



## **Women's Access to Justice in the Middle East and North Africa Region**

### **Current situation, advances, and challenges**

#### **Background**

In the male dominated, patriarchal societies of the Middle East and North African (MENA) region, deeply entrenched cultural norms and misinterpretation of religion justify the continuous gender inequalities that deny women their rights. Arab states and societies have failed to fulfil their commitment to reduce gender inequality, as stipulated in international conventions and treaties such as the Beijing Platform of Action.

Many of the constitutions in the Arab countries require equality among all citizens; however, constitutional provisions have not translated into equality in private or public spheres. The gap between governments' constitutional commitments to equality and the reality of women's lives persists, particularly with regards to personal status laws (PSLs), which govern all matters pertaining to family life, including marriage, the spousal relationship, divorce, and child custody. Across the region, personal status laws are widely seen as one of the primary sources of discrimination against women in legislation and practice. In Lebanon, for example, systematic bias is reflected in discriminatory provisions of the multiple personal status laws, which apply to citizens based on their religion. The penal codes in most Arab countries also treat women and men differently, particularly with regards to provisions related to honour crimes, rape, and adultery.

While the majority of the Arab countries, (with the exceptions of Qatar, Somalia, and Sudan) are signatories of the Convention for the Elimination of all forms of Discrimination against Women (CEDAW), ratifying CEDAW has thus far not had a concrete impact on the status and situation of women in the region. The majority of countries, which have ratified CEDAW, have done so with reservations to Article 2 – which stipulates equality before the law and prohibits discrimination against women in national constitutions and legislation – and Article 16, which refers to eliminating discrimination within marital and family relations. Reservations to these crucial articles effectively hamper the ratifications' impact on gender equality. Lifting reservations to CEDAW, harmonising national legislation with its provisions on gender rights, and ensuring its implementation will significantly reduce the violation of women's rights (WR) in the Arab countries.

The Arab Human Development Report: [Towards the Rise of Women in the Arab World \(2005\)](#) acknowledges that while many provisions of national legislation still discriminate against women in the Arab world, there has been notable progress toward gender equality under the law. Over the past years, legislative advances, particularly with regards to nationality law, have been made, following decades of lobbying by women's rights organisations and human rights activists with support from international organisations. For example, in Yemen, the nationality law has now been amended allowing Yemeni women to transfer citizenship to their children. In Jordan, following

intensive lobbying by women's organisations for legal protection against gender-based violence, the government enacted the Family Protection Law in 2008 and established a specialised court in 2009 to handle cases involving "honour crimes". In Lebanon, a law of violence against women is being reviewed by the Parliament, while in Egypt achievements include the passing of the *khul'a* law, which permits women to divorce without a husband's consent, the establishment of a family court, and revisions to Egypt's nationality law.

Reforms have been perceived by civil society organisations as positive if incomplete. Governments still do not ensure adequate legislation to fully protect women's rights, and state structures such as the judiciary and police force fail to implement laws that do exist, threatening to negate the positive impact of these reforms. 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<sup>1</sup>. Civil society organisations (CSOs), moreover, point out that ordinary women are not sufficiently consulted in the legislative reform process. In Egypt, for example, activists report that those who were involved in the process of drafting and debating Personal Status Law No. 1 of 2000 and Law No. 10 (introducing new family courts) did not solicit the opinions of ordinary women in a meaningful and consistent way<sup>2</sup>. As a direct result, vulnerable women most in need of legal aid, such as poor illiterate women, women abandoned by their husbands, left without child alimony or those who are physically abused, are unable to find the legal guidance to protect them. For women to get a divorce, to claim alimony, and to claim their rights to land requires a functioning and gender-sensitive justice system. In the absence of access to justice, women are unable exercise their rights and secure their rightful place as equal members of society.

More specifically, in the MENA region, women's access to justice is hindered by the below factors.

### **1- At the individual level: limited legal knowledge and awareness**

Poor women living in Egypt, Iraq, Jordan, Lebanon, and Yemen lack legal knowledge and awareness. In particular, women abandoned by their husbands, left without child alimony or physically and sexually abused, are not aware of legal measures that protect their rights and are unable to access services in case of rights violations. The fact that literacy is necessary to initiate legal proceedings in many countries is particularly disadvantageous to uneducated females. According to Oxfam GB partners, illiterate women and women who live in remote rural communities and in conflict zones are the most vulnerable groups since their opportunities to access information on their legal rights are severely curtailed.

Currently, national government-sponsored programmes on legal awareness are inexistent or insufficient to address the needs of women. The government of Egypt for example recognises that despite legal awareness initiatives run by the National Council for Women, including toolkits and audio-visuals explaining laws in simple, semi-colloquial question/answer format, rural women in particular are insufficiently aware of their legal rights<sup>3</sup>. The UN CEDAW has also repeatedly

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<sup>1</sup> On the Way to Improved Legal Reality, GTZ, 2008.

<sup>2</sup> Recent Reforms in Personal Status Laws and Women's Empowerment "Family Courts in Egypt", The American University in Cairo Social Research Centre 2008.

<sup>3</sup> Egypt: Combined sixth and seventh periodic reports of States parties: Consideration of reports submitted by States parties under article 18 of the CEDAW, 2008.

recommended to the governments of Lebanon and Jordan<sup>4</sup> to enhance women's awareness of their rights through sustained legal literacy programmes and legal assistance. In fragile states that are experiencing conflict such as Iraq, the government deprioritises women's legal awareness projects. While national NGOs in the targeted countries strive to fill this void, their outreach remains limited. According to Oxfam GB partners, Egypt, with a population reaching nearly 80 million, only has ten NGOs that provide comprehensive legal services to women, and in Iraq, only five NGOs working on women's legal knowledge are operating in the Kurdish territory. Media in the targeted countries also do not play an active role in the dissemination of information to women on their legal rights. Improved legal literacy and education would enable disadvantaged women to know that it is possible to seek redress through the justice system, whom to demand it from, and how to start a formal judicial process. Legal information and education strategy not only empowers women in demanding their rights, but also increases the accountability of police, lawyers and judges.

## **2- At community level: customary laws and social norms**

Even where the rights of women are formally granted in both the constitution and legal codes, these rights are not being fully implemented due to customary laws and social norms. Informal customary practices can override formal legal provisions so that state legislation is frequently ignored, undermining women's capacity to formally seek justice through formal means. Moreover, the spread of shame (*haram*) associated with the patriarchal dominance in the Arab region limits women's proactive role in seeking legal assistance when needed. Due to what is commonly considered appropriate or inappropriate behaviour for a "dutiful, decent and virtuous wife", recourse by a woman to the courts to demand her rights, or those of her children, is widely frowned upon and as a result many women refrain from pursuing their family rights through official legal processes. Male members in the family including the husband, father and brother play a role in restricting the access of women to justice. According to an assessment by Legal Aid in Jordan, women are controlled by culture and tradition as well as the tribal system that deter them from seeking justice and protection through formal legal systems.

## **3- At the institutional level**

### **a. Gender bias in institutions**

The negative attitude of men who dominate police, judiciary and legal institutions hinders women's access to fair and timely justice. Reports from various jurisdictions in the Arab region indicate that legal and judiciary institutions often lack sensitivity, show indifference or open hostility to women's experiences and rights claims. Whether in Egypt, Jordan, Lebanon, or Yemen, almost every woman who has had dealings with a court because of family, sexual crimes, or personal status issues can recall the patriarchal and discriminatory attitudes and practices of the almost exclusively male court officials and judges. The police can hinder access to justice by refusing to take such claims seriously by, for example, refusing to investigate or prosecute<sup>5</sup>. This is especially the case for "honour crimes" where police officials do not investigate such crimes with the same vigour as they might for other crimes. In Egypt for example, where victims of sexual crimes are received in "shift

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<sup>4</sup> Lebanon: Concluding comments of the Committee on the Elimination of Discrimination against Women, 2008; Jordan: Concluding comments of the Committee on the Elimination of Discrimination against Women, 2007.

<sup>5</sup> 'Background Paper on Women's Access to Justice in the MENA Region', paper presented by Reem Bahdi for IDRC, Regional Consultation, December 9-11<sup>th</sup>, Cairo, Egypt.

offices” at police stations and are obliged to describe incidents in front of anyone in the area,<sup>6</sup> the lack of privacy deters many women from reporting crimes. In Lebanon, abused women can either seek justice from religious courts – these vary from one community to another and depend on the person’s sect – or penal courts. In case of the latter, a victim can file an official complaint, but this is generally addressed to officers who are not trained for the task or who don’t take spousal abuse claims seriously.

