



## تعزیز حقوق المرأة

### On the way to improved legal reality

Strategies and instruments used to tackle discrimination against women in the Arab world

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## **On the way to improved legal reality**

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## Foreword

One root cause of the social and economic problems of the Arab world is the structural discrimination against women in these countries. This is also the conclusion reached by the Arab Human Development Reports (AHDR), which have been published annually since 2002. Women are denied numerous basic liberties, as reflected in particular in the formal legislation of these countries, but also in the reservations entered by Muslim countries with respect to various articles of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). As a result, women themselves are restricted in their personal, social and economic activities. Secondly, though, this discrimination remains an obstacle to the overall development of Arab societies.

Islam is generally advanced as justification for legal discrimination against women in the Arab world, since fundamental principles of Islam define the status of the two sexes and relations between women and men. This being the case, calls for greater gender equality interventions that are based on Islamic sources are often more successful at political level than the line taken by secular women's rights activists, who often find themselves accused of being the tools of cultural imperialism. Gender and Islam, in particular with respect to the legal position of women, are thus becoming increasingly important in international cooperation, as in other areas.

This points to challenges for development cooperation, which confront experts with conceptual and practical questions. What objectives involving gender equality are realistic in view of Islamic values? Are religious authorities suitable partners in cooperation? Which strategies are suited to enforcing legal entitlements in the Arab world? Often, these questions remain unanswered.

In recognition of this fact, the programme *Promoting gender equality and women's rights* has published a three-part series on women's rights in the Arab world. The first publication in the series (*Women's Rights in the Arab world. Overview of the status of women in family law with special reference to the influence of Islamic factors*) gives an overview of gender-based discrimination faced by Arab women in national family law. Building on this, the second publication (*Rights & Reality – On the Legal Reality Faced by Women in Arab Countries As Exemplified by Matrimonial Law*) looks at the barriers and gender-based discrimination faced by women when they attempt to claim their rights.



This third publication in the series uses project examples to present innovative approaches that development cooperation can take in order to help women assert their rights and overcome gender-based discrimination. To this end, project and evaluation reports were examined to identify good practices and individuals involved were interviewed in partner countries. The primary aim was to identify successful strategies and instruments and make these available in a concise form. The projects presented here were supported by GTZ in recent years on behalf of the Federal Ministry for Economic Cooperation and Development (BMZ) within the framework of the projects *Strengthening Women's Rights and Promoting Gender Equality and Women's Rights*. The advisory approaches taken by these projects, build on innovative civil society initiatives devised by partner organisations around the globe with the aim to overcome gender-based discrimination.

**Jörg-Werner Haas**  
Director of Division 42  
(Governance and Democracy)

We would like to express our warmest thanks to Anette Funk and Christine Brendel whose constructive criticism has been extremely valuable for this publication.

We hope that the experience laid out in this publication will give an impetus to integrating women's rights issues into development co-operation with Muslim countries. Equally, we hope that it will act as an incentive for new projects and programmes in the field of good governance.

**Dr. Albrecht Stockmayer**  
Head of Governance Cluster 4201





## 1. Introduction: Rights and legal reality faced by women in the Arab world

### **Discrimination faced by women in the Arab world**

The disadvantages suffered by women in the Arab world are the result of a complex web of political, social, cultural and economic factors.<sup>1</sup> They are reflected in statistics<sup>2</sup> which demonstrate, for instance, that women have a significantly lower life expectancy than men, that maternal mortality rates are high, that women have few opportunities to acquire knowledge and that the illiteracy rate among them is extremely high.<sup>3</sup> In no other part of the world do women play such a marginal part in economic life.<sup>4</sup> While men are brought up to be self-confident and independent, women learn to be obedient and dutiful. Men are free to engage in economic activities, whereas women mostly require the permission of their husband or father.<sup>5</sup>

This is partly the result of the very traditional system of values, which embraces gender-based discrimination, e.g. a woman's place is in the home, whereas education and gainful employment should primarily be the domain of men.<sup>6</sup> Women's situation is further compounded by discriminatory legislation, which restricts their mobility, for instance.<sup>7</sup> In addition to secular legislation and widespread customary law, religious Qur'an-based law also has a negative impact on women.<sup>8</sup> The centuries-old patriarchal interpretation of the Qur'an can no longer cope with the changes that have taken place in many areas, and with the social dynamics of contemporary Arab societies.<sup>9</sup> Discrimination based on both traditions and on formal law is then further aggravated by the ideologies currently predominant in Arab countries

(Islamism, nationalism, etc.), which take women as a blank canvas on which to project their own ideas. Covering the female body, for instance, has become such a cult that it is no longer left to the individual to decide whether or not to wear the Islamic headscarf. The decision is interwoven with the recognition and honour of families and can go as far as to be equated with the well-being of the nation, all of which subjects women to additional pressure.

### **No sustainable development without gender equality**

The equal participation of women in development is firstly a human right.<sup>10</sup> Secondly, achieving Millennium Development Goal 3 "*Promote gender equality and empower women*"<sup>11</sup> is a major precondition for achieving all other MDGs. Thus empowering women is not only a goal in its own right, but also plays a key development-policy role. The Arab Human Development Report (AHDR, 2005) too comes to the conclusion that, "the long hoped-for Arab 'renaissance' cannot and will not be accomplished unless the obstacles preventing women from enjoying their human rights and contributing more fully to development are eliminated".<sup>12</sup>

To make this possible, girls and women must firstly be empowered within the family. Parallel to the democratisation of family relationships, support must be mobilised for efforts in the public arena at state level, targeting every aspect of good governance. "Arab governments announced a host of reforms targeting freedom and good governance, most of which remained on the surface of their ambitious agendas. Some regimes tightly limited the scope of reforms they introduced while others continued to violate human and political rights while purporting to adopt enlightened changes."<sup>13</sup>



### **Key fields of action for interventions aiming to improve the legal situation of women**

If we are to improve the legal position of women, especially in Muslim societies, such that women's rights not only exist on paper, but that women can de facto assert and make use of these rights, interventions in three key fields of action are indispensable.

#### **1. Formal legal reforms**

In various Arab countries, women frequently turn to institutions legitimated by traditional law or religious law, which have a major influence on the legal reality they face, but which are not in fact part of the country's formal legal system.<sup>14</sup> Nevertheless, formal legal reforms can help enhance the quality of life of women and their families and improve the opportunities open to them within a very short space of time. For this reason, Section 2.1 will look at an example from Egypt, which deals with gender equality in nationality law, and at an example from Jordan, which looks at legal marriage age.

#### **2. Improving women's access to their rights**

For the majority of women living in Arab countries, discrimination that is anchored in formal state law accounts for only a fraction of the problems they face on a day-to-day basis. Poor women in particular tend to attach little importance to formal legal reforms because they see no opportunity ever to go to court and claim any rights or benefits to which they may be entitled. For development cooperation this makes it important not only to support formal legal reforms, but also to ensure that these reforms are in fact translated into practice. Section 2.2 describes how development cooperation worked hand in hand with Egyptian women's rights activists both on the implementation of the reformed Egyptian divorce law and on asserting women's rights to their own personal identity documents.

#### **3. Disseminating an understanding of the legal situation with the help of traditional and religious authorities**

In order to spread an understanding of the legal situation and an awareness of the tenets of the rule of law, and encourage women to actively demand their rights under existing legislation and push for the further repeal or overhaul of laws that continue to discriminate against them, it is indispensable to work with players who are genuinely in a position to shape public opinion in the country in question, and thus to influence processes within that society.

Since religious leaders have an enormous influence in society, cooperation with progressive religious leaders has proved to be effective, particularly in view of the rise of fundamentalism, in order to spread knowledge about existing laws and thus ensure that they are enforced in the long term. Section 2.3 illustrates how cooperation with male and female Islamic preachers in Yemen was successful in raising awareness.

#### **Methods and structure of this publication**

This publication aims to take a critical look at methodical approaches taken by projects in their daily work, practical experience gained and impacts observed. These are presented in such a way that they can be transferred to other contexts. Large sections of the publication are based on research and interviews conducted specifically for this purpose with affected individuals, female and male activists and those involved in the respective projects in Egypt, Yemen and Jordan in early 2008. Many of the statements recorded during these interviews are quoted verbatim in the main body of the text or in separate boxes. In contrast to the earlier publications in the series, this publication thus has a more journalistic style.



For the central section, Section 2, we have adopted a standardised structure, to make it easier for you to find the information you need and thus make it easier to use the publication for practical purposes:

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**A Contexts**

Description of the specific problem/context and the strategy adopted;

**B Strategy**

Presentation of the strategy and the components thereof, taking the example of a cooperation project implemented by the GTZ projects Strengthening Women's Rights as well as Promoting Gender Equality and Women's Rights, including a short introduction to the problem, the approach selected and the instruments used;

**C Impacts**

Critical appraisal of the Impacts achieved;

**D To sum up**

Concise summary giving a rapid overview of the problem, the strategy selected, the methods and instruments used and the lessons learned.

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## 2. Strategies to improve the legal situation and the legal reality faced by women in the Arab world

### 2.1 Ending discrimination in formal law

The unequal treatment accorded men and women in the national legislation of Arab countries is not based purely on Islamic legal doctrine. Both traditional Islamic law and European law were adapted by most young Arab nations in the form of acts of parliament for the first time in their history in the mid twentieth century. These national laws were seen as progress because it was hoped that they would bring with them greater legal certainty. At the same time, the aim was to modernise the European law, especially French law, which was predominantly taken as an example at that time. European law at that time also discriminated against women, in keeping with the social mores of that era.<sup>15</sup> Parallel to the traditionally anchored gender inequality, the adapted laws placed restrictions on the individual scope for action of women and generalised their unfavoured position under the law.<sup>16</sup>

Under traditional Islamic law, Muslim men enjoy a privileged legal position. This lack of equality in the way the law treats men and women is today justified by the concept of gender complementarity. Because God allegedly created women and men with different natures, they also have different duties. This, however, is at odds with the fundamental Islamic principle of equality. As it says in the Qur'an, all Muslims, whether male or female, are equal before God.<sup>17</sup>

The law is then neither objective nor neutral. It underpins social and material interests. The law reflects the values and norms of a society, as well as the prevailing power structures, between the sexes as in other respects. This applies equally to customary law, religious law, and "modern" state law. In no society in the world do girls and women count as one of the more powerful groups that are best able to defend their own interests. Women must then often fight a long hard battle for legal reforms aiming to dismantle existing discrimination.

But there can be no doubt that formal legal reforms in several Arab countries have in the past significantly improved the lot of a great many people, especially women and girls. If the intention is to improve the overall status of Arab women in the long term, there is no way round formal legislative reforms.

The fact that formal legal reforms also have far-reaching social and economic impacts is illustrated, for instance, by the case of Tunisia (see box). This is an example often used by Arab human rights activists and women's rights activists, to justify the need for formal legal reforms.

The cooperation work of GTZ projects and programmes in Egypt and Jordan, presented in the next section, has paved the way for formal legal reforms. Both projects have departed from the traditional path taken by development cooperation to seek new ways of improving the legal situation of women.



### **Formal legal reforms with a far-reaching impact – the example of Tunisia**

After Tunisia gained independence in 1956, most laws that perpetuated gender discrimination were abolished or reformed one by one. In addition to improving the legal situation of Tunisian women, this has quite clearly improved their social status. On average, Tunisian women today are better educated and more likely to be in gainful employment than women anywhere else in the Arab world. The abolition of polygamy, the introduction of uniform divorce rights for women and men (both based on progressive interpretations of the Qur'an) and the enhanced status accorded to secular law are also considered to have contributed much to the modernisation and prosperity of Tunisia. In spite of the fact that it has few natural resources, Tunisia is one of the most highly developed countries in the Arab world in economic terms. This positive balance, however, is somewhat relativised by the serious shortcomings that still exist in terms of civil rights, human rights and democracy.



