrange and conduct their political alliances and conflicts. It will discuss the policies and practices of the main actors, namely the PA and the Islamist parties. It will examine how Palestinian women are conceptualized within family law. As implemented in Palestine, this law

has led to the reinforcement of male domination and female subordination, and it is reasonable to expect that the nature or conceptualization of this law will have a direct impact on the way Palestinian women lead their lives in the future.

F. The Actors

Various actors played a role in the reaction to the MP: the PA, the Islamists, formal religious institutions, the women's movement, the leftist parties, human rights organizations, etcetera. However, the actors that were most influential were the PA and the Islamists.

G. The Palestinian Authority

The PA represents a state under formation which limits its options with regard to external pressures. It has followed a strategy that compromises women's rights by paying lip-service to the gender question. This was demonstrated clearly when the conflict between the Islamist parties and the MP reached a critical point, with the MP raising the issue of equal rights for women in family law, and the PA adopted a position closer to that of the Islamists.

To analyze the PA's contradictory positions, we have to understand that the Oslo agreement is essentially a security arrangement, which includes, among other things, a commitment by the PA to safeguard the state of Israel from its Palestinian opponents. To meet this obligation, the PA has engaged in various activities such as the initiation of repressive practices, including imprisonment and regular torture of political opponents, under the all-embracing justification of "national interest." In this context, the PA's pandering to the Islamist parties on the issue of modifying family law can be interpreted as a tactic to keep the Islamists occupied in a confrontation with the MP, thus diverting some of their attention from confrontation with Israel. This study will analyze this tactic in greater detail, showing why and how social questions, including the women's agenda, provide space for political bargaining between the PA and the Islamist parties.

H. The Islamist parties

The Islamists constantly emphasize that Palestinian society is locked in daily struggle with a neighbouring country that makes no secret of its enemy. Thus, they construct Palestinian identity as one under threat. Because the household is perceived as the domain of women, they are the preservers of this identity. To Islamists, this status legitimizes

control over their bodies and voices. Any attempt to modify family law is, by definition, a challenge and threat to national and religious identity.

This study uses the term Islamists rather than fundamentalists because the latter term is a value-laden concept which tends to be used in the context of political terrorism. In this study, there is no intention to characterize the military strategies of any of the actors.

I. The Research

The overriding purpose of this study is to explore the factors that are hindering the attempts of Palestinian women to improve their position in their society, in order to determine ways of making their attempts more effective.

This study will attempt to answer the following questions:

1. Why and how, despite their ideological and political differences, do the PA and the Islamist parties cooperate to sacrifice women's interests and hinder them from putting their concerns on the public agenda?
2. How can we conceptualize the political alliance between the PA and the Islamist parties as two polarized political forces acting together to exclude women's interests from the public agenda?
3. What are the underlying motives and interests behind the gendered policies of the institutions under analysis?

Discourse analysis is used in this study as a critical tool to understand and analyze the function of the male-dominated institutions that control women's sexuality in Palestine. Discourse analysis (with specific reference to the Foucauldian perspective) "seeks to explain the relations and forces of power from the discursive evidence available. It is a version centrally concerned with the social interests inherent in particular ways of governing subjects and, as such, has important political implications for the present."³⁸ It "expands the field of potential political activity ... avoiding, as it does, the reductionism of single-cause analyzes."³⁹ Discourses should be analyzed in terms of "what reciprocal effect of power and knowledge they ensure" and "what conjunction and what force relationship make their utilization necessary."⁴⁰ Documents/articles and literature will be cited to support the analysis of the underlying agenda and motives of the institutions, as well as of the

³⁸ C. WEEDON, *FEMINISM, THEORY AND THE POLITICS OF DIFFERENCE* 115 (Oxford 1999).

³⁹ *Id.* at 122.

⁴⁰ *Id.*

institutional structures, policies, practices and discussions relevant to the MP's campaign.⁴¹

II. The Conceptual Framework

This chapter defines the concepts that are used for the analysis in the rest of the thesis. As noted in section 1.8.4, the concepts were derived from the discourse analysis methodology used in the study. They were chosen to analyze the Islamists' and the PA's discourses as well as to determine why and how women are marginalized in Palestine.

The factor that most influences the lives of Palestinians is power politics. On the international level, the weak position of Palestine makes it vulnerable to pressures from the dominant power in the region (Israel) and the U.S. On the national level, the PA appropriates the Islamic discourse and uses patriarchal and nationalist discourses as part of its power politics to build its hegemony. The Islamists try to strengthen their hegemony by using patriarchal and Islamic discourses as well as resistance against Israel as part of their power politics. The difference between the PA and the Islamists, as will be argued in Chapter 4, is the PA's appropriation of the Islamic discourse. Both the PA and the Islamists, as patriarchal institutions, suppress women to maintain their hegemony. The women's movement cannot consider either of them as an ally, as will be elaborated later in this study.

A. Discourse

Discourse is a comprehensive tool for examining the meanings underlying the actions and statements of various actors as well as the institutions and structures of which they are a part. Michel Foucault, in his attempt to understand the relationship between language, social institutions, subjectivity and power, identifies discourses as "historically variable ways of specifying knowledge and truth. They function as sets of rules, and the operating of these rules and concepts in programs, which specify what is or what is not the case."⁴²

⁴¹ This thesis does not claim to study the whole range of male-dominated institutions in Palestine, nor all of their gendered policies and practices. Rather, the focus is only on the institutional response to the MP campaign as being representative of the attitude towards the position of women in Palestine.

⁴² C. RAMAZANOGLU, UP AGAINST FOUCAULT, EXPLORATIONS OF SOME TENSIONS BETWEEN FOUCAULT AND FEMINISM 19 (Routledge 1993).

Unlike structuralists, who understand discourse as the study of smaller bits of language such as sounds, parts of words, meanings, and the order of the words, Foucault considers it as having more than linguistic meaning. "It is material in the sense that it is located in institutions and practices which define difference and shape the material world, including bodies."⁴³ Thus, social meanings are produced within social institutions and practices in everyday life.⁴⁴

Foucault's question is not about the source of discourses, or what interests they represent, but the effects of power and knowledge and what makes their use necessary." Therefore, individuals who are shaped by institutions are agents of change not the authors. This change may either serve hegemonic interests or challenge existing power relations. That makes the individual a site for competing and often contradictory forms of subjectivity, which together constitute a particular person.

In this sense, discourses determine the meaning of being a woman or a man and the convenient range of gender-suitable and inappropriate behaviour. We learn how to think and behave through discursive practices, which shape our bodies, minds, and emotions.

Discourse does not reflect meaning and subjectivity; rather, it produces them. This makes language and subjectivity a field of political struggle involving both the defining difference in discourses, which have different degrees of power to shape social relations. Therefore, resistance to power comes through new discourses which produce new truths. These may be counter-discourses, which oppose dominant truths, or reverse discourses. However, that does not mean that discourse is divided between the accepted discourse and the excluded one. Discourse is a multiplicity of discursive elements that can come into play in various strategies. It transmits and produces power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it.⁴⁵ To sum up, discourse is the universe where power is constituted. Thus, it cannot be captured because it is everywhere.

By this definition, the discursive field of the law, for instance (since we are discussing family law), has several discourses, but not all of them possess equal weight or power. Some will justify the status quo, others will challenge the basis of the current practices or institutions;

⁴³ D. Tannen, *Discourse Analysis*, available at <http://www.Isadc.org/web2/discourse.html>.

⁴⁴ C. WEEDON, *FEMINIST PRACTICE AND POSTSTRUCTURALIST THEORY* 25 (Basil Blackwell 1987).

⁴⁵ M. FOUCAULT, *THE HISTORY OF SEXUALITY* (Vintage Books 1980).

however, such discourses are marginalized or dismissed by the hegemonic system of meaning and practices by labelling them as irrelevant or bad.⁴⁶ For example, the Palestinian National Authority ensures equal rights for men and women.⁴⁷ However, another article in the Basic Law makes the Sharia the main source of legislation. The hegemonic culture of Islam, Islamist power, and the PA's patriarchal nature would give less weight to equal rights for men and women than to the maintenance of Sharia as the main source of legislation.

Moreover, the legal devices in a society are not homogeneous; they depend upon the groups that are involved in the legal procedures and performance (judges, the police, lawyers, etc.). However, one set of discourses is dominant and reflects "particular values, class" and gender interests.⁴⁸ The views of dominant discourses about what is "natural justice" are different from those of the challenging discourses. For instance, depriving mothers of custody over their children is "natural justice" according to the dominant discourse of Family Law, while the discourse of the women's movement (which is both a counter-discourse as well as a reverse discourse) seeks to move the hegemonic discourse to "a position of relative powerlessness."⁴⁹

For marginal discourses such as the feminist one to have a social effect even when they lack social power, they must at least be circulated and announced in order to offer discursive space to individuals who seek help in the face of the dominant discourse. The degree to which marginal discourses can increase their social power is controlled by the broader context of social interests and power within which struggles with the dominant discourse are formed.⁵⁰ Of course, the feminist discourse does not expect to win the battle merely by raising its voice and declaring its challenge. In an environment of patriarchal social relations, the power balance needs to be changed as well.

B. Power

Power is included in this analysis because relations in all societies are based on the relative strengths of the actors. That makes

⁴⁶ *Id.*

⁴⁷ Palestinian National Authority, *An English Translation of the Basic Law for the Palestinian National Authority in the Transitional Period*, at <http://pal.plc.org/english/laws/blaw.htm>.

⁴⁸ Weedon, *supra* note 56, at 36.

⁴⁹ *Id.* at 37.

⁵⁰ *Id.*

power an obvious and necessary concept for use in this analysis. This study uses Foucault's conception of power as a moving set of force relations that exist everywhere and all the time.

Foucault's understanding of power is not as a set of institutions and mechanisms that regulate the relation between the State and citizens, or as a mode of subjugation which has the form of rules, or as a general system of domination exerted by one group over another. He regards these as only the terminal forms of power. For Foucault, power is understood as:

[T]he multiplicity of force relations imminent in the sphere in which they operate and which constitute their own organization; as the process which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses them; as the support which these force relations find in one another, thus forming a chain or a system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly, as the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies.⁵¹

In this definition, power is perceived not as a constant block located in some central point, but as a moving substance of force relations, which, due to their inequalities, generate certain ranks of power. The second element of Foucault's definition is his understanding that force relations occur in an infinite process of mobility; therefore they are generated in every moment and everywhere. Power is thus constantly present and it is everywhere.

The essential question here – posed by many feminist critics of postmodernism – is whether this means that we are mere passive effects of discourse, deprived of agency. Post-structuralist feminists would answer in the negative, arguing that it is only by assuming forms of

⁵¹ FOUCAULT, *supra* note 57.

subjectivity, which include the dimension of agency, that we can think, communicate and act in the world.⁵²

Power relations are not located outside other types of relations, such as economic processes or sexual relationships. Power relations are the immediate effect of the inequalities in those relations. In this sense, power relations do not only play a repressive role; on the contrary, they are productive wherever they come into play. For Foucault, power is repressive only in "its most frustrated and extreme form. The need to resort to a show of force is more often evidence of a lack of power."⁵³

The only framework within which this viewpoint makes sense is if power is defined in terms of hegemony achieved through the consent of the population. Thus, absence of consent (and therefore lack of power) necessitates the use of force to maintain hegemony. However, from a different perspective on power, Foucault's theory does not stand up. If power is regarded as the ability to use force, then the use of force cannot be seen to indicate a lack of power. Would we consider the state of Israel to be manifesting a lack of power because of its violent use of force? If we generalized this argument, all the countries that ignite war would be viewed as powerless, and all men's violence against women would be due to their powerlessness!

Foucault focuses on "how certain institutional and cultural practices produce individuals. Disciplinary power is exercised over the body and soul of the individual" in society by the dominant discourse.⁵⁴ Although this increases the power of individuals, it also renders them more docile.⁵⁵ For instance, the disciplinary (institutional) power that is exercised over women's bodies is clear in family law, which represents a masculine discourse that legitimizes the domination of men and subordination of women.⁵⁶ The disciplinary power is clear when we notice that even the most radical women are not prepared to challenge the basis of this law as a masculine discourse; they contest the legal

⁵² WEEDON, *supra* note 51, at 104.

⁵³ J. SAWICKI, *DISCIPLINING FOUCAULT* (Routledge 1991).

⁵⁴ *Id.* at 22.

⁵⁵ A. KARAM, *WOMEN, ISLAMISTS AND THE STATE: CONTEMPORARY FEMINISM IN EGYPT* (Macmillan Press 1998).

⁵⁶ Scott argues that gender is not only the primary field where power is articulated, it is also the "persistent and recurrent way of enabling the signification of power in the Judeo-Christian as well as Islamic traditions." J. SCOTT, *FEMINISM AND HISTORY* (Oxford University Press 1996).

provisions from within the framework of this masculine law. "Disciplinary practices create the division" between what is considered right and wrong, of good or bad Muslim, of legal criminal, which by "virtue of their authoritative status, can be used as effective means of social normalization and social control."⁵⁷ The wearing of the veil that is imposed by the Islamist parties separates "good" and "bad" women, and maintains Islamist control by labelling that which is different as abnormal.

Foucault's "bottom-up" analysis of power shows "how power relations at the micro level of society facilitate certain global effects of domination, such as class power and patriarchy."⁵⁸ Yet, according to Foucault, power also has the capability to create resistance – not by the choice or decision of individuals, but because power that is embodied in force relations based on inequalities naturally and inevitably arouses some form of resistance.

Foucault conceives force relations as a network that runs through all the social body; it takes shape and comes into play in the modes of production, familial relations, and institutions. Then these force relations embrace the local oppositions and link them together in a series of arrangements that reflect the power relations in the social body at a specific moment. The domination of a certain discourse (a patriarchal discourse in the Palestinian case) is the outcome of these sustained confrontations between the opposing elements of force relations.⁵⁹

Azza Karam analyzes a similar phenomenon in Egypt.⁶⁰ She discusses the relations between the State, Islamists, and the Egyptian feminists, and finds that:

Power oscillates from one [player] to another in a series of reactions and contradictions. Islamists' power is a reaction to state power, as well as inherent to Islamic dynamics in itself. The same is true in reference to the relationships between Islamists and feminists, and between feminists and state. In fact, the power of Islamists, state laws, and feminists lies in a complex interplay of resistance to each other.⁶¹

⁵⁷ SAWICKI, *supra* note 65, at 22.

⁵⁸ *Id.* at 23.

⁵⁹ FOUCAULT, *supra* note 57.

⁶⁰ KARAM, *supra* note 67.