### **b. Unaffordable legal services**

One of the greatest impediments to justice for women is the lack of economic resources: the cost of filing a lawsuit and the ongoing expenses of prolonged cases deter many from defending their rights. Affording lawyers is often beyond the means of impoverished women, and without financial means for legal advice, representation and associated costs, women are unable to go to court and demand their rights. In Jordan, a 2010 assessment report by Legal Aid confirms that often-exorbitant legal fees hamper those that strive to claim their legal rights: *‘Mona wanted to file a lawsuit to claim compensation for arbitrary divorce and demand her deferred dowry, she resorted to a lawyer for the lawsuit brought upon. However, due to her inability to pay for the cost for a lawyer, she has changed her mind in claiming her rights.’*<sup>7</sup> In Iraq and Egypt, where placing a case at court is relatively cheap (averaging US\$50 and \$130 respectively), the high fees of lawyers (ranging from \$500 to \$1,500) combined with lengthy litigation period (averaging one to four years in maintenance cases and one-three years in case of divorce in Egypt), deter poor women from initiating legal proceedings. Most, if not all cases placed by women are related to personal status and family laws (FLs). In Lebanon, court fees for divorce can reach up to \$500 and lawyer’s fees for a divorce case up to \$5,000.

This difficulty is compounded by the fact that mechanisms such as support for legal costs, free legal aid, or financial schemes are virtually nonexistent in Arab countries. Even in countries which have progressive legal provisions such as Lebanon (Article 427 of the code of civil procedure stipulates that any citizen may apply for legal aid if he or she is unable to pay the costs and fees of the proceedings), women rarely claim these rights because of legal illiteracy or because the prevailing patriarchal social system discourages them from asserting their rights in opposition to men<sup>8</sup>. Similarly in Yemen, Oxfam GB’s experience with imprisoned women suggests that despite the Penal Procedure Law No. 9, which stipulates that the state should assign lawyers to those individuals who cannot arrange legal defence by their own means, this rarely occurs. Lawyers’ syndicates taking up *pro bono* cases for poor women are also rare since most women’s cases deal with time-consuming family law cases. Where lawyers can be found, they are not always “gender- sensitive” and do not see or understand the discriminatory dimensions of a given law, according to Oxfam GB partners. National governments and civil society organisations therefore should improve women’s access to the courts by providing free legal advice to prospective litigants and subsidising the court expenses of vulnerable women.

## **Women’s Access to Justice in the Middle East: A research report**

<sup>6</sup> Egypt: Violence Against Women Study, USAID, 2009.

<sup>7</sup> Case study available at [www.undp.org/legalempowerment/...Jordan/14\\_3\\_Access\\_to\\_Justice.pdf](http://www.undp.org/legalempowerment/...Jordan/14_3_Access_to_Justice.pdf).Pers.

<sup>8</sup> Women's Rights in the Middle East and North Africa 2010 - Lebanon, Freedom House, 3 March 2010.

In order to deepen its understanding of legal situation and exploring risks and opportunities for women's access to justice, Oxfam GB has commissioned a research in Lebanon, Jordan, Iraq, and Yemen conducted by Dr. Fares El-Zein with support from Maged Maged al-Madhaji in Yemen. The data collection was conducted between May and June 2013, and the report finalised in August 2013.

Objectives of the research report were as follows:

- Analysing the current legal situation as pertaining to women's access to justice in targeted countries (Lebanon, Yemen, Iraq and Jordan);
- Surveying the existing mechanisms for financial assistance offered to women in courts and bar associations if any;
- Exploring the causes of high costs and lengthiness of family-related cases;
- Mapping potential advocacy targets/stakeholders (power analysis);
- Presenting recommendations to guide the design of advocacy campaigns including potential resources.

Main research questions were structured along three themes as below:

#### **Access**

- What are the relevant departments/sections charged with family related cases in each of the targeted countries?
- How do women in general and poor women in specific know about these departments?
- What are the court procedures and existing mechanisms dealing with women cases? Is there special mechanism for poor and vulnerable women?
- Assistance services (i.e. exemption from fees, appointment of a pro-bono lawyer, etc.): do they exist? Are they gender-sensitive?
- Who is responsible for the provision of guidance for women when they reach courts? Are they supported to file their case? Who helps them? How long does it take to fill out the forms?
- After having a favourable judgment, how can women obtain their rights (alimony, etc.)? Do they need to go to civil courts to implement the judgement?

#### **Affordability**

- How much does each case cost? What is the cost breakdown?
- Are there obstacles to free/low costs services? If yes, what are they?
- How do costs affect poor women and their willingness to go through the judicial process?
- Do courts and bar associations (or equivalent entities) have procedures for legal support? Is it active? If yes, what makes it successful? If no, why? What can be done?

#### **Control Over The Process**

- What are the factors determining length of procedure? How can it be reduced?
- Who are the influential actors in this field? Who supports women's rights and access to justice? Who doesn't and why? How can we target them?
- What are the recommendations for improvement of women's access to justice?

### **Research findings**

#### **I- Access to Relevant Institutions**

Access to relevant administrative/judicial units is one of the most critical issue pertaining to women's access to justice in general. "Access" had to do with [1] whether women know how to access relevant departments/units, and what are existing mechanisms and procedures to start a judicial process, and [2] whether any specific help or assistance is provided to citizens, whether such assistance is gender-sensitive and whether there are effective mechanisms for women to follow up on court sentence/judgement implementation. The study has shown that there are serious institutional and cognitive factors that impede full access of women to justice when it comes to personal status issues.

Evidence collected from Lebanon, Iraq, Jordan and Yemen shows that major obstacles to access are related to weak legal education among women as well as absence of effective awareness on rights, obligations, and legal procedures that could provide women with tools to better their access to justice. The lack of awareness was further exacerbated by the absence of assistance within court administrations, the former of which could guide women through the legal process and protect them from abuses by court officials and judges.

Focus group discussions revealed that women are aware of the existence of legal procedures in all four countries. However, physical access to courts was discouraged by the lack of knowledge of the "how" component, i.e., how to go to court and how to get a lawsuit properly processed.

Although the four countries/regions surveyed have different educational attainment levels as well as different economic development status, all women interviewed in four countries demonstrated a lack of basic knowledge of legal procedures. Moreover, while the Maronite Court in Lebanon argued that a part time social assistant existed within the court administration, all of the women interviewed in the four countries had never received any assistance from the court administration throughout their protracted dealings with religious courts in their countries.

### **Lebanon**

In Lebanon, where Oxfam GB's project specifically focuses on Maronite women, the relevant institution that tackles personal status and family-related cases is the Maronite Religious Court, which is independent from the state courts and has its own laws and regulations as stipulated by the Maronite Church. This is considered natural in Lebanon as religious courts of personal status are independent from state courts for all eighteen officially-registered Lebanese sects.

Most of the women interviewed in the focus groups knew about the existence of such a court. In Lebanon, since personal status laws are within the jurisdiction of religious courts, as opposed to civil courts, women in general know where to go in case of family disputes. Those who do not know will go to their area's local priest for consultation on matters pertaining to personal status and family. It is mandatory for women and men seeking consultation on these issues to first approach the priest of their village who then tries to solve the conflict amicably. If amicable reconciliation fails, he provides the grievant with the needed paperwork for litigation.

The grievant then goes to court to register the lawsuit at the office of the clerk. The clerk registers the lawsuit and presents it to the judge. In case the grievant has the means to appoint a lawyer, a power of attorney [*tawkeel*] should be registered at the clerk's office. Both registrations are accompanied by court fees which are clearly specified in writing. The clerk then submits all

paperwork to the judge who later appoints a date for the first court hearing, where supporting documents and proofs are required.

According to the clerk at the Maronite Court, a “social assistant” comes to court twice a week to try to provide support to poor and vulnerable people<sup>9</sup>. However, none of the women who participated in focus group discussions had seen such an assistant.

While it does not take much time to get paperwork appropriately filled [depending on the number of daily-registered cases, all of which have to be registered at the clerk’s office], there is no support whatsoever for poor and vulnerable women. No specific office exists that informs women of the Court’s administrative and legal procedures. If a woman cannot afford a lawyer, she is likely to lose her case due to her ignorance of legal procedures and inability to provide valid evidence to the Court.