Photo: Schirin Salem



### 2.1.1 Egypt: How the Association for the Development and Enhancement of Women (ADEW) lobbied for gender equality in nationality law

#### (A) Context

The Association for the Development and Enhancement of Women (ADEW) was founded in 1987. ADEW was the first Egyptian women's organisation to specifically take up the cause of female heads of households (*mu'ilaat*) in Cairo's informal districts.<sup>18</sup> Today, in addition to its advocacy work for women's rights and the lobbying it supports poor women. In this vain ADEW offers legal advisory services and other social services and protection for homeless women and victims of domestic violence.<sup>19</sup>

The decision to place reform of nationality law at the top of its agenda was partly the result of ADEW's work with women in Cairo's poorest districts. ADEW noted that poor women were affected much more frequently than they had expected and on a dramatic scale by the negative impacts of nationality law (see below). ADEW decided to conduct a national campaign with the aim of reforming the law. The campaign was highly successful. In 2004 a reform of the law was adopted, which significantly improved the status of children of binational marriages.

In most Arab states, including Jordan and Yemen, children still automatically acquire the nationality of their father. This applies even where their mother has a different nationality from their father and the children are permanently resident in the home country of their mother. One reason for the difference in the status of women and men before the law is the fact that legislation in many Arab states is based on obsolescent European legislation.<sup>20</sup> Another reason is the tacit assumption that wives will move to the home country of their husbands rather than the husband moving to the wife's

country. Religious texts too are cited as justifying this unequal treatment.<sup>21</sup>

The discriminatory legislation often entails massive problems for children of binational marriages. They require a residence permit for the country in which they were born. They are frequently not automatically entitled to attend school. They are required to pay higher tuition fees for vocational schools or universities – if they are admitted at all. Should they travel abroad there is always the risk that they will not be allowed back into their home country.

Until the nationality law was reformed in 2004, it is estimated that about one million people in Egypt were affected directly or indirectly by the discriminatory Nationality Law in place. The consequences were disastrous for those affected. Children were refused essential medical treatment, were refused the right to attend school, were unable to travel and were automatically barred from exercising numerous professions. Where mothers managed to circumvent the legislation, in order to enrol their children in school for instance, this was often only the result of *baksheesh* – sums of money changing hands – and immense efforts to persuade those in charge. The unequal treatment of men and women with respect to passing on their nationality to their children not only contravened Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (which most Arab states have in fact ratified albeit with reservations).<sup>22</sup> In Egypt, the Nationality Law also contravened Article 11 of the country's own constitution, which provides for the equality of men and women before the law. Although this equality is limited in Egypt (and in most other Arab states) by provisions of the Shari'a, or Islamic law, the Shari'a does not cover nationality law, as proved by the Moroccan legal experts Farida Bennani and Zainab Maadi among others.<sup>23</sup>



### No longer a foreigner in my own country

Sometimes Fatma Alem<sup>24</sup> still finds it difficult to believe that it is true. "I am so happy that our constant fights with the authorities are over," the 45-year-old employee and mother from a middle-class district of Cairo declares with obvious relief. "At last my son is no longer a foreigner in his own country!" Fatma Alem's son Nadim is 23 years old, and is studying electrical engineering. Although his mother is Egyptian and he had never been outside Egypt he was treated by the Egyptian authorities until recently as a foreigner. Why? Nadim's father is Syrian, with the result that he too was treated as a Syrian. When, after years of controversy, the Egyptian parliament finally decided in early 2004 to allow women too to pass on their nationality, Nadim was one of the first to apply for Egyptian citizenship, although the procedure was relatively expensive. Having been naturalised so late in life Nadim will not be eligible to apply for any job in the civil service or the armed forces. Nevertheless he is happy. "Now at least I no longer need a residence permit to live in my own country, and I can study under the same conditions as other Egyptians. That is a huge step forward in itself."

### **(B) Strategy**

The reform of Egypt's nationality laws in 2004 to improve the lot of women with non-Egyptian husbands and children of binational marriages was almost certainly influenced by the general political climate at the time. For many years, Egypt has been dependent on development aid from the western world. The aid flows move more easily if the west can discern a certain will to reform and modernise. Since major donors such as the EU and the USA are increasingly making their development aid dependent on good governance, which includes repealing or reforming discriminatory legislation, it seems not improbable that certain reform projects were realised as a result of political influences which had very little to do with the actual matter in hand.

But political calculations alone would surely not have been enough to push through a reform that had caused so much controversy in Egyptian society as the Nationality Law. The fact that the reform was finally realised was also thanks in part to the strategy adopted by civil society groups, led by ADEW.

ADEW's strategy can basically be broken down into four components: regional networking, national coordination, alliances with powerful political partners and highly professional media work. We will look in detail below at each of the individual components.



## Networking

### **Regional exchange of views, ideas and experience**

An exchange of views, ideas and experience in the regional Arab context did much for the sound preparation of the campaign in Egypt, and thus for its success. ADEW made the most of the opportunity offered by several regional conferences to find out as much as it could about the nationality laws in other Arab states, and to report on the situation in Egypt. In 2003 ADEW co-organised a regional conference on gender and nationality in the Arab world. Regional coordination also helped make some political decision-makers more aware of the problem. "I did not realise the scale of the problem until I attended a regional Arab conference on the issue," Faiza Tahnawi told us. Later, in her capacity as a member of parliament, she did much to help push the bill through the Egyptian parliament.

### **National coordination**

#### **Creation of a broad-based civil society alliance for action**

At national level, ADEW aimed to put together a broad-based civil society alliance for action, whose members were to actively support reform plans. Workshops and further training courses were held, at which the most important relevant groups of activists were addressed and their capacities strengthened: officials from the judicial system were involved, as were media workers, politicians and activists of both sexes. Another important factor was contact to universities. Pro-reform academics helped organise public events at the country's universities. In this way, the campaign could reach interested students and academics and mobilise them.

## Alliances with powerful political partners

### **Cooperation with influential individuals from the realms of politics and civil society**

One central concern of ADEW was to mobilise influential political personalities for the cause of legal reform. Among others, Egypt's First Lady, Suzanne Mubarak, became an ally. ADEW also targeted female members of parliament who would be able to support the reform bill inside committees and vote for it on the floor of the house. Initially, the resistance in parliament was great, reports now former member of parliament Faiza Tahnawi. "Not only men were against the reform. Women too. The tenacity with which members of parliament resisted change was unbelievable. The arguments advanced by members of parliament were similar to those voiced in other Arab countries. The new citizens would be an additional burden on the public purse, or would even expect to be given civil service jobs. And anyway why should women be allowed to decide on the nationality of their children; this is patently the reserve of men."

### **Professional media and PR work**

#### **ADEW-produced media products**

Intensive, creative PR work is one of the strategic mainstays of ADEW. The organisation has its own media department with excellent staff, who are given regular further training. The aim is to produce as many media products as possible themselves. Priority is given to products (leaflets, flyers) produced in easy-to-understand Arabic. Some publications are also available in English. Wherever possible, finished articles and videos are provided free of charge to media enterprises.



### **Regional documentary film for national lobby work**

One important outcome of the regional cooperation was the production of a documentary, which presented and compared the impacts of discriminatory nationality laws on women and children in different Arab countries. With international support (from the United Nations Development Programme, the International Development Research Centre and with funding from the BMZ-financed sector programme) a 30-minute documentary was produced, entitled "My Child, the Foreigner".<sup>25</sup> The film presents a total of six women from the Lebanon and Egypt, who face massive problems time and time again in their everyday life as a result of discriminatory nationality laws. The film also identifies the negative impacts of the legislation on the economic and social development of these countries.

### **Creating a pool of like-minded journalists and media workers**

In Egypt, the media play a large part in shaping public opinion. Because of the large number of illiterate citizens audiovisual media, such as television and radio, are very important. But printed media too have a major influence, in particular on the educated middle classes and on political decision-makers. Few journalists in Egypt have the detailed knowledge they would need to report competently on legal topics affecting women and the family. Therefore, gender issues are also often hijacked by Egyptian newspapers, in order to fuel emotions and increase their own circulation.

For ADEW it was then important before the actual launch of their campaign to ensure that as many journalists as possible were on "the right" side. To this end, a large media committee was set up, with 12 journalists and 9 ADEW staff members. This committee was responsible, among other things, for ensuring briefing prior to a major national conference on the issue as well as subsequent debriefing, and for ensuring

regular media coverage. Individual journalists from the committee were also employed by ADEW for a limited period as advisers so as to improve the quality of the campaign's PR work. ADEW provided further training for some of the journalists to enable them to discharge their duties effectively.

### **Expertise + Emotion = Better Impacts**

An absolute highlight of the national campaign coordinated by ADEW was a major national conference on the topic, which was reported at length in the press and on television. This conference and other events stood out by virtue of the fact that they operated at emotive level as well as communicating factual information. ADEW specifically ensured that affected individuals and decision-makers got to know one another in person. "Members of parliament, but also staff members of ministries, police stations and other authorities were forced, in some cases for the first time in their lives, to confront the problems directly, rather than ignoring them as they would generally prefer to do," recounts Shimaa Al-Banna, head of ADEW's PR department.

This sub-concept also included inviting some affected individuals to the conference, where they were given the opportunity to speak in detail in front of the assembled audience about their problems. "A large number of participants found the fates of these individuals very moving," the journalist Karima Kamal recalls. "Women and their children, who had never previously spoken out in public about their problems, spoke openly in front of the camera about what it feels like to be a foreigner in your own country, to find yourself with no rights at all. That had a major impact." Karima Kamal sees this approach as one of the main strengths of ADEW. "What is special about this organisation is that it does not just produce dry statistics. It publicises the fates of individuals."



Photo: Schirin Salem



**Faiza Tahnawi from the Central Egyptian city of Al Minya was an independent member of the Egyptian parliament from 2000 to 2005. Her dedication did much to push the reform bill through the parliament.**

"I have always been dedicated to the cause of women's emancipation. But I stumbled over the problem of nationality more or less by accident, when in 2001 I attended a conference on the issue. I was shocked to discover the scope and repercussions of the problem and decided to dedicate all my energy to getting the law reformed. Initially resistance in parliament was massive. A great many women, including some journalists, advised me not to make the problems of these women my own. After all it was their own free decision to marry a foreigner. I was shocked! As though a woman betrays her country because she marries a non-Egyptian! The Muslim Brotherhood initially also rejected the reform, but later they supported me. First of all, I attempted to forge ahead on my own, against everybody. I quickly realised, however, that I would not get far that way. I then adopted a three-pronged strategy: 1.) Alliances with other members of parliament, 2.) Alliances and close cooperation with the media, and 3.) Close cooperation with civil society, women's associations and other groups."



### **(C) Impacts**

The campaign achieved Impacts at various levels within society and addressed both the public at large and those occupational groups that are strategically important in shaping public opinion, including members of parliament who need to approve any proposed legislation. The fact that the reform was adopted, strengthened the belief among civil society stakeholders and within society as a whole that other reforms too are possible. This is very beneficial for the culture of the rule of law in Egypt. The reform in Egypt is exemplary for the entire region and can help get similar reform processes off the ground in other countries too.

ADEW's campaign opened the eyes of many Egyptians, male and female, to the disastrous impacts that these discriminatory laws can have on entire families. Both those who are directly affected and those who have to deal with the related issues within authorities have become significantly more aware of the problem and its impacts.

Workshops and training sessions for journalists have helped improve reporting on gender equality issues, ensure that processes to shape public opinion are more rational, and have put new issues on the agenda. The number and quality of media reports are an indication that many decision-makers and opinion-leaders have become significantly more aware of women's rights. The film "My Child, the Foreigner" was broadcast by various TV channels across the Arab region, and reached a wide audience. It has also been used by many women's rights and human rights organisations

in their education and lobby work, e.g. at major regional conferences. The documentary on nationality law proved to be a suitable way of communicating hitherto unknown information to decision-makers, making them more aware of the social, economic and political aspects of complex problems.