⁶¹ *Id.*

The position of the actors (whether the State, Islamists, or feminists) allows for diverse degrees and types of agency; sometimes agency is manifested as compliance with or support to the dominant hegemonic power, "thus forming a chain or a system."⁶² However, at other times it takes the shape of resistance, "the disjunctions and contradictions which isolate them from one another."⁶³ In all cases, it shows the "process which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses" the force relations between actors.⁶⁴

Foucault's definition of power is useful for examining the mechanisms by which power is exercised and the relations between powerful and powerless individuals. However, it is not enough by itself for an analysis of relations between the powerful and powerless at the institutional level. Therefore, this study also uses Gramsci's concept of hegemony to supplement the analysis. Gramsci is useful for understanding power relations between two institutional actors but cannot be used in a context of multiple conflicting discourses. In such a situation, Foucault is more relevant.

C. Hegemony

Karl Marx was the first to use the concept of hegemony in the context of historical materialism, with reference to the interests of the ruling class being presented as ideal universal interests. According to Marx, when the ruling class comes to power it serves a broad range of interests; but in the course of time, as contradictions develop with other classes, the specific interests of the ruling class become apparent and the stratagem of identifying its interests with the common good is used increasingly in attempts to paper over the contradictions.

Gramsci builds on this notion of hegemony when he recognizes civil society as the major vehicle for bourgeois hegemony. He locates hegemony as operating at the "private" or non-State levels of the superstructure, and he distinguishes this social hegemony from the use of force as the principal means of maintaining social order. Cultural hegemony, which is generally identified as the major dimension of this "manipulation," involves the production of ways of thinking and seeing,

⁶² FOUCAULT, *supra* note 57, at 92.

⁶³ *Id.*

⁶⁴ *Id.*

and of excluding alternative visions and discourses. Hegemony, in brief, is the manufacturing of consent.⁶⁵

This conception of hegemony leads Gramsci to expand his definition of the State to include not only the governmental apparatuses and coercive mechanisms, but also "the underpinnings of the political structure in civil society ... the church, the educational system, the media; all the institutions [that help] to create in people certain modes of behaviour and expectations consistent with the hegemonic social order."⁶⁶ The hegemony of a dominant group thus bridges the conventional categories of State and civil society.

Hence, hegemony is the ability of a social group to exercise a function of political and moral direction in society; for hegemony to succeed, it should be acknowledged by other social groups, they have to appreciate the hegemonic group's leading role. The leading group's power is something more than and different from "dominance." Gramsci defines it as the "combination of consent and coercion"⁶⁷ to the extent that when "the consensual aspect of power is in the forefront; hegemony prevails."⁶⁸ "Coercion implies the use of force or the credible threat thereof; consent implies moral leadership."⁶⁹

To sum up Gramsci's viewpoint, the process of attaining hegemony involves both attaining consent and using force as necessary, with both allies and opponents. As will be seen later, this method of attaining hegemony is practised by the PA. It is also important to note that hegemony is a historical concept; it is a process which is never fixed forever in time.

Charlie Bertsch links hegemony with the construction of identity in society.⁷⁰ In an interesting article on the Internet, she successfully uses the concept of hegemony to reflect on identity construction, finding

⁶⁵ G. MARSHALL, *DICTIONARY OF SOCIOLOGY* (Oxford University Press 1998).

⁶⁶ R. Cox, *Gramsci, Hegemony and International Relations: An Essay in Method*, in GRAMSCI, *HISTORICAL MATERNALISM AND INTERNATIONAL RELATIONS* 49 (S. Gill ed. 1993).

⁶⁷ G. Arrighi, *The Three Hegemonies of Historical Capitalism in Gramsci*, *HISTORICAL MATERNALISM AND INTERNATIONAL RELATIONS* 148 (S. Gill ed. 1993).

⁶⁸ Cox, *supra* note 78, at 52.

⁶⁹ Arrighi, *supra* note 79, at 149.

⁷⁰ C. Bertsch, *Useful Fictions*, at <http://English-www.hss.cmu.edu/bs/19/bertsch.html>.
E-mail: Bertsch.cbertsch@crl.com.

that Gramsci's description of hegemony is significant in this context in two ways. Firstly, hegemony acts as a "kind of cultural 'glue' which is able to bind and hold together very different sectors of modern societies, even ones that have little or nothing in common."⁷¹ Secondly, hegemony resolves real differences into a semblance of unity by creating and sustaining an illusion. It makes possible the perception of conflicting sectors as somehow alike, sharing a common identity. Hegemony thus creates a fiction of collective identity. This is evocative of the Marxian description of how a ruling class tries to hide the contradictions between its interests and those of other classes.

In this connection, Althusser argues, "there is no escape from ideology. Ideology represents the imaginary relationship of individuals to their real conditions of existence. Because our minds always mediate our relation to reality,"⁷² we have no ability to have direct access to it. Therefore, it is only through socially constructed fictions that we define ourselves and our place in the world. Bertsch notes that if we cannot escape from ideology in general, that means there is a lot at stake in determining which specific ideologies dominate our lives. Since hegemony depends on the creation of a collective fiction of identity, only a "specific ideology can hold sway over the majority of people in a society" at any one time.⁷³ This approach can be used as a point of departure to analyze the dominant ideology in Palestinian society in order to strengthen the alternative hegemony. This alternative hegemony needs to construct an ideology adequate to its own political project.

Bertsch's contribution is helpful in analysing the strong cultural hegemony of Islamic ideology in Palestinian society. As mentioned earlier, discourse, too, does not reflect meaning and subjectivity, but rather produces them. This makes subjectivity (or identity in Bertsch's terms) a field of frequent political struggle involving both the defining and contesting of differences in discourses (which appeared as hegemony and counter-hegemony by Gramsci and Bertsch).

Karam uses this identification in her analysis of the relation between the Egyptian State and the Islamists:

The relation between the state and the Islamists is a dynamic one, which involves periods of covert

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

encouragement on the one hand, and severe repression on the other. It is the consent of the state to allow the dominance of an Islamic discourse by participating and employing it, and the implied consent of some Islamists to work within state structures and institutions. The encouragement takes place at a time when Islamist activity can prove useful as a means to reach the ends of the state in terms of consolidating its ideological hegemony. When these groups are seen to overstep the tolerance afforded by the state, then a severe cycle of repression starts.⁷⁴

The struggle between the two groups is seen in terms of discourses involving power and hegemony. For the Egyptian State, it is an action to sustain power and hegemony, while in the case of the Islamists, it is a battle to acquire political power and develop their counter-hegemony.

When the use of force is too risky, the exercise of moral leadership is problematic, "corruption," and "fraud" may temporarily step in as surrogates of power. Thus, "corruption and fraud are tactical weapons in a rearguard struggle to preserve power. They are expressions, not of power, but of a failure of power. [However,] hegemony, in contrast, is the additional power that accrues to a dominant group by virtue of its capacity to pose on a universal plane all the issues around which conflict rages."⁷⁵

Here we notice the difference between Foucault's and Gramsci's conceptualizations. For Foucault, the use of force indicates lack of power, while Gramsci considers coercion an essential component of leading-group power. Gramsci advances his analysis a step forward by assigning another element: it is with corruption and fraud that the leading group expresses its lack of power.

Another important aspect of hegemony identified by Gramsci is the inability of a group to become hegemonic unless it understands its own interests and aspirations. The group also has to retain an ability to respond to its allies' interests and motivations derived from their position in society. If the hegemonic group neglects its allies' interests, it will

⁷⁴ KARAM, *supra* note 67, at 25.

⁷⁵ Arrighi, *supra* note 79, at 149.

eventually fail and be replaced either by force or by a true “ethical” hegemony.⁷⁶

In this regard, Gramsci’s conception of the State contrasts with the “narrowly defined ‘night watchman’ State of liberal economists and the ‘interventionist’ State associated with Bismarck.”⁷⁷ The State dominates not through sanctions, punishments or inducements; but by providing “intellectual and moral leadership.”⁷⁸ Hegemony is exercised within a wider social and political constellation of forces, or what he called the “historical bloc.” This concept refers to a historical conformity between material forces, institutions and ideologies. In a process which is almost like constructing a discourse, a successful “historical bloc” should be politically organized around a set of hegemonic ideas, providing strategic direction and coherence to the constituent elements. The role of intellectuals becomes essential. As Gramsci stresses, intellectuals are needed to supply intellectual and moral support to the hegemony’s dominant political role, to the point where “what is ‘politics’ to the productive [and potentially hegemonic] class becomes ‘rationality’ to the intellectual class.”⁷⁹

Therefore, for counter-hegemony to win, it has to confront the hegemonic group at every level. “For a new historical block to emerge, its leaders must engage in ‘conscious, planned struggle;’ [it should] not only have power within the civil society and economy, [but] it also needs persuasive ideas and arguments which build on and catalyze its political networks and organization.”⁸⁰

D. Power Politics

Power politics is a useful tool for analyzing relations between dominant and subordinate powers, especially at the international level. It explains how one actor uses power to influence or compel another actor. It was chosen for its capacity to explain the political changes in the

⁷⁶ E. Augelli & C. Murphy, *Gramsci and International Relations: A General Perspective with Examples from Recent U.S. Policy Toward the Third World*, in GRAMSCI, HISTORICAL MATERIALISM AND INTERNATIONAL RELATIONS 148 (S. Gill ed. 1993).

⁷⁷ S. Gill & D. Law, *Global Hegemony and Structural Power of Capital*, in GRAMSCI, HISTORICAL MATERIALISM AND INTERNATIONAL RELATIONS 93 (S. Gill 1993).

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

Middle East that led to the Oslo agreement and the emergence of the PA as one of the main actors in Palestinian society. It is also linked with the concept of hegemony. Power politics is a frequently used term in international relations. It suggests relationships between independent powers, and implies that there are independent political units (states) and that there are continuous and organized relationships between them.⁸¹ However, in this study it stands for the conduct of international relations through force or the threat of force, without considering rights and justice. This meaning is especially relevant in the Middle East, where the experience of four wars in a relatively short period has inextricably linked power politics with the use of force.

At the heart of any study of international relations, there must be the question of how competing demands within and between different states can be resolved. The tools used in the discipline of international relations to provide an answer to this question are the concepts of power and influence. Power at the international level is defined as "the capacity of a nation to use its tangible and intangible resources in such a way as to affect the behaviour of other nations."⁸² Anderson observes that "power" is always perceived as one country having the capacity to compel another country to act in a way it does not want to act. In contrast, influence is defined as "the ability to get someone to do something you want via simple persuasion rather than the implicit or explicit threat of or use of sanctions."⁸³ He cites the ability of the U.S. to force Israel to negotiate with the PLO because of the political strength derived from its military success in the Gulf war as an example of this definition of power.⁸⁴

However, it can also be argued that the Arab countries were in a weak position after the Gulf war and the defeat of the Iraqi forces (this was also true of Saudi Arabia, which, while appearing stronger, was crippled financially). Therefore, the so-called peace process was established on the basis of a substantial power imbalance between the Arabs and the Israelis. This made it easier for the Israelis to give in to U.S. pressure to negotiate with the PLO.

If politics in international relations (and to a certain extent in national relations as well) is defined as a struggle for power, then the next question is, what are the elements of power? Holsti sees power as

⁸¹ H. BULL & C. HOLBRAAD, *POWER POLITICS* (Penguin Books 1979).

⁸² J. ANDERSON, *THE GLOBAL POLITICS OF POWER, JUSTICE AND DEATH: AN INTRODUCTION TO INTERNATIONAL RELATIONS* 13 (Routledge 1996).

⁸³ *Id.* at 14.

⁸⁴ *Id.*

being made up of “three elements: capabilities, acts and responses.”⁸⁵ Capabilities are resources that can be used by one actor to influence another. Acts are the processes and relationships with which an actor influences another. Responses are the actions of the target of the influence attempt.” Thus, in international relations, to “say a state is powerful may mean that: (1) The state has a large amount of resources for use in influence attempts. (2) The state is undertaking a large number of actions to influence other actors. (3) The targets respond in a manner consistent with the desires of the state making the influence attempt.”⁸⁶

It is interesting to see how this compares with Foucault’s conception of power. As we saw earlier, Foucault defines power as, among other things, “the process which, through ceaseless struggles and confrontations, transforms, strengthens or reverses force relations.” This summarizes the final two elements in Holsti’s definition of power. However, an important component of Foucault’s conception is that power is not located in some stable, central point. It is the constant interaction of force relations that defines it. On the other hand, Holsti’s first element of power (resources) implies that power usually resides in a specific location. This would apply even if the material resources that constitute that power were geographically dispersed. Thus, the power of a state could reside in the legislative and/or executive branches of government, no matter where its material resources came from (of course, providing it had the capability to ensure an uninterrupted supply of those resources). Thus, while Foucault’s analysis of power can be used to explain interactions within countries, it is insufficient for analysis in the context of international relations. The power of the U.S. in the Middle East is obviously rooted in the elements defined by Holsti.

E. Nationalism

Nationalism has increasingly occupied a central place in gender debates, for it re-conceptualizes women’s relations to states and nations. The re-examination of ethnicity, nationhood and citizenship within the gender focus has resulted in highlighting important and marginalized aspects of these issues. Sometimes nationalism is applied with reference to citizenship and state building, at other times in relation to ethnicity. However, most of the time it is connected with consciousness, aspirations

⁸⁵ R. STOLL & M. WARD, *POWER IN WORLD POLITICS 2* (Lynne Rienner Publishers 1989).

⁸⁶ *Id.*

and sentiments. Nationalism is such a strong force that it has even been called the new religion, or replacement for religion.⁸⁷

Feminists have discussed the concept critically with reference to the public/private distinction and women's being deprived of their rights, or discrimination against women in general. Yuval-Davis observes that nationalist projects and gender relations influence each other in different contexts.⁸⁸ Gender is fundamental to the development of culture, nationalism, and social and political movements, for it is in the name of the "nation" that the position of women has often suffered. National unity is used to rationalize postponement of the solution of women's problems. "Priority is thus given again and again to other problems and excludes both popular demands and women's claim for a better status in their society.... The time for women's demands is never now."⁸⁹

The arguments surrounding this concept are many and space limitations do not permit their exploration here. Therefore, this discussion will confine itself to a general definition, major debates (specifically the feminist critique) and finally a focused reflection on Palestinian nationalism and its relation to the gender question.