While the court clerk stated that he has a list of names of pro-bono lawyers who are ready to assist the poor and vulnerable, there is no legal stipulation in place at the Maronite Court, the Lebanese Government or the Beirut Bar Association that requires the appointment of a lawyer for people who cannot afford one in personal status and family cases. This differs from government policy in respect to criminal cases, where the law requires the provision of a pro-bono lawyer for any of the parties that cannot afford an attorney. Female participants in focus group discussions mentioned that none of them had been provided with a pro-bono lawyer by the Court. Two focus group participants in Beirut said that they are receiving assistance from Justice Without Frontiers, an Oxfam GB partner, with one of these women stating that this assistance enabled her to win the case.

The Court clerk explained that a standard court case on average takes about one year. The first appeal can take some six months to come to a conclusion, and the second can take up to three additional months<sup>10</sup>. However, women in the focus group have argued that a lawsuit can take anywhere between 11 months to three years<sup>11</sup>. The reasons for this delay are specified in the section of this report titled “Control of Judicial Process”.

Once the court reaches a decision, the winning party must take the sentence to the “implementation department” at the civil court for implementation. This process sometimes faces delays because the losing party “disappears” to prevent court employees from informing them of the sentence. This “disappearance” act is sometimes used as a deliberate delaying tactic by the losing party.

The most important factor that limits the access of women to the Lebanese Maronite Court is their ignorance of the legal process, a natural result of their inability to appoint a lawyer to assist them. The social assistant’s office should be provided with a full-time staffer to focus on instructing women of their rights and legal and administrative procedures. Moreover, the office could also help women through directing them to pro-bono lawyers and NGOs that provide such assistance.

### **Jordan**

In Jordan, Oxfam GB works with women in the Zarqa region. In this region, the Religious Islamic Court is responsible for handling family issues, and operates according to Islamic Sharia. A

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<sup>9</sup>Interview with Maronite Court Clerk, father Boutros Attalah, Monday 11.05.2013 at 12:15 pm.

<sup>10</sup> Interview with Father Attallah.

<sup>11</sup> Focus Group Discussion, Justice without Frontiers, 15.05.2013 at 10:00 am.

judge/judicial inspector interviewed for this report<sup>12</sup> claimed that women have direct access to the judge, and that Court policy is favourable to women.

Women do know about the courts from their relatives and neighbours. The real challenge facing women in Jordan with respect to accessing courts is their lack of knowledge of their legal rights and the court's rules and regulations<sup>13</sup>. When women go to the court, they need to register their lawsuit with the clerk. Then, their application goes to the judge for validation; registration fees are paid and paperwork submitted to the judge who convenes a hearing to look into the case. There are no special mechanisms to provide assistance to vulnerable segments of the population, especially women. Additionally, there are no social assistants, nor special offices to address the social side of family problems or to inform vulnerable women of court procedures. For this reason, women sometimes fall victim to the procedural tricks of Court staff which are aimed at blackmailing them.

While the interviewed judicial inspector claimed that women are treated with high respect at Court offices and that judges treat women favourably, there is no written policy or procedure that provides any special assistance to vulnerable women. Gender sensitivity possibly exists among court judges on King Abdullah's instructions, but is lacking at the level of court staff who take advantage of women's weak knowledge of court procedures. Some court staff members even take advantage of the specific information they acquire from women and try to establish relationships with them outside of the courthouse, with the promise of providing them with special assistance. In addition, women often must bribe court staff to expedite their paperwork<sup>14</sup>.

A woman can fill out her own application for a lawsuit [should she know the legal language], ask someone to do it for her, or hire an attorney to complete this task. In Jordan, some NGOs provide pro-bono support to women. Some NGOs do have a presence in court [at least in the Zarqa religious court], and judges and Court clerks are acquainted with them. While such lawyers are called "pro-bono lawyers", it is important to note that they are actually employed by NGOs. Furthermore, there is no Bar Association for lawyers in religious courts, and therefore poor and vulnerable women are unable to receive assistance from such a body.

Mr. Abdallah Al-Hroub, an active lawyer at the religious court in Zarqa, argued than average case could stay in court for one year and only be appealed once. Once the ruling is released, implementation takes place through the Court's "Implementation Department". Implementation may be delayed by several factors, some of which pertain to the lack of desire of Jordanian citizens to accompany court representatives when informing second parties of rulings [a legal stipulation dictates that court representatives should be accompanied by a witness when doing so]. Other delays are related to difficulties in finding the correct addresses of parties. Such factors and legal tricks played by the losing parties further delay implementation by an additional three or four months. Appeal by the losing party constitutes another reason for delay<sup>15</sup>. Courts give the losing party one month to appeal before the beginning of the implementation process. There are no legal

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<sup>12</sup> Interview with Sheikh Omar Maasoum, Judicial Inspector, Zarqa religious Court, 23.05.2013 at 09:00 am.

<sup>13</sup> Focus Group discussion with women beneficiaries of Oxfam GB partners, 23.05.2013 a 10:30 am.

<sup>14</sup> Interview with Mr. Abdallah Al-Hroub, attorney at religious court in Zarqa, 23.05.2013 at 2:30 pm.

<sup>15</sup> Interview with Abdallah Al-Hroub.

stipulations that put a deadline for implementing a court decision. In the appeal, the sentence is issued without any chance for the two parties to discuss or defend, and the decision is final<sup>16</sup>.

The absence of any office or person to assist women as they start litigation significantly delays the application process and puts women under the mercy of Court staff who would not hesitate to take advantage of them, including asking for bribes. Breaches of confidentiality allow court staff to contact female applicants after working hours to promise them a facilitated court process in exchange for payments [bribes] or other services. Lastly, delays in implementation put women under severe stress as some of them fall under financial distress while waiting for their husbands to pay alimony. This report recommends that the court employ a full-time social assistant and that an awareness campaign be launched targeted at women.

### **Iraq**

In Iraq, Oxfam GB focuses on supporting women in the Shamshamal region, which is known for its economic vulnerability and weak presence of state institutions. Personal status disputes in Iraq are resolved in Personal Status court according to the Sharia law. Women know about the court and have a good idea on how to access it<sup>17</sup>. The major challenge facing women in Shamshamal in accessing the court is that their heavily tribal and patriarchal society generally considers a woman going to court to be an act of treason and a source of shame for the family, tribe, and community.

For a woman to file a lawsuit, she has to fill in the needed paperwork [she may be assisted by someone who knows how to, or by a lawyer] and then submit it to the judge. The latter then sends it to the court clerk who registers the lawsuit, provides it with a serial number, collects registrations fees [registration fees for women are very low compared to men's fees] and informs litigants of the hearing through police or an appointed court official.

There are no special procedures or mechanisms for vulnerable groups in the population, including women, and women do not receive any special assistance. However, the court does employ a social researcher who meets with the two parties and tries to broker an amicable solution before the lawsuit reaches court. If no agreement is reached, the social researcher produces a report on the case and submits it to the judge.

Some women's rights organizations, including Oxfam GB's partner in Iraq-Kurdish territory [ASUDA for Combating Violence Against Women], provide vulnerable women with lawyers free of charge, but the number of such organizations and the scarcity of financial resources render it hard to satisfy all requests for financial assistance. Consequently, less than 10% of women have access to such pro-bono lawyers<sup>18</sup>. Some 95% of women who come to court to file lawsuits against their husbands do not have the needed financial resources to pay for registration and attorney's fees. Even if they manage to collect enough money to file a lawsuit and pay the registration fees, they are often not able to afford lawyers' fees (please refer to the Affordability section). This leads to significant delays in the judicial process [as proper paperwork needs to be collected by women themselves; and they also need to gather adequate witnesses]. Many lawsuits brought by women are thrown out by courts for failure to provide needed documents. Ultimately, women face a high

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<sup>16</sup> Ibid.

<sup>17</sup> Focus Group with women, Shamshamal, 19.05.2013 at 12:30 pm.

<sup>18</sup> Interview with Mr. Fakhreddine Abdul Rahman Webs, Senior Judicial Assistant at Shamshamal Court, 20.05.2013 at 10:00 am.

failure rate in the lawsuits they file due to their inability to satisfy the legal requirements of the courts.

