

## TERMS OF REFERENCE

|                      |                                                                                                                                                                                               |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>TITLE:</b>        | <b>Research on ‘Housing, Land and Property disputes in Gaza Strip: Comparing the Formal Judicial System to Alternative Dispute Resolution Mechanisms and their impact on women’s rights.’</b> |
| <b>Time frame:</b>   | <b>24 October 2017 until 4 December 2017</b>                                                                                                                                                  |
| <b>Reporting to:</b> | <b>Women Empowerment Program Manager</b>                                                                                                                                                      |

---

### BACKGROUND

The Palestinian Centre for Democracy and Conflict Resolution (PCDCR) is a non-profit NGO that works in the field of education and social work by providing counseling services in conflict resolution to individuals, families and communities. PCDCR also works to promote and encourage citizens' participation in decision-making.

Since 2011, PCDCR in Gaza has implemented several projects to advance the rights of women and men who struggle to claim rights related to Housing, Land and Property (HLP). Services provided include information, counselling and legal assistance. The overall objective of the projects is to contribute to the promotion of the rule of law in the Gaza Strip by providing quality legal services, in the field of HLP, including advancing women’s rights and strengthening the role of civil society to monitor, report and respond to HLP issues.

The projects targeted all Gaza Strip Governorates while focusing on the most vulnerable areas. To date, a total of 620 beneficiaries (494 women; 126 men) received legal assistance enabling them to access their HLP rights either through Alternative Dispute Resolution mechanisms (ADPs) facilitated by community leaders, ‘Mukhtars’, or through the formal judicial system (civil courts).

Among the key lessons learned during the implementation of the various projects is the positive role that Mukhtars assume in the facilitation of HLP disputes through ADPs (mediation or arbitration). To this end, PCDCR took up the initiative to build capacity of Mukhtars in the field of HLP and women’s rights, making them well-qualified to facilitate such disputes.

The need to enhance the capacity of Mukhtars to mediate HLP disputes stems from the growing recognition that the formal judicial system in Gaza is not always the optimal avenue to pursue HLP rights, especially for women, due to several reasons, including: lack of resources within the judicial system, lack of expertise of judges in the field of HLP and women’s rights and the fear of social stigma often attached to women who turn to courts. Therefore, it is crucial for Gazans to also have access to ADPs. In addition to the significant saving of time and cost often entailed in litigation before courts, the availability of ADPs responds to social barriers that curtail women’s access to justice. Palestinian women who seek to claim their rights before a court pay a heavy price and are often socially ostracized. This creates a ‘chilling effect’ hindering them from the outset from claiming their rights. The turn to communal forums, such as ADPs, opens before women in Gaza an avenue through which they can claim their rights while minimizing associated social risks.

### OBJECTIVES

The objective of the current ToR is to commission a report which critically compares the use of the formal judicial system in Gaza (civil courts) to the use of ADPs in resolving HLP disputes, with a focus on the comparative impact that each has on women’s ability to claim their HLP rights. The research shall assess, among others, the following factors:

- consent of the parties to the use of formal/alternative forum

- satisfaction of the parties with the procedures used by formal/alternative forum
- satisfaction of the parties with the substantial outcome of the process
- expertise of judges compared to that of Mukhtars in HLP issues in general and in women's HLP rights specifically
- duration of process
- direct and related costs of process
- sustainability of outcome (was the decision implemented in practice and what were its effects on the relationship between the parties)

## **EXPECTED OUTPUTS**

The author shall prepare a research report. It is expected that the research report:

- cover the period between 2011-2017, the period in which PCDCR implemented its Mukhtar-led ADP projects
- highlight the impact of the services offered by the Mukhtar led ADPs in HLP related disputes, in comparison to the services provided by the formal judicial system in Gaza.
- portray a realistic picture of Mukhtar-led ADPs, including a critical analysis of both positive and negative impacts that ADPs have on women's access to HLP rights
- clarify the challenges faced by the Mukhtars in their work and provide recommendations to overcome them with the aim of formulating effective mechanisms to enhance the ability of Mukhtars to provide services effectively.
- discuss the impact that the introduction of ADPs had on 'forum shopping' and competition between the two fora with respect to HLP disputes

## **REPORTING**

- An initial draft of the report should be submitted to PCDCR for review by 20 Nov. 2017.
- This draft will be reviewed and returned to author with edits at the earliest possible time.
- The final version should be submitted to PCDCR by 4 Dec. 2017.

## **Special Conditions:**

- Tender closure: Wednesday 10<sup>th</sup> October 2017 at 2:00 pm
- Currency: USD only
- The contractor must submit two separate envelopes: (technical offer including the timeline of implementation and financial offer)
- In case of companies, they should submit (official invoice, paycheck, deduction source)