Nationalism appears to be viewed from a deterministic perspective. Gellner regards history as a succession of technologies, each generating a specific socio-political order.⁹⁰ In this context, nationalism is the style of politics best suited to current industrial societies because it needs homogenous languages and culture in order to be effective. Therefore, where nationalism does not exist, it is necessary to invent it. According to Friedland, "[e]ven when there is no sense of nationhood before the establishment of the colony, colonialism creates it," in the sense that it stimulates resistance from the colonized people which the national movement later uses to construct the nationalist discourse.⁹¹ It is possible, if not likely, that the idea of nationalism has never in itself moved anyone. It takes hold only in a constitutive medium in which it

⁸⁷ P. JAMES, *DURKHEIM AND WEBER: THE ANTINOMIES OF ABSTRACT NATIONALISM – NATION FORMATION, TOWARDS A THEORY OF ABSTRACT COMMUNITY* (Sage 1996).

⁸⁸ N. YUVAL-DAVIS, *GENDER AND NATION* (Sage 1997).

⁸⁹ M. Helie-Lucas, *The Preferential Symbol for Islamic Identity, WOMEN LIVING UNDER MUSLIM LAWS* (Grabels 1993).

⁹⁰ N. Yuval-Davis, *Nationalism, Racism and Gender Relations* (1992) (unpublished manuscript on file with the Institute of Social Studies, The Netherlands).

⁹¹ Hiltermann, *supra* note 23.

has meaning, not because the idea cannot be profoundly influential, but because it needs intellectuals to invent national communities. This, of course, assumes that certain objective preconditions for the formation of a nation already exist. The author accepts this view of nationalism in this study because nationalism cannot exist as an abstract idea; it is a constructed discourse.

Yuval-Davis concurs that the nationalist discourse involves a political project; a claim for separate political representation which takes the form of a claim for a separate autonomous "nation-state."⁹² She is critical of Gellner's definition of nationalism as:

...[A]theory of political legitimacy which requires that ethnic boundaries should not cut across political ones, and in particular, that ethnic boundaries within a given state [...] should not separate the power holders from the rest [...] and therefore state and culture must be linked.⁹³

Yuval-Davis notes that the definition excludes minorities (and, indeed, women) from important power resources, and that there is no place in the world where such a "pure" nation-state exists.⁹⁴ She also disagrees with the historical typology of Smith, which differentiates between two types of national projects: the "ethnic-genealogical" and the "civic-territorial."⁹⁵ Yuval-Davis regards Smith's dichotomous division between culture-nation and state-nation as one that conflates origin and culture. According to her, a diversity of national projects constitute dimensions of national ideology. Therefore, she differentiates between the state-nation, culture-nation, and folk-nation. In other words, she differentiates between national ideologies that focus on citizenship of a specific state (in specific territories), those that focus on specific cultures (or religions), and finally those that are constructed around the specific origin of the people (or their race). Then she argues that all of them could be connected with racist exclusion. In later analysis this study will use Yuval-Davis' concept, especially with regard to how the Islamist discourse identifies women with the "other" in order to exclude them.

⁹² YUVAL-DAVIS, *supra* note 100.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

F. Nationalism and Women's Position

Feminists who tackle the subject "seek to understand why women are 'hidden' in the theorization on nationalist phenomena."⁹⁶ The construction of gender roles has always been influenced by the articulation of nationalism. Kandiyoti argues that the integration of women into modern "nationhood" follows a different trajectory from that of men; for instance, the protection of women's "sexuality" constitutes a "crucial distinction between the nation and its others."⁹⁷

Yuval-Davis relates gender to class, ethnicity and the State, arguing that each of these variables shapes, and is shaped by, the others in concrete social relations.⁹⁸ She suggests that these categories have been constructed according to varying historical contexts. Three interlocking domains influence gender relations: the State, civil society and the family. Each sphere has its own ideological context and access to economic and political resources. These domains are heterogeneous in their nature and have different meanings for different ethnic groups, for classes, and for men and women. The relations of the *family* and *civil society* with the *State* are not homogeneous but they refract through a complex web of social, political and economic power relations.

Examining the concept of citizenship, Yuval-Davis argues that gender relations are closely linked to citizenship rights. Citizenship determines the notion of "otherness" between individuals and genders. She sees it as primarily a political construct, operating as an exclusive and inclusive category defining the relationship between the State and the citizens. The type of State determines the rights and duties of the individuals and groups within it. She illustrates her argument by referring to the situation of Palestinian women living in Israel. To define their citizenship, we have to study their membership in the Israeli Palestinian community (class, religion, location, abilities, stage of lifecycle), and that of the Israeli Palestinian community in relation to Israel as well as in relation to other Palestinian and Arab communities. In addition, the positioning of both Israel and the "Arabs" internationally is also relevant.

The spheres of family and civil society relate in different ways to notions of citizenship and nation-making. Yuval-Davis argues that in most pre-industrial states and some countries in the contemporary period,

⁹⁶ *Id.*

⁹⁷ D. Kandiyoti, *Identity and Its Discontents: Women and the Nation*, in *WOMEN LIVING UNDER MUSLIM LAWS* (Grabels 1997).

⁹⁸ YUVAL-DAVIS, *supra* note 100.

kinship ties often form the foundation for political alignments in which women have few rights. In other cases, genealogical ties provide the major reason for pushing some women into the political hot seat. Then she concludes that political rights are the most important, and that social enabling or “empowerment” is necessary to make them meaningful:

Citizenship rights are anchored in both *political* and *social* domains. Without “*enabling*” social conditions, political rights are vacuous. At the same time, citizenship rights without obligations also construct people as passive and dependent. Citizens’ most important duty is, therefore, to exercise their political rights and to participate in the determination of their *collectivities*, *state*, and *societies*’ trajectories.⁹⁹

Walby agrees with Yuval-Davis; she argues that political citizenship [in the West] was the basis of the transformation from private to public patriarchy, and suggests that women would not be able to practise their civil and social rights without attaining their political rights.¹⁰⁰ However, this study agrees with the concept of “politics” and “citizenship,” which are not neutral. It can be argued that for women to attain political rights, they have to strip “politics” and political culture of its masculine authority. Therefore, women’s movements must propose a new definition of citizenship; they need to “present a new image of citizenship that includes both political and social aspects, [and] which responds to the needs and demands of women and takes into account gender, class, and ethnic differences in a pluralistic framework.

G. Nationalism and Culture

Gender relations are significant cultural and political markers of nationhood, as Kandiyoti argues, women could simultaneously participate actively in, and become hostage to, nationalist projects.¹⁰¹ In the Third World generally, a distinction has been built into nationalist ideology around a separation of the domain of culture into two spheres—

⁹⁹ YUVAL-DAVIS, *supra* note 100, at 92.

¹⁰⁰ S. Walby, *Women and Nation*, in MAPPING THE NATION (G. Balakrishnan ed. 1996).

¹⁰¹ Kandiyoti, *supra* note 109.

the material and the spiritual.¹⁰² It has been argued that the West is able to dominate and subjugate Third World countries because of its scientific and technological strength and rational forms of economic organization. To overcome this subjugation, the Third World must learn these superior techniques. However, some nationalists emphasize that such learning should not be allowed to "contaminate" the spiritual domain of their countries.

Chatterjee argues that nationalist discourse shows a clear dichotomy between the outside and the inside (the material domain lies outside us and is ultimately unimportant).¹⁰³ It is the spiritual that lies within our true self which should be secured. When this distinction is applied, we discover that the inside is the domain of the home/private/family, while the outside is the world/public/male. The private/home has to be preserved "uninfected" by the material world; and women are apparently representatives of the private.¹⁰⁴ The nationalist discourse in fact supplies an ideological principle of selection. It is not a dismissal of modernity; rather, it is an attempt to make modernity consistent with the nationalist project.

For Palestinian men in the occupied territories, the world/public was a place of oppression and daily demoralization, where the Israeli military rules had to be obeyed. It was a place where the Palestinian man experienced his worst humiliations. At the same time, it was the place of struggle and daily fight; it was a battle to free the homeland. Enloe comments, "nationalist movements have typically sprung from masculinized memory, masculinized humiliation and masculinized hope."¹⁰⁵ However, it is still a "safe" battle as long as the men have the ability to protect their homes/private sphere/women/honour, etcetera. For Palestinian men, the memories of the 1948 Dayr Yasin village massacre and 1982 Sabra-Shatila massacre in Beirut, provide enough lessons. In both massacres, the targets were women and children.¹⁰⁶ This was a

¹⁰² P. Chatterjee, *The Nationalist Resolution of the Women's Question*, in RECASTING WOMEN 204 (K. Sangari & S. Vaid eds. 1993).

¹⁰³ *Id.*

¹⁰⁴ This distinction between public and private has been the subject of a long discussion among feminists. Walby argues against the conflation of 'private' with 'family;' for her, private means the individual's autonomy; thus the family is not 'private' for women. Walby, *supra* note 112.

¹⁰⁵ *Id.*

¹⁰⁶ The difficult protector/protected relationship constructs the male as citizen-warrior, and women (and children) as needing protection. The male attitude to

deliberate tactic to demoralize the Palestinian men because they could not protect the great number of civilians.¹⁰⁷

Critics have argued that over the last few years (especially during the Intifada), the promotion of patriarchal dominance and traditional values of honour and modesty by conservative groups has played into hands of the Israeli intelligence apparatus. The military occupation authorities have been able to coerce some women into collaboration by blackmailing them with photographs covertly taken in "compromising" locales such as hair salons. These critics suggest that this challenges traditional definitions of morality and raises the question of social versus political priorities: is it more important to preserve family honour or to resist the presence of Israel in Palestine? However, that is not the correct question to ask. The important questions are: How do we analyze the Islamists' discourse? How do we examine the effective means by which they use the occupiers' practices to build their hegemonic power in Palestinian society? The Islamist discourse is one of honour and shame, relying on the traditional definition of manhood that associates masculinity with "national strength."¹⁰⁸ It operates in order to establish power over the secular parties and to exclude Palestinian women from public life and send them back home. It is the protector's discourse, exactly mirroring the practices of the Israeli security forces. It helps the Islamist parties to exhibit their "capacity" to take over the role of real protectors of the nation's honour.¹⁰⁹ The leftist and secular parties

women moves from *protected* through *possession* to *control*. Women become vulnerable to socially accepted violence from men in their own-group if they appear rebellious or if the burden of protection becomes threatening to the men. Those who are unable to protect their women can be feminized as not real men. J. Pettman, *Boundary Politics: Women, Nationalism and Danger*, in *NEW FRONTIERS IN WOMEN'S STUDIES: KNOWLEDGE, IDENTITY AND NATIONALISM* (M. Maynard & J. Purvic, eds. 1996).

¹⁰⁷ Peteet indicates that the Israelis deliberately exploited Palestinian cultural norms in this way for purposes of intimidation. J. PETEET, *GENDER IN CRISES: WOMEN AND THE PALESTINIAN RESISTANCE MOVEMENT* (Columbia University Press 1991).

¹⁰⁸ Pettman says the nationalists frequently represent the nation as a woman under threat of penetration or domination, so her sons must sacrifice for her safety and honour. It is noticeable that an association has been built up between the colonized nation and the female body on one hand, and the imperial power and male heterosexual rape on the other. Pettman, *supra* note 118.

¹⁰⁹ Scott, analyzing the Islamist's discourse in Iran, notes that the emergent rulers (the Khomeini regime) legitimized domination, strength, central authority

are portrayed as having less honour, being less masculine and less nationalist, because of their liberal ideas about women's emancipation. However, even the leftists accepted the Islamists' restrictions on women's participation in the public struggle, citing the need to maintain "national unity against Israeli."

H. Patriarchy

Much has been written about the concept of patriarchy by feminist authors. The concept revolves around two themes: patriarchy as male dominance characteristic of society, and patriarchy as an autonomous system. Fox criticizes the reductionist approach, which links the social structure based on patriarchal relations with the innate male desire for power.¹¹⁰ She argues that to analyze patriarchy we have to integrate processes of generational reproduction at all levels: the level of the individual's reproduction in daily life through housework and mother work, as well as the level of producing gender identity and ideology. More importantly, in order to analyze gender inequalities, we should make a linkage between the level of the social structure and the level of the individual.

Eisenstein defines patriarchy as:

. . . . [T]he process of politically differentiating the female from the male, as women and men. Patriarchy in this sense is the politics of transforming biological sex into politicized gender, which prioritizes the man while making the woman different (unequal), less than, or the "other". This process of differentiating woman from man while establishing the privilege of men operates partially on the level of ideology that centers the phallus in the series of symbols, signs, and language while dividing the private world from the public world. And it simultaneously establishes the sexual division of labor,

and ruling power as masculine (while enemies, outsiders, subversives, and weakness were feminine); and made that code literal in law by forbidding women from participating in politics. She argues that the State has nothing to gain from the control of women. However, such control is exercised for the construction and consolidation of power. Scott, *supra* note 67.

¹¹⁰ B. Fox, *Conceptualizing Patriarchy*, THE CANADIAN REV. OF SOCIOLOGY AND ANTHROPOLOGY 163 (1988).

the distinctness of family and market, patriarchal controls within the market, and so on.¹¹¹

This definition, as Fox notes, gives the political arena a meaning of social structure and a division of social life into public and private, which institutionalizes the division of labour by sex. Fox seems unsatisfied with the conceptualization of patriarchy as just defining the social structure; she believes that patriarchy has to be understood as production and reproduction of people, which involves the family primarily but not exclusively. This definition fits the conceptualization of discourse and power in this study. Patriarchy as a discourse does not reflect our subjectivity as men and women, but rather it produces them; it produces gendered individuals with different degrees of power. At the same time, individuals are not just victims of patriarchal discourse; they also produce it, reproduce it, and change it. In spite of this strong agency, however, individuals cannot do away with it.

Patriarchy as a discourse is located in the patriarchal institutions (for example, family and State) and practices (for example, gender and sex-based discrimination). These institutions and practices define differences between women and men and shape the material world of production and reproduction. Patriarchy is to be found in the legal, social and religious spheres. As mentioned in the analysis of power, patriarchal relations work at both the micro and macro levels of society. They facilitate male dominance and female subordination in patriarchal society. Thus, Foucault can be used to analyze patriarchy at the micro level, while Gramsci can be used for analysis at the macro level. However, in this study, there is no analysis of patriarchy at the family level and so Foucault's concept is not used in the context of patriarchy.

Moghadam outlines the main features of patriarchal relations in the Middle East: restrictive ways of behaviour for women, rigid gender segregation, and a powerful ideology linking family honour to female virtue.¹¹² Control over women's bodies is important as they are "regarded as a potential source of fitna – that is, moral disorder."¹¹³ The social and economic changes in the Middle Eastern countries have influenced patriarchal relations. Specifically, the modernity discourse,

¹¹¹ *Id.*

¹¹² V. Moghadam, *Revolution, Islam and Women: Sexual Politics in Iran and Afghanistan*, in NATIONALISMS AND SEXUALITIES (A. Parker, M. Russo, D. Sommer and P. Yaeger eds. 1993).