The courts do not allow exemptions from registration fees and Iraqi lawyers currently do not provide pro-bono services<sup>19</sup>. Additionally, the Iraqi Bar Association neither has the authority nor the resources to compel attorneys to provide pro-bono service to vulnerable groups. Lawyers in Shmashamal do however provide free legal consultation, sometimes by phone. It is important to mention that while some pro-bono lawyers, paid by NGOs, provide support to women, a list of such lawyers is not made available at the clerk's office.

Gender sensitivity is mostly non-existent in Shamshamal court. The clerk sometimes delays the process for women to discourage them from filing lawsuits<sup>20</sup>. Lawsuits may take up to two years before a final sentence is delivered, but decisions are effectively implemented. The appeals court is in the Kalar area and the Court of Cassation is in Erbil.

A considerable number of women are placed at the mercy of court officials and specifically court police due to breaches in the confidentiality of information pertaining to ongoing cases. These officials then contact the women to offer them special services. In both cases, the ignorance of women in Shashamal of their rights as well as the legal procedure in court increases the chance of abuse by court officials and staff. The court should thus employ a full-time social assistant and an awareness campaign should be launched to inform women of their legal rights.

### **Yemen**

Personal status cases in Yemen fall under regular civil courts that are arranged in a hierarchy of 3 levels: Trial Court, Court of Appeal and Supreme Court. Personal status cases fall within a special section of the Court of First Instance, thus depriving it of its own independent resources.

Personal status cases follow the same path/procedure as civil court cases. The applicant must first provide the paperwork for filing a lawsuit and then pay the fees. Next, the case receives a serial number, it is afterwards registered by the court clerk and sent to the judge, who appoints a court session. The announcement of the first session is published in the official gazette. If the defendant does not appear in court, a second announcement is printed in newspapers. In case of a no-show, judicial police [or court staff] directly deliver the court summons to the defendant. This procedure requires substantive expenditures to be incurred by women who must pay for these announcements.

Yemeni women are aware of their right to access courts, however, their knowledge of the judicial process and their rights is very limited<sup>21</sup>. Despite this fact, courts do not provide any administrative assistance or legal assistance to women in applying to courts, thus rendering women susceptible to being taken advantage of as they interact with court staff. A legal protection programme is also implemented by Oxfam GB partner [Yemeni Women Union] which provides free legal support.

Yemeni women also suffer from the absence of any procedure or office to assist them as they file lawsuits. There is no social assistant to guide women through the legal process. The fact that

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<sup>19</sup> Meeting with Lawyers at Shamshamal court, 21.05.2013 at 11:00 am.

<sup>20</sup> Focus Group with women in Shamshamal, 19.05.2013 at 12:30 pm.

<sup>21</sup> Majed Al-Medhaji, Access of Women to Justice, June 2013.

personal status issues are litigated within civil courts with minimal resources contributes to the lengthening of the judicial process due to the limited number of judges who specialize in these issue. The longer a trial goes on, the more strain is placed on women. The court should provide a full-time social assistant and an awareness campaign should be launched in Yemen to inform women of their legal rights.

## **II- Affordability of Legal Procedures**

Affordability has to do with women's ability to cover court registration fees, lawyer fees, and other foreseen and unforeseen expenses such as publication and implementation fees. In some of the targeted areas (Shamshamal, Yemen, Lebanon), local NGOs beyond Oxfam GB partners are starting to cover attorneys' fees. The reality in all of the targeted countries is that most vulnerable women do not even have enough money to cover transportation costs to courts. Added to other costs of registration and lawyers, overall expenses become too prohibitive for women to even think of following the legal path to get their rights. It is important to note that fees continuously increase during the lifetime of lawsuits which pushes many women to drop their cases before their conclusion due to insufficient financial resources.

None of the countries/regions surveyed has any legal stipulation that pro-bono lawyers should be provided to vulnerable women for personal status cases. In all of the countries/regions surveyed, the governments do not publish a comprehensive list that provides all costs to be incurred by individuals during court proceeding and sessions. This makes it impossible for women to forecast the total amount of money needed to proceed through a lawsuit. This also leads women to drop their cases during judicial processes as they cannot afford additional fees and payments that arise during court proceedings.

### **Lebanon**

In the Maronite Religious Court, court registration fees can range from LBP 250,000 [USD 166] for the determination of inheritance rights to LBP 1,000,000 [USD 666] for the annulment of marriage<sup>22</sup>. When there are several reasons for the termination of a marriage, the cost could go as high as USD 7,000, as the registration fee increases per each reason stated for the annulment of the marriage and for the additional evidence required by the judge to prove a case<sup>23</sup>. For example, a psychological examination may be required which costs USD 1,000. These high costs in practice limit the attainment of a marriage annulment to wealthy Lebanese Maronites.

It should be noted that in most cases of separation, two lawsuits take place in parallel: One in religious court [to annul the marriage for example] and one in civil court to determine how exactly to divide assets between the separated couples [houses, cars, other assets]. This increases the financial burden for litigants, especially poor women who might not, in most cases, have independent financial resources to tap into to cover these fees. Lawyers' fees could range between USD 2,000 for simple cases to USD 5,000 for lawsuits that involve the annulment of marriage.

The religious court does sometimes provide waivers for registration fees covering up to 10-50% of the cost based on the "court's discretion," the latter of which is based on a letter from the community priest confirming the financial status of the applicant and/or a recommendation by the

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<sup>22</sup> List of Court fees provided by the clerk.

<sup>23</sup> Interview with Attorney Salim Madi, 29.05.2012, at 3:00 pm.

social assistant. The court can also request evidence of monthly salary from people requesting a waiver.

The list of registration fees and the costs of court documents is provided at the clerk's office. Any request to lower these fees must be brought to the Maronite Patriarch office in Lebanon, which is the highest religious authority within the Maronite community. Aside from Religious Court waivers, no other official party provides assistance in paying Registration fees. The Lebanese Bar Association provides USD 100-200 in support of registration fees only when it comes to civil or criminal cases, but it does not do the same for religious courts.

As for attorneys' fees, the clerk keeps a list of several attorneys who provide pro-bono services. However, as the number of such lawyers is limited, and the number of lawsuits has increased at an exponential rate, the majority of women do not have access to free legal services<sup>24</sup>. None of the participants in the focus group discussions of JWF beneficiaries had had any access to free lawyers before they were assisted by JWF's lawyers.

All participants in focus group discussions stated that their inability to pay lawyers' fees has negatively affected the progress of their cases, and that they have also been subjected to manipulation and carelessness by court staff and even judges. Only one participant in focus group discussions stated that she had reached a satisfactory conclusion to her case, and that was due to pro-bono assistance by JWF.

The lack of legal texts that stipulate the provision of attorneys to litigants who are not financially capable of paying fees forces them to spend numerous years in religious courts with no concrete solutions to their cases. The scarcity of NGOs that provide such legal assistance, in addition to the inadequate dissemination of information about the availability of legal services, are issues that require immediate action. High court fees and subjective criteria for the partial waiver of court registration fees are also major impediments to women's access to the judicial process in Lebanon. In addition, all of the costs mentioned in the above text do not include the cost of bribes paid to expedite the legal process or facilitate a ruling. Such bribery was mentioned by interviewees and the practice flourishes through close connections between specific lawyers and judges, the latter of whom recommend that the women hire the judges' lawyer friends as a piece of "advice" if they hope to win their case.

The Lebanese government should slash legal fees for poor and vulnerable women, and set clear, objective criteria for the waiver of registration fees. Pro-bono lawyers should be provided through an amendment of the Judicial Procedures Act. There should also be a provision of financial assistance to poor and vulnerable women.

### **Jordan**

The registration fee to file a lawsuit in Zarqa's religious court ranges between JOD 25 and 30 [USD 35-42] which is not high for a middle-class woman who works and earns a monthly salary, but is still prohibitive for a financially vulnerable woman who does not have a job and does not enjoy the support of her family. Fees for the implementation of a court decision range between JOD 20-25 [USD 28-35]. Waivers from these fees are not available, nor are there payment facilities for

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<sup>24</sup> Focus Group with Lebanese Women Beneficiaries of JWF, 15.05.2013 at 10:00 am.

registration or implementation fees. Applicants also must pay publication fees ranging between JOD 13-15 [USD 18-21]<sup>25</sup>. Attorneys' fees range from JOD 75 to 600 [105-840] depending on the case. Some Jordanian NGOs provide awareness-raising services and free lawyers for poor and vulnerable women, but cannot possibly cover the expenses of all women in need.