The focus on specific individual cases made it possible to address the general public on an emotive level and to generate a sympathetic attitude towards the reform project. The first-hand reports in public of affected individuals' experiences expressed the dramatic consequences of legal discrimination, not only for the women themselves, but also for their children and other family members. The motto was to cast aside all inhibitions and make the private sphere public. This has established a new form of communication, which can be used effectively in other contexts too.

When in late 2003 the Egyptian President Hosni Mubarak announced a possible reform of the Nationality Law, more than one thousand applications were lodged with the appropriate authorities within a few days. By the time the law was adopted in March 2004, more than six thousand applications for naturalisation had already been submitted. Several thousand women and their children now enjoy a significantly better quality of life, because they are no longer foreigners in their own country. It is estimated that between one and two million people born after the new law came into force will benefit from the new legal provisions on nationality over the next thirty years.



## (D) To sum up

### ADEW's multi-level approach

<b>The context</b>	About one million people in Egypt are affected by discriminatory nationality laws, which do not allow women to pass on their nationality to their own children.
<b>Strategy</b>	Lobby campaign for a reform of nationality law
<b>Instruments</b>	<ul style="list-style-type: none"><li>• Topic-related alliances with non-governmental organisations and state and parastatal actors</li><li>• Identifying politically influential partners and entering into an alliance with them</li><li>• Bringing together decision-makers and affected individuals, face to face</li><li>• Getting affected individuals to report live on their situation at conferences on the topic</li><li>• Linking lobby work with training and upgrading courses</li><li>• Focus on PR work</li><li>• Documentaries as an awareness raising tool</li><li>• Establishing a pool of journalists who are sympathetic to the cause</li><li>• Dovetailing regional and national actions as far as possible</li><li>• Keeping sight of the need to enforce the legal reforms</li><li>• Embedding the reform demands in the international debate on women's rights and human rights (CEDAW etc.)</li></ul>
<b>Lessons learned</b>	<ul style="list-style-type: none"><li>• Networking and targeted coordination with a variety of partners are an absolute precondition for success.</li><li>• Supraregional (transnational) action research and media production can generate awareness of the need for reform at national level and can accelerate reform processes.</li><li>• Direct contact between decision-makers and affected individuals are possible and effective. In the form of live statements they help generate awareness and can change the views of decision-makers in the desired direction.</li><li>• In spite of a wide spectrum of resistance, new ideas, pragmatism and tenacity can push through important changes in the law, which in the final analysis benefit not only women, but society as a whole.</li></ul>



### 2.1.2 Jordan: National coalition against underage marriage

#### (A) Context

The 1976 Jordanian Personal Status Law No. 5 sets the age limit for marriage at 15 for girls and 16 for boys.<sup>26</sup> King Abdullah II raised the minimum age to 18 by decree, although exceptions are still permitted. In poor districts, rural areas, and most of all in refugee camps, girls are still married very young. "In Jordan we can see two juxtaposed trends: on the one hand towards later and on the other hand towards earlier marriages," reports the gynaecologist Suheil Mustafa Rabie from the Gaza refugee camp near Jerash. Some 90% of his patients were married at the age of 17 or earlier, almost always against their will. In his practice Rabie sees every day how dramatic the consequences of early or forced marriage can be on young women.

They often suffer complications during pregnancy and childbirth.<sup>27</sup> The young wives and mothers miss their own families, and feel cut off and abandoned. "A huge number of my

patients suffer from depression," Rabie tells us. "For most of them, early marriage was a traumatic experience." Being forced to drop out of school, the break with their own parents and siblings, possible violence within their marriage, uncertainty and insecurity, and conflicts with their husbands' families are all a huge burden on these young women. "The worst thing is, that their children often suffer. Their mothers, who are still children themselves, generally cannot give them the education or the emotional security they need."

The social worker Inaam Abu Jdeir, who also works in the Gaza refugee camp, tells us that she sometimes meets very young women, who tell her that they are happy to be getting married. "They want to get away from their parents and hope that their new position as married women will give them more freedom and independence." They are, however, a tiny minority. Most underage girls who are married are desperately unhappy, especially when the family puts them under pressure to have as many children as possible as quickly as possible."



#### It felt like rape

Inaam Asha is a lawyer. She works for the Jordanian women's organisation "Sisterhood is Global Institute/ Jordan" (SIGI/J) where she advises Jordanian women on aspects of family law, and organises campaigns and training programmes on women's rights and domestic violence against women. Inaam Asha knows what she is talking about. She was herself married against her will at the age of fourteen. "I desperately wanted to carry on my schooling. I was the best in the class. My teachers even went to my father and tried to talk him out of it. But it was no use! I was forced to marry my cousin. Immediately after the wedding I ran away twice. I was fourteen years old. They brought me back. It felt like rape. No – it WAS rape. Legalised rape. I had my first son at the age of sixteen. It was terrible. I was still a child myself. But nevertheless I was lucky. My husband loved me madly. Despite my family commitments, he let me finish school and even study. There was never any doubt what I wanted to study – law. I wanted to do everything I could to prevent young girls being forced into marriage." Today Inaam Asha is a lawyer. She is divorced from her first husband. The couple split up amicably after 23 years. Her two sons live with her. Recently, now in her late forties, she remarried. "This time I could choose my husband myself," she said thoughtfully. "It was wonderful!"



For many years Jordanian women's organisations put pressure on the legislative to raise the age of marriage to the age of majority, i.e. to the age of 18 for both sexes, with very little success. In 2001 King Abdullah II raised the age limit for marriage by decree to 18, under a temporary law. It remained unclear whether the Jordanian parliament would confirm this change at a later date. Women's organisations want to see the temporary law become standard legislation. They are also demanding a reduction in the numerous exceptions permitted under the law, which still make it possible to marry off girls at the age of 13 or 14 in spite of the temporary law. "The current law, even the temporary law, is worded far too loosely," a judge, who does not wish to be named, tells us. "Provision is made for so many exceptions, that basically you can forget the minimum age of 18. The exception has become the rule. That is not right." In Jordan temporary laws can be passed if parliament is unable to function for whatever reason. The temporary laws must, however, according to the provisions of the Jordanian constitution, be confirmed by parliament, as soon as it resumes operations.<sup>28</sup>

### **(B) Strategy**

The independent Jordanian women's organisation SIGI/J (Sisterhood is Global Institute/Jordan) was founded in 1998 in Amman. SIGI/J is committed to women's rights and to combating gender-based violence. SIGI/J also runs one of the largest Arabic-language Internet portals on violence against women (AMAN, [www.amanjordan.org](http://www.amanjordan.org)). The organisation is actively involved in several Arab networks to fight violence against women. In 2005 and 2006 SIGI/J conducted a nationwide campaign against underage marriage with the support of the GTZ project *Strengthening Women's Rights*. One goal of the campaign was to explain to the public at large the risks involved in underage marriage, especially for girls.

To generate political pressure for a change in the law, the idea was to convince a large section of the general public of the ills of underage marriage. SIGI/J was extremely systematic in its approach. It was no easy task, recalls the social worker Inaam Abu Jdeir. "So many people said to us, 'My mother married at the age of 12, and we children still turned out all right. So what's the problem?' These people just don't want to believe that the world has become a lot more complicated. It's not enough to bring up children somehow or another. And there is no longer as much state assistance as there used to be. Mothers need a certain level of education themselves if they are going to bring up children to be able to cope with the future."

The target groups of the campaign were clearly defined and limited to the most important actors: young women, parents (of the potentially affected girls), judges at family courts and religious leaders (who are in some cases also judges at the family courts), as well as members of parliament. The following measures were adopted to address the various target groups:

### **Training for multipliers and creative/artistic activities with school pupils and students, discussion rounds with parents**

Selected representatives of secondary schools and community centres were informed in detail about the scale of underage marriage and the negative impacts the practice can have. They were then trained as multipliers. In order to address young men and women, discussion rounds were held at secondary schools and community centres. Teachers sympathetic to the goals of the campaign produced plays and organised painting competitions on the topic with their classes. Discussion rounds with parents, especially mothers, were also organised.



**Further training for judges and religious leaders**  
SIGI/J organised special seminars for judges at family courts and for religious leaders, in which they looked at the negative impacts of underage marriage. A total of 40 judges and religious legal scholars attended these seminars. Initially it was very difficult to convince most judges,

explains the social worker Inaam Abu Jdeir from Gaza (see box), but overall the response was encouraging. "If we manage to convince them, the judges can become our most important ally," reckons Abu Jdeir. "We must continue this work at all costs."



### Channelling sexual energy

"Some of the judges who attended our seminars simply didn't consider underage marriage a problem," recounts Inaam Abu Jdeir, a social worker from Gaza refugee camp, close to Jerash. "Most of them rejected the idea of any age limit for marriage. For them, the minimum age for marriage is bulugh, the age of sexual maturity. At this age, according to the Shari'a, or Islamic law, sexual energy must be channelled as soon as possible. This would mean that girls should marry soon after they start to menstruate. We really worked extremely intensively with the judges, but I think that any changes in their attitudes will come only very slowly. It is simpler to change a law than to change people's attitudes."

### National coordination

#### **Establishing a national alliance of non-governmental organisations**

SIGI/J contacted a total of 34 non-governmental organisations working in the fields of education, health and social affairs, initially in three of Jordan's twelve governorates (Amman, Zarqa, Jerash). Each NGO sent a number of representatives to training courses devised and run by SIGI/J. The agenda for the workshops included IT, communication, presentation and self-management in addition to information about the campaign itself.

#### **Establishing a national coordination group**

The local SIGI/J sections and the women's organisations involved in the alliance appointed coordinators, who together set up a national

working group. This working group also included academics and members of the Jordanian National Commission for Women. The chairwoman of this Committee, HRH Princess Basma Bint Talal, is a member of Jordan's royal family. This ensured acceptance for the campaign even in government circles.

#### **Embedding the campaign within a long-term national reform strategy**

The campaign was embedded in the national reform strategy<sup>29</sup> of the Jordanian government. With a view to this strategy, SIGI/J integrated the issue of marriageable age into a reform package, which included the call for a law to provide protection against violence and a non-discriminatory nationality law.

### **Direct contacts to members of parliament and political decision-makers**

In order to step up political pressure and enhance the PR impact of the campaign SIGI/J established direct contacts to political decision-makers. In addition to technical experts (from the fields of medicine, social work and civil society), the members of parliament of the constituencies in question were always invited to events, along with local and regional contacts in the health, social affairs and education sectors. All participants were called on to support the goals of the campaign with their signature.

### **(C) Impacts**

With their talks, workshops, training courses and cultural events, SIGI/J and its partner organisations reached several thousand women and men, raising their awareness of the problems entailed by underage marriage. About half of all participants stated that their attitude to

underage marriage had changed as a result of the information they had obtained. One mother reported that she had broken off the engagement of her fifteen-year-old daughter, after she had been informed about the dangers of underage marriage. Another young woman, aged 16, who had been taken out of school because of her marriage, was allowed to return to school. At the public events, numerous young women (and some men too) recounted amazingly openly the fate of girl friends, sisters or cousins who had married very young. In this way, public debate about the negative consequences of underage marriage was encouraged and strengthened. Affected individuals too were encouraged to report on their own experiences.

By involving secondary schools and community centres, as well as local women's organisations and ministries of social affairs in the project design, the campaign managed to reach a huge number of potential multipliers.



Photo: Schirin Salem



Some 2,700 participants expressly undertook to support the campaign against underage marriage, and to inform their own environment to the best of their ability about the risks involved in excessively early marriage. The movement to ostracise underage marriage and demand law reforms was thus placed on a broad and diverse social footing.