¹¹³ *Id.*

industrialization, and the emergence of the nuclear family have affected patriarchal relations.

In Palestine, patriarchal relations intensified during the Israeli occupation due to several elements.¹¹⁴ The most important was the transformation of male Palestinians from peasants to proletarians working in the Israeli labour market. In the peasant economy, the family was the main unit of production and reproduction; however, when the men started working outside, an exclusive division was created between production (public) and reproduction (private). This strengthened patriarchal relations inside the family.

Patriarchy was solidified at the national level by the PA, as shown by Abdo, who notes that the PA is very much a rule of one person, the president, who not only controls the interior and exterior ministries, and the security forces and police, but also heads the Executive Authority.¹¹⁵ The president is responsible for all high-level appointments, which gives him a degree of concentrated control. This enables him to appoint people for reasons that have little to do with qualifications or experience, or even in some cases with the real need for the position itself. It is quite clear that the appointments are usually made on the basis of affiliation to Fatah (the leading party) or clan allegiance. Furthermore, many women have been appointed to governmental positions by virtue of their membership of the Fatah movement or through the assistance of their relatives or friends in the PA. Nepotism is nowadays a widespread phenomenon in PA institutions: it is a normal outcome of the high importance given to family ties and clan loyalties. Therefore, the number of women in the government should not be seen as a sign of their qualifications or gender sensitivity on the part of the PA. As Yuval-Davis argues, in most pre-industrial societies, familial ties provide the major reason for pushing some women into the political hot seat.

This trend contributed to the consolidation of the extended family rule and has reversed the tendency to give prominence to political affiliation over tribal or clan membership that which happened during the Intifada. It is obvious that the strengthening of the role of patriarchy by empowering the clan and tribe has implications for women's position in society. Abdo mentions that this trend affects women negatively. For example, in "the cases of domestic violence, when the male head of a

¹¹⁴ *Id.*

¹¹⁵ *Id.*

family is seen as the guardian of the family's female members, it becomes more difficult for women's organizations and NGOs. . .to intervene."¹¹⁶ This supports the argument by Pettman that there is a connection between social control and violence against women, and between these and the wider structures of gendered power.¹¹⁷

III. The Model Parliament Experience

This chapter describes the main features of the MP, its main demands, and most importantly the main elements of the debate among the MP members. The debate revolved around the competing discourses in Palestinian society.¹¹⁸ Some members pointed out that tactics should be devised in the context of the real strength and popularity of the Islamic discourse, and suggested using verses of the Qur'an¹¹⁹ and parts of the Hadith (the sayings of the Prophet) that support the feminist cause but which are ignored by the dominant interpretation of the Qur'an. Other members said that such new interpretation would employ the same selective methodology as that of the dominant Islamic institutions. Moreover, they said, the issue is not so much one of interpretation as of power relations; feminists interpreters of Islam would never have more authority than the male dominated institutions.

The chapter also presents the main components of family law in Palestine and its discrimination against women. The last section outlines the debate among the MP members about the proper approach to reforming family law.

A. The Structure of the MP

The MP was a networking project between a number of human rights centres, women's centres, and women's coalitions. It was established in 1997 with the aim of bringing together all parties interested in proposing Palestinian laws and legislation based on equality and human rights. A preparatory committee was established to draft the

¹¹⁶ *Id.*

¹¹⁷ Pettman, *supra* note 118.

¹¹⁸ Although the discussion in the MP was about legal issues, it was necessary to refer to discourses in all spheres of Palestinian society, including religion, culture, politics, etc.

¹¹⁹ The Qur'an is the holy book of Islam and to Muslims, its text is the words of God as revealed to the Prophet by an angel.

strategies and goals of the project. The implementing organization is the Women's Centre for Legal Aid and Counselling (WCLAC).¹²⁰

The MP began with planning sessions in all regions of the West Bank and Gaza. The activities resulted in the election of 88 members in the West Bank and 120 members in the Gaza Strip. The parliamentary seats were divided equally between men and women. The participants were representatives of political parties, members of the Legislative Council, human rights activists, representatives of women's organizations and grass-roots organizations, as well as some mullahs and members of Islamist parties. Several meetings were held in a "parliamentary atmosphere" in which the laws and regulations were discussed and amended. Members of the MP participated in central sessions towards the end of the MP project. The MP conducted several training courses and workshops on current laws and regulations and international law for its members in several regions in Palestine. It also gave training in lobbying and campaigning techniques. The MP's activities were financed by the British Council in Palestine and the Dutch funding agency.¹²¹

In order to provide the MP participants with the opportunity to debate women's rights from different perspectives, the trainers conducted a series of training sessions and workshops. The training sessions were on human rights and included contemporary readings in religious thought dealing with women's rights and the position of women in Islamic legislation. The training sessions compared the findings of Muslim thinkers from many different periods and regions. In these discussions, participants distinguished between religion and religious thought, religion being the Qur'an, religious thought being human interpretation of the Qur'an. In discussing the Islamic doctrines on which the subordination of women is based, most of the MP participants agreed that human attempts and opinions are always subject to debate. However, some Muslims, especially those engaged in political Islam, consciously confuse their interests with Qur'anic verses. They search for justifications of their objectives in fragmentary and gender-biased interpretation of Qur'anic verses.

¹²⁰ Unfortunately, some of the documents produced by WCLAC in the run-up to the MP were unavailable in The Netherlands while writing the paper and so could not be used for this study.

¹²¹ Novib is a Dutch funding agency which works in the Palestinian occupied territories and it has been involved in promoting various development activities including those projects that empower Palestinian women in diverse fields.

The members of the MP were all conscious of the fact that the issues before them were basically a matter of power relations. Thus, their problem was to find solutions that would help to build a new, more-balanced equation that would strengthen the feminists discourse while keeping the realities of Palestinian society in mind. There were two main approaches to doing this. Some participants argued that the Islamists should be confronted on their own ground and challenged on the basis of new and progressive readings and interpretations of the Qur'an. They called for a feminist interpretation of the Qur'an as a way to strengthen the feminist discourse.

The second viewpoint came from some "secular" members in the MP; who said that Islam's position on women's rights in general is ambiguous at best; and that Islam's compatibility with women's rights cannot be easily resolved. They added that the Qur'an would have to be read selectively and subjectively to find supportive verses, and thus the feminist interpreters would use the same methodology as the dominant religious institutions. Furthermore, the feminist interpreters would have fewer texts to support their perspective, while the "traditional" Islamic school of thought has at its disposal an arsenal from the mainstream of the Islamic heritage. In addition, they described women's battle within Islam as a losing one, not only because Islamic texts contain clear ideas of male superiority, but also because the authority of feminist interpreters of Islam would never be greater than that of the male-dominant institutions.

These members also argued that efforts to search through Islamic texts for evidence of sympathy for women would be unfruitful from the "liberal" viewpoint. Their strong argument was that women's struggle for their rights should be seen as a political struggle within the power structure of society and that any attempt to obscure this fact would serve the opposition. Therefore, the battle should be conducted politically, taking into account the power relations of society and the dominant patriarchal relations in every aspect of life in Palestine and in the Islamic world in general.

In terms of religious practice, this "secular" group called for personal choice at both the public and private levels, but not as a body of personal status laws imposed on all members of society. They strongly argued, with historical evidence, that if the MP members compromised their rights and strategies, then the chances of democratization and gender equality would be damaged.

Historically, Palestine has been ruled by different powers. Thus, Palestinians are governed by different laws in the West Bank and the Gaza Strip. The laws in the West Bank are based on the Jordanian legal system, while those in the Gaza Strip are based on the Egyptian legal system. This made it necessary for two central sessions to be held, one in the West Bank (on 28-29 March 1998) and the other in the Gaza Strip (on 25-26 April 1998). Participants agreed on the need to amend and unify the civil laws in the West Bank and the Gaza Strip. The West Bank session focused on the legal status of Palestinian women and ways of improving women's conditions, taking into consideration the fact that women's rights are an integral part of human rights. The session in the West Bank was devoted to discussion of women's political and civil rights, including penal legislation and the rights of employment, education and health care.

Unlike the session in the West Bank, the one in Gaza exclusively discussed the Palestinian Family Status Laws and ways to amend them in a spirit of equality, non-discrimination and respect for women's human rights. Participants found through textual analysis that certain articles in some laws supported unjust treatment of and discrimination against women and represented a barrier to women's participation in developing their country. These laws were also discussed in relation to the Palestinian Declaration of Independence of 1988, which seeks to found the Palestinian nation on the basis of justice, equality and respect for human rights. The debate over the laws is discussed later in this chapter.

At the end of its central session, the MP in Gaza published a press release to clarify its stand following the Islamists' counter-campaign. The press release listed the main demands of the MP and declared that the achievements and recommendations of the Central MP should by no means be the last stage in the campaign. It affirmed the need for further efforts at all levels to bring the campaign to its desired end – amendment of the civil laws as an essential step in achieving a society built on the principles of justice, equality and the rule of law. The press release called on everyone who disagreed with the MP to discuss the issues on the basis of mutual respect, not closed-mind claims of absolute truth. It also called on all those who questioned the MP's objectives to avoid demagogic rhetoric and engage in rational dialogue.

The press release emphasized the fact that Palestine, Palestinian society, and religion in general belong to all Palestinians, and no one has the right to claim the ownership of absolute truth. Finally, it declared that the achievements and accomplishments of the MP represented only one

step towards building an independent state with Jerusalem as its capital, and a strong civil society based on the rule of law, effective legislative authority, equality and justice. This indicated the MP's awareness that the feminist agenda cannot be dissociated from the political context of Palestine.

One of the activities of the MP was a national campaign to collect signatures for a petition based on collective demands identified during meetings held throughout the West Bank and Gaza Strip. For this purpose, individual committees were formed in all regions, representing governmental and non-governmental organizations as well as the Palestinian syndicates and representatives of the political parties. The demands in the petition were based on international conventions, and principles of human rights and women's rights. The petition called for confrontation and not evasion of the issue of women's rights. By the end of April 1998, over 15,000 people had signed the document to express their support for the campaign. The petition was submitted to the Palestinian Legislative Council.

The activities of the MP were publicized through a wide media campaign. The media component constituted the main feature of the project, with media committees being established and a media strategy being developed. A series of messages and slogans for the media campaign were identified. The brief of the media committee also included informing the public of the MP's activities. A bi-monthly report was sent to the *Al-Ayyam* newspaper (the second-most-widely-read Palestinian newspaper) for publication as a supplement. The official TV station and other local TV stations, Palestinian Radio, and local newspapers regularly covered the activities of the project. Billboards and giant posters about women's rights and equal participation in the building of society were placed in different parts of the West Bank and Gaza Strip.

A comprehensive evaluation was conducted at the conclusion of the project's activities. One of the main achievements of the project was its success in reaching thousands in the West Bank and Gaza Strip. Other achievements included raising the awareness of political parties, especially the leftists, about issues specific to women and lobbying with them for better laws for a Palestinian society based on justice and equality. In an interview with a Palestinian journalist, three members of the MP later also listed the following achievements: The MP initiative sparked a debate that had been missing from Palestinian society for a long time. The MP members were able to communicate their objectives to the people despite the counter-campaign. Its campaign succeeded in

ensuring the right of women to discuss their situation and the discrimination against them in the current laws. Members crossed the limits and taboos set by some Islamists that forbid the people from discussing the Shari and in implementing the slogan that "the national and social struggle have to be carried out side by side," the MP filled the vacuum left by the democratic movement.¹²²

B. The Family Law in Palestine

The "Personal Status Law" (also referred to as family law) in Palestine originates from Jordanian and Egyptian laws, which in turn are of Ottoman origin and rely on the Islamic Sharia.¹²³ The Jordanian law is implemented in the West Bank, while the Egyptian one is implemented in the Gaza Strip.¹²⁴ In modern-day Palestine, these laws have not been changed or amended due to the Israeli occupation. Palestinian women activists and lawyers have written several revisions and critiques of the Personal Status Law, discussing the discriminatory articles in it.¹²⁵ The focus of the MP was to deal with matters of marriage, divorce and child

¹²² Z. Othman, *AlParlaman Al souri bayna al tagdeed wal khowlaba*, 19 ALSYASA ALFALASTINIYA 57 (Summer 1998).

¹²³ There is no clear idea about what constitutes the 'Sharia'. It has never been defined or collected in a systematic manner or in a single written body of work. The Sharia is best understood as shared ideas of Islamic society, based on a literature that is broad but not necessarily consistent or approved by any single authority. This situation contrasts with the legal systems in the contemporary world, where the law is defined as a systematic set of sections written into a code and authorized by a specific elected body. However, the Sharia does not have such a specific form; therefore it is known as an uncodified set of laws. Strictly speaking, the Sharia is not a set of 'religious' laws, in that it covers both the religious sphere (a person's relation to God) and the non-religious sphere (interpersonal relations). In this second sphere, the Sharia can be changed in accordance with historical and social circumstances. Religious courts in practical terms are concerned with the second sphere. See K. Viktor, *The Sharia and the Nation State: Who Can Codify the Divine Law?* at <http://www.hf-fak.uib.no/institutte4r/smi/pao/vikor.html>.

¹²⁴ For the West Bank, the Jordanian Law of Personal Status applies, it was issued in 1976. For the Gaza Strip, the Gaza Law of Family Rights applies, it was issued by the Egyptian governor-general in 1954.

¹²⁵ See A. Khadr, *Al-quanan wa mustaqbal al-mar'a al-falastiniyya* (Law and the Future of Palestinian Women) (WCLAC 1998) (an example of work which was deliberately and misleadingly portrayed by some Islamist leaders as being representative of the MP project).

custody as well as the rights and obligations within and outside the family unit, or example, a wife having the right to work outside the family home, or to “visit” her parents’ house without needing her husband’s permission.

It is important to note that contracts, criminal proceedings, civil disputes and commercial endeavours are governed by secular law. The family law is now the only law derived from the Islamic Sharia. The Sharia system is based upon the *fiqh* (Islamic jurisprudence), which is considered the “scientific” reflection of the Qur’an and its interpretation. The Sharia is applied by the Sharia (religious) courts, which have jurisdiction in matters of personal status and familial relations. This law is primarily based on the Hanafi doctrine, one of the four major Sunni schools of law. It also incorporates rules from other Sunni schools.