When court registration fees and implementation and publication fees are added to lawyers' fees, access to the legal system is rendered prohibitive for poor and vulnerable women. Participants in focus group discussions explained that most of them do not even have enough cash to pay for a taxi to drive them to the court.

Another major challenge is that there is no bar association for lawyers in religious courts. Indeed, several lawyers and judges in Zarqa's religious court are not law graduates, but Sharia specialists who graduated from religious schools.

As in Lebanon, there are no legal stipulations that provide waivers of court registration fees for the poor. The absence of a bar association for Sharia lawyers makes it impossible to provide free legal support for poor and vulnerable population groups. Lower-middle class and poor women consequently have limited access to courts.

Bribery is a problem in Jordan, mainly at the court staff level, which constitutes an additional expense for women who usually lack knowledge of court proceedings and have not had previous encounters with public administration, making them easily-manipulated by court staff.

The Jordanian government should slash fees for poor and vulnerable women and provide pro-bono lawyers for this population through amending the Judicial Procedures Act.

### **Iraq**

In Shamshamal, the court registration fee is IQD 250 for women [USD 0.20]<sup>26</sup>. In case there is a dispute over an amount of money [alimony for example], legal fees constitute 2% of the amount<sup>27</sup>. Courts also charge "informing fees" for informing the defendant of the court session's date and time. There are no waivers for court registration fees, as they are negligible in Shamshamal.

Lawyers charge some USD 270-500 per case<sup>28</sup>. The Bar Association is perceived as a weak organization, and it does not provide financial support to poor men and women or pro-bono legal assistance. Attorneys in Shamshamal however stated that they provide some free legal consultations to poor and vulnerable people, as they know that the average consultation is IQD 25,000 in Kirkuk [USD 21].

Women in focus group discussions held in Shamshamal argued that the total cost of a lawsuit might rise up to USD 1,000-1,500 in total [including all court fees as well as lawyers' fees], which the average woman cannot afford. For this reason, women's families will often advise them not to go to court and wait for the husband to initiate the judicial process. This way, the husband ends up paying all of the expenses<sup>29</sup>.

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<sup>25</sup> Interview with Judicial Inspector, Judge Omr Maasoum, in Zarqa Religious Court, 23.05.2013 at 11:30.

<sup>26</sup> Interview with Iraq lawyers in Shamshamal, 21.05.2013 at 11:00 am.

<sup>27</sup> Interview with Judicial Assistant, Mr. Attallah Fakhreddine, 21.05.2013 at 10:00.

<sup>28</sup> Ibid. 26.

<sup>29</sup> Focus Group with Shamshamal women, beneficiaries of ASUDA services, 19.05.2013 at 12:30 pm.

Some NGOs, such as ASUDA, offer professional legal services to poor and vulnerable women, but they cannot meet the full need as demand for pro-bono lawyers is huge, because most Shamshamal women live in desperate poverty.

While court registration fees are minimal in Shamshamal, lawyers' fees can go as high as USD 500. As the total cost per case can go up to USD 1,500, most Shamshamal women are not capable of accessing courts without special assistance that would cover attorneys' costs. Therefore, the government should offer pro-bono legal assistance to poor and vulnerable women.

### **Yemen**

The Yemeni government has waived registration fees as a way to assist poor and vulnerable women with accessing courts. However, "hidden costs" and "lawsuit costs" constitute a significant financial burden on Yemeni women. The cost of registering a lawsuit in Yemen is YER 250 [USD 1.1]; for drafting the lawsuit is around YER 1000 [USD 4.6], and for publishing the announcement in the official gazette to invite the defendant to court is YER 24,000 [USD 112]. This fee can be paid up to three times if the defendant fails to show up<sup>30</sup>. The law provides for a waiver of registration fees. However, most women do not request such a waiver as the registration fee is negligible; it is the cost of publishing an announcement in the newspaper that is considered high.

There are other "unofficial expenses" that women need to pay such as the cost of informing the defendant of the court session through court police [YER 2,000-USD 9.4] and the costs of implementing the court sentence [YER 10,000-USD 46.7] and of bringing in a witness [YER 5,000-USD 23.5]<sup>31</sup>.

As for lawyers' fees, they average at YER 200,000 [USD 935] for a personal status case. There are however some NGOs that help pay for these fees, such as the Yemeni Women Union with the support from Oxfam GB. The Yemeni government and Bar Association do not provide any assistance in paying lawyers' fees.

High attorneys' fees, additional court expenses that keep increasing as the lawsuit drags on in court, and bribes that women have to pay so that cases progress at a reasonable pace in court, all discourage women from following the judicial track in handling their personal status or family disputes. Needless to say, poor women do not have the money needed to keep paying for unofficial and evolving court expenses that increase with every requirement to get an additional certificate, or to inform the defendant or publish a sentence.

Yemeni women face "additional" and "unofficial" expenses in addition to registration expenses when they follow the judicial track to resolve their personal status and family cases. Such costs push many women away from court and force them to resort to other avenues to resolve their family problems.

This report recommends that the Yemeni government should standardize and rationalize how legal fees are paid to reduce informal fees paid by women, provide financial assistance to vulnerable women and offer pro-bono legal assistance through an amendment of the Judicial Procedures Act.

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<sup>30</sup> Majed Al-Madhaji, *Obstacles to Women's Access to Justice in Yemen*, June 2013.

<sup>31</sup> *Ibid.*

### **III- Control Over The Process**

#### **a. In legal institutions**

This section provides answers on factors determining the length of administrative/judicial procedures within courts and how to reduce the length of time that the judicial process takes. The actors that are influential in determining the length of the procedure and in assisting women within courts are also highlighted in this section.

In all four countries/regions, the major reason for the delay in the judicial process is an insufficient number of judges. The irregular appearance of judges in court houses in Lebanon can lead to further delays. The attempt by judges to give married couples more time to peacefully resolve their disputes was also cited in Jordan, Lebanon and Iraq as a major reason for the delay of judicial proceedings.

#### **Lebanon**

The first point of contact for most women at the Maronite Court in Lebanon is the Clerk's office that is responsible for registering the lawsuit and sending it to the judge. Sometimes, citizens wait at the clerk's door for hours to register their lawsuit due to high demand.

All lawyers and citizens have to go in person to the judge's office if they have specific requests such as expediting a court session. Sometimes, lawyers end up waiting for hours just get a chance to meet the judge for two minutes to hand him papers pertaining to a case<sup>32</sup>. Delays occur because of:

- Low number of judges
- Judges do not show up to the court room on a daily basis
- The court house is closed for 2.5 months per year for judicial vacation + around 30 days a year for official holidays and all weekends

All of this leaves judges with an effective 8 months of work a year. Court dates are sometimes assigned four months after the registration date. This causes women requesting alimony to wait for 1-2 years before they receive a sentence and during this time, they have no other source of income.

The Lebanese government should increase the number of judges and ensure the speedy implementation of court rulings.

#### **Jordan**

Women petitioning the Zarqa Religious Court have to register their lawsuits at the clerk's office. The cases are then validated by the judge. The period of time between the payment of fees and the assignment of a hearing sometimes depends on women's ability to bribe their way through the process.

The Zarqa Religious Court suffers from:

- Low number of judges
- Some judges have never studied law, only Sharia
- Some lawyers have never studied law, only Sharia
- Delay in implementation due to the necessity of obtaining witnesses and possible repeat visits to second parties to inform them of the court's decision

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<sup>32</sup> Interview with Attorney Salim Madi, 29.05.2013 at 3:00 pm.

Therefore, the Jordanian government should increase the number of judges and work to ensure that court rulings are quickly implemented.

### **Iraq**

While no notes were provided on the work of the court clerk in Shamshamal, it was stated that the number of judges was too low given the case load, especially when Shamashmal courts are handling *Anfal* cases with thousands of widows who lost their husbands [along with other male relatives] in attacks waged by Saddam.

Court officials mentioned that the judiciary is weak and that there is a lack of separation between the judicial branch and the executive branch. Speaking of an “independent judiciary” is consequently considered wishful thinking. Intervention by the executive branch has affected the proceedings of lawsuits, and women can be the victims of partisan politics which traditionally is dominated by men in the Iraq-Kurdish territory.