The organisation of more than 100 joint activities within the scope of coordination work, established a huge number of personal contacts and produced an active and dynamic network, which is still productive, even two years after German support was wound up.<sup>30</sup>

Cooperation with the highest body of judges proved extremely effective. A total of 40 Islamic family judges<sup>31</sup> (*Shari'a* judges) were informed in detail, and with the help of the live reports of affected individuals, about the negative impacts of excessively early marriage on individuals and on society as a whole. Eighteen judges participated actively in a workshop, which debated the exceptions that are permitted under the law on underage marriage. The aim of the workshop was to reduce the number of exceptions permissible and to draw up a pertinent joint memorandum signed by SIGI/J and the judges involved. It was agreed that a joint draft would be developed and that the two sides would cooperate more closely in future.

The Mufti, the highest Islamic authority in the district of Jerash, announced his public support for the campaign. Given the social and cultural significance of Islam in Jordan, his support was critically important.

Members of the national coalition against underage marriage appeared twice on Jordanian television, on morning programmes. The Mufti of Jerash and a local coordinator of the alliance presented the goals and the course of the campaign on television. All major Arabic-language newspapers in Jordan reported on the risks involved in underage marriage, as did the national news agency Petra, thus helping to disseminate information.<sup>32</sup> On the AMAN website, information about the campaign was published in Arabic, thus making it accessible to several million Arabic-speaking users.

In many respects the campaign run by SIGI/J was exemplary, and broke new ground in Jordan. The temporary law on the raising of the marriageable age has not yet been confirmed by the Jordanian parliament, and has indeed been boomeranging between the upper and lower houses. It is still temporary and can thus in theory at least still be overturned.<sup>33</sup>

The SIGI/J campaign has, however, generated a broad debate, which has so far been able to prevent this. The fact that the temporary law has not yet been confirmed by parliament is thought by SIGI/J to be because it used the same campaign to call for other changes to legislation too, including calls for a law to provide protection against violence. Perhaps the distinctions between the various demands were not clear enough.



## (D) To sum up

### Alliances for action and pressure on members of parliament

<b>The context</b>	Law on marriageable age has too many loopholes. Many girls are still married young, especially in poor urban districts, rural areas and refugee camps.
<b>Strategy</b>	Establishing a national coalition and raising the awareness of key persons and multipliers as well as the public at large
<b>Instruments</b>	<ul style="list-style-type: none"><li>• Networking and coordination at national level</li><li>• Campaign with clear, unambiguous messages</li><li>• Public events at which affected individuals speak</li><li>• Direct face-to-face contacts between affected individuals and political decision-makers and experts</li><li>• Agreements (memoranda) drawn up between individual relevant groups</li><li>• Practice-based further training for judges at family courts</li><li>• Use of art and drama</li></ul>
<b>Lessons learned</b>	<ul style="list-style-type: none"><li>• The involvement of Shari'a judges is crucially important (although two one-day seminars are not enough to change their attitudes given the key position played by family court judges in underage marriages).</li><li>• Lobby campaigns for legal reform should focus on one law and have one clear message. Otherwise they risk failing.</li><li>• The establishment of joint platforms between groups which otherwise have little to do with one another (e.g. feminists and religious judges) can generate productive dynamics.</li><li>• Declarations of voluntary commitment on the part of decision-makers are basically an interesting concept.</li><li>• Networking and coordination are of elementary importance and ensure that future activities will be even more efficient and better targeted.</li><li>• Young people in Jordan can gain a lot from drama, although it is generally considered relatively unpopular: this is an art form that is ideally suited for awareness raising work.</li></ul>



## 2.2 Strategies to assert legal entitlements

In the last section we saw that gender-sensitive legal reforms are crucially important to empower Arab women. However, enshrining gender equality in law is often not enough to ensure that women can de facto assert the rights to which they are entitled.<sup>34</sup> Women must know about their rights and it must be financially possible for them to go to court and demand these rights. Frequently, the prevailing social and cultural environment also prevents them from doing so. Also, women must expect to encounter gender-specific discrimination within the pertinent institutions. Whether in Egypt, Jordan or Yemen, almost every woman who has had dealings with a court because of family or personal status issues can tell you about

the misogynistic attitudes and practices of the (almost exclusively male) court officials and judges. "In Egypt we have very few women judges in family courts," the journalist Karima Kamal tells us, "and the handful we do have are not really accepted. If they were taken seriously by men, and if they were more dedicated, then perhaps they could really achieve something." This is why a lot of women abandon the fight before it has begun, and decide to forego asserting their rights. In many developing countries a large percentage of the population turns in any case not to the state structures but to religious or traditional structures to resolve disputes, especially those related to family law. This is why it is important to overcome norms and practices that discriminate against women in these institutions too.

### Astonishing gaps in the knowledge of judges and staff within the judicial system

Often the judges themselves and the registrars are not fully informed about existing legislation. Under Islamic law, for instance, women have the option of including in the marriage contract the right to sue for divorce, the right to take up gainful employment and complete freedom of movement. These options are, however, almost never exercised in Arab countries. Where a woman decides to make use of these entitlements, she often has to fight the ignorance and unwillingness of the judicial officials or judge. When the Jordanian development expert Muna Salameh<sup>35</sup> wanted to have these clauses included in her marriage contract, she was confronted by the disbelieving face of the registrar. "My husband and I wanted to sign the contract in this form, with equal rights for both parties on all issues. But the official had never seen a contract of marriage like that before. He simply couldn't believe that a contract like that was permissible under Jordanian law!" It was not until a judge presented him with the official text of the law and pointed out the relevant provisions that the official would accept the contract.

With the help of two measures of the GTZ project *Strengthening Women's Rights* this section will look at promising strategies that can be adopted in order to make sure that existing legal entitlements are actually used in daily life, thus improving the opportunities open to women in working life, within the family and in public life. The Egyptian organisation ADEW, whose acquaintance we have already made, has done much to enforce women's rights. We will look at two of their campaigns in the following section. The first of these, "Identity documents for women", combined PR work with networking of important professional groups, while the second, which focused on divorce law, concentrated initially on participatory impact monitoring before moving on to include PR work.

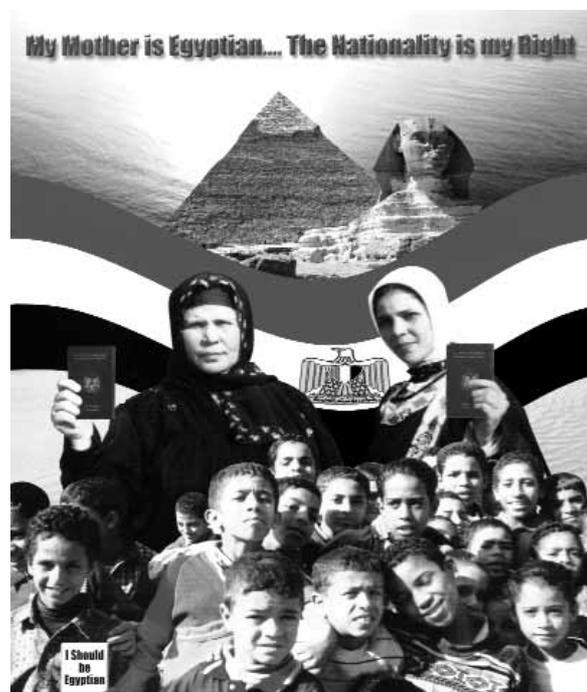
### 2.2.1. Egypt: ADEW secures women's rights to personal identity documents

#### (A) Context

In Egypt, hundreds of thousands of women live without the most basic of personal identity documents. They have neither a birth certificate nor an ID card. "A large number of girls' births are still not registered," explains the journalist Fatma Khir. For many years she has reported in newspapers and on television about the social and legal problems encountered by women in Egypt. "That is why they have no birth certificate. Without a birth certificate they cannot apply for an ID card." Fatma Khir did not expect so many women to be affected by the problem. "I only began to realise the extent of the problem, after I had conducted research in the huge informal districts of Cairo regularly over a period of several months for an action research programme," she tells us. "There are hundreds of thousands of girls and women living in Egypt without the state being aware of their existence. They are not registered anywhere. It is as though they simply do not

exist!" Some girls and women are entered on the ID card of their father or husband. But what happens to them if their father or husband leaves the family, or if he dies? If they are unlucky, the women find themselves with no personal identity documents of any sort. Without a birth certificate they have no chance of obtaining papers, and without these they are totally excluded from social and political life. Without papers, women cannot vote, cannot take a driving licence, cannot apply for a passport, etc. They have no access to social services and will never be employed in the formal sector – without proof of identity they will never be given a contract of employment.

Many of the women affected do know that they can apply for papers, but they fear that they cannot cope with the bureaucracy. A birth certificate and an ID card also cost the equivalent of five euros – well beyond the reach of women who have to survive on the equivalent of fifty cents a day.



Poster: ADEW



### **(B) Strategy**

With the support of the GTZ project *Strengthening Women's Rights*, ADEW thus set out to procure ID cards for as many women as possible. They also aimed to get the authorities to simplify the procedure for issuing documents and ID cards.

So as to achieve these goals, ADEW selected a combination of lobbying and campaign work, as well as networking the authorities responsible for issuing personal identity documents with non-governmental organisations.

#### **PR and media work**

##### **National conference on the issue**

So as to generate as much publicity as possible for the issue, the conference on the Nationality Law (see, for instance Section 2.1.1) was also used to publicise the deplorable situation nationwide as regards the issue of personal identity documents to women. The aim of obtaining personal identity documents for women was thus integrated, as part of the conference concept, into the nationwide coordination work to prepare for the conference,

which brought together a total of sixty non-governmental organisations, community development agencies (CDA) and government representatives from various provinces of the country. The issue was thus very much present in the minds of a certain circle of participants well before the conference.

##### **Cooperation with well-known personalities and with the government**

ADEW managed to attract Suzanne Mubarak, Egypt's First Lady, as an ally. This guaranteed the campaign increased attention in government circles. Members of parliament, members of the National Council for Women, representatives of the Ministry of Social Affairs, the Ministry of the Interior and the Ministry of Information supported the campaign.

##### **Individual reports on experience and documentaries**

Rather than the usual format of keynote addresses interspersed with discussions, ADEW focused on individual reports based on personal experience during the conference. The documentary film "Angry Women", which ADEW produced itself, was one such report. More than



Photo: ADEW

half a dozen women also reported publicly on their own experience and were able to engage the representatives of the Ministry of the Interior and members of parliament directly in discussion. ADEW thus took the fate of individuals as the starting point for necessary reforms, as they had done previously in their campaign to reform Egypt's nationality law.

### **Establishing a media committee**

For the project a separate media committee was established, which brought together journalists and activists sympathetic to ADEW and the project goals. It was the task of this committee 1.) to report regularly in the press and on television on the problems entailed by life without an ID card; 2.) to devise leaflets, posters and post cards on the subject of personal identity documents; 3.) to train and upgrade ADEW staff members in PR work, and 4.) to enhance the quality of ADEW's PR work.

### **Lobby work to target politically influential forces and decision-makers**

ADEW addressed members of parliament, ministry representatives and members of high-level bodies (including the National Council



Photo: Schirin Salem

for Women) directly, in order to mobilise them for the goals of the project. Priority was accorded to personal talks and contacts. ADEW also launched targeted mailing campaigns with press statements and statements regarding individual problems.

### **Establishing task forces at regional and local levels**

Task forces were set up at regional and local level. These were working groups that dealt with concrete problems faced by women with no personal identity documents, on the spot. The task forces brought together representatives of non-governmental organisations, as well as authorised representatives of the Ministry of Social Affairs and the Ministry of the Interior, and police and inhabitant registration office officials.

### **Mobile inhabitant registration offices**

In line with its motto "Protection and Survival", ADEW offered practical support to help women apply for ID cards. The organisation did not, however, have enough staff to accompany every single woman requesting assistance to the inhabitant registration office. ADEW staff members contacted the heads of the registration offices in an effort to find a practicable alternative. A solution was found, in the form of mobile units, which met several dozen women at once in rooms specially rented by ADEW for this purpose, allowing them to submit their applications. "Initially the civil servants and heads of the registration offices were anything but delighted," recounts Montasser Ibrahim, Head of ADEW's Legal Programme. "But then we asked them what they would prefer, a hundred and fifty women at once on their own premises, or here in our offices. We didn't have to wait long for an answer."