Under family law, women have no right to make marriage decisions. A “marriage guardian” or matrimonial tutor makes all decisions about marriage.¹²⁶ The law makes it difficult for a woman to obtain a divorce because she has to prove that she has been damaged physically, psychologically and emotionally in the marriage. The grounds on which the wife can apply for divorce include non-payment of maintenance, desertion, and certain diseases of the mind and body. The husband is allowed to break the marital bond at will.¹²⁷ The law also confirms the right of men to have four wives (polygyny)¹²⁸ and confirms

¹²⁶ Chapter 2, Article 11 of the Gaza Law of Family Rights and Chapter 2, Article 9 of the Jordanian Personal Status Law No. 61. There is some dispute over whether in fact a woman needs a guardian’s permission to marry under the law. See WELCHMAN, L., *ISLAMIC FAMILY LAW: TEXT AND PRACTICE IN PALESTINE* (WCLAC Jerusalem 1999).

¹²⁷ Chapter 10, Articles 85, 86, of the Jordanian Personal Status Law gives the husband the right to divorce his wife by saying ‘*talaq*’ (divorce) on three separate occasions; even if he says it only on one occasion, his wife is still divorced if he does not revoke it during the ‘*Idda*’ period. This is a period of three months and ten days after the divorce during which the woman is not allowed to marry anyone else in order to be sure that she is not already pregnant. Husbands who are unable to speak are allowed to divorce their wives by making specific motions of the head.

¹²⁸ Chapter 2, Article 14 of the Gaza Law of Family Rights asserts that a man has the right to marry only four women. Chapter 5, Article 28 of the Jordanian Personal Status Law allows a man to marry a fifth time provided he divorces one of his four wives. The term ‘polygyny’ denotes the marriage of a man with two or more women. However, some writers prefer to use the term polygamy, which

inequalities in matters of inheritance. For example, a daughter receives half the amount a son would in a similar situation. Under many circumstances, on matters of inheritance the family law favours distant male relatives on the man's side of the family over the wife or female descendants. By favouring males and kin on the male side, family law solidifies ties within the extended patrilineal kin group. In this way, it defines the kin group, rather than the nuclear family unit, as the significant locus of solidarity. It facilitates the maintenance of tribal communities. The Family Law thus has implications for the broadest social structures at the same time as it subordinates women.

The Family Law also denies women the right of guardianship and child custody after divorce. For instance, in Gaza, mothers are granted the right to serve as "nurses and maids" until their sons are nine years old and their daughters are 11 years, the age of puberty or marriage, after which fathers reclaim their "property."¹²⁹ In the West Bank, the mother "who imprisons herself to look after her children" (Article 162) is allowed to have custody over both sons and daughters until they reach the age of puberty. In addition, family law makes women's mobility as well as their access to employment conditional on their husband or father's permission.

C. Debate within the MP about Family Law Reform

Some MP members argued that legal reform in general, and that of family law in particular, promised much but might eventually deliver little. They believed that it was not enough to change the legal framework under which women have been subordinated. They argued that a radical change was needed in the power relations of society, covering every aspect of life. A change in the codes does not overturn the existing power relation, cultural practices and deeply ingrained prejudices.

Legal reform is a complex process. In the Palestinian context of a Muslim society, movement toward reform could be read as an attack on notions of "traditions," a sensitive subject that many MP members tried to avoid. In analyzing the situation, the MP members found that among religious groups, reform might be endorsed as the realization of the

means the concurrent marriage of a member of one sex with two or more members of the opposite sex. *See* Marshall *supra* note 76.

¹²⁹ Section 3, Chapter 2, Article 118 of the Gaza Law of Family Rights, and Chapter 16, Article 162 of the Jordanian Personal Status Law.

principles of Islamic modernism by “some Mullahs at least” and criticized as a distortion of Islamic norms and customs by others.

To sum up, the essential focus of the MP debate over family law revolved around critical questions such as: Who draws the lines of what is Sharia and what is not? Is it the Ulama (religious officials or scholars)? Is it the PA? Is it the diverse Islamists? And most importantly, what about the women’s movement and the role of women? What about their diverse opinions concerning the source of legislation? It was obvious that these questions could not be answered according to logical or legislative patterns. They are matters of power. Who controls the symbols? Who defines the limits? Who defines what is Islamic and what is not? What are our sources of legislation? These issues are both a result of and an element in the distribution of power in society.

Moreover, how can we think about legal reform from a historical perspective, specifically in relation to the traditions of legal, political and social discourse held by those who possess power? In other words, how do we perceive the power relation between the women’s movement on one hand and all patriarchal institutions on the other? Do reforms of family law work in some way to modify or alter existing gender relations? Should family law reform be considered an important step towards gender-equality, or simply a “curb” on the patriarchal system? How do we understand the apparent lack of interest on the part of some organizations within the women’s movement?

Some members raised the dilemma of the women’s movement in dealing with such a complex issue as family law. The law is complex because, as noted earlier, there is no simple set of rules that constitute the Sharia. The PA states in its draft of the Basic Law that Islamic Sharia is the main source of legislation, along with human rights conventions (Palestinian National Authority, 1996). This poses a dilemma for legislators as to which source should be used as a basis for legislation relating to women’s rights, in view of the fact that some parts of the Sharia discriminate against women. Generally, the MP tried to avoid a confrontation with the PA and the Islamists, for it was clear that the PA was more concerned with accommodating the Islamists than supporting women’s rights. For instance, when the Women’s Charter was presented to President Arafat in 1995, he responded, “[I] would accept the principles of the Women’s Charter if they did not conflict with Sharia

law.”¹³⁰ The main outcome of the MP was a list of demands aimed at correcting gender-based discrimination in family law.

The MP's demands with regard to family law reflected a compromise on the part of the members who wanted to reform the law strictly in line with human rights conventions. They had to accept the viewpoint of the other members that the soil was not yet fertile enough for the seeds of full equal rights before the law. The main demands agreed by the MP were:

- The minimum age of marriage should be 18 years for both partners.
- Mature partners should not be required to have a marriage guardian's permission for the marriage contract.
- Women and men should have equal citizenship rights, including the rights to work outside the family home, continue education, and participate in politics. Currently, family law allows husbands to deny their wives participation in such activities.
- Assets earned after marriage should be regarded as joint property and a court should decide their division.
- Alimony should be paid from the date on which the couple separated, rather than the date on which the alimony application was made to the court. The State should have a fund from which support can be provided to the applicant until the court has ruled on the application, after which the payments can be recovered from the other partner.
- Rules and regulations should be formulated and enforced to protect women and guarantee their right to receive their family inheritance.
- Polygyny should be regulated so that a man is only allowed to marry more than one woman for serious reasons such as health problems, and not simply for his pleasure. The husband should not be allowed to take a second wife without informing the first one, who should then have the right to ask a court for divorce on that ground.

¹³⁰ The Women's Charter draws upon the Palestinian Charter of Independence, the UN Charter, and international human rights charters. It includes, among other demands, the abolition of all forms of discrimination against women, the building of a democratic society guaranteeing women equal opportunities, and the implementation of the principles of gender stipulated in the Palestinian Charter. See N. Abdo, *Gender and Politics Under the Palestinian Authority XXVIII(2) JOURNAL OF PALESTINIAN STUDIES* 38-51 (1999). *See also* Jad, *supra* note 37.

- Divorce by either partner should only be possible through the decision of a court.
- Because of the possibility of intimidation, a mother's renunciation of her custody rights should not be accepted. Custody decisions should apply to children up to the age of 18. If the divorced mother remarries, a court should decide which parent can have custody on the basis of the best interests of the children.¹³¹

These demands, as well as the debate in the MP, sparked an extensive counter-campaign by the Islamists. There were several reasons for such panic. The wide publicity received by the MP project was one obvious element that they found disturbing. The most significant element of the MP's activities that incensed them was the fact that "inferior," "emotional" and "irrational" women were daring to discuss the Sharia and to challenge the interpretation of the Ulama. This threatened the hegemony painstakingly built up by the Islamists since the days of the Intifada. It also evoked memories of how their success in forcing women to wear the veil during the Intifada had been undermined after the return of Palestinians to the occupied territories as a result of the Oslo agreement. Many of the women who returned had a different dress code and, because of the widespread presence of Palestinian police, the Islamists were unable to intimidate them. Thus, their control over women in Gaza as a whole was also weakened. The Islamists were also infuriated by the fact that the MP trainers and activists, who were mostly women, were for the most part secular, educated and affiliated to the leftist parties. As Moghadam observes,¹³² Islamists always attack "women with education ... women who refuse and question the traditional patriarchal relation ... for they constitute and symbolize a social change." The Islamist counter-campaign will be discussed in the next chapter.

IV. The Discourse(s) of the Islamists and the PA

This chapter begins by analyzing the Islamist counter-campaign, which basically relied on propaganda in which the MP members were

¹³¹ Model Parliament, *Suggestions for a Unified Family Law*, MP Discussion Paper, Gaza: Palestinian Model Parliament for Women and Legislation (1998).

¹³² V. Moghadam, *Islamist Movement and Women's Responses*, in *MODERNIZING WOMEN; GENDER AND SOCIAL CHANGE IN THE MIDDLE EAST* (V. Moghadam ed. 1993).

seen as contributing to the "Western conspiracy against Islam." The Islamists used printed materials as well as speeches in mosques and elsewhere to denounce "evil women's organizations" with "devilish" ideas. The chapter also investigates how both the Islamists and the PA use identity to marginalize women's discourse. The popularity of Islamic ideology is demonstrated by the results of a poll. The PA's position on improving Palestinian women's lives is gauged by examining its practice on various levels. In addition, the chapter compares the discourses of the PA and the Islamists, to uncover their similarities. Finally, it places the PA within a framework of its relations with the other actors defined by the concepts used in this study.

The elections to the Palestinian Council in January 1996 were the greatest opportunity in many years for the traditional leadership, kinship identities and affiliations, and patronage system to be arranged in a political contest. These conservative elements have the full support of the PA because they can be used, along with the security forces and police, as means to exercise power. The proliferation of Palestinian security forces and police can be viewed as the "most advanced and functional aspect of the neo-patriarchal state."¹³³

It is in this environment that the nationalists and Islamists are competing over issues concerning every aspect of life. The following questions have become powerful elements of the politics of Palestine since the Oslo agreement: What kind of state should we build? Who defines our objectives and aspirations as Palestinian men and women? How do we define citizenship? What kind of political system do we adopt? What kind of institutions and practices do we have to encourage or discourage? And what kind of relations should there be between the various social powers and their political representatives?

These issues are important to the political powers in Palestine, especially the Islamists and the nationalists. In this process, the less-

¹³³ Sharabi *supra* note 34. He believes that Middle Eastern political regimes, whether they are monarchies or republics, radical or conservative, socialist or populist, all share the essential features of neo-patriarchy. He applies the concept even more to describe discourses, relations and institutions in the Arab world. Neo-patriarchy refers equally to macrostructures (society, state, economy) and microstructures (the family or the individual). He also believes that neo-patriarchy is the product of the encounter between modernity and tradition in the context of dependent capitalism: it is modernized patriarchy. In the context of this study, such a distinction between patriarchy and neo-patriarchy is considered unnecessary.

powerful groups such as women are assumed to belong to one or the other side and are likely to experience pressures from both sides as the elements of power identified by Foucault come into play. These forces include, the multiple and imminent force relations, ceaseless struggle and confrontation, the two sides' support to/ rejection of each other and the strategies in which force relations take effect.

Women, family, women's rights, gender roles and identities are at the core of the process of state building. Issues concerning gender relations, religion and traditions have their interrelationships, and they have been the subject of debate because of the changes that have occurred in Palestinian society since the Oslo agreement of 1993, as well as, politico-economic changes in general. The 1996 elections provided Palestinians with a chance to debate the laws and policies that would direct their social affairs. The elections came three years after WCLAC and other women's organizations began to raise the consciousness of women about their legal rights and to conduct research into Palestinian laws that discriminate against women. These activities led in 1997 to the MP project, which highlighted the gender-based discriminatory nature of the inherited legislation in general and family law in particular.

The articulation of the MP's campaign for "amendment of the current discriminatory laws", "democratic laws for a democratic state," "equal rights for equal citizens," and the MP's demands for equal importance to be given to the social and political agendas met with much counter-resistance arising from the particular circumstances in Palestine in 1997-98. Those circumstances have given rise to, and shaped the debate around women's rights, particularly those rights that are abused by family law. Those circumstances also explain the current dilemmas facing not only the MP project, but also the whole women's movement in its struggle for social justice and gender equity.¹³⁴ One of these dilemmas was the eternal question raised by various political and social groups: Does the Palestinian women's movement have a genuine loyalty to Palestinian culture and traditions? The question is often structured in

¹³⁴ The Palestinian women's movement covers diverse political positions; sometimes it is a contradictory amalgam of positions ranging from those of the extreme Left to those of the Islamist women's organizations. The membership of the movement is equally diverse, embracing upper- and middle-class leaders, and activists from the ranks of refugee inhabitants. See Mayer *supra* note 41. He observes that the Islamist women's organizations have considerable influence at the grass-roots level providing services needed by the population.

general terms without reference to a specific tradition or a distinctive loyalty.

The limited resources of the MP restricted the project's reach. Also, the lack of co-ordination between women's organizations,¹³⁵ leftist parties and NGOs in general weakened the effect of the MP's message. The Islamists were able to launch an extensive counter-campaign, which accused the MP of working against Palestine, Palestinian society, Islamic norms and Islam as a whole. Helie-Lucas¹³⁶ shows that the Islamist discourse offers a consensus on two points: the quest for identity and the women's question. For the Islamists the worst enemy will always be the alienated national élites who have lost "their identity" and are perceived to be trying to undermine group identity. By linking the women's movement with a Western conspiracy against Islam in general and Palestinians in particular, the Islamists tried to use the distrust of the West to further its own goals. From Bertsch's perspective, the hegemonic power of Islam is marshalled to create the illusion of unity, ignoring the denial of full rights to Palestinian women, which carries the seeds of disunity. This unity is called up for defense against the "other" in the form of the West.¹³⁷ (This point is elaborated further in section 4.4.) Anyone who tries to shatter the illusion of collective identity is, therefore, an accomplice or agent of the West. On this point, Kandiyoti notes that the Islamists' interpretation of cultural integrity is facilitated by the equation between changes in gender relations and capitulation to Western cultural imperialism.¹³⁸

A. The Shape of the Counter-Campaign

Monitoring the printed media over 1997-98 provides substantial indications of the development of the anti-MP project on the one hand, and the proliferation of the Islamist discourse on the other. The Islamists

¹³⁵ Interview with Hanan Rabbani, Director of the MP Project (August 1999). Rabbani listed three reasons for this lack of coordination: competition over grants from donor agencies, personal competition over leadership of the women's organizations, and political competition related to the political vision and objectives of the women's organizations backed by political parties.