It is recommended that the number of judges in Iraq be increased and that specialized courts for personal status affairs be established.

### **Yemen**

The most recognized problem facing women in Yemen who seek their legal rights is the absence of personal status or family related specialized courts. Hence, personal status cases are deliberated in civil courts, with only two judges available to look into personal status law which creates a bottleneck and increases the time required for issuing final sentences.

Another procedural impediment that gets in the way of the quick processing of lawsuits is the obligatory publishing of the court minutes in the official gazette. This procedure significantly delays the initiation of trials and hence the total time it takes to issue sentences.

The number of judges in Yemen should be increased, and courts specializing in personal status affairs should be established.

### **Common themes across the four countries**

Some themes pertaining to the control of the judicial process were found in common across most of the countries where the research has taken place.

- a. Judges often purposefully delay court proceedings to encourage both parties to reconcile on their own. The female participants in the focus group talked about these delays, which discouraged some of the women to the point that they withdrew their lawsuits.
- b. Court staff, judicial police and national police play a negative role in implementing judicial rulings. In Jordan especially, delays in implementation were highlighted, as the court provides the defendant with a one-month period to appeal. It is a requirement to have eyewitnesses and court staff to inform second parties of the court rulings. “Unseen fees” are sometimes required by courts in Yemen and Jordan to expedite the process.
- c. In Lebanon, Iraq, and Yemen, there is no official law for judicial procedures that covers personal status cases. While similar procedures exist for civil and criminal cases, the absence of clear procedures for PSL significantly delays hearings and sessions, including a lack of deadlines for when different stages of the legal process must be executed.

- d. Patriarchal culture and “gender insensitivity” are dominant features of all of the courts that were examined in the study. There are no female judges or court clerks for family and personal status courts in the four countries investigated. Gender sensitivity is totally absent. Although all of the male officials interviewed for the study claimed that there was no bias or discrimination whatsoever in court administration or court rooms, the very absence of females from key positions in such institutions renders them, de-facto, insensitive to female issues or perspectives. The delay in issuing sentences on alimonies is one example of insensitivity to the hardships facing women as they seek justice from courts.

#### **b. Outside legal institutions**

In Yemen, Jordan, Iraq, and to a lesser degree Lebanon, it was evident based on the focus group discussions that the most significant impediment forbidding women’s access to justice was communal/societal and family pressure. In all of the focus group discussions, women described suing their husbands as a “shameful act” that was denied and resisted by their community and extended family. The discussions also showed, however, that there is a general trend to increasingly perceive such actions as normal.

Tribal traditions are deeply rooted in Jordan, Iraq and Yemen, and these societies prefer that personal status and family disputes are resolved within the community itself through male-dominated traditional power structures. While such a “perception” was not strongly expressed in Lebanon [due to the mostly urban residence of Maronite communities in Lebanon and the weakness of tribal structures among Lebanese Maronites], the perception of shame is persistent among other tribal formations.

A female participant from Shamshamal who had been divorced by her husband and given no financial compensation whatsoever refused to go to court even if legal assistance was provided. Traditions are the major obstacle facing women attempting to access the legal system paralleled only by their fear of male retribution. Many marriages in Shamashaml take place without being registered in court; men use this as an argument to justify divorcing their wives without having to go to court. In Shamshamal and Zarqa especially, the culture of shame is infused by a culture of fear of retribution, a culture that not been clearly resisted by religious leaders.

Vulnerable women in all four countries feel powerless facing their husbands, parents, community and even court officials. The tribal traditions of Jordan, Yemen and Iraq often prohibit women from accessing justice through state institutions. As a result, only a very small percentage of women, mostly with advanced educations, wealth, and high social status, end up following the legal track to resolve personal status or family disputes. Judicial institutions thus end up reinforcing traditional power structures within the community, rather providing a way out for women suffering because of these social norms. To combat this, it is imperative that the public in MENA be made aware of the importance of the issue of women’s access to justice.

### **Women’s Access to Justice in the MENA Region Programme**

#### **Introduction**

In partnership with leading civil society organisations and with funding from the Swedish International Development Cooperation Agency (Sida), Oxfam GB has been implementing a three-

year project aimed at enhancing women's access to justice in the MENA region (May 2011 - July 2014). The project is currently being implemented in Lebanon, Jordan, and Iraq respectively by Justice Without Frontiers, Arab Renaissance for Democracy and Development – Legal Aid, and Asuda for Combating Violence Against Women.

Oxfam GB proposed a model of change based on building social movements for positive changes at individual, community, institutional and policy levels. In line with Oxfam GB's corporate 'one programme' approach, the intervention focused on (1) direct work with women on the ground to develop innovative legal service provision models (2) community based work to gain support among different sectors of the society (religious scholars, Islamic NGOs, legislators, families and communities) through dialogue and awareness raising and (3) awareness raising and engagement with legal and judiciary institutions to influence attitudes, practices and policies (4) advocacy, learning, and linking at national and regional levels to influence the reform agenda in favour of women's access to justice.

The WAJ program sought to help and influence people at multiple levels of society including individual women, community leaders, lawyers, police and judicial officials, and governments. At the level of the individual woman, the goal of WAJ was to help women in target countries gain access to legal services. In regard to community leaders, the partners sought to aid them in becoming public advocates for women's access to justice. In its interactions with lawyers and bar associations, the partners sought to convince them to increase the provision of free legal services for vulnerable women. The goal of WAJ in its interactions with police and judicial officials in each target country was to improve their attitudes and practices towards women's access to justice. Lastly, the partners sought to work with CSOs to influence policy reforms on the issue of women's access to justice in MENA.

To achieve these outcomes, the outputs of WAJ at the level of the individual women included making women in targeted locations aware of their legal rights in family laws and legal procedures and helping low-income and vulnerable women in programme areas receive free legal consultations, legal aid and representation in courts, and follow ups on cases. At the level of community leaders, the output was to increase their awareness of women's legal rights and for the partners to help establish groups for men that advocate for the legal rights of women. For lawyers' syndicates and bar associations, the output was to have them attend awareness raising sessions on women's legal rights. The output for police and judicial officials was to have them attend capacity building activities on achieving legal justice for women. At the policy level, WAJ sought to work with CSOs in developing national and regional level advocacy strategies with detailed policy goals and advocacy targets. Overall, WAJ sought to establish 3 mechanisms for regional learning and networking among partners for improved practices and replication models on women's access to justice.

### **Direct beneficiaries**

The target number of individual female beneficiaries to be reached by WAJ included 4,500 women being made aware of their rights in family laws and of the procedures to raise their cases in the courts, and 1,200 women receiving consultation on their cases to make a decision to claim their rights under family laws. In addition, 270 women who cannot afford courts' fees and legal representation will be supported by the project' lawyers, and 126 women who received a court

decision that was not implemented will be supported by volunteer lawyers recruited by the partners.

### **Main achievements**

The project exceeded expected targets related to the raising of the awareness of women, involvement of community leaders and the provision of legal counselling. Indicators referring to the involvement of law students and the formation of a men's forum are on track. Indicators related to legal representation and the organization of roundtables for officials are expected to increase by the end of the project as activities are still ongoing. The involvement of lawyers is still below the target number.

The number of beneficiaries reached and services provided by WAJ at the individual level in Lebanon, Jordan, and Iraq over three years included 7,507 Women attending awareness raising sessions, the provision of 2,558 free legal consultations, the provision of 212 free legal representations, and finally providing 173 free follow-up cases.

At the community level, the number of beneficiaries reached by WAJ in the three countries over three years included 673 community leaders targeted for awareness raising on women's legal rights and the establishment of 3 men's groups that advocate for women's rights and meet quarterly.

In reaching lawyers, over three years in the three countries, WAJ was able to get 29 graduate lawyers to volunteer with the partners and 242 lawyers attended awareness raising sessions.

In its outreach at the government level, the partners held 24 roundtable discussions with police, judicial, and other government officials.

The results of WAJ were analysed by an evaluation team from JUST during February-April 2014 that visited Lebanon, Jordan and Iraq. The team conducted surveys in the three countries interviewing 600 women from the general population, 128 women who have had dealings with the courts, 36 court officials, 61 community leaders and 51 lawyers. The criteria in the survey used to evaluate WAJ measured:

- Access to legal services: a) knowledge and attitudes/practices of women; and b) social gatekeepers- men and community leaders, and institutional gatekeepers, namely lawyers and court officials.
- Utilisation: volume of litigation, sustainability of litigation and attrition.
- Quality: measures of satisfaction of women and various gatekeepers.