### First the ID, then a job – a success story

Widad Naggar<sup>36</sup> cannot tell us exactly how old she is. Her birth was never registered. "I think I'm probably about 46," she reckons. Widad lives with her husband and their four children in a poor part of Helwan. The two older children are already grown up, and work themselves, while the two younger ones are still at school. Widad's husband, Magdi, used to be able to feed the family alone. Then he fell ill. "I had to earn money for the family, but nobody would give me a job because I had no papers," Widad recalls. "I wanted to apply for an ID but I didn't have the money to pay the fees. It was terrible having no ID. Not only because of work, but in everyday life. Every time I had to go to the children's school for whatever reason I was afraid they would ask me and discover that I had no papers. It was so embarrassing!"

Widad found out from a friend that assistance was available. A legal adviser helped her fill in her application. The organisation also paid the fees. "That was a very good thing. They treat you as their equals. You're not a beggar, but a person of equal standing."

In the meantime Widad has found a job with a small development association in her district. "I don't earn a lot, but it's a steady job," she tells us happily. And Widad has plans. "I'm learning to read and write now. Maybe I'll manage to pass the elementary school leaving exams. That's my dream!"

### (C) Impacts

More than 6,000 women in Greater Cairo obtained personal identity documents within the framework of the project, significantly improving their opportunities and quality of life. Several women were able to find better paid jobs as a result, and some were at last able to enforce their legal rights, for instance against divorced husbands or in inheritance cases.

Awareness within the core target group – women with no personal identity documents – has risen markedly. After the national conference, a large number of affected women contacted ADEW to request assistance in applying for birth certificates and ID cards.

The competent and extensive media coverage of the project also helped trigger a public debate about women's rights.

The national coordination and the regional task forces established new channels of communication between groups which rarely worked together otherwise, and civil society organisations were strengthened.

These impacts produced an environment in which it was and will be much easier to achieve changes in legislation and to introduce simplified procedures.

Important decision-makers up to government level were made aware of the difficult situation faced by women with no personal identity documents. The awareness that the procedure for applying for documents must become swifter and less bureaucratic across the country has risen, as has the realisation that good governance is an indispensable precondition for development.



## (D) To sum up

### PR work and networking

<b>The context</b>	Hundreds of thousands of women have no way of asserting their entitlement to personal identity documents, thus effectively barring them from the exercise of their civil rights.
<b>Strategy</b>	A combination of lobby work and networking of major actors to enable women to obtain personal identity documents
<b>Instruments</b>	<ul style="list-style-type: none"><li>• Involving actors close to the government</li><li>• Establishing direct contacts between those affected and decision-makers, and using first-hand reports from those affected to raise the emotive impact</li><li>• Raising awareness with the help of documentaries and nationwide PR work</li><li>• Specifically addressing media employees and involving them in the planning and implementation of PR work</li><li>• Establishing task forces and networking at local and regional level to solve specific problems</li><li>• Making possible customised solutions to concrete problems (mobile inhabitant registration offices)</li></ul>
<b>Lessons learned</b>	<ul style="list-style-type: none"><li>• A large number of Egyptian women who desperately want to apply for personal documents have great difficulties doing so alone.</li><li>• Networking with a variety of partners was important in order to mobilise broad-based support for the goals of the project.</li><li>• Cooperation with the government and with individuals close to the government raised acceptance for the project among the key target groups political decision-makers and administrative personnel.</li><li>• In Egypt it is possible to establish customised solutions with authorities and the police in order to cut red tape and make it easier for women to claim what is theirs by right. The mobile inhabitant registration offices should open the gates for more creative solutions in other fields too.</li><li>• Live statements made by affected women are a very effective way of influencing politicians and decision-makers.</li></ul>



## 2.2.2. Legal provisions of divorce law and legal reality as faced by women

### (A) Context

In Egypt the 1926 Law on Personal Status No. 1 was reformed in 2000, and the so-called *khul'* divorce introduced. Until the law was changed only men could divorce their wives without being required to give any reason (*talaaq*). Women, by contrast, could only file for divorce if they were able to provide evidence of certain difficult-to-prove faults on the part of their husbands, e.g. infertility, absence for a period of more than 12 months, harm or injury to the wife (*darar*) or the husband's failure to provide his wife with material security (*'adam al-infaaq*). Only if a judge confirmed these facts, could a woman lawfully divorce her husband (*tatliiq*).

Since the law was changed in 2000, women in Egypt have been able to file for divorce without disclosing their reasons in front of a court. To do so, however, they must renounce certain rights: the second (often larger) part of the dowry (which the bride receives as security in case of divorce or widowhood *mahr, mu'akhar*) to them upon marriage and the right to maintenance payments for themselves. Maintenance payments for their children and rights of custody are not affected by the introduction of the *khul'* divorce. The woman is entitled to live in the marital home for as long as she is responsible for the common children. Although women lose out on material security in a *khul'* divorce, several hundred women in Cairo filed for divorce under the new law on the first day it came into force.

### Khul' – The background and origins

Khul' was originally a form of divorce that is based on a report on the actions of the Prophet (Hadith) and on a verse of the Qur'an. In the Hadith, the Prophet talks to the husband of a woman who wants to divorce him into granting his wife the divorce on condition that she returns the dowry. The verse of the Qur'an used to justify the reform reads as follows:

"...It is not lawful for you to take back anything that you have given [your wives], except where both fear that they cannot maintain [the marriage] within the bounds set by God: if you [arbiters] suspect that the couple may not be able to do this, then there will be no blame on either of them if the woman opts to give something for her release."

[Sure 2 "The Cow", 229]<sup>37</sup>



The change in the law raised great hopes. It was assumed that divorce would now at last become less bureaucratic and swifter, since a *khul'* divorce precluded the right to pursue the issue through the courts and made no provision for lengthy appeals procedures. It was also laid down that a decision had to be made within six months. Until then divorce proceedings had often taken several years.

Rapidly, however, the problems of the new system emerged. Many judges were unfamiliar with the new law, or claimed to be unfamiliar with it. Numerous women were convinced that in the case of a *khul'* divorce they would lose custody of the children (and thus automatically the right to remain in the matrimonial home)

along with all their financial rights. This was compounded by the general taboo that surrounds divorce. Often divorced women in Egypt face the loss of their social standing. Many women simply do not dare to use their right to a *khul'* divorce because they are afraid of losing their reputation or their standing within the family. Otherwise too, the reality lagged well behind expectations. The proceedings, which by rights had to be wound up within six months, dragged on for more than two years in some cases. The establishment of family courts in 2004 did go some way towards simplifying certain procedures, but did nothing to rectify the general lack of knowledge of many judges and registrars, or their patriarchal attitudes.



**"Society has not yet come to terms with the reform"**

Society has not yet come to terms with the introduction of *khul'* divorce, because it is still deeply patriarchal in nature. The men have the say. Women are not allowed to decide anything by themselves, even when they are prepared to make sacrifices. Many were against the new law, even liberals and some left-wing individuals. We must now see how the *khul'* divorce law is actually put into practice. And we must make our point of view clear. The judges must be familiar with the law in detail, and apply it. In individual cases this will entail confrontation. It is entirely unacceptable that our judges sometimes apply a law, and sometimes not, as it suits them. And it should be the most natural thing in the world that a woman who wishes to end a relationship which has broken down is entitled to do so, when she wishes to do so. Neither do I see why women should stand with empty hands after a *khul'* divorce. It is unfair that a woman should be forced to make material sacrifices if she initiates the annulment of a marriage, while the same does not apply to men. Even where women are prepared to forego everything, the judges still sometimes refuse to grant them a *khul'* divorce. The state must do more here.

Karima Kamal, journalist for the newspaper "Sabah Al-Kheir"



### **(B) Strategy**

Under the banner "*Legal Watch*", ADEW launched a project in 2004 that was hitherto unique in Egypt. It consisted of several different packages of interlocking and complementary measures. Participatory monitoring was to ensure that structural deficits and knowledge gaps in terms of the law and the application of the law were identified. ADEW also aimed to find out which negative or positive attitudes the different actors had vis à vis the new law. At the same time the project aimed to further networking between the ADEW, women living in poor districts and progressive actors within the judiciary and the police force. The following sections look at a few elements of participatory monitoring shaped by the active involvement of relevant actors.

#### **Participatory analysis of court records**

The heart of monitoring activities was an extensive investigation of court records. The aim was to identify the specific factors that were blocking the implementation of the reformed divorce law. Cases were classified by type (maintenance, custody, right of residence). One key figure involved in the study was the lawyer Azza Salah Ad-Din, who advises women on divorce law at ADEW and accompanies them to court. She had to overcome enormous obstacles to complete the study. "It was extremely difficult to gain access to the court records. I had to turn up every day and go through enormously long lists of file numbers of divorce cases. Then I had to persuade the court officials to let me look at the records. This was even more difficult because the officials expected baksheesh for everything."

A total of 1,200 divorce cases handled by family courts in Cairo, Qalubiya, Gharbia and Al Minya were evaluated for the study. Some of these records were also examined separately within the scope of another study.

#### **Active involvement in the study of those involved in applying the law**

In order to gauge the scope of knowledge of lawyers and judges, questionnaires were devised for each of the three case types (maintenance, custody and right of residence). Within the framework of participatory monitoring, relevant actors were not only observed and assessed, but were actively involved. This helped to increase acceptance for the monitoring process and enhanced its quality. It also provided an opportunity to review the study at regular intervals and to discuss it with major stakeholders.

#### **Further training for those involved in applying the law**

Judges and lawyers were given further training in the substantial contents of the law and its correct application. The courses also focused on providing women with gender-sensitive legal advisory services.

#### **Involving users of the new law and education work**

Within the framework of the study the core target group of the project too was mobilised. Some of the clients of local ADEW centres gave individual interviews for the study. In addition, public events were held to inform women about the religious arguments, in order to strengthen their legal position vis à vis lawyers and judges and within their own communities.

### Debates with those involved in applying the new law and women users

ADEW created forums for discussion at which affected women were able to discuss with judges and lawyers which obstacles they face if they attempt to make use of the new law.



Photo: Schirin Salem

### National conference on *khul'*-divorce

The high point of the campaign was a national conference on the issue of *khul'* divorce, at which the gaps in the new law and its shortcomings were presented. The legal, economic and social implications of the law were identified.

### Documentary

ADEW's media department produced an extremely professional documentary entitled "Women without a Shelter" (11 minutes) about women who became homeless after a divorce.



### I don't care what I lose – I just want my freedom

Aziza Dawbeh<sup>38</sup> is 36 years old. At the age of fourteen she was married against her will to a much older man. She has three children, the youngest of whom is eleven. But she has learned to stand up for her own interests. In this she has had the assistance of the ADEW legal advisory centre in Helwan. "My husband did not want our children to stay on at school. He wanted them to go out and work and earn money," she tells us. When Aziza protested, he cut her household allowance. "He gave me the equivalent of fifty eurocents a day, for me and the children to live off," she recounts bitterly. Aziza decided to divorce him. "But my husband refused. Quite by chance I discovered from a friend that there is an advisory centre here for women with legal problems. The advice they gave me was invaluable, because this was the first time I discovered that with the help of *khul'*, I could file for divorce myself. They also told me that if my husband refused to pay, I would get the maintenance payments advanced by the Nasser Social Bank." Aziza applied to the court for a divorce. "A conciliation meeting was held in front of the judge. My husband was still against the divorce, but I stayed firm." Along with Aziza, the ADEW legal advisory services demanded maintenance payments. "Thanks to ADEW I won. Now I get a total of 250 Egyptian pounds a month for my three children (almost 30 euros) from the Nasser Social Bank. It's not a lot, but it's enough. The money is not so important to me. What is much more important is that I am free."