¹³⁶ Helie-Lucas, *supra* note 101, at 5-12.

¹³⁷ A. Najmabadi, *Veiled Discourse-Unveiled Bodies*, 19(3) FEMINIST STUDIES 487, 511 (1993) (finding the same logic within the Islamist's discourse in Iran, that women are embodied in double 'Other': "the enemy within, *Fitna* [moral disorder], and the enemy without, *the West*").

¹³⁸ Kandiyoti, *supra* note 107, at 7-23.

used printed materials as well as speeches in mosques to develop and articulate their ideas about women's rights, the role of "evil women's organizations" in demolishing "Islamic society" and breaking down Islamic norms and customs, etc. Sheikh Bassam Jarrar, a Palestinian Islamist ideologue and one of the leaders of Hamas, told a foreign female journalist: "Women in itself[sic] are not the devil, but the ideas they are spreading are devilish because they do not respect the Islamic rules. Those women [MP members], which are a minority, believe that every revolutionary idea is positive; they did not realize that they are driven by associations completely extraneous to our society and beliefs."¹³⁹

The Islamists want to see the Sharia codified as a set of State-enforced laws in the Western sense. In another interview six months after the signing of the Oslo agreement and a month before PA president Yasser Arafat's arrival to the occupied territories, Sheikh Jarrar declared that the real agenda of Hamas is to ensure that all education curricula are grounded in "Islamic civilization," not one adulterated by "foreign influences."¹⁴⁰ Thus, Islamist hegemony would contest the PA in a classic illustration of Gramsci's conception of cultural hegemony, manufacturing consent through control of institutions that underpin the political structure in civil society.¹⁴¹

Asked about the Islamists' attitude towards the new PA, his reply was highly significant: "[a]lthough the Islamic movement rejects the declaration of principles [Oslo agreement]. . . it has no interest in defeating it by force."¹⁴² He clearly envisioned the possibility of co-operation with the PA on the basis of the Islamists being allowed to control social aspects of Palestinians' lives.

Concerning family law, Sheikh Jarrar said the preservation and consolidation of Sharia law relating to the family; the social reproduction of the patriarchal Palestinian family, represents the greatest potential

¹³⁹ Alessandra Antonelli, *Women's Parliament Speaks Gender War, an Interview with Sheikh Jarrar*, PALESTINE REPORT, March 20, 1998 at 4-5.

¹⁴⁰ G. Usher, *The Islamist Movement and the Palestinian Authority*; *Graham Usher Speaks with Bassam Jarrar*, 189 MIDDLE EAST REPORT 24, 28-29 (1994).

¹⁴¹ G. MARSHALL, *DICTIONARY OF SOCIOLOGY* (Oxford University Press 1998).

¹⁴² Sheikh Bassam Jarrar, *The Future of the Islamic Movement's Relation with the Transitional Authority*, THE CHALLENGES FACING PALESTINIAN SOCIETY DURING THE INTERIM PERIOD – FIRST CONFERENCE (1994). Sheikh Jarrar repeated this attitude in which he declared that the areas of confrontation, and thus communication with the PA, are the school curricula and family law.

prize to Hamas. He said it guarantees Palestinian "human rights as Muslims."¹⁴³

This is particularly important for Islamists because in most Arab countries this is explicitly based on Sharia law. It is not necessary for me to say what I think the Personal Status Law should be. This is a matter of Ulama. But if the authorities deal with the law in a subjective way, this could lead to violations of the Sharia and so infringements of our human rights as Muslims. We are not against innovation in law, but we cannot compromise on rights that are guaranteed by the Sharia.¹⁴⁴

The targets of the counter-campaign are the masses, young and old, women and men, especially in the poor regions, for they constitute the Islamists' main supporters.¹⁴⁵ Islamist leaders of various parties have given public speeches and issued printed materials expressing suspicion about the MP's objectives. They have warned about the "dangerous war" initiated by women's organizations in general, and the MP in particular, against Islam and Islamic values.¹⁴⁶ Various arguments are presented to convince their audiences that women are not eligible to discuss family law. Sometimes they mention the Prophet's Hadith that "woman lacks

¹⁴³ Usher, *supra* note 19.

¹⁴⁴ *Id.*

¹⁴⁵ In the Middle East, North Africa, as well as South Asia, the main supporters for Islamists are from middle and lower middle classes. See J. Afary, *Feminism and Fundamentalism*, 224 NEW LEFT REVIEW 89, at 89-126 (1997).

¹⁴⁶ M. Hamdan, *Sheik Jarrar responds to MP Proposals*, AL-HAYAT AL JADEEDA March 13, 1998 at 4. Sheik Jarrar said:

The MP wants to humiliate men; the problem is not political, but religious. We [the Ulama] have no political objectives. The MP proposals pertain to our lives and families ... The MP proposals start from 'equality', a notion of Western origin. We accept the 'equality' notion, but it should be clear that the definition and conceptualization has to be in the framework of Islam, which gives women better rights than the West. What the MP presents is against the Sharia and Qur'an and the consent of Ulama."

Sheik Jarrar then used the Islamists' favorite tactic against the MP, linking it with Western enemies of Islam:

They are supported by Western funds; they want to enforce the Western concepts and Western lifestyle over our lives and civilization they call for legitimizing adultery by their proposed condition that such adultery should be proved by official complaint. Commenting on the women's struggle against the Israeli occupation, he said "all the Palestinian people participated in the struggle against Israel; it is not only women's groups ... their participation does not give them the right to rebel against Sharia.

reason and religion” or they raise the cultural perception of women as persons who lack the capacity for the unemotional judgement that is required for discussing serious political, religious and societal issues.

Interestingly, the Islamist discourse is not monolithic. Sheikh Jamal Salim, a lecturer on Sharia in Nablus (West Bank) and a staunch defender of religious courts, dismisses suggestions that it is Islamic to deny women their rights. He told the Hukook Al-Nas newspaper, “women’s oppression has nothing to do with Islam. Sheikh Salim contended that Islam has given women all rights and that it is the wrong traditions and customs that are responsible for women’s oppression.” However, he denounced the amendments proposed by the MP as a manifestation of rebellion against the Qur’an and Islam because he believed the MP’s aim to be elimination of family law and the religious courts.¹⁴⁷

Sheikh Atta-Alla Abu-Sibbah, a professor of Sharia at the Islamic University in Gaza, says that Islam allows women to work outside their homes, but in specific professions. Examples of these professions are nursing, teaching (especially of children), and medicine. Moreover, there is no restriction on benefiting from women’s exceptional talents in any field.¹⁴⁸

In an illustration of how hegemony is linked to discursive power, anonymous leaflets and handbills were also used to attack the MP’s activities as a threat to Palestinian unity against Israel; and at the same time, the Islamist newspapers offered their readers several weekly columns to discuss the danger to the Palestinian cause and Islamic values posed by the MP. The columns were positioned next to a platform for the discussion of Islam and a range of issues relating to family, marriage, sexuality, gender relations, female identity and behaviour.

The Islamists fired their final shots in July 1998 during a big conference in Gaza organized by the Islamic Salvation Party (which is considered to be the “civil” wing of Hamas). The conference was held only three months after the MP’s central session. Speaker after speaker

¹⁴⁷ The interview was done in summer 1998 during the MP campaign, the newspaper faxed it to the Hague but unfortunately without the exact date.

¹⁴⁸ Sheikh Atta-Alla Abu-Sibbah, *How Women Are Conceived in Islam*, CONFERENCE ON AL-MARAA ALFILISTINIYAA BAYNA AL-ASALA WA-ALMOSAARA (Palestinian Woman Between Authenticity and Contemporariness) (1998).

repeated the same statements about women and Islam that had been part of the counter-campaign.

Sheikh Ahmad Yasin, leader of Hamas, asserts that Islam regards the woman's role as mother and wife as the most sacred and essential one in society.¹⁴⁹ He says neither maids nor baby-sitters can possibly take the mother's place as the educator of upright, complex-free, and carefully reared children.¹⁵⁰ Such a noble and vital role, which largely shapes the future of nations, cannot be regarded as "idleness." Women should meet the obligations of Islam and should prepare themselves to educate future generations as fighters against the enemy.

This echoes Article Eighteen of the Hamas charter, which states:

The women in the house and the family of Jihad fighters, whether they are mothers or sisters, carry out the most important duty of caring for the home and raising the children upon the moral concepts and values which derive from Islam; and of educating their sons to observe the religious injunctions in preparation for the duty of Jihad awaiting them. Therefore, we must pay attention to the schools and curricula upon which Muslim girls are educated, so as to make them righteous mothers, who are conscious of their duties in the war of liberation. They must be fully capable of being aware and of grasping the ways to manage their households. Economy and avoiding waste in household expenditures are prerequisites to our ability to pursue our cause in the difficult circumstances surrounding us. Therefore let them remember at all times that money saved is equivalent to blood, which must be made to run in the veins in order to ensure the continuity of life of our young and old.¹⁵¹

The biological role of women is the basic tool through which their identity is shaped and maintained, and it is only recognized in relation to men. A Palestinian woman's identity is derived from her role

¹⁴⁹ Sheikh Ahmad Yasin, Introduction to Conference on Palestinian Woman: Between Authenticity and Contemporariness, Gaza (1998).

¹⁵⁰ *Id.*

¹⁵¹ Hamas Charter, *available at* <http://palestinecenter.org/cpap/documents/charter.html>.

as a “carrier” but not owner of her body. Her only valuable quality is her reproductive capability. Hamas portrays women’s domesticity as God-decreed; therefore, any attempt to change the woman’s role is sinful and will corrupt society. In addition, women are referred to as social agents and educators; therefore they have to be educated not for their own sake as citizens or human beings, but as a means of restoring the glorious past of Islam.¹⁵²

According to Dr. Ahmad Abu Halabiyya, dean of religious studies at the Islamic University, Islam gives women only half the inheritance rights of men because a man’s duty is greater than that of a woman. Furthermore, concerning women’s role in the public sphere; for the position of a judge, for instance, there is a tendency to doubt the woman’s fitness for the post due to her more “emotional nature.” The Prophet’s Hadith [says], “A people will not prosper if they let a woman be their leader” ... According to Islam, the head of state is no mere figurehead. He leads people in the prayers, especially on Fridays and festivals; he is continuously engaged in the process of decision-making pertaining to the security and well-being of his people. It is a “medical fact” that during their monthly periods and during their pregnancies, women undergo various psychological and physiological changes. Such changes may occur during an emergency, thus affecting her decision, without considering the excessive strain which is produced. Moreover, some decisions require a maximum of rationality and a minimum of “emotionality” – a requirement which does not coincide with the “instinctive nature” of women.¹⁵³

It is clear that Islamists try to control women by encumbering them with an identity that limits the options open to them to use their talents outside the home.

¹⁵² L. Taraki, *Jordanian Islamists and the Agenda for Women: Between Discourse and Practice*, 32(1) MIDDLE EASTERN STUDIES 140 (1996). Taraki finds the same features within the Islamist’s discourse in Jordan. In her study, she finds that the Islamists encourage women’s education on the ground that educated women make better mothers and that it is better for women to provide services to other women.

¹⁵³ Ahmad Abu Halabiyya, *Woman’s Role and Position in Islam*, CONFERENCE ON AL-MARAA ALFILISTINIYAA BAYNA AL-ASALA WA-ALMOSAARA (Palestinian Woman Between Authenticity and Contemporariness) (1998).

B. The Issue of Identity: The Link between Hegemony and Identity

Bertsch links hegemony with the construction of identity, and the Palestinian experience depicts the connection.¹⁵⁴ The construction of Palestinian identity is very much linked with the patriarchal tradition, whether it is carried out by the nationalist movement or by the Islamists. Both use identity to strengthen their hegemony.

The Islamists do this by creating a sharp division between them (Israel and the West militarily, politically and culturally; and therefore, by extension, anyone who wants to reform Palestinian society in a way that would undermine the hegemony of the Islamists) and us (Palestinian Muslims who accept the Islamists' interpretation of what is Islamic and what is not).

The Islamists have made powerful claims on the culturally defined identity of women, including their bodies and their minds. This is one of the essential elements in their vision of Palestinian society. Authenticity is viewed as being identical with Islam.

The Islamic awakening means the return to a conscious linkage with Islam. It also means the will to develop and to achieve using Islam and its value system as a base ... we cannot look at the Islamic movement as only political ... it is also ideological and revivalist motivated by a great past."¹⁵⁵ Thus, the Islamists have a different image of Islam, not the one actually practised by the masses, but the Islamists' image of the so-called "true Islam" of the age of the Prophet.

Helie-Lucas refers to the similarities between the Islamist discourse across Muslim countries.¹⁵⁶ She shows that the discourse centers on identity in three ways: identity as being under threat, identity as a return to a glorified past, and identity as confined to the private sphere. In this way, the discourse portrays women as the weak point in the defense system as well as potential allies of the external enemy. Islamists limit their definition of Muslim identity to the private sphere; the area that is linked with women's sexuality. Hasan makes the interesting observation that outside the feminist movement, the only movement which daily devotes hours to discussing, debating and

¹⁵⁴ Bertsch, *supra* note 81.

¹⁵⁵ Jarrar, *supra* note 152, at 159-65.

¹⁵⁶ Helie-Lucas, *supra* note 101.

formulating policy on the question of women is the Islamist movement.¹⁵⁷

The PA's concept of identity is based on the definition of Palestinian citizenship, and this definition is heavily biased towards males.¹⁵⁸ Throughout the years of the occupation, the Palestinian nationalist discourse in general downplayed the significance of social differences (in terms of class and gender) in the name of national unity.¹⁵⁹

Similar to the Islamists, the PA tries to restrict women to the home, and thus their identity revolves around marriage and motherhood, which are glorified as being a vital service to the nation.¹⁶⁰ This is a way for the PA to retain the consent of the people (and thus maintain its hegemony). Also it provides the Islamists with the space they desire in the hope that they will then keep out all others from the political sphere. However, the PA's vulnerability to external pressures in international relations tends to complicate this picture at times and the PA then allows the women's discourse extra room to operate. The MP project was an example of such a concession. However, as we shall see later, it was a half-hearted concession, apparently made to please external donors while having the advantage of focusing the attention of the Islamists on the MP and thus out of the political sphere.