The project indeed generated a positive change in terms of access, utilisation and quality of services. A significant improvement has occurred in terms of access which has been the most positively affected level, with an average variance rate reaching +112%. A change has indeed occurred within utilisation and quality as well (positive variances of 30% and 50% respectively).

### **Access**

The progress related to accessibility to the legal system for individual women with disputes related to family law, is mostly related to the increased general knowledge and attitude of women in the target areas. Compared to data collected by the baseline, +1385 % women in Iraq and +2176% in Lebanon have been trained in domestic family law. After the intervention of the program, 75% of

surveyed women has a fair to good knowledge of family laws (45% fair, 30% good), while only 47% of women surveyed during the baseline had an understanding of it. In addition, 62% of surveyed women are now aware of legal procedures related to family law (40% report to have a fair knowledge and 22% a good one), and 73% are capable of obtaining legal services pertaining to family laws.

Change has occurred at the social level as well: 68% of the community leaders surveyed reported attending training sessions on women's rights (43% at baseline time), and 80% of women across the three target areas expected a positive (fair & good) support from community leaders in case of a family dispute that reaches court. Compared to the statistics at the baseline, +59% of lawyers have participated in training on women's rights and +152% now define their understanding of family law as good.

### **Utilisation**

More women are now accessing courts after the implementation of WAJ; +65% in Zarqa, +211% in Shamshamal and +313% in Maten and they believe that resorting to court allows them to access their rights. On the other hand, more women have dropped litigations pertaining to family laws mainly because of reconciliation, financial constraints and the length of legal procedures. Data on utilisation reveals that if the programme has generated a change at the personal level, with more women becoming empowered and going to court in increased numbers, the same social and institutional deterrent recorded at baseline remains, but is playing a different role.

### **Quality**

After implementation of the program, 85% of surveyed women in the community and women who had court dealings show a fair to good satisfaction with legal procedures, compared to a baseline of 60% of surveyed women who were satisfied with their experience in court.

## **Analysing Program Effectiveness with Respect to its Target Groups**

### **Women**

The awareness-raising events, as well as the legal counselling sessions, proved to be effective channels to support women and thus facilitate their access to justice. Particularly, it contributed to increasing women's knowledge of their rights and legal procedures. The awareness-raising events were designed to build upon a participatory approach that encourages women to actively engage in the activities. Nevertheless, it may be useful to explore additional mechanisms to further enhance women's participation. The basic information scheme currently in use for awareness-raising activities could be supplemented by other initiatives that would enable beneficiaries to discuss more their challenges more in-depth, share experiences and convey their suggestions.

### **Men**

The engagement of men was taken into account to a lesser extent at the beginning of the project. The mid-term review helped to draw attention to this area of focus and related adjustments were made to ensure that this aspect of the project would be adequately addressed. As a result, men were in fact more actively engaged in the second half of the project, in large part due to the efforts of project staff, including paralegals and lawyers. The importance of involving men was highlighted by many different actors during the evaluation field meetings. Experiences developed by local partners in this regard constitute a wealth of knowledge worth sharing. In particular, the approach used in

Jordan appears to be both innovative and successful. Raising awareness on women's issues from a male perspective is a strategic way to involve men, enhance their interest and make them feel like they are part of the solution. The success of this approach should definitely be taken into consideration in the future.

### **Community Leaders**

Based on evaluation analysis of different approaches used throughout the implementation of the project in the three countries, it is possible to highlight: (i) Diversification in the selection of community leaders is instrumental to ensuring positive results. The ideal combination should envisage younger generations, influential figures, and gatekeepers in the local communities; (ii) Collaboration with religious leaders was particularly successful in all locations, despite the context peculiarities. Their role remains powerful inside communities, and evaluation work found evidence that they are seen as primary points of reference by many individuals, both women and men, in difficult situations; and (iii) Greater consideration should be devoted to the involvement of educational leaders and schools for awareness-raising purposes.

### **Lawyers**

The extent to which lawyers have been successfully engaged in the project remains a controversial matter. While evidence of success is clearly available (e.g. number of collaborations related to legal service provision or participation in trainings), in all countries of implementation local partners reported challenges related to their steady and tangible response on a larger scale. The main obstacles reported were cultural and financial in nature and related to: (i) Sense of competition amongst lawyers and the perception among them that the free services provided through the project took away too much time from their regular, paid services; (ii) An inability to bear financial costs deriving from pro bono services; and (iii) The concept of volunteerism was viewed as either not socially acceptable or was not well rooted in their personal beliefs. All of these factors led to difficulties in attracting lawyers to the project or eliciting from them a commitment to provide pro bono services. These challenges suggest that securing the support of influential figures within the legal community is essential in order to encourage the involvement of other lawyers and increase their buy-in to project goals.

### **Court Officials**

Like the case of community leaders and lawyers, the involvement of court officials was not homogeneous in all locations. Identifying entry points and establishing good relations with them remains pivotal to securing positive results. Bureaucracy was reported as a major constraint in dealing with court officials and employees, as formal authorizations are necessary for the organization of events that envision their participation.

### **Stakeholders**

Over the course of the three-year project all local partners have been able to involve a variety of stakeholders representing different sectors of society, including state actors, educational institutions, civil society organizations, and international and national organizations. Most of these actors have been engaged in the creation of Steering Committees or in advocacy efforts. It should be noted that the majority of advocacy events are scheduled in the last quarter of the project, while the evaluation study is still being finalized.

The time availed to the local partners in this project phase was mostly dedicated to building a foundation for advocacy actions, which will need additional time and work to achieve a more advanced stage. All local partners are encouraged to review their strategies and action plans based on lessons learnt from experiences during this phase, define customized approaches and focus on one or more objectives that are workable and realistic within their local contexts.

### **Change is happening!**

#### **Individual level**

The findings emerging from both the endline research and the evaluation work are consistent in showing that the project has been significantly impactful at the individual level. This was observed firstly among project staff members. In all three countries the staff deployed on the implementation of the project (project officers, paralegals, lawyers) stated at the very beginning of the interviews that they felt empowered by the project in terms of self-confidence, knowledge and technical expertise about PSL. Within the context of WAJ, the project was particularly successful at engaging paralegals and law students and this is the sphere in which major unexpected outcomes are related. Judging from the tangible results derived from the paralegals' performance - including their capacity to mobilize and involve individuals, consistently high levels of attendance at awareness raising events, referral to legal support - it is clear that paralegals become agents of change in their own communities. Their functions made a difference in the change-making process. Oxfam and the local partners are aware of this potential and are currently exploring ways to build upon this experience. The future direction that this evaluation fully supports is to further invest in the human resource potential of paralegals by consolidating and possibly expanding their functions as well as formalizing their role. The evaluation work suggests that greater involvement of paralegals can occur through alternative dispute resolution and negotiation in coordination with lawyers, and through serving as a link between beneficiaries and other institutions/programs concerned with development, particularly in the area of economic opportunities. The paralegals' privileged positioning in terms of close interaction with beneficiaries is a valuable resource to gather and voice women's needs.

Similarly to the case of paralegals, the project revealed promising effects on law students. All countries experienced very fruitful collaboration with this group, who were far more responsive in comparison to their senior colleagues. It is worth giving serious consideration to how to better plan their involvement and expand the actions of law students by targeting existing university structures such as human rights units/clubs and coordinating with professors.

Change at the individual level was also observed among women who participated in the campaign, with shifts in attitudes and beliefs emerging over the course of the project. Women with varying degrees of legal awareness were included in the campaign. For some, WAJ was the first time they had been introduced to a definition of their rights, and given a framework to discern when said rights had been violated. A range of understanding was observed as participants were from diverse backgrounds and contexts, with norms passed from generation to generation. For women who already had an understanding of their rights, but did not have the support or the resources to speak out, and thus challenge their families and social environments when transgressions occurred, WAJ offered them a more defined pathway to justice. Activities were designed to reach women at all levels of change, ranging from awareness raising events, to legal counsel and representation. This

diverse range of project support proved a fruitful way to support change among individuals at every level. Despite the meaningful differences among individual women in the project, what is clear is that WAJ was a means to assist women in moving toward progressive stages of self-change.