### **(C) Impacts**

The results of the study pinpointed the need for special further training for judges. The training courses allowed judges to reflect on their own patriarchal behaviour patterns and attitudes.

Given the proven shortcomings in the application of the law, pressure was put on the state and on the judiciary to comply with the deadlines laid down by law and not to prolong procedures unnecessarily through red tape or sheer arbitrariness.

In order to improve the material security of divorced and repudiated women, a social fund for destitute divorcees and their children was proposed along the lines of the Tunisian model. The fund is managed by the Nasser Social Bank and has now been operating since 2006.<sup>39</sup>

The dramatic situation of women who have fled domestic violence or lost their home because they have been divorced or repudiated was finally recognised at top level. In a suburb of Cairo, the local authorities made available to ADEW an entire block of flats at the start of 2007, to house women and children who had been victims of domestic violence or who had lost their homes. They are allowed to stay there

for a maximum of six months. Between January 2007 and March 2008 some 40 women and their children sought refuge there for an interim period.

The national conference on the issue of divorce law was extremely successful. More than 100 non-governmental organisations were represented, with some very well known Egyptian feminists, lawyers, doctors, scientists and academics and political decision-makers attending. The shortcomings in the law identified at the conference, and the film that was shown, "Women without a Shelter", gave participants a much deeper understanding of the issue and triggered a debate about the obstacles that women face in gaining access to the law.

The advocacy campaign to improve women's rights led, among other things, to a change in the law. The age until which children are under the custody of their parents was raised to 15 for both boys and girls. That gives mothers and their children greater security on which to base their plans. Women with underage children are now also entitled to stay in the marital home for longer.



## (D) ) To sum up

### Participatory impact monitoring

<b>The context</b>	: The reformed divorce law gives women in Egypt too the opportunity to sue for a no-fault divorce, but for a variety of reasons many women are unable to make use of this opportunity.
<b>Strategy</b>	: Monitoring, documentation and lobbying to publicise shortcomings in the application of the law
<b>Instruments</b>	<ul style="list-style-type: none"><li>• Empirical study based on court records</li><li>• Involving those responsible for applying the law in the study, and offering them further training</li><li>• Explaining to women filing for divorce what their rights are</li><li>• Public forums on the issue attended by women filing for divorce and those involved in applying the law</li><li>• Organising a national conference on the issue with strong media presence</li><li>• Free legal advisory services and the support of lawyers for women affected</li><li>• Intensive media work with documentaries and reports given live by affected women</li></ul>
<b>Lessons learned</b>	<ul style="list-style-type: none"><li>• Judges, court staff and police officers (as key target groups in enabling women to gain access to the law) must be intensively and specifically trained.</li><li>• Participatory monitoring is an excellent advocacy instrument, because it establishes personal and technical relations with potential multipliers in addition to gathering data.</li><li>• Advocacy/awareness raising must go hand in hand with concrete assistance for affected women: in addition to technical orientation poor women need financial support to cover lawyers' fees, someone to go with them to the various authorities, etc.</li><li>• Empirical results and factual knowledge are indispensable for effective lobbying – no lobby campaign can be successful without sufficient data on the fundamental problems.</li></ul>



### 2.3 Disseminating legal knowledge through lobby work with multipliers and religious leaders

For women's organisations and women's rights activists in Arab countries it was not initially easy to cooperate with religious leaders. At first glance, Islamic law (the *Shari'a*) would not appear ideally suited to strengthening the situation of contemporary women, against the background of the generally negative debate about the *Shari'a*, quite apart from the trends that can increasingly be seen towards a more conservative interpretation of the Qur'an, which attempt to publicly justify discrimination against women in the name of Islam.

In Yemen there is no strict division of state and religion, so social and legal changes only have a chance of being accepted if they can be based on religious arguments. In the process of shaping public opinion religious leaders then play an important part, and ideally have the potential to actively advocate respect of human rights.

#### 2.3.1 Yemen: Women-friendly interpretations of the Qur'an

##### (A) Context

In Yemen women are subject to discrimination in many ways, under the provisions of some laws and in everyday life. This discrimination is almost always justified with some reference to religion, but by no means all inequalities can be traced back to the Qur'an and the Sunna. In many cases the true cause can be seen in the country's patriarchal and misogynist traditions and attitudes, which are not anchored in religious texts and which sometimes even contradict the teachings of Islam. Under the pretext

that this is required by "Islam", practices like the following, for instance, are justified:

- Banning girls from school
- Underage marriages and forced marriages
- Restricting women's freedom of movement and freedom to travel
- Obliging women to obey male family members and their husbands (ta'a)
- Limited rights to divorce for women
- Less compensation payable for a woman killed than for a man killed
- Limited rights or no rights at all to give evidence in the case of a capital crime
- Limited rights to custody of the children following divorce
- Limited rights to inherit.

Since the 1980s an increasing number of male and female activists and academics in Muslim countries have been using the sources of Islam to justify democratic reforms and the emancipation of women. The Moroccan sociologist Professor Fatima Mernissi (Muhammad V University, Morocco), the Pakistani university professor Professor Asma Barlas (Ithaca College, USA) and the Iranian Nobel Laureate Dr. Shirin Ebadi are some of them, but some male academics too, such as the Kuwait-born Professor Khaled Abou El Fadl (UCLA School of Law, USA) have been contributing. These reformists are convinced that it is not the Qur'an itself which is misogynistic, but the literal interpretations (*tafsir*) of scholars and the body of the Hadiths. They believe that the religious sources must be seen in the historical context of the period in which they were written and that the *ta'wil* (the interpretation of the content matter) must be accorded greater leeway. To take one example: the Qur'an allows men literally to take up to four wives at the same time. In some Muslim countries this is



interpreted so that men can enter into an additional marriage if they wish. The Qur'an, however, emphasises that a husband must treat all his wives equally. In countries like Morocco, polygamy is then allowed, but is strictly regulated by law. The Qur'an also says that it is not possible to treat all four wives equally. A pro-woman, reform-oriented interpretation thus comes to the logical conclusion that the Qur'an leans towards monogamy, which is confirmed by modern societal developments. The fact that the Qur'an in principle allows a man to marry up to four women must be seen against the historical context of the period. According to this school of thought, the Qur'an must be interpreted in the historical context and cannot be seen as an incontrovertible universal truth. Also, all parts of the Qur'an dealing with a particular topic (e.g. polygamy) must be taken as a whole, in order to draw logical conclusions.

For the proponents of religious reform it is vital to identify the egalitarian elements of the Qur'an. These pro-reform movements do not exist in a vacuum. They are attracting the interest of a growing number of young Muslims, male and female, who would like to see more individual self-determination and equality, but wish to preserve their Islamic identity.

The next section will look at one example from Yemen to illustrate how Islamic actors can be successfully involved in work to raise awareness of women's rights and human rights and lobby for them, and how the traditional barriers between men and women can be called into question if not overcome.

### **(B) Strategy**

The Yemeni women's rights organisation Women's Forum for Research and Training (WFRT) was founded in Ta'iz in 2000.

According to its statutes, WFRT is a non-religious, politically independent, Yemeni women's organisation.

Like most women's organisations in Islamic and Arab countries, WFRT too bases its demands for gender equality on international conventions on women's rights and human rights. This was reflected in the training programmes offered by the Forum in the first years of its existence. The seminars were primarily designed to communicate and pass on international standards. "Initially little reference was made to Islam, which is the main influence on Yemeni society and even more so on gender relations in Yemen," explains Su'ad Ata Al-Qadasi, co-founder and chairwoman of WFRT.

Gradually it became clear though, that the sole focus on international human rights and women's rights standards was not having the desired impact on the target group. "Yemeni society is strongly influenced by religion," continues Su'ad Ata Al-Qadasi. "Any talk of gender equality or the emancipation of women is almost automatically branded western colonialism or un-Islamic here. But it is not right to pretend that the emancipation of women is a privilege reserved for the west. Women have rights in Islam too – you just have to read the texts correctly."

WFRT rethought its strategy. In 2002 it decided to target women specifically to inform them about the rights that Islam gives them. To this end, young female Islamic preachers, journalists, teachers, lawyers and human rights activists were to be trained as facilitators and trainers.



### **Female and male Islamic preachers in Yemen – a unique target group**

Islamic preachers (khatib, and in the plural khutabaa) play a very important role in forming public opinion in Yemen. They can work in one or several mosques at the same time, where they reach hundreds if not thousands of people directly every time they preach. In addition to the weekly prayers on Fridays, they often give talks on religious and social subjects during the week. Many of these khutabaa work voluntarily or are freelance. Since they do not generally report to the Minister of Religion it is comparatively easy to reach them, provided they themselves are open for contacts.

In contrast to their male colleagues, female preachers (wa'idhaat) are a new phenomenon in Yemen. In the 1980s and 1990s Islamic groups and parties (primarily the Islah Party) created a profile for "wa'idha", in order to mobilise women too for their politico-religious ideology. Since then, these preachers have provided targeted religious (and political) instruction for women in private homes and mosques (in special rooms and at special times).<sup>41</sup> Some religious women find the job of wa'idha an attractive option, because it can enhance their social standing.

Initially WFRT-initiated measures provoked protests in Yemen. In some mosques inflammatory speeches were given, condemning the women's forum and the project. The initiative was branded a brainchild of western cultural imperialism. These moves did not fail to have an impact on the target group: potential programme participants suddenly and unexpectedly dropped out.

After a few events had been held with influential personalities within society (members of parliament, journalists, lawyers, preachers) in order to present to them the concept of the measures, however, the organisation noted a positive response and leading figures encouraged it to continue. The overall objective of the measures at the outset (2003-2004, "Raising awareness of women's rights in Islam") was to familiarise female multipliers with anti-patriarchal content matter and interpretations of the Qur'an and the Hadiths. Within the scope of plenary events, men too were introduced to the subject, and some became allies.

The following phase (2005-2006) was dedicated to expanding what had already been learned and going into more depth. The gender issue was also placed in a general human rights and democracy context. The original concept was modified such that special training courses were offered for men alone, so that they too could support the process of rethinking. "The discrimination suffered by women is not only the problem of women, but of society as a whole," explains the current project coordinator Abdelqawi Hassan.

This measure had remarkable impact and requests were received from across the country for similar training courses, as a result of which, during the next phase (2007-2008, "Raising awareness of citizenship in Islam") the next trainers, female and male, were trained. In future they are to publicise, at national and regional level, non-patriarchal interpretation of the sacred texts of Islam as well as international human rights standards.



The strategy of spreading a women-friendly interpretation of the Qur'an for the most part took the form of providing intensive training for female and male scholars. Intensive follow-up services were provided for participants at a later stage when they came to apply their newly acquired knowledge. The measures were also publicised through media reports.

#### **Methods used for training courses**

##### **Selecting the target group**

The target group was very precisely defined from the outset. Participants were to be women and men who could be expected to pass on what they had learned in their own environment. The invited female participants thus included preachers, journalists, teachers, lawyers and NGO activists from six different governorates of Yemen. The women had to have a sound knowledge of the Qur'an and the Hadiths, such that they were able to pass on the teachings of the Qur'an as preachers. They also had to have a certain authority within their own social or professional environment. After initial experiences proved positive, the target group for the training course was widened to include men with similar professional and social profiles.

##### **Revealing the emancipatory potential of the Qur'an**

The training course focused on intensive, critical evaluations of the sacred texts. First of all participants looked at the most important parts of the Qur'an, which deal with the "controversial issues" of freedom to travel, freedom of movement, polygamy and the right to give evidence as a witness. The Qur'an as a whole was also examined for its emancipatory potential. The Hadiths were examined critically for reliability and validity.