The Left is another force that has the potential to influence the formulation of Palestinian identity. Leftists are normally natural allies of women's movements, even though they may try to influence them ideologically. However, the Left is not in a hegemonic position in any sphere of Palestinian life; it relies on alliances and therefore dreads confrontations. Thus, when women's groups organize to eradicate gender discrimination they receive a cool response from the Left, which raises concerns about "washing our dirty linen in public" and giving the Islamists weapons to use against their Palestinian opponents.¹⁶¹

¹⁵⁷ Hasan, *supra* note 28.

¹⁵⁸ This ties in with the concept of citizenship rights being closely linked to gender relations. See Yuval-Davis *supra* note 98.

¹⁵⁹ It is worthwhile to mention that there are ideological differences between the PLO factions. While the PFLP and DFLP adopt a Marxist ideology, Fatah, the largest movement, adopts a non-Marxist ideology.

¹⁶⁰ PLO leader Yasser Arafat has said, "The wombs of Palestinian women are bombs in the confrontation with the Israelis."

¹⁶¹ Ironically, during the liberation struggle, the majority of Palestinian female prisoners in Israel were from Left-wing organizations, while the majority of the

The focus of the Islamists' attacks is chosen well. Moghadam observes that "they attack and direct their backlash at this stratum of women; women with education and jobs, women who refuse and question the traditional patriarchal relation, women who rebel against gender discrimination for they constitute and symbolize a social change."

¹⁶² El-Saadawi¹⁶³ also finds that this mechanism helps to create an atmosphere in which the Islamists focus on sex discrimination, sexism, and an emphasis on women as dangerous objects.

C. Popularity of Islamic Discourse

In constructing female identity, and gender relations, both the PA and the Islamists rely mostly on the strong hegemonic power of Islamic ideology. Any question about the reaction of Palestinians to this tactic was dispelled in March 1999 when the Jerusalem Media and Communication Center conducted a poll to determine the attitude of Palestinians towards Sharia law and the various political parties. Respondents were asked: If the PA implements the Islamic law, how will this affect your position regarding the authority? Will it increase your support, increase your opposition, or not affect your position at all? The vast majority of respondents (63.9%) said they would support the PA more if Islamic Sharia law were implemented.¹⁶⁴ The full results of the poll are given in Table 4.1.

The results indicate that most Palestinians continue to believe in the ideal of religious hegemony over everyday life and politics. The support for the implementation of Islamic Sharia however, is not indicative of support for the Islamist parties. When broken down by party support, the poll shows that Hamas and Jihad (representing the main Islamist parties) together received only 17.3% of the people's support, while Fatah (the ruling party) received 37.6%. This could indicate that the Sharia is popularly perceived as a means of orientation which believers follow out of their own free will, and which the State should

male prisoners were from Fatah. By 1979, 3000 women had been imprisoned in Israel for political and military activities. See Jad, *supra* note 37, at 247.

¹⁶² Moghadam, *supra* note 145.

¹⁶³ N. El Sasaawi, *Fundamentalism a Universal Phenomenon*, in DOSSIER, WOMEN LIVING UNDER MUSLIM LAWS, No. 9/10 at 30-1 (Grabels 1991).

¹⁶⁴ The pollsters interviewed a random sample of 1199 people over the age of 18 in the West Bank and the Gaza Strip; of these, 49.1% were male and 50.9% were female.

enforce only as a manifestation of cultural identity rather than as real support for political Islam.

Table 4.1 Change in support for the PA if Sharia law is implemented in Palestine¹⁶⁵

Response	Total	West Bank	Gaza Strip
Increase my support	63.9	61.1	68.7
Decrease my support	2.4	2.5	2.2
Will not affect	27.0	28.8	24.0
Increase my opposition	1.9	2.6	0.7
Decrease my opposition	2.9	2.5	3.7
<i>No answer</i>	<i>1.9</i>	<i>2.5</i>	<i>0.7</i>

The poll shows that Islam can be used by the PA to strengthen its hegemony. Of course, whether or not the PA will do so, and to what extent, is another question. Before taking such a drastic step, the PA would have to take into account possible reactions in Israel and the U.S. The support for Islamic laws is also, in part, probably due to the political, social and economic difficulties experienced by Palestinians. Moghadam writes that “[the] cultural cannot be properly understood outside of its relation to the political and especially the economic.”¹⁶⁶

The people are disappointed that the new Authority has brought them neither independence nor social justice.¹⁶⁷ This plays a great role in strengthening their belief that justice can be achieved through Islamic laws. Constructing a mythical past about Islamic justice is one of the mechanisms used by Palestinians to endure current hardships and dream of a better future.

So far, this chapter has shown how both the PA and the Islamists have used religion to strengthen their hegemonic power in Palestine.

¹⁶⁵ *Jerusalem Media & Communication Center Pub. Op. Poll No.31 On Palestinian Attitudes Towards Politics March 1999 at*

<http://www.jmcc.org/publicpoll/results/1999/no31b.htm>

¹⁶⁶ V. MOGHADAM, *IDENTITY POLITICS AND WOMEN: CULTURAL REASSERTIONS AND FEMINISMS IN INTERNATIONAL PERSPECTIVE* 3-26 (1995).

However, in terms of details, it has concentrated mostly on the tactics used by Islamists.

D. The PA's Role in Marginalizing the Women's Discourse

The PA faces pressure on the regional level from Israel and on the international level from the U.S. to meet its obligations under the Oslo agreement as the guardian of Israel's security. It responds to this pressure by implementing a policy of repression, especially towards those who have been defined by the Israelis and Americans as terrorists (the Islamists). On the domestic front, the PA rationalizes its repressive practices towards the Islamists, NGOs and the Press under the old justifications of "national unity," and "collective interests." The worsening social and economic situation also makes the PA nervous about the slightest threat to its power.

The women's movement has not been a direct target of PA attacks or repression. Therefore, an observer might perceive that the PA supports the campaign to ensure that Palestinian women are no longer deprived of their human rights. Such a conclusion would be false. If the PA were truly interested in changing the social status of Palestinian women, it would have produced and disseminated informational documents on the issue and used the media to build support for women. However, there are no documents; nor are there any records of official statements/speeches in favour of the women's cause. In the absence of such documents, this study will gauge the PA's attitude to women's issues in Palestine by investigating its actual practice: Is it gender-sensitive? What message does it convey about women? Does the PA try to help the women's cause in areas where it would be relatively easy to do so? The answers to questions like these should produce some idea of what role, if any, the PA plays in the marginalization of Palestinian women. The questions will be answered after outlining the PA's practice with relation to the MP, the media, and international donor's community.

E. The Model Parliament

As noted earlier, the PA supported the formation and deliberations of the MP. Its newspapers and other media reported on the proceedings every day. In addition, some members of Fatah in the Legislative Council expressed their readiness to support the proposed amendments to family law.

This made some women's organizations optimistic about the PA's attitude towards women's issues. They felt that in a Palestine governed by a non-Islamic party, a new area of mobilization had become accessible. This would help women to negotiate social rights within the emerging State structures. They asserted that the women's movement had found its voice post-Oslo in trying to affect a wide range of emerging social policies that would underpin the progress of women.¹⁶⁸ And then came the intensified attacks and intimidation by the Islamists who were obviously alarmed over the women's campaign.

The primary aspect of the attack by the Islamists was the reaction of the PA. Upon request, the police provided security at the parliament venue (which, after all, was their duty), but that was all. There was a deafening silence from the PA even as the Islamists increased the tenor of their attacks, publicly labelling the MP members prostitutes, spies for Israel and the Western countries in speeches at mosques, universities and public meetings, as well as through the information media.

The PA's silence raises doubt about its commitment to women's rights. It cannot be explained by inability to act: when the Islamists criticize the peace process or PA practices, the PA reacts harshly with imprisonment of their activists. Thus, we need to look for another explanation. The key can be found in Foucault's definition of power as force relations, the process which, through ceaseless struggles and confrontations, transforms, strengthens or reverses [the force relations]; as the support which these force relations find in one another; ... and lastly, as the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies.¹⁶⁹

What benefit could the PA receive from first supporting the MP and then standing by while it was being attacked? Could the answer be found in the force relations between it and other actors?

An obvious benefit from support to the MP was the approval of donors. However, if that had been the main reason for the PA's support, it would have tried to find some way to curb the attacks on the MP instead of letting them become worse. There was another, less obvious

¹⁶⁸ R. Hammami and E. Kuttab, *The Palestinian Feminist Movement: Strategies Towards Freedom and Democracy*, (1999) at <http://aic.netgate.net/nfw/April99/9904po3-09.html>.

¹⁶⁹ FOUCAULT, *supra* note 46.

benefit: the distraction of the Islamists from the peace process. It serves the interests of the PA to have the Islamists kept busy in a confrontation with the women's movement because then the PA can proceed with the peace negotiations unhindered. Thus, the more the Islamists mobilized against the MP, the greater was the benefit to the PA. It was a perfect example of how the interactions that make up international power politics can have a negative effect on the human rights of Palestinian women.

F. The Media

The PA's use of religion to maintain and strengthen its hegemony is reflected in its media. The official PA television station broadcasts a significant amount of discourse on Islam and the assertion that Islam must at all times govern and define the personal and social life of Palestinians. There is an increasing amount of religious programming. Daily broadcasts begin and end with recitations from the Qur'an, the call to prayer interrupts programming, the Friday mosque prayers are televised; there are even religious television serials about the early days of Islam.

One program in particular, broadcast live every Friday at noon, is aimed at families. Viewers can phone in for information or advice on matters related to Sharia rules, family life, family law, female dress and behaviour. The special guest each week is an Ulama from the Ministry of Islamic Affairs or the mullah of a mosque. Again, the content of the Islamic discourse is the same as elsewhere. Sometimes the questions are such that the discussions merely emphasize trivialities and raise them to a level of great religious or legal significance.¹⁷⁰

The use of the PA media in this way ties in with the construction of identity by hegemonies.¹⁷¹ As discussed above, Scott's concept of gender in the context of relationships of power involved four interrelated elements: (i) culturally available symbols; (ii) normative concepts that set forth interpretations of the meanings of the symbols, such as religious, educational, legal and political doctrines; (iii) politics and reference to social institutions and organizations; and (iv) subjective

¹⁷⁰ For example, a question concerning the effect of nail polish on praying practice, or one concerning the use of a specific shampoo and its effect on praying practice.

¹⁷¹ Bertsch, *supra* note 81.

identity, which theorizes about the reproduction of gender through enculturation of the biological sexuality of individuals.¹⁷²

The PA, through its TV programmes, creates symbols of ideal womanhood, interprets those symbols, places them in the political and institutional context and ensures continued control of women's biological sexuality. "It is a direct disciplining of women's bodies for political ends," as Handmaid puts it in another context.¹⁷³

It is an irony of Palestine that a secular State is trying its utmost to prove that it can be as religious as the Islamists. The reason for this is simple: the PA has no other choice. Having weakened its legitimacy through corruption and inability to bring economic benefits to the people, knowing the popularity of the Islamic discourse (as demonstrated most recently by the poll summarized in Table 4.1) and unable to present an effective counter-discourse, it is forced to appropriate the discourse of its rivals. As Moghadam points out, the élite deploys cultural resources and rhetoric to maintain its position and lends it legitimacy, in order to divert attention from economic failure and social inequalities.¹⁷⁴

G. Bias Against Half of the Population

As shown in Chapter 2, the PA is an excellent example of a patriarchy ruled by the president. With the most crucial reins of power (security, police, interior and exterior ministries, leadership of the Executive Authority) in his hands, he is well situated to ensure that women can obtain civil service jobs on an equal basis with men. However, in the PA patriarchy, civil service jobs are plums given only to those who are well connected socially and politically.

Almost every ministry in Palestine has a women's department supported financially by the UNDP (United Nations Development Program), which together with other international agencies, finances women's NGOs providing gender-training courses. This might suggest to an observer that the PA wants to improve the status of women, but that would be an incorrect conclusion. There are few jobs available to women, and the training and other gender-related activities are useful for hiding the patriarchal nature of the PA. International institutions normally insist on a suitable gender ratio in the programmes they fund.

¹⁷² Scott, *supra* note 67.

¹⁷³ R. Hammami, *Women, the Hijab and the Intifada*, (3&4) MIDDLE EAST REPORT 20, 24-8 (1990).

¹⁷⁴ MOGHADAM, *supra* note 184.

So, to determine how much the PA's rhetoric about women corresponds with its practice, it is interesting to check to what extent Palestinian women are benefiting from such programmes.

H. Qur'anic Judgement Versus Modern Legislation?

The examples in the previous sub-sections make it clear that in its actual practice, the PA has shown that it is not interested in resolving the serious problems facing Palestinian women. Analyzing the crisis in the women's movement in Palestine in the post-Oslo period, Hammami and Kuttab argue that the public portrayal of the women's movement as an ally of the PA is misleading. They attribute the PA's current acceptance of women's movement activism as being due to its perception that the women's movement does not pose a political threat to it.¹⁷⁵ That leaves an important question unanswered: As the women's movement develops, a time is bound to come when its success poses a threat to the patriarchal nature of the PA. What will the PA's position be then?

The Fatah party's secretary in Gaza indicates the real attitude of the PA, who said, "in any walk of life where Qur'anic judgment was available, modern legislation should not be introduced." Fatah's weekly newspaper warned the women's movement not to "overdo its demands as the society it worked in was Palestinian and not Swedish, Swiss, or French." The most explicit attitude was taken by Fatah members of the Legislative Council during a formal meeting with some members of the MP in Gaza in April 1998. They focused on the need to respect "our religion" and "our culture." They also said that women's issues were not a high priority on the PA's agenda because the Israeli occupation was the primary concern.¹⁷⁶ Their words were almost the same as those of conservative representatives of the Council at the meeting, these representatives accused the MP of not observing religious and cultural traditions and labelled the MP a Western tool because of its funding sources as well. Obviously, being able to survive only on Western funds did not make the patriarchal PA a Western tool, but when women obtained external support for their struggle to win human rights, they

¹⁷⁵ R. Hammami and E. Kuttab, *supra* note 183. The PA regularly tries to put human rights centers on the defensive by questioning them about their funding sources. When the MP project started creating a widespread impact, resulting in the counter-campaign by the Islamists, the PA began to use similar tactics against it.

¹⁷⁶ This echoes the nationalist slogans during the liberation struggle, "women will be liberated when society is."

could only be viewed as puppets. This similarity between the PA and the Islamists was not a coincidence, as the next section will show.

I. Comparison of the Palestinian Authority and Islamist Discourses

In the 1970s, the Palestine Liberation Organization wanted to build a “secular” state that would derive its laws from international conventions and human rights standards. In the late 1980s, changes in international and regional politics, such as the fall of the Eastern Bloc, the second Gulf war and the recognition of the U.S. as the sole superpower, impelled the PLO to accept the Oslo agreement even though it left many important issues unresolved.