There were many positive changes observed in the lives of women who participated in WAJ, including increased awareness/knowledge/understanding of rights related to PSL, particularly marriage, divorce related issues, child custody and inheritance. The women felt an increase in their sense of empowerment and self-esteem, and more strength to challenge family and social pressure. They felt that they had access to a supportive pathway to obtain justice and developed a willingness to share experience, advise other women and encourage them to face challenges in their lives. Lastly, a generational and inter-generational transfer of information and experience occurred from mother-to-daughter and peer-to-peer.

### **Social and Institutional Level**

Achieving change at the social and institutional level proved more difficult and controversial, as both the endline and final evaluation results indicate. Measuring the extent to which change occurred among community leaders and officials was also challenging. Even among groups that agreed to partner with WAJ, such as lawyers, community leaders, and officials, observations in the field revealed a discrepancy between knowledge and behaviour.

Regarding community leaders, findings show evidence of positive change mostly in terms of their catalytic role at the access level, with increased numbers of women considering potential support from community leaders in case of a family dispute brought to court as positive and with the majority of interviewed community members expecting the same from their peers in the community. On the other hand, findings related to the role played by community members in terms of utilisation contradict the positive changes generated at the access level. The fact that the number of women dropping family law-related litigations has not changed is due to social deterrents (such as financial constraints, lack of family support and reconciliation) reported both by baseline and endline studies, indicates that the program has not generated a tangible change in terms of social barriers to utilisation.

It is clear that community leaders play a critical role in influencing individuals and communities and can be a great source of support and leadership in helping communities move toward progressive support for women's access to justice. WAJ partners are aware of the importance of having community leaders as allies. In consideration of this, they took relevant steps to establish continuous relationships and paved the way for joint initiatives. The extent to which the WAJ project managed to impact lawyers and court officials is not straightforward. Similar to the case of community leaders, the most successful strategies to attract these groups proved to be through either peer-to-peer approaches or through influential entry points. Across the three countries, there is evidence of changes in the attitudes of legal practitioners and court officials who appear to be more inclined to support women in accessing pathways to justice, but these changes are related to the initiatives of a few individuals, rather than being changes of a more systemic dimension.

Making an impact at the institutional level requires more time than what was available for the project. For this reason, it may be a good strategy to continue working to engage these target groups and also to track changes in attitudes regarding more inclusive forms of justice accordingly.

In addition to the traditional approaches used by WAJ partners to attract lawyers and court officials, it might also be useful to think creatively of ways that could increase their level of interest and attachment. One possible way could be to develop initiatives to champion support provided to women through awards (e.g. Champion Justice Award/Pro Bono Champion Award/Certificates of Honour). Best practices demonstrate that these are cost-effective initiatives that bring about changes by establishing virtuous mechanisms. They can be seen as a strategic entry point for accelerating buy-in among target groups.

Positive changes observed among community leaders as a result of WAJ included an increase in awareness of women's rights and PSL at the personal level. Community leaders became more supportive of awareness-raising among women and men on women's rights and PSL. Religious leaders included women's rights topics in sermons and educational leaders supported action in schools. An increase in cooperation among community leaders to target other peers was observed. They demonstrated an improvement in taking into account women's perspective in family dispute reconciliations which was particularly valid for religious leaders. Some community leaders began to refer women to legal support (the number of cases is still relatively low but it is a sign of change). Due to these changes, women felt an increased perception of community support during their court experiences.

WAJ partners also have succeeded in creating observable changes in behaviour among lawyers and court officials in Iraq, Jordan and Lebanon. ASUDA can now rely on good entry points in the local Court in Iraq, which proved its steady commitment throughout the project. ARDD-Legal Aid managed to obtain the amendment of court procedures in Jordan that brought tangible benefits for women (decreased time of proceedings and immediate access to financial dues). In Lebanon, JWF has achieved a turning point in relation to the Bar Associations, which are now proposing joint activities aimed at building knowledge of lawyers on a broad scale. There is evidence of changes of attitude in legal practitioners and court officials in all three countries who appear to be more inclined to support women in need in their pathways to justice, but this is due to the initiatives of a few individuals rather than due to systematic change.

The policy level is the last layer where changes were pursued. It is not surprising that results in this area of engagement are not in an advanced status, considering the overall timeframe of the project and the fact that the most consistent advocacy work has been implemented in the third and final year (largely in the last quarter). For this reason, it is not possible to report on immediate impact at this level, and therefore analysis will focus instead on the process that has been undertaken. The pathway to advocacy and policy reform was very well designed and developed by Oxfam and the national partners. WAJ partners managed to build alliances with a variety of stakeholders, but they are still in the process of strengthening these partnerships at this stage. The main challenge is to build a common vision and to move toward the achievement of shared advocacy objectives. Since CSOs were expected to have a primary role in this process, it will be useful to reinforce partnerships in this perspective. From a communication point of view, WAJ managed to have relatively good media exposure, considering the resources available for this activity, and was successful in bringing the project to the attention of the public.

## **Benefits**

This project has created a wealth of knowledge amongst individuals which is expected to last beyond its completion. The primary benefits of the project include awareness raised amongst women and men, and knowledge built amongst community leaders, lawyers, law students and court officials. Additional skills acquired by paralegals are another important resource that will remain at the disposal of local communities. In considering future approaches that support the sustainability of WAJ goals, it may be sound strategy to focus on ways in which future efforts can support and further engage paralegals and law students, two groups that demonstrated commitment to the vision of WAJ. Investing in the paralegals' role and functions can be seen as an effective way to further sustain local ownership of the initiative. The commitment of some law schools to incorporate PSL in legal clinics is also a window for ensuring sustainability. Additionally, the legal awareness booklet will contribute to the sustainability of the project. The booklet was found to be a valuable resource for legal information and guidelines and a means for increasing and sustaining women's access to such information. Placing copies of the booklets in key places throughout the community, as well as posting the booklet online, will ensure that women who face challenges in obtaining information about PSL are able to access necessary information.

### **Approach**

The model of change implemented through this project encompasses a combination of approaches and methodologies that will remain a resource for WAJ partners. They will be able to draw lessons learnt from this experience that will be of guidance for future interventions. The social acceptance built around this project, the variety of relationships established, and the number of partnerships developed, are all elements that are expected to last in medium term. The project contributed to building a social network that links different actors and competences and strengthens women's pathways to justice. As a result, women in all project areas are more likely to access remedies for violations of their rights. These partnerships are a means to create a context in which social support to women becomes normative practice. In this sense, the role of community based organisations/CSOs is strategic in that they can work as agents of change at the social level and can be influential actors in ensuring the sustainability of pathways to justice for women.

### **Conclusion: Prospects for the future**

In view of the impact of the project on lives of poor and vulnerable women in Lebanon, Jordan, and Iraq, and taking into account findings of learning reviews and mid-term and final evaluation of the project, Oxfam GB and partners have designed a second phase for the project to be scaled up and implemented in Lebanon, Jordan, Iraq and Egypt.

Phase II seeks to work at the personal, community and systemic levels while fostering stakeholder engagement and influencing decision makers at all levels, including regionally in MENA. The project aims to bring change at the individual, community and systemic/structural levels, all of which will cumulatively create an environment in which women are able to claim their rights through the judicial institutions.

The project will look at achieving results at the personal, community, systemic and regional levels. At the personal level, poor and vulnerable women, including female Syrian refugees in Jordan and Lebanon, will gain an increased voice and the confidence to claim access to effective legal remedies. At the community level, the project will ensure that vulnerable and poor women are increasingly supported by more gender-aware communities that promote equal access to justice. At the

systemic level, as a result of the project, policy makers and legal stakeholders will increasingly take action toward creating a more equitable and accessible justice system. At the regional level, women's rights CSOs in the Middle East will foster engagement of communities, legal stakeholders and policy makers around the issue of women's access to justice.

Women's Access to Justice – Phase II will also address a range of root causes underlying the limited and inequitable access of poor and vulnerable women to justice, with a primary focus on PSLs. It will advocate for measures leading to enhanced state compliance with the CEDAW. The project will complement ongoing efforts to promote women's rights in a dynamically changing Middle East region, as well as more broadly programmes of organisations such as the United Nations, the European Union, USAID and the World Bank that promote the rule of law, access to justice and justice sector reform.

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