##### **Identifying the arbitrary nature of misogynistic interpretations of the Qur'an**

Another way of deconstructing patriarchal interpretations of the Qur'an was to reveal the arbitrary nature of many misogynistic interpretations of verses of the Qur'an. To take one example: the Qur'an does not explicitly bar women from becoming judges. Yet in many Arab countries they are not permitted to act as judges because they are alleged to be "too emotional". On the other hand, in Jordan, for instance, women are punished more harshly than men for certain instances of manslaughter, because they are allegedly "more calculating", i.e. less emotional than men.<sup>42</sup> Contradictions like this indicate that justifications have been selected on a purely arbitrary basis, to the detriment of women. The de facto ban on female judges because of their alleged emotionality cannot be conclusively deduced from the text of the Qur'an.

##### **Taking CEDAW as a legal framework**

The belief that the west aims to conquer the Arab and Islamic world in order to rule the region economically and politically is very widespread in Arab societies and is actively encouraged in some countries (including Yemen) to advance the political interests of certain groups. Non-governmental organisations and activists working explicitly to have international human rights standards respected are therefore often rejected, or at best encounter difficulties when they try to "market" their ideas. The Yemeni women's forum WFRT hit on a simple but astonishingly effective instrument. "We presented religious leaders with parallel Islamic texts and international human rights documents on specific subjects, in particular passages taken from the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and asked them to compare the contents in detail," Suad Ata Al-Qadasi tells us. "And what do you know, most of them were suddenly willing to read and analyse the documents."



### **Working with case studies**

Work with case studies proved extremely helpful. Under the guidance of the Egyptian historian Mona Talab about thirty imams and preachers examined practical cases of discrimination within the framework of a training course. They identified discrepancies between the principles laid out in the Qur'an and the way these are applied in women-relevant legislation.

### **Face-to-face encounters for prayer leaders and preachers: violence against women in the name of Islam**

Another very effective method was to confront Islamic prayer leaders, preachers and legal scholars in the course of the workshops with women who had been victims of discriminatory societal traditions or laws justified by Islam. A total of seven women were prepared, when asked by WFRT, to recount the wrongs they had suffered, from forced marriage to domestic violence. "Many of the men had never before listened so intensively to a woman, or given so much thought to the female point of view," remembers project coordinator Abdulqawi Hassan.

### **Public speaking and writing workshops to strengthen women's self-confidence**

In order to ensure that female participants at the workshops would pass on their newly acquired knowledge and that they were able to make use of what they had learned, additional elements were added to the Qur'an workshops. Among other things, women had the opportunity to improve their public speaking, presentation and negotiating skills. At public speaking and writing workshops some women not only managed to speak for the first time about humiliation or violence they had faced. The opportunity to speak about these things also gave them new self-confidence.

### **Combination of training courses and public events**

WFRT took great care to combine training measures with public events on the subject of women's rights in Islam. This firstly generated greater public acceptance for the anti-patriarchal interpretation of the Qur'an and secondly gave participants of the training courses the opportunity to exchange ideas about what they had learned with other people, to present their own ideas in public and thus to gain more confidence and practice in putting their own arguments.

### **Intensive, personalised follow-up**

To review the effectiveness of the Training of Trainers (TOT) and underpin the long-term effectiveness of the measure, intensive personalised follow-up was provided for participants. Workshop participants drew up short- and medium-term work plans, in which they laid out how they planned to use what they had learned in future. Follow-up meetings were organised at which participants reported on how they had managed to put their work plan into practice, and at which they could receive additional advice. This method, which comes very close to coaching, has proved to be very effective.

### **Spreading the new interpretation**

In order to maximise impact, also at regional level, WFRT posted important materials on the Internet, including the studies drawn up within the scope of cooperation with GTZ. The studies were printed in book form and distributed within Yemen and throughout the Arab world. The material can also be downloaded from the Internet (<http://www.wfirt.org>). Based on the realisation that mosques and also private homes in Yemen are important in shaping public opinion, activities of the trained preachers (male and female) in mosques and in private homes were given special support, since in Yemen (in contrast to other Arab countries)



there is no particularly strong tradition of coffee houses where men meet regularly and discuss controversial topics.

Another important instrument was the contacts established and maintained with national and regional media. Yemeni newspapers and magazines reported regularly in great detail on the project, not only on the workshops themselves but also on specific individual cases.

### **Producing studies on special topics**

An important part of the cooperation between the Forum and the GTZ sector project involved the production of scientific studies on key issues pertaining to patriarchal laws and behaviour patterns. The first of the three studies was entitled "Ten obstacles on the road to women's rights in Islam (*'ashara awa'iq amam huquq al-nisa' fil 'islam*)".<sup>43</sup> The study was written by Muhammad Saif Al-Udeini, an Islamic legal scholar trained in Saudi Arabia and well known beyond the borders of Yemen. In the past, his critical publications have on several occasions provoked scandal and protests from ultra conservative forces. With its "ten obstacles", the study shows in detail that numerous laws and social traditions in Yemen, which discriminate against women, have no basis in the Qur'an or in the Sunna.<sup>44</sup>

### **(C) Impacts**

Workshop participants learned that there are various different interpretations of the Qur'an, and that they, as believers, have the right to find their own path to the text. Women and men were encouraged to use their capacities for critical and logical thought.

Many women feel that the project has strengthened their position. They are now more self-confident when they attend the mosque,<sup>45</sup> when they visit schools, within the family or at their workplace, and are better able to defend their own interests. One young woman preacher who had never lifted the veil that covered her face

(*litham*)<sup>46</sup> in public, decided in the wake of the project to abandon her veil and work as presenter of a religious television programme.

Several young women reported that they suffered major internal conflict, because on the one hand they were committed Muslims, but on the other they could not accept the discrimination and the numerous restrictions forced on them in the name of Islam. The anti-patriarchal interpretation of the Qur'an offered these women the opportunity to redefine their religious identity in positive terms. "For a while my parents wanted to forbid me to leave the house alone and go to work. On the street and in the bus I was sometimes insulted because I only wore a headscarf, but no veil over my face. I was at loggerheads with Islam because there was so much that I found unjust," project assistant Arwa Al-Qawi tells us. "Now I have realised that Islam is compatible with a modern life. That was unbelievably important to me."

Some preachers who had previously been radically anti-feminist and anti-western questioned their own convictions and gradually moved away from their patriarchal, and in some cases radical, convictions. "Only a few years ago I decried feminists in the mosque as the agents of the west," preacher Abdulqawi Hassan tells us. He now works as a project coordinator for WFRT. He only became involved in the WFRT project in the first place because he wanted to fight it, but instead of convincing others of his point of view, he found himself convinced. "When I preached I used to say a lot about the role of women in Islam and I rejected progressive women's organisations. In retrospect I must say that my arguments were extremely ideological and not based on much real experience with the subject. The encounters with affected women in the course of the workshop and the events organised by WFRT opened my eyes to how difficult the lives of many women and girls really are in our country."



### **Only the Qur'an counts – and according to the Qur'an men and women have equal rights**

Our problem is that the patriarchy is equated with Islam. When I explained that in my mosque I was thrown out. Since then I haven't been allowed to preach there on Fridays. Quite honestly, that doesn't bother me, because now I feel much freer. I make a strict distinction between the essentials of Islam, and what people have turned it into over the centuries. If we lived out Islam as the Prophet intended at the time of the revelation we would not have a problem. We need to ask what sources should be the most important for us as Muslims. For me personally the answer is the Qur'an and only the Qur'an. I'm not interested in the rest. And according to the Qur'an, men and women have absolutely equal rights.

Abdulqawi Hassan, preacher and WFRT project coordinator

Several male participants declared that their relationship with their wives, sisters and daughters had improved. They now respect them to a much greater degree. "When I argued with my wife before, I often just sent her away without really solving the problem," a schools inspector, who works voluntarily as a preacher, tells us. "Now I try to listen more to her and to take her views seriously. This has made our life together much more harmonious."

The project has now trained about 60 multipliers, who are spreading reformist approaches to Islam in various urban and rural parts of Yemen, some extremely actively. WFRT estimates that through the country's mosques alone, a total of some 35,000 people have been given information on women's rights in Islam. Male and female teachers have taken the issue into the schools across the country, reaching an estimated 25,000 schoolchildren.

Some participants have used the skills they acquired during training to establish new initiatives and associations that are helping to empower women and foster gender equality.

The psychologist Wafaa Salihi, for instance, founded the first independent family advice centre in Ta'iz. The centre offers talks that provide general information on women's rights and family law, guidance for young people and conflict management for families. It also advises women who have been victims of domestic violence.

The high level of demand among women for more workshops, and hence more trained trainers, suggests that the project has been taken notice of and felt to be relevant by numerous actors.

The project has also helped to open up new and important channels of communication: actors who otherwise had little contact with one another, communicated directly. This applied firstly to religious men and women but also to religious and non-religious intellectuals and members of left-wing and Islamic political parties. The call for greater gender equality within the framework of Islam was thus placed on a broader footing within society.



Almost all men and women who completed a training course subsequently worked extremely actively for women's rights in their own environment. Some of them were themselves already working at political level or were able to use their contacts to politically influential

personalities, such as members of parliament. In this way, for the first time ever, a reform of women's rights to give evidence as witnesses and of so-called "blood money" (*diyya*)<sup>47</sup> was debated at top level.



#### **Murdered or killed – is a woman then worth only half of what a man is worth?**

Anybody killing another person intentionally or unintentionally can make good the act under Islamic law by making a cash payment to the family of the victim. In Yemen it is customary that only half as much is payable for a dead woman as for a dead man. This practice is justified by reference to Islam, but there is not one single verse in the Qur'an that mentions details of this sort with reference to the sex of the victim of a killing. "You who believe, fair retribution is prescribed for you in cases of murder: the free man for the free man, the slave for the slave, the female for the female. But if the culprit is pardoned by his aggrieved brother, this shall be adhered to fairly, and the culprit shall pay what is due in a good way" (Qur'an Sure 2, 178).<sup>48</sup> With reference to this verse, non-governmental organisations in Yemen are trying to have the law reformed such that men and women are granted equality in terms of the blood money payable. Since the end of 2007 some members of the Yemeni parliament have been attempting to get a pertinent bill off the ground.

The project *Women's Rights in Islam* triggered a remarkable response among the general public in Yemen, which is still reverberating. The media too responded strongly to the project and its strategy. Unfortunately this applied more to the printed media, which have a limited influence in Yemen because of the low level of literacy among the population.

The response of the audiovisual media, which are more relevant for society as a whole and at

political level, was not quite as strong as WFRT would have liked. "Television and radio are still entirely in the hands of the government in Yemen," explains Su'ad Ata Al-Qadasi. "Representatives of civil society are very rarely invited to take part in discussions or interviews. We have practically no opportunity to buy advertising time or anything like that. WFRT is now considering approaching the pan-Arab satellite television stations more directly<sup>49</sup> and perhaps even broadcasting itself.