On the other hand, the objective of the Islamists in the 1980s (of Hamas, in particular), and especially during the Intifada, was to establish an alternative to the PLO project politically and socially. Hamas’ political alternative was to build a religious Islamic state in which the main source of legislation would be the Qur’an and Sharia.¹⁷⁷ However, five years after Oslo, there are some indications that Hamas is changing its priorities. It is now more concerned with a social agenda than a political one. In other words, Hamas relies on its relative political power to achieve social objectives, and specifically regulation of family life.

Jarrar expounded on this position in his quote earlier in this chapter. During the Intifada resistance, Hamas’ activities were less of a national struggle than a vicious social offensive against all manifestations of “un-Islamic behaviour,” especially in the Gaza Strip where women were forced to wear the headscarf as a sign of both modesty and nationalist rectitude. One of the pervasive wall slogans in Gaza at that time was, “Hamas considers the unveiled to be collaborators with the enemy.”¹⁷⁸ Thus, with a mixture of consent and coercion, Hamas demonstrated its leading-group power, to use Gramsci’s terminology.

It was clear that the wearing of the hijab (veil) was not about modesty, respect, or nationalism, nor was it to protect women “against male sexism.” There were two objectives here. On the one hand, imposing hijab would serve to negate female sexuality and redefine gender rules.¹⁷⁹ On the other hand, it would serve to establish a new

¹⁷⁸ G. Usher, *What Kind of Nation? The Rise of Hamas in the Occupied Territories*, 37(2) RACE AND CLASS 65, 65-80 (1995).

¹⁷⁹ Moghadam, *supra* note 125.

political reality; redirecting the Intifada from what was seen as a highly democratic process to a direction that was considered desirable by the Islamists and Israeli authorities. It was a manifestation of Islamist power to impose rules by attacking secularist groups and the national movement at their most vulnerable points: over issues of women's liberation.¹⁸⁰ In doing so, the Islamists distorted values, especially those related to women's liberation within the national liberation process. In this process, as Hasan shows, tens of women were murdered as alleged "collaborators" just because their personal behaviour was not in conformity with the norms of patriarchal tradition. Thus, the Intifada as a revolutionary action was turned into a social counter-revolution. In reaction to Hamas attacks, the unified leadership of the Intifada, which represented a coalition of different national movements, condemned the attacks and issued a statement that defined attacks on women as a political crime.¹⁸¹ Soon after, the unified leadership modified its language; called for "national unity" against Israel, and referred positively to religion in society.

It is not the aim of this thesis to analyze the shortcomings of the progressive and democratic forces in the Intifada, yet the marginalization of these forces is of major significance for the political future of Palestine. Today, the only political opposition to the PA is the Islamists, who continue their influence through "cleverly calibrated tactics of guerrilla warfare, political alliances and a pragmatic social agenda."¹⁸² The Islamists' ultimate goal, as we noted above, is not to destroy the peace process, nor is it to radically oppose the PA's political project. Their aim is to re-assert Islamic culture as the predominant feature of Palestine. In the end, the price of the ascendance of Islamists will be paid not only by women, but by all the democratic, secular and leftist forces in Palestine.

Hasan believes that Islamist movements have to be analyzed as anti-democratic, anti-equality and anti-human rights.¹⁸³ This analysis

¹⁸⁰ Hammami, *supra* note 186.

¹⁸¹ The basic membership of the Unified Leadership of Intifada consisted of four major 'secular-nationalist' organizations within the occupied territories: Fatah; the popular Front for the Liberation of Palestine (PFLP); the Democratic Front for the Liberation of Palestine (DFLP); and the Palestinian Communist Party (PCP) See H. Cobban, *The PLO and the Intifada*, 44(2) THE MIDDLE EAST JOURNAL 207, 207-33 (1990).

¹⁸² Usher, *supra* note 197.

¹⁸³ Hasan, *supra* note 28.

echoes the argument in Hilal about the lack of democracy in the PA (as described in Chapter 1), and Abdo who shines the spotlight on the patriarchal and undemocratic nature of the PA (as outlined in Chapter 2). Experience with the PA has shown that with reference to the women's question, specifically those critical issues that deal with women's sexuality, there is no difference between the Islamist and nationalist discourses.

Generally, the Islamic discourse, whether articulated by PA institutions or Islamists, explicates an extremely gender-biased interpretation of Islamic principles and societal values. Their essentialization is inherent in the willingness to unquestionably adopt any practice of a so-called "real Muslim" whether these practices are actual or are imagined, specifically those related to women's sexuality. Then shift these practices to a sign of national and religious commitment and cultural relevance. As Moghadam argues, "[s]exual politics are at the center [of their policies] which seek reordering of society and the construction of a new moral and cultural order based on rigid sex roles and the exaltation of the patriarchal family."¹⁸⁴

Any analysis of the Islamic discourse produced by the Islamists or PA institutions shows an extremely similar image of family and gender relations, women, and "ideal Muslim female identity." The discourse asserts the existence of a "transcultural and transhistorical Muslim identity and completely negates the diversity of traditions and cultures in which Islam has been propagated."¹⁸⁵

J. The Use of Culture

Chapter 2 mentioned Chatterjee's¹⁸⁶ observation that nationalist movements in developing countries divide the domain of culture into two spheres – the material and the spiritual. This feature is displayed by the nationalist and Islamist cultural discourses in Palestine, both of which try to keep the private, spiritual domain – the domain of culture, especially family values, where women reside – secure from "infection" by Western values and practices.

The Islamists have no problems with the adoption of Western techniques and modes of organization, but they have a problem in adopting non-Islamic "values", especially those related to women's

¹⁸⁴ Moghadam, *supra* note 125.

¹⁸⁵ Helie-Lucas, *supra* note 101.

¹⁸⁶ Chatterjee, *supra* note 114.

liberation. The adoption of a Western lifestyle by a man is viewed as modernization, but when a woman does not conform to conservative conventions, she is regarded as being Westernized, which has negative connotations.

The difference between the Islamist and nationalist discourses lies in the way that each portrays women. The nationalist discourse attempts to protect society through the protection of women, while the Islamists attempt to protect society from women. They view women as innately disgraceful weaklings who can easily be influenced into "evil" ways. Moghadam¹⁸⁷ shows that the Islamist discourse portrays women as members of society through whom imperialism can penetrate a culture and wreak havoc on it. The West deprives women of chastity, modesty and honour through notions of autonomy, sex appeal, immorality, pornography, and so on. Thus, it can weaken Islamic culture once it is allowed in.

K. The Influence of Class

Another explanation for the similarities in national and Islamist discourses where conceptions of gender relations are concerned is that the leadership of both movements comes from the same class background. Sharabi writes that the similarity between the discourses is due to the petty bourgeois origin of the two political movements.¹⁸⁸

In the Palestinian context, we witness the phenomenon mentioned by Sharabi. The patriarchal familism oppresses women on one hand and retards the development of the rule of law on the other. This, combined with total economic dependence on Israel, has helped the petty bourgeoisie to become stronger and flourish. What makes the dependency relation worse, as Bishara¹⁸⁹ mentions, is the readiness of the Palestinian political élite within the PA to forge personal ties with this or that Israeli official, or disputes as to which group will control this or that local agency representing Israel or foreign companies. Bishara concludes that the obstacles preventing the emergence of a Palestinian political élite largely free of this type of dependence are the same as those blocking democratic transformation. They are rooted in patriarchy.¹⁹⁰

¹⁸⁷ MOGHADAM *supra* note 184.

¹⁸⁸ Sharabi, *supra* note 34.

¹⁸⁹ A. Bishara, *4 May 1999 and Palestinian Statehood: To Declare or Not to Declare?*, JOURNAL OF PALESTINIAN STUDIES XXVIII(2) at <http://www.ipsijps.org/ips/110/bishara.html>.

¹⁹⁰ *Id.*

IV. Conclusions

The deliberations and activities of the MP became the focus of an intense campaign by the Islamist parties to “protect” Palestinian women from being “infected” by the virus of “foreign ideas.” The spark that ignited the firestorm of resistance was the MP examining family law with a view to proposing changes that would remove its gender-based discrimination and bring it into line with international human rights conventions.

However, the repression of women and their restriction within the domestic sphere is a central element in the discourse of the Islamists. It is their principal method of controlling women’s bodies. Thus, any change in family law is seen as a threat to their hegemony. An interesting feature of the resistance by women and the counter-resistance by the Islamists was that the PA, which had initially shown signs of support to the women, retired to the sidelines and said nothing.

The experience confirmed that the Palestinian women’s movement needs to engage in a “conscious, planned struggle” if it is to succeed in creating a new historical bloc. The conscious, planned struggle has to be founded on an understanding of the force relations at work in society. This study is an attempt to analyze those force relations in the context of the work of the MP.

A comparison of the discourses of the PA and the Islamists shows that there is no significant difference between them vis-à-vis women’s rights. The initial apparent variance in their attitude to the role of women and their identity has disappeared in practice now that the PA has appropriated the Islamic discourse in crucial areas related to gender relations. For the PA, women now act as pawns to be used to sustain and strengthen its hegemony.

The PA and the Islamist parties co-operate to sacrifice women’s interests because: their patriarchal nature makes them allies against women; the relative powerlessness of women makes them easy targets; and the heavy support for the Islamist discourse among the people gives a political advantage to any party that maintains the gender inequalities in society. The PA’s marginalization of women is an effect of political pressure from Israel. It is also a way of countering the Islamists and strengthening its legitimacy. The Islamists marginalize women as part of their belief system. From their patriarchal viewpoint, they consider women inferior. They also view the women’s movement as an international anti-Islamic conspiracy. Thus, women’s oppression is not

just an effect of the struggle for power between the PA and the Islamists; it is an integral part of their patriarchal discourse. The basis of the co-operation between the PA and the Islamists is accommodation of the Islamists by the PA, giving them space to communicate their social agenda, and acceptance by the Islamists of a limited role at the level of government.

The polarization between the PA and the Islamists occurs in other areas also. For example, the relations with Israel, international relations, and the extent to which family law should be islamized. The reasons for this polarization lie in the constant struggle between them to strengthen their hegemony and power at each other's expense, as well as in the historical experience of the Palestinian people.

It is now possible to come to some conclusions about what must be done to invest hegemonic strength in the discourse of the Palestinian women's movement. In order to construct a more effective discourse, we have to "disarticulate woman from culture, deconstruct the woman as symbol, reconstruct women as human beings, and problematize women's rights as human rights."¹⁹¹ One noticeable element in the counter-campaign of the Islamists was that, despite appearances, they are not a monolithic force. Within the main discourse, there are multiple discourses that implicitly, if not openly, challenge each other to some degree while adhering to the main lines of their common discourse. A similar situation exists in the PA, where the multiplicity of parties and their ideologies makes for several (sometimes contradictory) discourses. Such differences need to be studied and understood for they have potential value for changing power relations in Palestine. As Foucault points out, "discourse transmits and produces power, it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it."¹⁹²

Both Islamists and the PA use religion for political purposes. When Islamists raise the issue of religious doctrine in relation to gender and women's role in society, there is little room for women to negotiate. The discourse of the Islamists as well as the PA seeks political legitimacy by defending "Islamic values," especially those values that are interpreted to deny the legitimacy of women's rights as human rights. This marginalizes the discourse of women's liberation and women's rights. The women's movement needs to keep emphasizing that the

¹⁹¹ MOGHADAM, *supra* note 184.

¹⁹² FOUCAULT, *supra* note 57.

interpretation of “Islamic values” by the Islamists and PA is nothing but a political expedience to maintain power at women’s expense.

Likewise, the elements of the women’s agenda have to be clearly formulated. The patriarchalism in Palestinian society means that solutions cannot be achieved piecemeal. The women’s movement has to work on several levels and with different constituencies at the same time, instead of focusing on a few and ignoring others. It has to find strategies to work within the all-pervading patriarchalism – which exists even within the democratic forces, which “were often corrupt, always undemocratic.” Women have to consider themselves as citizens involved in both political and social aspects of national affairs.

As citizens of a geographical entity facing a national threat, women have to continue participating in the struggle against the occupier, even if they live in a “self-autonomous” region. On the national level, women should join the democratic forces confronting the PA on questions such as democracy, rule of law, political, cultural and religious pluralism, equality and social justice, etc. The strong influence of the Islamists and their total opposition to any change in the position of women makes it necessary for the women’s movement to challenge their discourse and discredit it.

The dominant ideology in Palestinian society has to be analyzed in order to construct an ideology that is adequate to the women’s political project. That, in turn, will build and strengthen the women’s alternative (counter-) hegemony¹⁹³. This means that the women’s movement has to rebuild a clear identity of itself as part of the popular movement confronting the Israeli occupation. It needs to emphasize that national freedom is not possible while half the population of Palestine is subordinated by the other half. The women’s movement has to identify itself as part of the democratic movement, which means participating in the internal political process without ignoring specific gender concerns. This is fully compatible with working on their specific agenda as women and raising gender issues in all fields.

¹⁹³ Bertsch, *supra* note 81.

Editor's Note

It is now and has always been the vision of this publication to provide a forum for all perspectives however challenging they may be. When this journal decided to devote an edition to Islam and law, we felt this challenge, particularly with the article that follows. Upon the initial review, the editorial team saw not only the technical problems due to the different systems of writing but also the provocative substance.

After much contact with the author, who currently lives in Palestine, we decided we would publish the article. We asked her to help us by sending us some of her sources. Below is an excerpt from an e-mail she sent to us in response to our request:

I am back in Gaza again and re-read your email. Actually, I have some of the articles here but there are some books and articles that I really cannot find in my house library. I think you know the situation in Gaza, where access to books and academic resources is extremely difficult. I will send you all what I have (by post mail) and hope you accept my apology of not being able to find the rest. I wrote this paper when I was in The Netherlands and most of the references were in the library there. Another difficulty is the issue of time; I do not expect that you will receive them by the end of December due to the usual delay in the post mail because of the current war.

-Nhada Sh'hada, November 2002

The author's cooperation and desire to have this thesis printed were phenomenal considering her struggles living under such unstable conditions in Palestine. Due to her personal experience and current situation, her article *Gender and Politics in Palestine* has become personal to the editors involved and we are proud to share this article with readers of this Review.

We would like to give special recognition to James T. Gladen, III who was an editor of this article. He went beyond what was required of him so that this article could be published.

The thoughts expressed in the following article are solely those of the author and do not reflect the thoughts of the individual editors or the University of Miami International and Comparative Law Review.

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