## (D) To sum up

### Women-friendly interpretations of the Qur'an

<b>The context</b>	Religious texts and legal norms are interpreted in such a way as to discriminate against women.
<b>Strategy</b>	Women-friendly interpretations of the Qur'an with religious leaders and change agents / multipliers
<b>Instruments</b>	<ul style="list-style-type: none"><li>• Identifying emancipatory potentials in the Qur'an</li><li>• Revealing the arbitrary nature of misogynistic interpretations of the Qur'an</li><li>• Using CEDAW as a legal framework</li><li>• Working with case studies</li><li>• Organising encounters between prayer leaders and preachers on the one hand and affected women on the other</li><li>• Public speaking and writing workshops for women as preachers</li><li>• Intensive, personalised follow-up</li></ul>
<b>Lessons learned</b>	<ul style="list-style-type: none"><li>• It is possible to bring apparently incompatible actors such as women's organisations and deeply religious, in some cases fundamentalist, Islamic leaders around one table to discuss a highly controversial issue.</li><li>• Islam has progressive potential which cannot replace international human rights standards, but which can be used in a complementary fashion in order to push for human rights for women and men in everyday life; the different systems of values should not be seen hierarchically from the outset but left side by side on an equal footing.</li><li>• By involving men in the workshops and the round tables they too were able to realise that the oppression and disadvantaging of women is not just a problem of women, but of the whole of society.</li><li>• "Expertise + Emotion = Impact". The focus on the fate of individuals and face to face encounters with affected women, including within the framework of conferences, engenders greater identification with the subject matter covered by the training course.</li><li>• An intensive personalised follow-up helps ensure the sustainability of what had been learned.</li></ul>



Photo: Schirin Salem



### 3. Prospects: Realising women's rights within the framework of good governance

The case studies presented in this publication all come from the *Mashreq* or eastern Arab countries. Much of the content described here is not even transferable from one country of the Mashreq to another, as they vary hugely in historical, political and social terms. Far less can they be transferred to the Maghreb or Arabic-speaking countries of North Africa. Yet if we compare them we can identify a few basic ideas, which could be used in various Arab countries, provided they were adjusted to the specific sociocultural context.

- 1) Linking lobbying with training and action research
- 2) Targeted work with employees of the judiciary and religious leaders (male and female)
- 3) Establishing national and regional alliances (networks) for campaigns and on individual topics
- 4) Professional media work
- 5) The combination of expertise and emotion in PR work
- 6) Creativity and courage when dealing with public institutions
- 7) Customised solutions to practical problems

A central factor in the success of all projects presented in this publication was the combination of lobbying with training measures and action research. Field studies often provided a basis on which well-founded points of view and political recommendations could be drawn up. Intensive PR and media work was, however, every bit as important. Documentaries and public hearings at which affected women tell their own stories live proved to be particularly effective in lobbying and advocacy. One remarkable aspect was how freely many women spoke about their personal problems in public,

in some cases in front of a camera. This experience has called into question the traditional view of a "culture of shame" and taboos in some Arab countries.

The reach of PR work was, however, limited by the fact that most Arab states do not currently enjoy democracy or freedom of opinion. This is an obstacle for change agents in the respective countries. When the key media (radio and television) are state-controlled, every public campaign comes up against its limitations. If elementary human rights are to be achieved for women then, this must be done within the framework of complementary measures to achieve good governance. Good governance, which is marked by the rule of law, the respect, protection and gradual guarantee of human rights, involving the population in the political process, introducing economic policy geared to establishing a social market economy and ensuring macroeconomic stability, and efforts to stamp out corruption, is seen as a core element of pro-development framework conditions and as a precondition for national and foreign investment.

Local and regional non-governmental organisations, and progressive, committed individuals inside and outside institutions are the main actors in contemporary Arab societies involved in ensuring that human rights and women's rights are respected and in achieving greater gender equality. Dedicated women, and also numerous dedicated men, are the ideal partners for donors from industrialised countries when they aim to test and realise innovative project approaches.

In order to achieve a broad impact, however, local actors need to cooperate with political decision-makers and state structures. Under both traditional and state law, women are ultimately dependent on a properly functioning administration of justice and well-



trained, non-misogynistic judges, if they are to demand their rights with success. Projects with judges (male and if possible also female), with employees of the judiciary and also with the police force can bring about a great many positive changes. In the projects presented here, innovation rather than confrontation has proved to be the best way of improving the legal situation of Arab women and thus enhancing their quality of life.

Encouraging innovative approaches applies also to the way we deal with Islam. All projects presented here, however different they may otherwise be, have shown that Islam is not per se an obstacle to development. Indeed quite the reverse is true. An in-depth study of the fundamental scriptures of Islam and the cultural system of references shaped by Islam can generate important impetus for development cooperation. The targeted involvement of religious leaders can encourage the spread of progressive ideas and help to accelerate legal reforms. Naturally Islam cannot replace international human rights standards. Nor should it do so, but it is possible to interpret Islam such that the two approaches are mutually complementary, thus significantly strengthening the impact of women's rights and human rights projects.

In addition to the projects presented here, GTZ is implementing bilateral projects and programmes on behalf of BMZ, which specifically aim to strengthen women's rights. The majority of these interventions are based in Muslim countries. The concrete conditions and experience gained vary widely, as might be expected given the wide spectrum of socio-cultural contexts. It is, however, gradually becoming clear that the interaction between culture and religion in the context of a conservative interpretation of Islam presents a challenge to all efforts to overcome gender-based discrimination against women and girls.

The regional contexts and projects outlined in this publication also demonstrate that women's rights and gender are important development issues in the Arab and Islamic world. Empowering girls and women and ongoing efforts to achieve gender equality are elementary preconditions for democratisation and better governance and are equally a yardstick with which to measure improvements in these areas in the Arab world. Against this background it is not enough to deal with gender as a cross-cutting issue. It must remain a field of action in its own right until further notice.

This corresponds to developments in the region itself. In Arab countries the issues of women's rights and gender continue to mobilise great societal and political forces. At the same time women's organisations and women's rights organisations are some of the most important change agents, not only with respect to women's rights, but with respect to human rights and civil rights in general.

The strategies and instruments laid out here to fight the discrimination against women anchored in law make it quite clear that contemporary Arab societies have major potential for change and development. This potential must be used to the full, also in terms of other reform processes within the scope of development cooperation as an integral part of moves to realise good governance.



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- 1 See: UNDP (2006): p.7.
- 2 See: the progress reports of Arab states with respect to the Millennium Development Goals (MDGs), or for instance for Yemen and Jordan the regularly updated statistics published by the UN Economic and Social Commission for Western Asia, ESCWA ([www.escwa.un.org](http://www.escwa.un.org)).
- 3 In 2005 47.6% of women and 25.3% of men were unable to read and write. (see ESCWA (2005), <http://css.escwa.org.lb/Abstract/chap02/swf/2-1-Escwa.swf>) (as at 30 October 2008).
- 4 See: UNDP (2006): p.8ff.
- 5 See: ESCWA (2004): p.215.
- 6 See: UNDP (2006): p.83.
- 7 For instance, in most Arab states women need the permission of their husband or father to work outside the home or to travel.
- 8 This publication will not be dealing with legislation that targets non-Muslim women.
- 9 The Arab Human Development Report, which was dedicated entirely to the rise of women in the Arab world in 2005, thus calls for a modern interpretation of the Qur'an. See UNDP (2006): p.147.
- 10 The principle of gender equality can be found in all international and regional human rights conventions, for instance in the form of the principles of non-discrimination, participation, transparency and gender equality.
- 11 <http://www.bmz.de/en/figures/millenniumsentwicklungsziele/mdg3.html>
- 12 UNDP (2006): Foreword by the Administrator, UNDP.
- 13 Ibid: Executive Summary, p.2.
- 14 Often because processes and procedures involving state institutions are protracted, costly and susceptible to corruption.
- 15 See: Section 2.1.1 on Egypt's Nationality Law.
- 16 See: Würth (2004): p.1.
- 17 Ibid: p.10.
- 18 These are new districts that have sprung up on the edge of the city, e.g. Manshiet Nasser, with provisional housing that was erected without building permits and which over a period of many years was largely removed from the formal administration of the city.
- 19 ADEW opened the first independent women's shelter in Egypt. Bait Hava (Eva's House) is situated at an undisclosed location in the environs of the Egyptian capital, Cairo.
- 20 Most Arab states based their nationality laws on European models and have not reformed these laws for decades. In most European states too, women were not able to pass on their nationality to their children until fairly recently, only a few decades ago. In Germany it was not until the mid-1970s that women were accorded this right.
- 21 See: CRTD/UNDP POGAR: (2004). <http://www.pogar.org/publications/gender/nadia/summary.pdf>. See also Hijab (2003).
- 22 The majority of Arabic-speaking countries have entered reservations to Articles 9, 15 and 16 (<http://www.un.org/womenwatch/daw/cedaw/reservations.htm>), which deal with gender equality in terms of the nationality of children, the legal provisions governing freedom of movement and free choice of residence and domicile as well as marital and family issues. Most arguments advanced are based on the pretext that these provisions conflict with the Shari'a.
- 23 Bennani, Maadi/UNDP & POGAR (2003). <http://www.pogar.org/publications/gender/nationality/nationality.pdf>.
- 24 The names of beneficiaries and affected individuals have been changed. Project staff members, activists and experts are referred to by their actual names.
- 25 Directed by Christine Garabedian, 2004. Arabic with English subtitles.
- 26 See: [http://www.policyproject.com/pubs/countryreports/ARH\\_Jordan.pdf](http://www.policyproject.com/pubs/countryreports/ARH_Jordan.pdf).



- 27 Barakat, Funk, Kröhn, Würth (2007): p.13ff.
- 28 In the wake of the 9/11 attacks in 2001, Jordan's King Abdullah II postponed the parliamentary elections scheduled for November 2001. These were then held in 2003. During the intervening period the King ruled by decree and with the help of "temporary laws". Several legal modifications made during this period that improved the situation of women have since been overturned by the Jordanian parliament. So far, the lower house of parliament has rejected the law on marriageable age, but it has not yet been definitively overturned.
- 29 See: [http://ec.europa.eu/world/enp/pdf/country/enpi\\_csp\\_nip\\_jordan\\_de.pdf](http://ec.europa.eu/world/enp/pdf/country/enpi_csp_nip_jordan_de.pdf).
- 30 SIGI/J resumed the project with new donors in 2008.
- 31 Women are barred from becoming judges in Jordan.
- 32 In Jordan 95% of the population as a whole is literate. In theory at least printed media can have a significant impact.
- 33 When we went to press, the law had been shelved according to SIGI/J president Asma Khader.
- 34 Poorly functioning, extremely slow judicial systems with underqualified lawyers and corrupt judges are a major problem in the Arab world. Cf. Barakat, Funk, Kröhn, Würth (2007).
- 35 Name changed
- 36 Name changed
- 37 See: The Qur'an, translated by M.A.S. Abdel Haleem, Oxford World's Classics, Oxford University Press, 2004, p. 26.
- 38 Name changed
- 39 Technically the fund is managed by the Nasser Social Bank, which is financed by zakat payments (zakat = alms donated under Islamic law, and one of the five pillars of Islam). In line with a proposal made by ADEW, the social fund is financed by raising a special fee on all official documents issued by registry offices.
- 40 It was previously 10 years for boys and 12 for girls.
- 41 The special feature of Yemeni society is that alongside the mosques, private homes and in particular qat gatherings are very important parts of public life, for both men and for women.
- 42 In Jordan, for instance, extenuating circumstances apply to a man who kills his wife having discovered her indulging in sexual intercourse with another man, because this is a crime of passion. A woman killing her husband under the same circumstances does not benefit from extenuating circumstances. The killing is treated as murder and the penalty is accordingly harsher.
- 43 Al-Udhaini, Muhammad Saif (2004) (in Arabic).
- 44 In addition to the Qur'an itself, the Sunna, which consists of the Hadiths, a collection of reports on the actions and statements made by Mohammed, is an important source for Islam.
- 45 Generally women have their own rooms and a high-profile presence in the mosques, through charitable projects, for instance. A distinction must be made between the prayer leader and the preacher here. Female prayer leaders are still extremely rare, and are generally only permitted to lead the prayers of the women. Female preachers by contrast are permitted to preach in front of a mixed audience.
- 46 Until the 1990s the litham was worn especially in the towns of North Yemen. The garment was less widely worn in rural areas and in South Yemen. Today more and more Yemeni women are starting to wear the litham. Women who do not wear it are said to be "naked" in Yemen, even if their head is covered by a headscarf. The public pressure on women, especially young women, to wear the litham is extremely marked throughout Yemen.
- 47 To date only half as much compensation is payable in Yemen for a woman killed as for a man.
- 48 See: The Qur'an (2004): p.20.
- 49 A workshop organised by WFRT was broadcast live by the Arab satellite TV station Al-Jazeera.

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